Bend Metro Park & Recreation District

October 17, 2023

Board of Directors

Agenda and Reports

www.bendparksandrec.org

Bend Park & Recreation District

play for life

Bend Park & Recreation District

Our Vision

To be a leader in building a community connected to nature, active lifestyles and one another.

Our Mission

To strengthen community vitality and foster healthy, enriched lifestyles by providing exceptional park and recreation services.

We Value

Excellence by striving to set the standard for quality programs, parks and services through leadership, vision, innovation and dedication to our work.

Environmental Sustainability by helping to protect, maintain and preserve our natural and developed resources.

Fiscal Accountability by responsibly and efficiently managing the financial health of the District today and for generations to come.

Inclusiveness by reducing physical, social and financial barriers to our programs, facilities and services.

Partnerships by fostering an atmosphere of cooperation, trust and resourcefulness with our patrons, coworkers and other organizations.

Customers by interacting with people in a responsive, considerate and efficient manner.

Safety by promoting a safe and healthy environment for all who work and play in our parks, facilities and programs.

Staff by honoring the diverse contributions of each employee and volunteer, and recognizing them as essential to accomplishing our mission.

play for life

District Office | Don Horton, Executive Director

799 SW Columbia St., Bend, Oregon 97702 | www.bendparksandrec.org | (541) 389-7275

Board of Directors

October 17, 2023

District Office Building | 799 SW Columbia | Bend, Oregon

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AGENDA

4:00 pm EXECUTIVE SESSION

The Board will meet in Executive Session prior to the regular meeting pursuant to ORS 192.660(2)(e) for the purpose of discussing real property transactions. This session is closed to all members of the public except for representatives of the news media. News media is asked to contact Sheila Reed to attend **sheilar@bendparksandrec.org**.

The board will meet in person with a virtual link to the regular meeting following the executive session at 5:30 pm. The public may provide public input in-person at the meeting or via the virtual Zoom link.

Please use the link below to join the webinar:
https://us02web.zoom.us/j/87992316039

Or Telephone:
US: +1 669 900 6833
Webinar ID: 879 9231 6039

5:30 pm CONVENE MEETING

VISITORS

The board welcomes input from individuals at our public meetings about district-related issues. Members of the community who wish to make public comment may attend the meeting in person or virtually. To provide a public comment in person, please fill out one of the brief cards and submit it to staff in the back of the room. To provide public comment virtually, click on the "Raise Hand" option. You will be called into the meeting in the order received. Virtual visitors should turn on their cameras and microphones. All remarks should be limited to 3 minutes or less. If there are questions, follow up will occur after the meeting. Thank you for your involvement.

CONSENT AGENDA

1. Minutes: 10/03/2023

BUSINESS SESSION

1. 105 NE Franklin Ave. MUPTE – *Rachel Colton, Michelle Healy, Chris Jones, and Caroline Baggot (30 min)*
2. Approve Updated Land Acquisition Policy – *Henry Stroud (20 min)*
3. Approve for land acquisition – *Michelle Healy (10 min)*

EXECUTIVE DIRECTOR'S REPORT
BOARD MEETINGS CALENDAR REVIEW
GOOD OF THE ORDER
ADJOURN

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Accessible Meeting/Alternate Format Notification

This meeting location is accessible. Sign and other language interpreter service, assistive listening devices, materials in alternate format or other accommodations are available upon advance request. Please contact the Executive Assistant no later than 24 hours in advance of the meeting at sheilar@bendparksandrec.org or 541-706-6151. Providing at least 2 business days' notice prior to the meeting will help ensure availability.

Board of Directors

October 3, 2023

District Office Building | 799 SW Columbia | Bend, Oregon

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A video of the regular board meeting can be viewed on the website:
https://www.bendparksandrec.org/about/board-meeting-videos/

BOARD PRESENT
Nathan Hovekamp
Donna Owens
Deb Schoen
Jodie Barram

BOARD ABSENT
Zavier Borja

STAFF PRESENT
Don Horton, Executive Director
Michelle Healy, Deputy Executive Director
Julie Brown, Manager of Communications and Community Relations
Kristin Donald, Administrative Services Director
Matt Mercer, Director of Recreation
Brian Hudspeth, Development Manager
Henry Stroud, Planner
Rachel Colton, planner
Justin Sweet, Contracts and Risk Administrator

VISITORS
Devon Mills: Ms. Mills supports the efforts of Connect Bend to build the footbridge to connect SW Bend to access the trail system. She cited safety, traffic build up and asset to the neighborhood as further reasons for her support.

Hallie McNaughton: Ms. McNaughton said she supports a footbridge to connect SW Bend. She said it would increase access for families to trails to better explore that side of town without traffic and stated it is a healthier way to get there.

WORK SESSION

1. Mid-term update to 2018 Comprehensive Plan – *Rachel Colton and Henry Stroud*

Mr. Stroud said this is the second presentation in the update to the 2018 Comprehensive Plan with a focus on the core area. He gave an overview of the location of the core area that is 637 acres surrounding highway 97 and 3rd Street. He described the four areas the city has targeted for redevelopment, which is expected to bring in more population to the area and explained some of the projects the city is planning to promote development.

Mr. Stroud described the existing conditions of the Core Area:

- No park search areas (due to lack of housing in the area) - Since the changes, he said there is one project that has been added, but will not be large enough to serve the population that will move to the area.

- 17.5 % existing residential units within a walkshed
- Numerous walkshed barriers – busy streets and the railroad are barriers to this area to access parks that are close in proximity.
- Limited opportunities to acquire land – Most properties in the area are smaller in size, unless properties are bundled there is little opportunity for parkland with land use process/exactions.

Ms. Colton spoke about the land acquisition opportunities through city purchase, land-use process and exactions and district purchase. She explained the challenges and updates required to the park search area map. She discussed developments standards and development opportunities in the Core Area.

Ms. Colton reviewed neighborhood parks and showed some examples of smaller scaled parks as examples and urban plazas. She said she would like to see more activity in urban plaza spaces through thoughtful design. Director Hovekamp remarked that urban plaza spaces do not have to be highly trafficked to be important to the area.

Ms. Colton and Mr. Stroud showed examples and explained the strengths and opportunities, challenges and next steps for several types of parks that could be considered for this area including: neighborhood parks and urban plazas, pocket parks, parks and trails, streetscapes and parklets and privately-owned parks. They discussed consideration of opening access to existing parks by eliminating barriers with safer crossings.

The board expressed their appreciation for staff thinking outside the box and said they support the direction that staff is going to update the Comprehensive Plan.

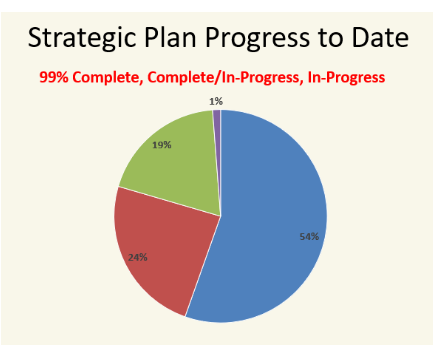
2. Strategic Plan Update – *Rachel Colton and Michelle Healy*

Ms. Healy gave an overview of the presentation and the plan history. She said the plan was adopted in June of 2019, with 23 additional action items added and two removed for a total of 83. She said an extension of two years was approved by the board that will end this fiscal year. She reviewed the pillars (Employees and Workplace Culture, Community Relationships and Operations and Management) and desired outcomes.

Ms. Colton reviewed the action plan for the three pillars:
She explained that of the 43 action items for FY 22/23:

- 6 complete
- 20 complete/in progress
- 16 in progress
- 1 not started

Ms. Colton reviewed each completed action item for each pillar and showed the following graphic for the plan, explaining that the plan is 99% complete:



Next, Ms. Colton spoke about performance measures. She said performance measures are another tool identified in the strategic plan that provide a means to track progress in achieving district goals. She explained that 14 performance measures have been developed to date and a full performance measure update will be provided to the board at the 2024 board workshop. Ms. Colton added that the current plan sunsets in June of 2024 and said staff will come back to the board this winter with an update on the scope and timing of the strategic plan update.

CONSENT

1. Minutes: 9/05/23
2. Minutes: 9/19/23
3. Resolution No. 2023-08 Land and Water Conservation Fund Grant – Columbia Park River Access Project
4. Approve Contract to Purchase Fleet Vehicles

Director Schoen made a motion to approve the consent agenda. Director Barram seconded. The motion was approved unanimously, 4-0.

BUSINESS SESSION

1. Compensation - *Theresa Albert and Nathan Hovekamp*

Director Hovekamp introduced the compensation topic. He said the executive director recently completed a strong evaluation with the board. He said the executive director is eligible for a bonus if awarded by the board. Ms. Albert acknowledged that a 3% bonus was budgeted and recommended that the board award a bonus. The board agreed that the evaluation was stellar and a 3% bonus is appropriate to give to the executive director.

Director Schoen made a motion to acknowledge the Executive Director's outstanding performance for the June 21, 2022 through June 20, 2023 performance period with a 3% bonus. Director Owens seconded. The motion was approved unanimously, 4-0.

EXECUTIVE DIRECTOR'S REPORT

Executive Director Horton gave updates on the following:

- Staff is kicking off public outreach for Manzanita Ridge neighborhood park. He said there are three conceptual designs that will be shared.
- Staff submitted a grant application to the VB BSF grant program for the Miller's Landing access and habitat restoration project. The request was a 2-year grant for a total of $300,000. He said the goal of this project is to fund it 96% with grants.
- Envision Bend unveiled their new vision with a 20-year outlook. He said it is a good vision with a lot of public input and district staff participation.
- Drake Park Big Wheel needs some work, it has been there for 20 years. Staff is looking at how to repair it by talking to other agencies, currently cables are holding it together.
- John Rexford, Becky Rexford's (Recreation Manager) dad wrote the first joint use agreement between the district and the school district, and it is still in use today.
- To date, Michael Egging and Becky Rexford have taken advantage of the district education reimbursement program.

GOOD OF THE ORDER

- Director Schoen said she had a very positive meeting with Out Central Oregon Board members. She said the group is looking to build relationships in the community. She said the Envision Bend Action Plan is worth reading and Connect Bend is mentioned as a partner. She commented that the staff introduced tonight continue to reflect the high quality of staff that the district hires.
- Director Owens said she hears praise at the Larkspur Center to pursue the Art Station at the Larkspur location, but has heard comments that people want more parking.

- Director Barram thanked the board and staff for accommodating her schedule during fire season. She said it was nice to meet Cayla since goes to Juniper most often. She said she is planning on attending the district hosted community event this Friday.
- Director Hovekamp thanked staff for attending the meetings. Thanked Deb for mentioning Connect Bend in the Envision Bend Plan, he commented that it said well-organized grassroots group. He remarked that it is good to have colleagues that support trees and open spaces. He shared his disappointment that the trees that were preserved in the boardwalk project at Drake Park may still be lost. He invited the board to ask questions about agenda items if needed and said that consent agenda items can be pulled out of consent and discussed individually. He encouraged the board to think of items they would like to see or learn more about.

ADJOURN: 7:36 pm

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Prepared by,

Sheila Reed
Assistant to the Executive Director

___________________________________	___________________________________
Nathan Hovekamp, Chair	Jodie Barram, Vice-Chair
___________________________________	___________________________________
Donna Owens	Zavier Borja
___________________________________	
Deb Schoen	

BOARD AGENDA COMMUNICATION

AGENDA DATE:	October 17, 2023
SUBJECT:	105 NE Franklin Avenue Multiple Unit Property Tax Exemption (MUPTE)
STAFF RESOURCES:	Rachel Colton, Park Planner Michelle Healy, Deputy Executive Director
GUEST PRESENTERS:	Chris Jones, Project^ Caroline Baggott, Project ^
PREVIOUS BOARD ACTION:	September 5, 2023 MUPTE Update; April 5, 2022 Property Tax Exemption Program Follow-up; March 5, 2022 Property Tax Exemption Overview
ACTION PROPOSED:	Support a MUPTE exemption for the development at 105 NE Franklin Avenue
STRATEGIC PLAN:	
Pillar:	Operations and Management Practices
Outcome:	Financial well-being supported by strong business practices
Strategy:	Plan for long-term financial health

BACKGROUND

In August of 2022, the Bend City Council adopted a MUPTE program to support development and redevelopment goals in Bend's core and transit-oriented areas, and identified program requirements that would need to be met for projects to be eligible. The program is codified in the Bend Municipal Code (BMC) Section 12.35, and the city has a webpage with more details about this program. Property tax exemptions must be supported by a combined 51-percent of the taxing districts for the exemption to apply to the entirety of the tax levy. Though the district is working with the City to determine a process for approving the overarching MUPTE program with conditions, at this time, each MUPTE request must be reviewed individually by the board.

Project^ Application

The Project^ MUPTE application that is the subject of this agenda item is located at 105 NE Franklin Avenue in the Commercial Limited (CL) and Mixed Employment (ME) zones, inside the Core Area Tax Increment Finance (TIF) area. The site is approximately 3.5 acres in size and currently is developed with five warehouse structures. It is the second complete MUPTE application received by the City, but the first located within the Core Area TIF area.

The applicant plans to build two five-story mixed use buildings. The first would contain 80,913 square feet and include a total of 100 residential units, and 5,219 square feet of commercial space. The second building would contain 75,383 square feet with 99 residential units. In total, the project includes 199 rental units, inclusive of 103 studios, 78 one-bedroom units and 18 two-bedroom units. The units would all be market-rate housing. Though not part of the MUPTE program, the project also includes a free-stranding commercial building on the eastern side of the property. As such, in total, the site will include approximate 25,026 square feet of commercial development. In addition to the residential and commercial space, the project will include a public plaza space with of trees, landscaping, seating alcoves, benches, and an area for pop-up events. Though this plaza is more than 10-percent of the total site area, it will not include a public access easement, and as such, is not eligible for consideration as a public benefit pursuant to City MUPTE code requirements. However, it would add to the available open space within the Core Area.

The MUPTE program requires that applicants provide a minimum of three public benefits. One of these public benefits must be a priority public benefit. The full list of eligible public benefits is included in City code section 12.35.025. The applicant proposes the following public benefits:

1. Energy Efficiency/Green Building (Priority Public Benefit): The applicant plans to provide Earth Advantage Platinum certification.
2. Enhanced Landscaping: The landscape design includes native and pollinator friendly plants.
3. Electric Vehicle (EV) Charging: The applicant is required to provide at least 10-percent more parking spaces with EV charging infrastructure than the minimum required. Oregon Building Codes require that multifamily projects provide 40% of parking spaces with EV charging infrastructure. The applicant proposes to provide 55% of parking spaces with EV charging infrastructure.

The city granted land use approval for the project in September 2023. This application is focused on the MUPTE request only. The requested tax exemption for this project is currently in the taxing district review period which spans 45-days from September 29 through November 13. The project is scheduled for city council review on December 6, and the draft staff report for that council meeting is included as Attachment 1 of this board report. Prior to City Council review, the Deschutes County Board of Commissioners will review the project on October 11, and the Bend La Pine School District will review the project on November 14.

BUDGETARY IMPACT

The MUPTE program requires that applicants submit two proformas – one with the MUPTE applied and one without it. Those proformas are then subsequently peer reviewed by an independent third-party financial consultant. These proformas must illustrate that the project would not be financially viable except for the tax exemption. This third-party review by Johnson Economics is included as Attachment 2 of this report. The Johnson Economics report found that the subject project would not be financially feasible if not for MUPTE.

If the requested tax exemption is approved and implemented at this project site, which is inside the Core Area TIF area, the tax exemption would only impact the TIF budget. There would be no direct impact to the district's budget. Based on an estimated project value of $43,953,675, the total estimated tax collection for this project over the 10-year tax exemption is estimated to be $4,400,000. The project, if approved for the tax exemption, is estimated to generate approximately $11,100,000 in TIF revenue over the 30-year lifetime of the district. If the project were to not move forward and the site were to remain undeveloped, the total tax collection for the 10-year period would be approximately $585,000. However, if the project did not move forward, it is possible that an alternative project, not seeking a property tax exemption, could move forward at the site.

System Development Charges (SDCs) would be collected for the project. The district is estimated to receive approximately $1,036,701 in park SDCs from the project. SDCs are one-time fees charged on new development to help pay for the purchase of land and construction of new parks, trail and recreation facilities. Unlike general fund monies, which are largely comprised of property tax monies, SDCs cannot be used for maintenance and operations.

STAFF RECOMMENDATION

Staff recommends, based on discussions with the city that they will adopt a resolution or other instrument acknowledging the city's commitment to provide parkland in the Core Area, that the board support the applicant's request for a ten-year tax abatement for a 199-unit residential development at 105 NE Franklin Avenue as part of the City of Bend's MUPTE program.

MOTION

I move to support a ten-year tax abatement for a 199-unit residential development at 105 NE Franklin Avenue as part of the City of Bend's MUPTE program.

ATTACHMENTS

1. Draft City Council Report for the December 6, 2023 meeting
2. 105 NE Franklin Proforma Peer Review

CITY OF BEND
COMMUNITY AND
ECONOMIC DEVELOPMENT

STAFF REPORT FOR
MULTIPLE UNIT PROPERTY TAX EXEMPTION

PROJECT NUMBER:	PRTX202303730
CITY COUNCIL DATE:	December 6, 2023
APPLICANT/ OWNER:	Project^ Caroline Baggott 1116 NW 17th Avenue Portland, OR 97209
OWNER:	New Zone Business LLC 1116 NW 17th Avenue Portland, OR 97209
APPLICANT'S REPRESENTATIVE:	n/a
LOCATION:	105 NE Franklin Avenue; Tax Lots 171232DA07900, 171232DA08001, 171232DA08200, 171232DA08400, 171232DD09201,171232DD09700, 171232DD09800, Between Franklin and Emerson Avenues, the Railroad, and along NE 1st Street
REQUEST:	Multiple Unit Property Tax Exemption (MUPTE), 10-year tax abatement on residential improvements
STAFF REVIEWER:	Cate Schneider, Senior Management Analyst
RECOMMENATION:	Approval
DATE:	September 29, 2023

PROJECT & SITE OVERVIEW:

The project site is located at 105 NE Franklin Avenue and is zoned Commercial Limited (CL) and Mixed Employment (ME) within the Bend Central District Special Planned District. The project proposes two new five story multi-family structures at the north and south ends of the site. The north building is proposed to be a mixed-use building with 80,913 gross square feet that includes 100 rental units and 5,219 square feet of commercial space. The southern building is proposed as a 75,383 square foot multi-family building with 99 rental units. In total, the project proposes to build 199 residential units with the following unit mix:

- 103 studios
- 78 1-bedroom units
- 18 2-bedroom units

(During the site plan review process the applicant slightly modified the unit count. The unit numbers above are what was in land use application approval and differ slightly from the MUPTE application materials.)

The three public benefits that the project plans to incorporate, if approved for MUPTE, include:

- High Standard of Energy Efficiency/Green Building Features through Earth Advantage Platinum Certification (Priority Public Benefit)
- Enhanced Landscaping- the project will use native and pollinator friendly plants
- Electric Vehicle (EV) Charging Infrastructure- the project will provide 50% of its total provided parking spaces with EV charging infrastructure.

In addition to these public benefits, the project plans to build a public plaza space that will include trees, landscaping, seating alcoves, benches, and an area for pop-up events that will account for more than 10% of the site's area as well as enhance NE 1st Street through the site with a pedestrian oriented street and provide private amenity space inside the buildings for co-working, fitness and wellness centers and lounge/gathering spaces.

The property where the project is proposed was formerly the location of the Les Schwab Tire Center that recently relocated to NE 3rd Street. The site is currently unoccupied.

A Type II Site Plan Review application (PLSPR20230059) was approved on September 13, 2023.

Figure 1. Site Location

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Figure 2. Project Rendering

AERIAL VIEW OF 1ST STREET - RENDERING

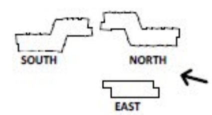
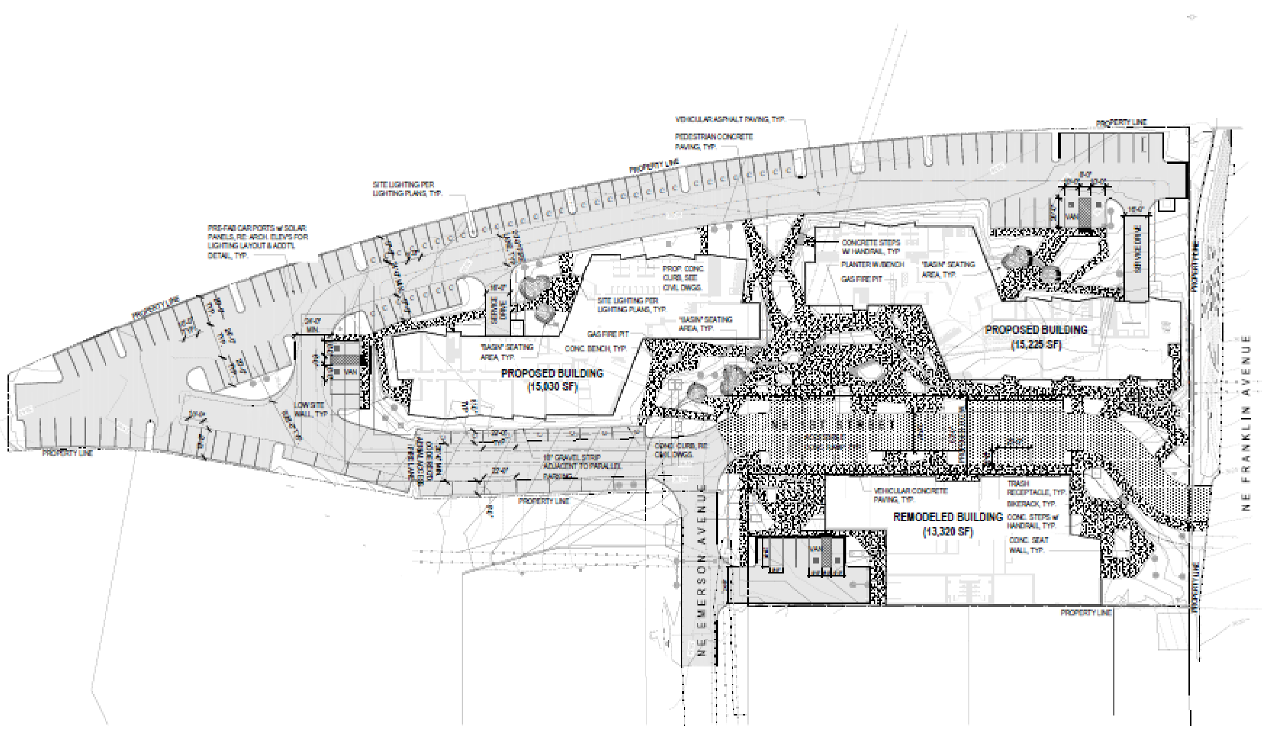


Figure 3. Site Plan



INFRASTRUCUTURE NEEDED TO SERVE THE SITE

The applicant submitted a sewer and water analysis through their application PRSWA202208184. The City identified preliminary mitigations necessary for this site to be served with infrastructure that will be finalized based on the final design submittal required by the land use approval for this site. The applicant received a letter from City of Bend Private Engineering Division confirming this as part of their application.

ELIGIBILITY CRITERIA

APPLICATION OF THE CRITERIA:

LOCATION/ELIGIBLE ZONE REQUIREMENTS
This project is located within the Core Area Tax Increment Finance Area which is an eligible site for the MUPTE Program per BMC 12.35.015(D).

MULTI-STORY REQUIREMENTS
Projects on lots that are greater than 10,000 sf are required to be three (3) or more stories in height to be eligible for the MUPTE Program per BMC 12.35.015(C). The proposed project is located on a lot larger than 10,000 square feet and is proposing both buildings to be 5 stories and therefore satisfies this requirement.

HOTELS, MOTELS, SHORT TERM VACATION RENTALS ON SITE
The MUPTE Program requires that projects include a restriction on transient occupancy uses, including use by any person or group of persons entitled to occupy for rent for a period of less than 30 consecutive days (including bed and breakfast inns, hotels, motels, and short-term rentals). If Council approves this project, the applicant will need to demonstrate a restriction of uses on the property for the period of the exemption satisfactory to the City before staff certifies the exemption with the County Assessor’s office.

DEMONSTRATION OF FINANCIAL NEED
The applicant submitted a proforma income statement both with and without the tax exemption to demonstrate that the project would not be financially viable but for the property tax exemption. These proforma were then reviewed by a third party independent financial consultant hired by the City.

Johnson Economics completed a review of the proformas in July 2023. A summary of their findings is included as Attachment A. The review confirms that the Platform project is not financially viable on its own; the assumed returns are below what would be necessary for the market to develop this project. The analysis demonstrates that even with the MUPTE benefit, the project is still operating on tight profit margins.

Based on the findings of the financial analysis, the applicant was asked to clarify the basis for their construction cost assumptions. They provided copies of the cost estimates they received from three general contractors.

JUSTIFICATION FOR ELIMINATION OF ANY EXISTING HOUSING AND BUSINESSES ON THE PROJECT SITE

The existing site is vacant and therefore there is no anticipated displacement of housing or businesses by the project and therefore no mitigation is proposed. This meets the requirements of the MUPTE Program.

PUBLIC BENEFIT REQUIREMENTS

MUPTE requires that applicants provide three public benefits including one priority public benefit to qualify for the MUPTE program, per BMC 12.35.025.

Priority Public Benefit

The applicant plans to receive Earth Advantage (EA) Platinum certification for both buildings. This requires the applicant to incorporate a high level of sustainable, energy efficient and green building features. The applicant submitted documentation including a preliminary scoring sheet that demonstrates that they are on track to reach EA Platinum certification. Approval will be conditioned on future verification of EA Platinum certification.

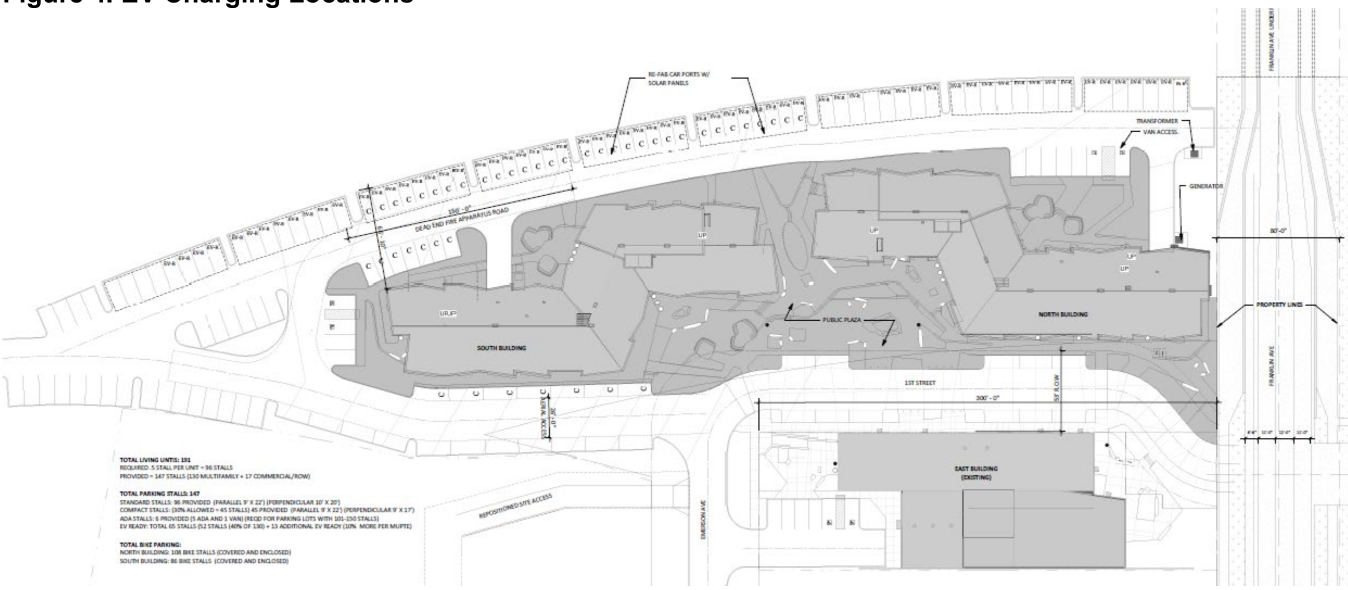
Additional Public Benefits

In addition to the Priority Public Benefit, the applicant is required to provide two additional public benefits. The applicant plans to utilize the following benefits to meet those requirements: 1) Enhanced Landscaping; and 2) Electric Vehicle (EV) Charging.

Enhanced Landscaping: The applicant has submitted preliminary landscaping plans developed by Szabo Landscape Architecture that are consistent with Chapter 12 of the Bend Code and Chapter 3.2 of the Bend Development Code. The current plans include no grass areas. Future approval will be conditioned based on future staff verification that the applicant meets Chapter 12 of Bend Code and Chapter 3.2 of the Bend Development Code as well as the submittal and approval of a water budget for the site. The City will monitor water use throughout the 10-year exemption period. The site cannot exceed 20% above the approved water budget during the exemption period.

Electric Vehicle (EV) Charging: Applicant is required to provide at least 10 percent more parking spaces with EV charging infrastructure, conduit for future electric vehicle charging stations, than the minimum required. Currently Oregon Building Codes require that multifamily projects provide 40% of provided parking spaces with EV charging infrastructure. Therefore, the applicant is required to provide at least 50% of parking spaces with EV infrastructure. The applicant plans to provide 117 onsite parking spaces for the north and south buildings; therefore, 59 of these spaces must be provided with EV charging infrastructure. The applicant plans to provide 65 parking spaces with EV charging infrastructure.

Figure 4. EV Charging Locations



ESTIMATED EXEMPTION: This project is estimated to receive a total 10-year tax exemption of approximately **$4,400,000** based on an estimated building value of $43,953,675 for only the residential improvements.

The total estimated tax collection for this project between fiscal years 2027 through 2036 is estimated to be $5,600,000 without the exemption and $1,200,000 with the exemption. If the project were to not move forward, total tax collection for the 10-year period of the site would be approximately $585,000.

The estimated impact of this exemption would only impact the Bend Urban Renewal Agency's Core Area Tax Increment Finance Fund. The project, if approved for the tax exemption, is estimated to generate approximately $11,100,000 in TIF revenue over the 30-year lifetime of the district.

Estimates assume that building value, the proportion of the project that is commercial, and timeline are all provided by the developer. The estimate is preliminary and subject to change and is based on a variety of factors including Deschutes County Tax Assessor's assessment of the property and future change property ratio (CPR) rates. Estimates could also vary depending on when the Core Tax Increment reaches the maximum indebtedness established in the Plan ($195 Million).

TAXING DISTRICT REVIEW PROCESS

All of the Taxing District agencies are being provided with a 45-day comment period to review the application materials and this staff report which will occur between September 29 – November 13, 2023.

In order for the tax exemption to apply to the full taxable amount, approval by taxing district agency boards that comprise at least 51% of the combined tax levy is required. The City is seeking to have the policy of the MUPTE program approved by all of the taxing districts. This application is being considered individually while an approval process for the policy of the MUPTE program is worked on.

Expected timeline for taxing district review of 105 NE Franklin

- September 29 – November 13, 2023: Review and comment period for all taxing districts
- November 14, 2023: Bend-La Pine School District review and decision
- December 6, 2023: Bend City Council review and decision on the MUPTE application for 105 NE Franklin

CONCLUSION: Based on the application materials submitted by the applicant, and these findings, the proposed project meets all applicable criteria for City Council approval.

CONDITONS TO BE MET IF APPROVED, IN ADVANCE OF EXEMPTION CERTIFICATION WITH TAX ASSESSOR'S OFFICE:

1. Applicant must provide proof of a deed restriction that prohibits the use of hotels, motels, and short-term vacation rentals on the site for the period of the exemption.
2. Applicant must demonstrate Earth Advantage Platinum Certification for both multifamily buildings prior to exemption certification.
3. Applicant must demonstrate compliance with Enhanced Landscaping Requirements to be verified by staff.
4. Applicant must submit a water budget to City staff for approval prior to exemption certification. The City will monitor water use throughout the 10-year exemption period. The site can't exceed 20% above the water budget for the site during the exemption period.
5. Applicant must demonstrate that EV Charging infrastructure is provided as approved for the MUPTE Program in future inspections prior to Certificate of Occupancy.

ATTACHMENTS

- **Attachment A**: Review of MUPTE Application, Project^, 105 NE Franklin Memorandum prepared by Johnson Economics
- **Attachment B:** Application Materials

JOHNSON ECONOMICS

MEMORANDUM

DATE: July 14, 2023

TO: Allison Platt
Core Area Project Manager
CITY OF BEND

FROM: Jerry Johnson
JOHNSON ECONOMICS, LLC

SUBJECT: Review of MUPTE Application, Project^, 105 NE Franklin

Johnson Economics was asked to provide an independent review of an application for the City's Multi-Unit Property Tax Exemption (MUPTE). The application reviewed was submitted by project^ and is for a proposed mixed-use development program on a 3.53 acre site at 105 NE Franklin Avenue. The development would include two five-story multifamily structures on the north and south ends of the site, with wood frame construction over a steel podium. The project would offer 191 market rate rental apartments, as well as 25,026 square feet of ground floor commercial space.

The MUPTE is a ten-year property tax exemption. The net impact of the program is a reduction in annual costs for the period associated with property taxes, which provides a substantive boost to project viability. Our analysis included a review of materials submitted by the applicant as well as a pro forma evaluation of the project's viability with and without the MUPTE program. The information used in our analysis was largely derived from materials submitted as part of the application. Appendix A includes a glossary of terms.

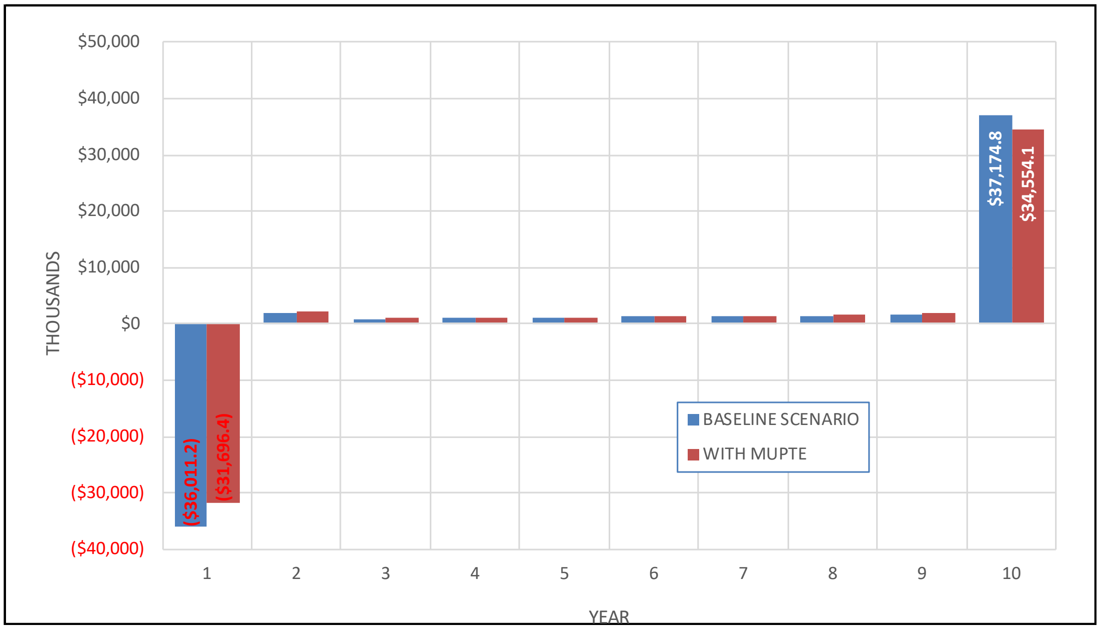
A. KEY CONCLUSIONS

The proposed development program for the site includes 191 market rate rental apartment units, as well as roughly 25,000 square feet of ground floor commercial space. The proposed unit mix is heavily weighted towards smaller units, with studios and one bedroom units accounting for over 90% of the mix. We consider the assumed rent levels to be aggressive in the current market, and achievable rent levels may not be as high as assumed.

Our analysis indicates that the project would not be viable without availability of the MUPTE based on the assumptions outlined. The indicated returns are well below what we would consider adequate to incur the development risk for this project. Inclusion of the MUPTE over a ten-year period would likely make this project viable, although the margins remain tight. The determination of "viability" was based on the project delivering the targeted threshold rate of return (5.50%) at stabilization. While the project does not quite meet this threshold in our analysis, it would only require a 0.5% reduction in cost to meet the targeted return.

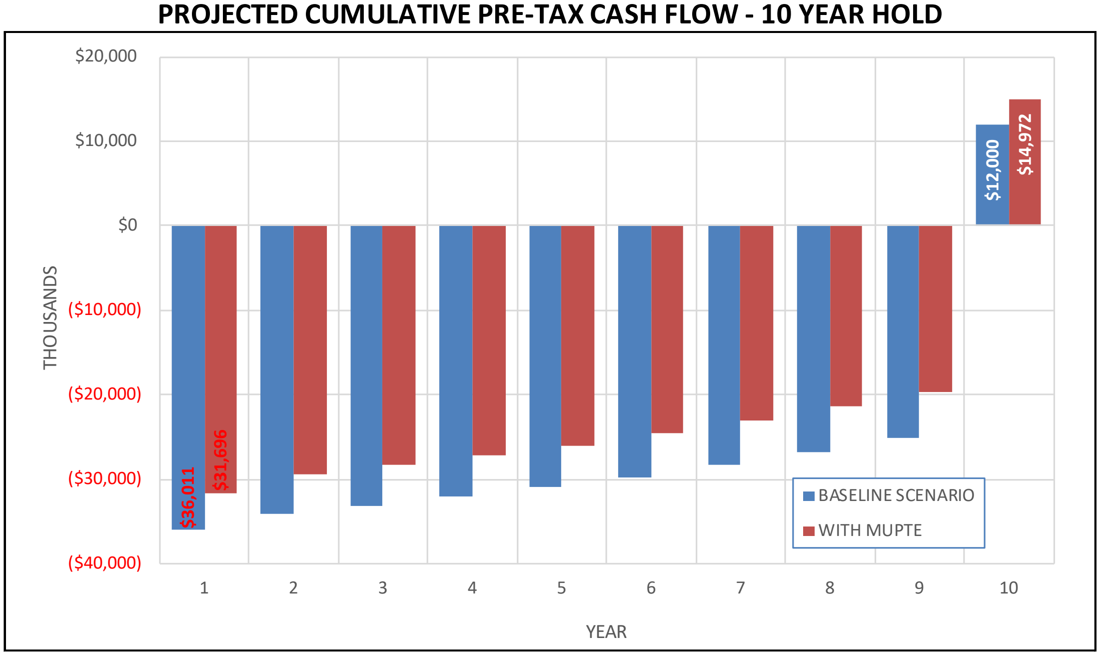
The primary impact of the MUPTE program is a reduction in operating costs for a set duration, which helps the project meet the loan underwriting standards (1.25 DCR) and reduce the needed equity to an amount that can more reasonably be attracted to the project. As summarized in the following graph, initial equity requirements are higher without the MUPTE because the project cannot support as much debt, and interim annual cash flows are lower. The net gain from an assumed sale in year 11 is lower with the MUPTE, as a higher level of debt is assumed to be supportable and therefore the outstanding debt level at reversion is higher. The cumulative projected pre-tax cash flow through the ten year period is $12.0 million without the MUPTE and $15.0 million with the abatement assumed.

PROJECTED NET PRE-TAX CASH FLOW - 10 YEAR HOLD



SOURCE: Johnson Economics

PROJECTED CUMULATIVE PRE-TAX CASH FLOW - 10 YEAR HOLD



SOURCE: Johnson Economics

Many of the assumptions used are reliant upon the information provided by the applicant. We consider the pricing assumptions to be aggressive, but the relatively small unit sizes will help keep absolute rents affordable. Anticipated construction costs per unit are higher than typical for this type of construction based on our recent experience, but we cannot provide qualified commentary on these costs. If more detailed cost estimates were available from a qualified contractor, it would provide additional support for the analysis. Our expectation is that the applicant has this information, but it should be made available as part of the application materials.

The applicant's relatively high assumptions on cost reduce indicated viability, while aggressive assumptions on income and a low threshold rate of return increase the indicated viability. A reduction in the cost of debt (interest rates) by the time the project is initiated and when permanent financing is secured would support the assumed threshold rate of return, and we view this as likely over the next few years.

Variable	Assessment	Implications
Construction Costs	Quite high for this type of construction based on recently completed similar projects. Construction costs have seen significant escalation over the last several years.	Higher construction costs decrease viability and increase the need for subsidy. The applicant should provide more support for the cost assumptions.
Residential Rental Rates	Aggressive in the current market.	Higher assumed achievable rental rates reduce the need for subsidy.
Commercial Lease Rates	Aggressive, but limited information on product.	This assumption also bolsters viability and reduces the need for subsidy.
Threshold Rate of Return	Historically typical, but not reflective of the current interest rate environment.	This assumption increases viability and reduces the need for subsidy, but likely assumes a future drop in interest rates.
Debt Coverage Ratio	The assumed debt coverage ratio is considered aggressive in the current market.	This assumption increases viability and reduces the need for subsidy by increasing the supportable debt and reducing the need for equity.

B. Program

The proposed development program for the site would include 191 market rate rental apartment units, with an average annual rent level of $1,954 in current dollars. This reflects an average annual per square foot rent level of $3.57.

Summary of Residential Program and Pricing (2012 $s)

	Program Mix			Average Monthly Rent	
Unit Type	Units	% Mix	Size (SF)	Per Unit	Per SF
Studios	96	50.3%	426	--	--
1B/1b	77	40.3%	619	--	--
2B/2b	18	9.4%	889	--	--
Total	191	100.0%	547	$1,954	$3.57

The proposed unit mix is heavily weighted towards smaller units, with studios and one bedroom units accounting for over 90% of the mix. The rent levels assumed are quite aggressive on a per square foot basis, and there is little precedent to support these rent levels outside of The Hixon. The small unit sizes will help keep the overall price point down, nonetheless we view the rent assumptions to optimistic in this market.

The program also includes over 25,000 square feet of ground floor commercial space. The materials submitted did not include a description of the space, including frontage and dimensions. The viability of commercial space is highly dependent on orientation, visibility, and accessibility. Our commentary on this portion of the program is limited by our lack of detailed information.

C. Assumptions

A number of assumptions must be made to evaluate the viability of the development program. As noted previously, the applicant's income assumptions are viewed as aggressive within the Bend market.

The developer provided materials contained the following assumptions:

Assumption	Provided	Comments
Housing Efficiency	71%	This factor represents the share of gross square footage that is leasable. The ratio used is relatively low, which increases the per square foot costs per unit. This may reflect the amenity package, which includes storage, co-working space, fitness and wellness centers, and lounge/gathering space.
Retail Lease Rate	$36 NNN	This is also a relatively aggressive assumption, as is a 5% vacancy assumption for the retail space in this location. This assumption increases the projected viability of the project, as a lower assumed lease rate would reduce projected income.
Parking Income	$65/Month	This seems reasonable
Capitalized Value	5.55%	This appears to reflect the return on cost as opposed to the labelled "Capitalized Value" but is consistent with typical threshold yield requirements for this type of project.
Senior Debt Interest	5.75%	The cost of debt is highly volatile in the current market, but this assumption seems reasonable. At this rate, the project will have issues with negative leverage at a 5.55% return on cost. Negative leverage occurs when the return is lower than the cost of debt, in which case the return on equity is below the unlevered rate of return.
Senior Debt Limit	60%	Loan to cost limit, typically conservative but reflective of the current market.
Developer Fee	4.50%	This is a reasonable fee for a project of this complexity.
Threshold Return	5.50%	A 5.50% assumed return on cost appears to have been the key return threshold used by the developer to assess viability. This assumption is quite aggressive in the current market but may reflect strong investor interest and an expectation that interest rates will decline prior to permanent financing.
Property Taxes	$450,000	The developer assumption of the initial year savings in property taxes from the residential component of the project. We are not sure if this reflects property taxes associated with the land and commercial components, which are not eligible for the abatement. For our analysis we discounted this number by 15%.

Additional assumptions in our analysis included an assumed annual escalator of 3.0% for both income and expenses. Permanent financing was assumed to have a minimum debt coverage ratio (DCR) of 1.25, with a 30-year amortization term. No refinance was assumed during the ten year cash flow for simplicity.

Construction costs were derived from the application and reflect a total cost of just under $78.7 million for the project. This reflects a per unit cost of $411,894, which is higher than we would expect for the type of construction proposed. The project does include retail space, which accounts for roughly 7% of the hard costs. Assuming this ratio carries through the project, the indicated cost per unit for the residential units would be $383,000 per unit. While elevated relative to recent similar projects we have worked on, the cost differential is likely attributable to the local contracting environment, high sitework costs due to demolition, extensive landscaping, and the choice of siding. Considering these factors, we view the cost assumptions to be dependable but would welcome additional support from the applicant.

SUMMARY OF DEVELOPMENT COSTS (2023 $S)

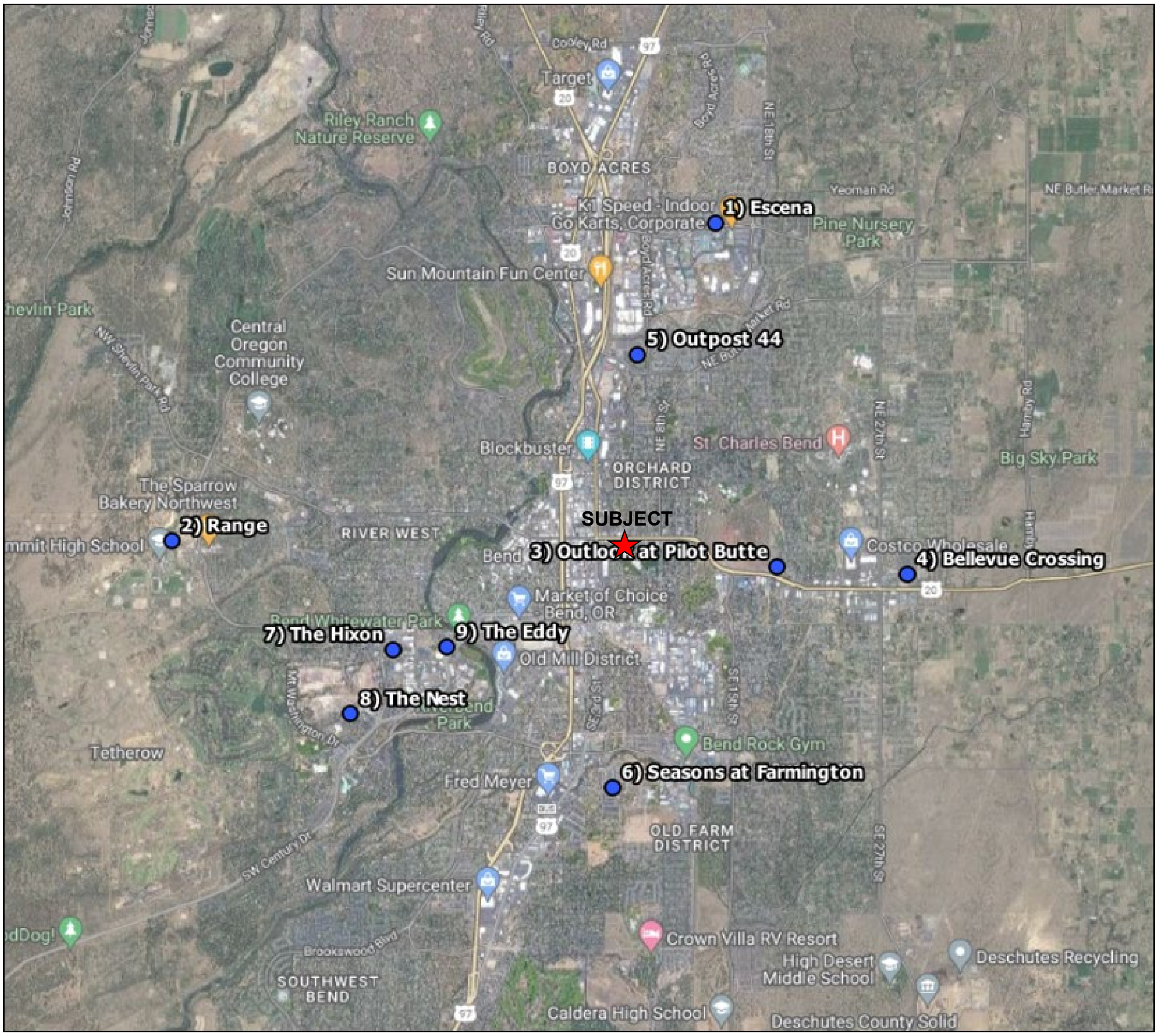
	Total	Per Unit
Property Acquisition		
Site Acquisition	$5,100,000	$26,702
Hard Costs		
Sitework	$7,673,453	$40,175
Construction		
Residential	$43,953,675	$230,124
Retail/Commercial (NNN)	$3,877,783	$20,303
Additional Hard Cost	$1,546,430	$8,096
Hard Cost Contingency	$2,852,567	$14,935
Total Hard Costs	$59,903,908	$313,633
Soft Costs		
Soft Cost Total from Pro Forma	$6,789,737	$35,548
Due Diligence	$160,000	$838
Financing Costs	$3,260,983	$17,073
Developer Fee	$3,109,549	$16,280
Soft Cost Contingency	$347,487	$1,819
Total Soft Costs	$13,667,755	$71,559
Cost Summary		
Development Costs - Total	$78,671,663	$411,894

D. ASSESSMENT OF RENT COMPARABLES

Johnson Economics conducted a survey of nine apartment projects in Bend to assess current market pricing in the Bend area. These are generally the newest and/or best positioned projects in the city. As indicated by the following map, the projects are dispersed geographically, as are older apartment projects in Bend. Comps #1, #4, #5, and #6 represent a typical suburban, walk-up format, with multiple two- or three-story buildings. However, comp #1 includes some four-story walk-up buildings, and comp #3 is a modern version of the three-story walk-up format, representing a design that differs considerably from traditional garden style projects. Comps #3, #8, and #9 consist solely of four-story elevator structures. Only one property – comp #7 – includes ground-floor commercial space, in an urban six-story format. The projects were completed between 2016 and 2022.

The following map shows the locations of the surveyed properties. Detailed profiles of the projects are included over the next pages, followed by a summary of relevant observations and an analysis of achievable pricing at the site.

MAP OF SURVEYED COMPARABLES



SOURCE: Google Earth, JOHNSON ECONOMICS

Occupancy is generally high among the surveyed properties, ranging from 94% to 100%. The overall rate is 97.5% (2.5% vacancy). This is high for large, professionally managed projects, indicating potential for additional rent increases. Newer projects have seen stronger demand over the past two years than the older properties, due to affluent renters coming from larger cities during COVID.

Rents at the surveyed properties range from around $1,535 per month for the least expensive units at the Hixon and the Nest to $3,445 for the most expensive two-bedroom units at the Eddy. Three-bedroom townhomes at Outpost 44 rent for up to $3,100. Rent concessions are rare: Escena is currently offering one month's free rent on select units. The average rent level in the sample is currently $1,951 per unit and $2.34 per square foot (PSF).

The Hixon has the highest rent levels, followed by the Eddy and Range. These properties enjoy strong locations and/or upscale features. Bellevue Crossing represents the lowest levels, reflecting its standard and age. The remaining properties are positioned between these, and largely represent similar rent levels.

SUMMARY OF SURVEYED PROJECTS

			UNIT CHARACTERISTICS						RENT CHARACTERISTICS				
Project Name/ Location	**Year**	**Occupancy**	**Type**	**Units**	**Mix**	**Sq. Ft.**	**Vacant**		**Low Rent**		**High Rent**	**Avg. Rent**	**Avg. Rent Per SF.**
1) Escena	2017	99%	2B/1b	34	25%	958	1	3%	$1,950	-	$2,200	$2,096	$2.19
20750 Empire Ave			2B/2b	34	25%	1023	0	0%	$1,975	-	$2,350	$2,157	$2.11
Bend, OR			3B/2b	68	50%	1188	0	0%	$2,300	-	$2,475	$2,328	$1.96
			Tot./Avg:	***136***	***100%***	***1089***	***1***	***1%***	***$1,950***	***-***	***$2,475***	***$2,227***	***$2.04***
2) Range	2017	97%	1B/1b	90	68%	630	4	4%	$1,685	-	$2,045	$1,843	$2.93
3001 NW Clearwater Dr			1B/1b	20	15%	708	0	0%	$1,740	-	$2,085	$1,878	$2.65
Bend, OR			2B/2b	18	14%	826	0	0%	$2,125	-	$2,335	$2,230	$2.70
			2B/2b	4	3%	902	0	0%	$2,463	-	$2,463	$2,463	$2.73
			Tot./Avg:	***132***	***100%***	***677***	***4***	***3%***	***$1,685***	***-***	***$2,463***	***$1,920***	***$2.84***
3) Outlook at Pilot Butte	2017	97%	Studio Loft	83	41%	581	4	5%	$1,635	-	$1,715	$1,674	$2.88
2001 NE Linnea Dr			1B/1b	60	29%	675	3	5%	$1,630	-	$1,795	$1,717	$2.54
Bend, OR			2B/2b	61	30%	1098	0	0%	$2,295	-	$2,705	$2,517	$2.29
			Tot./Avg:	***204***	***100%***	***763***	***7***	***3%***	***$1,630***	***-***	***$2,705***	***$1,939***	***$2.54***
4) Bellevue Crossing	2016	94%	1B/1b	75	49%	766	4	5%	$1,630	-	$1,655	$1,643	$2.14
488 NE Bellevue Dr			1B/1b	21	14%	778	2	10%	$1,680	-	$1,725	$1,703	$2.19
Bend, OR			2B/2b	27	18%	1049	2	7%	$1,970	-	$2,045	$2,008	$1.91
			2B/1b	30	20%	1088	1	3%	$1,995	-	$2,075	$2,035	$1.87
			Tot./Avg:	***153***	***100%***	***881***	***9***	***6%***	***$1,630***	***-***	***$2,075***	***$1,792***	***$2.03***
5) Outpost 44	2021-22	97%	1B/1b	33	25%	752	1	3%	$1,735	-	$1,845	$1,797	$2.39
643 NE Ross Rd			2B/1b	33	25%	997	0	0%	$1,740	-	$2,200	$2,146	$2.15
Bend, OR			2B/2b	21	16%	1082	2	10%	$2,125	-	$2,545	$2,488	$2.30
			3B/2b	21	16%	1380	1	5%	$2,463	-	$2,765	$2,727	$1.98
			3B/2.5b TH	22	17%	1614	0	0%	$2,463	-	$3,100	$3,055	$1.89
			Tot./Avg:	***130***	***100%***	***1115***	***4***	***3%***	***$1,685***	***-***	***$3,100***	***$2,326***	***$2.09***
6) Seasons at Farmington	2017	97%	1B/1b	12	5%	465	1	8%	$1,625	-	$1,660	$1,644	$3.54
61560 Aaron Way			1B/1b	96	42%	768	3	3%	$1,880	-	$1,955	$1,915	$2.49
Bend, OR			1B/1b	36	16%	867	0	0%	$1,930	-	$2,005	$1,969	$2.27
			2B/2b	72	32%	1150	3	4%	$2,220	-	$2,305	$2,249	$1.96
			2B/2b	12	5%	1288	0	0%	$2,430	-	$2,490	$2,466	$1.91
			Tot./Avg:	***228***	***100%***	***916***	***7***	***3%***	***$1,625***	***-***	***$2,490***	***$2,044***	***$2.23***
7) The Hixon	2020	99%	Studio	64	32%	491	1	2%	$1,535	-	$1,725	$1,619	$3.29
210 SW Century D			1B/1b	17	8%	604	0	0%	$1,750	-	$1,880	$1,848	$3.06
Bend, OR			1B/1b	91	45%	685	2	2%	$1,790	-	$2,065	$1,840	$2.68
			2B/1b	8	4%	775	0	0%	$2,250	-	$2,440	$2,345	$3.03
			2B/2b	8	4%	975	0	0%	$2,530	-	$2,655	$2,590	$2.66
			2B/2b	11	5%	1119	0	0%	$2,865	-	$3,015	$2,957	$2.64
			2B/2b Den	4	2%	1234	0	0%	$3,120	-	$3,205	$3,163	$2.56
			Tot./Avg:	***203***	***100%***	***667***	***3***	***1%***	***$1,535***	***-***	***$3,205***	***$1,907***	***$2.86***
8) The Nest	2020	100%	Studio	46	71%	474	0	0%	$1,534	-	$1,750	$1,638	$3.45
1609 SW Chandler Ave			2B/2b	19	29%	1041	0	0%	$2,234	-	$2,550	$2,393	$2.30
Bend, OR			***Tot./Avg:***	***65***	***100%***	***640***	***0***	***0%***	***$1,534***	***-***	***$2,550***	***$1,859***	***$2.90***
9) The Eddy	2022	100%	0.5B/1b	96	68%	646	0	0%	$1,745	-	$2,145	$1,836	$2.84
801 SW Bradbury Way			1B/1b	37	26%	718	0	0%	$1,990	-	$2,080	$1,905	$2.65
Bend, OR			2B/2b	8	6%	1265	0	0%	$2,935	-	$3,445	$3,116	$2.46
			Tot./Avg:	***141***	***100%***	***700***	***0***	***0%***	***$1,745***	***-***	***$3,445***	***$1,927***	***$2.75***

SOURCE: Property managers, leasing agents, and websites; CoStar; Craigslist; Deschutes County; JOHNSON ECONOMICS

The sample set indicates that the proposed rent levels will be near the upper end of the rents in the market, although the premium vis-à-vis smaller units is not as significant.

E. VIABILITY OF PROJECT

To assess the viability of the proposed development Johnson Economics generated a pro forma analysis utilizing the information provided by the applicant.

Baseline Scenario

Our baseline scenario reflects the development program based on the outlined assumptions and does not assume any benefit from the MUPTE. The project would cost an estimated $78.7 million to develop, with a stabilized Net Operating Income (NOI) of $3.9 million. The net operating income reflects income from property after operating expenses have been deducted, but before deducting income taxes and financing expenses.

EQUITY ASSUMPTIONS:			
Total Development Costs			**$78,671,663**
(-) Permanent Loan			($42,660,456)
Net Permanent Loan Equity Required		**45.8%**	**$36,011,208**
PERMANENT FINANCING ASSUMPTIONS:			
	DCR	**LTV**	**LTC**
Interest Rate	5.75%	5.75%	5.75%
Term (Years)	30	30	30
DCR/Limitations	**1.25**	**60%**	**60%**
Stabilized NOI (Year 3)	$3,910,542	$3,910,542	
CAP Rate		5.50%	
Supportable Mortgage	**$44,673,563**	**$42,660,456**	**$47,202,998**
Annual Debt Service	**$3,128,433**	**$2,987,458**	**$3,305,567**
MEASURES OF RETURN, INCOME COMPONENTS:			
Indicated Value @ Stabilization			$71,100,760
Value/Net Cost			90%
Return on Cost (ROC)			4.97%
ESTIMATION OF VIABILITY GAP			
Targeted Return on Cost/Income (ROC)			5.50%
Calculated Gap/Income Components			$7,570,904
Overall Indicated Viability Gap			**$7,570,904**

The applicant assumes senior debt of $47.2 million in this scenario, but the supportable level of debt is expected to be limited by debt coverage and loan to value requirements. The reduction in supportable senior debt will result in a commensurate increase in equity requirements. Based on the revenue assumptions outlined the supportable debt on the project would be $42.7 million, with required equity of over $36.0 million.

A lending institution will typically use a debt coverage ratio (DCR) to calculate the amount of supportable debt on a real estate project. For our analysis we assumed a DCR of 1.25, which reflects net operating income in the first stabilized year after taxes at 125% of the scheduled debt service payment. While achievable in some cases, this is an aggressive assumption as DCR requirements will often be higher at 1.30 to 1.35 in the current lending environment.

When evaluating the viability of a project we use a series of financial return measures. The definition of these is included as a glossary at the end of this memorandum. Individual developers vary with respect to which returns they use in evaluating projects, so we include several alternative measures. The return on cost under the baseline scenario would be 4.97%, with the leveraged return on equity at only 2.48%. The internal rate of return assuming a 10-year hold and calculating the reversion value (sale of the asset at the end of the period) based on a terminal cap rate of 6.5% (the capitalization rate used to calculate the value at sale) would be 3.7%.

These returns are assumed to be below what would be necessary for the market to develop this project. Assuming a targeted return on cost of 5.50%, the indicated viability gap as modeled would be close to $7.7 million without the MUPTE tax abatement. We will typically use return on cost as our preferred measure for acceptable returns, as it is least subject to variability in assumptions. This threshold is typical for projects in the last several years in desirable areas but may be somewhat low in the current interest rate environment.

The following is a 10-year simplified pro forma for the project. As noted, a reversion value was assumed at the end of the period based on the projected NOI in year 11 divided by an assumed terminal cap rate of 6.5% and deducting the remaining principal balance from the primary loan. Under this scenario the net residual value is projected at $74.0 million at the end of year 10.

Project Name:	**105 NE FRANKLIN**
Project Description:	**Baseline Scenario**

TEN YEAR FINANCIAL PROJECTIONS

Thousands of Dollars

	YEAR										
	0	1	2	3	4	5	6	7	8	9	10
INCOME											
Potential Gross Income		$5,542.1	$5,542.1	$5,542.1	$5,708.4	$5,879.7	$6,056.1	$6,237.7	$6,424.9	$6,617.6	$6,816.1
Operating Expenses		24.4%	24.4%	24.4%	24.4%	24.4%	24.4%	24.4%	24.4%	24.4%	24.4%
Vacancy/Collection Loss		100.0%	52.5%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%
Net Operating Income (NOI)		**$0.0**	**$1,989.1**	**$3,910.5**	**$4,027.9**	**$4,148.7**	**$4,273.2**	**$4,401.3**	**$4,533.4**	**$4,669.4**	**$4,809.5**
ANNUAL CASH FLOW											
Construction Costs		($39,335.8)	($39,335.8)								
Loan Proceeds		$3,324.6	$39,335.8								
Grants		$0.0									
MUPTE Abatement		$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0
Net Operating Income		$0.0	$1,989.1	$3,910.5	$4,027.9	$4,148.7	$4,273.2	$4,401.3	$4,533.4	$4,669.4	$4,809.5
Debt Service		$0.0	$0.0	($3,016.8)	($3,016.8)	($3,016.8)	($3,016.8)	($3,016.8)	($3,016.8)	($3,016.8)	($3,016.8)
Reversion Value 1/											$73,991.9
Less Sales Costs											($1,479.8)
Less Principal Payment											($37,130.0)
Net Cash Flow		($36,011.2)	$1,989.1	$893.8	$1,011.1	$1,131.9	$1,256.4	$1,384.6	$1,516.6	$1,652.6	$37,174.8
SELECTED RETURN MEASURES											
Debt Coverage Ratio				1.30	1.34	1.38	1.42	1.46	1.50	1.55	1.59
Cash on Cash Return, Income Properties		**0.00%**	**5.52%**	**2.48%**	**2.81%**	**3.14%**	**3.49%**	**3.84%**	**4.21%**	**4.59%**	**4.98%**
Return on Cost, Income Properties		**0.00%**	**2.53%**	**4.97%**	**5.12%**	**5.27%**	**5.43%**	**5.59%**	**5.76%**	**5.94%**	**6.11%**
Internal Rate of Return	**3.7%**										

1/Assumes asset sale at end of Year 10.

Based on these estimates and forecasts we would not consider the project to represent a viable development program without the MUPTE program.

MUPTE Scenario

The second scenario uses the same income and expense assumptions as the baseline scenario, with the addition of an assumed ten-year tax exemption. The use of the MUPTE reduces operating costs significantly during the first ten years (starting in year 2 on the cash flow table), increasing the cash flow available for debt service. With the increased cash flow to cover debt service, the serviceable debt increases to $47.0 million, reducing the equity requirement to $31.7 million (40% of costs). This varies somewhat from the assumption in the applicant's submittal, as the expected annual savings from the tax abatement was lowered from $450,000 to $384,000 in the first year.

The return on costs (ROC) at stabilization is estimated at 5.47%, which is just below our assumed targeted return. This yields an indicated viability gap of roughly $380,000. The internal rate of return under this scenario is a modest 5.2% at stabilization, while the initial cash on cash return is 3.10%. While the project is considered close to viable based on the

EQUITY ASSUMPTIONS:			
Total Development Costs			**$78,671,663**
(-) Permanent Loan			($46,975,219)
Net Permanent Loan Equity Required		**40.3%**	**$31,696,444**
PERMANENT FINANCING ASSUMPTIONS:			
	DCR	**LTV**	**LTC**
Interest Rate	5.75%	5.75%	5.75%
Term (Years)	30	30	30
DCR/Limitations	**1.25**	**60%**	**60%**
Stabilized NOI (Year 3)	$4,306,062	$4,306,062	
CAP Rate		5.50%	
Supportable Mortgage	**$49,191,936**	**$46,975,219**	**$47,202,998**
Annual Debt Service	**$3,444,849**	**$3,289,616**	**$3,305,567**
MEASURES OF RETURN, INCOME COMPONENTS:			
Indicated Value @ Stabilization			$78,292,032
Value/Net Cost			100%
Return on Cost (ROC)			5.47%
ESTIMATION OF VIABILITY GAP			
Targeted Return on Cost/Income (ROC)			5.50%
Calculated Gap/Income Components			$379,631
Overall Indicated Viability Gap			**$379,631**

assumed threshold of 5.50%, reaching that return will require some modest cost savings and/or revenue enhancements. Under these assumptions the indicated returns do not reflect a project providing above-normal returns.

The following is a ten- year summary pro forma of the development assuming the MUPTE:

Project Name: **PROJECT^, 105 NE FRANKLIN**

Project Description: **Scenario With MUPTE**

TEN YEAR FINANCIAL PROJECTIONS

Thousands of Dollars

	YEAR										
	0	1	2	3	4	5	6	7	8	9	10
INCOME											
Potential Gross Income		$5,542.1	$5,542.1	$5,542.1	$5,708.4	$5,879.7	$6,056.1	$6,237.7	$6,424.9	$6,617.6	$6,816.1
Operating Expenses		24.4%	24.4%	24.4%	24.4%	24.4%	24.4%	24.4%	24.4%	24.4%	24.4%
Vacancy/Collection Loss		100.0%	52.5%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%
Net Operating Income (NOI)		**$0.0**	**$1,989.1**	**$3,910.5**	**$4,027.9**	**$4,148.7**	**$4,273.2**	**$4,401.3**	**$4,533.4**	**$4,669.4**	**$4,809.5**
ANNUAL CASH FLOW											
Construction Costs		($39,335.8)	($39,335.8)								
Loan Proceeds		$7,639.4	$39,335.8								
Grants		$0.0									
MUPTE Abatement		$0.0	$384.0	$395.5	$407.4	$419.6	$432.2	$445.2	$458.5	$472.3	$486.4
Net Operating Income		$0.0	$1,989.1	$3,910.5	$4,027.9	$4,148.7	$4,273.2	$4,401.3	$4,533.4	$4,669.4	$4,809.5
Debt Service		$0.0	$0.0	($3,321.9)	($3,321.9)	($3,321.9)	($3,321.9)	($3,321.9)	($3,321.9)	($3,321.9)	($3,321.9)
Reversion Value 1/											$74,964.8
Less Sales Costs											($1,499.3)
Less Principal Payment											($40,885.4)
Net Cash Flow		($31,696.4)	$2,373.1	$984.2	$1,113.3	$1,246.4	$1,383.4	$1,524.6	$1,670.0	$1,819.8	$34,554.1
SELECTED RETURN MEASURES											
Debt Coverage Ratio				1.18	1.21	1.25	1.29	1.32	1.36	1.41	1.45
Cash on Cash Return, Income Properties		**0.00%**	**7.49%**	**3.10%**	**3.51%**	**3.93%**	**4.36%**	**4.81%**	**5.27%**	**5.74%**	**6.23%**
Return on Cost, Income Properties		**0.00%**	**2.53%**	**5.47%**	**5.64%**	**5.81%**	**5.98%**	**6.16%**	**6.35%**	**6.54%**	**6.73%**
Internal Rate of Return	**5.2%**										

1/Assumes asset sale at end of Year 10.

Under this scenario the net residual value is projected at $75.0 million at the end of year 10, which reflects the capitalized value of the NOI excluding the abatement and the value of the remaining year of abatement. The principal payoff is higher as the supportable debt is higher.

When property taxes are introduced in year 12, the project is still capable of meeting the debt service requirements of the primary loan due to assumed rates of escalation. The project does provide adequate cash flow to refinance in later years to reduce the equity requirement. This would increase the IRR but would not impact initial return on cost.

APPENDIX A: GLOSSARY OF TERMS

Capitalization Rate or Cap Rate – The rate of return used to derive the capital value of an income stream. The value of a real estate asset is commonly set based on dividing net operating income (NOI) by a capitalization rate.

Debt Coverage Ratio – Defined as net operating income divided by annual debt service. This measure is often used as underwriting criteria for income property mortgage loans and limits the amount of debt that can be borrowed. Standard minimum debt coverage ratios would be in the 1.20 to 1.30 range. A debt coverage ratio of 1.20 indicates that in your first year of stabilized occupancy, your net operating income (NOI, gross income less expenses) is equal to 120% of your debt service requirements (principal and interest).

Equity – The interest or value that the owner has in real estate over and above the liens held against it.

Net Operating Income (NOI) – Income from property after operating expenses have been deducted, but before deducting income taxes and financing expenses.

Return on Cost (ROC) – Net operating income in the initial year, divided by total project cost. This measure is also commonly referred to as the going-in cap rate.

Return on Equity or Equity Yield Rate or Cash on Cash – The rate of return on the equity portion of an investment, considering periodic cash flow. In this analysis, the return on equity represents the initial rate of return and is defined as the net cash flow after interest costs divided by the developer equity. It does not include payments towards principal as interest costs.

Internal Rate of Return (IRR) – The internal rate of return is the true annual rate of earnings on an investment and equates the value of cash returns with cash invested. It reflects projected net cash flows throughout the duration of the investment period.

Terminal Capitalization Rate – The capitalization rate used to estimate the value of the asset at the end of the forecast period, in this case used to calculate a reversion value of the property.

BOARD AGENDA COMMUNICATION

AGENDA DATE:	October 17, 2023
SUBJECT:	Land Acquisition Policy
STAFF RESOURCE:	Henry Stroud, Planner Michelle Healy, Deputy Executive Director
PREVIOUS BOARD ACTION:	Adopted Land Acquisition Policy, February 11, 2011, and June 18, 2019
ACTION PROPOSED:	Adopt new Land Acquisition Policy
STRATEGIC PLAN:	
Theme:	Business – Operational Excellence
Objective:	Improve Business Practices
Initiative:	Obtain and maintain accreditation through the Commission for Accreditation of Park and Recreation Agencies

BACKGROUND

The district first adopted a Land Acquisition Policy in February 2011 and later amended this policy in June 2019 (attachment A). The Land Acquisition Policy establishes guidelines for the acquisition of property for parks, trails, natural areas, recreation facilities or other needs. It is designed to provide clear guidance for district staff and the board of directors and allow the district to carry out acquisitions with a strategic, proactive and consistent approach. The Land Acquisition Policy is also a requirement of the Commission for Accreditation of Park and Recreation Agencies (CARPA) which requires that policies be reviewed on a regular basis and updated as necessary to maintain accreditation.

The district's comprehensive plan identifies park search areas, trails alignments and specific project needs that require acquisition of land. The comprehensive plan serves as the main guide for the district's land acquisition strategy.

In this latest revision (attachment B), the Land Acquisition Policy has been edited for conciseness and amended to:

- Ensure the policy reflects the current established practices by the district to acquire property.
- Expedite trail development by clarifying that district staff may acquire properties for trail use as requirements of land use approvals (aka exactions) without prior board approval.

- Expedite trail development by clarifying that the district may purchase or acquire other property for trail development without prior board approval if the value is within the established purchasing limits of the Executive Director.
- Clarify that the district is required to complete a title review and obtain an environmental site assessment for all properties obtained by deed.
- Clarify that the district is not required to complete a title review and obtain an environmental site assessment for properties obtained by easement, lease or license, but may choose to do so at staff discretion.
- Clarify the district's right to use a 3rd party agent to identify potential acquisition properties and/or facilitate complex property acquisitions.

BUDGETARY IMPACT

None

STAFF RECOMMENDATION

Staff recommends approval of the new Land Acquisition Policy.

MOTION

I make a motion to adopt the new Land Acquisition Policy.

ATTACHMENT

Attachment A - Land Acquisition Policy (June 2019)
Attachment B – Land Acquisition Policy (new)

R Brady Fuller
Brady Fuller, Chair

Land Acquisition Policy

Purpose

This policy establishes guidelines for the acquisition of property for parks, trails, natural areas, recreation facilities or other related facilities. The following objectives are designed to guide staff and Board decisions:

- Respond to needs for public space with a strategic, proactive and consistent approach
- Balance the short term and occasional competing land acquisition interests with long term goals
- Uphold the District's efforts toward sustainability
- Provide guidance and a process for the District Board of Directors to follow in response. to requests for land acquisitions

Background

The *Bend Park and Recreation District Comprehensive Plan* (Comp Plan) sets forth major objectives that guide District policymaking and management of the park and recreation system. The Comp Plan recommends that the District balance the acquisition and development of parks geographically and by population. A priority of the Comp Plan is to identify land acquisitions that assure District residents have equitable access to recreation opportunities.

In addition to the acquisition of land for parks, trails and natural areas, property is also acquired to support the services and operations of the District. This can include land or buildings for maintenance shops, storage facilities, administration, recreation programming, or other associated needs.

Funding

The District maintains an ordinance that defines the assessment, collection and expenditure of system development charges (SDC) that are levied on new residential and guestroom construction. Through this fee, newcomers to the community pay their share of the costs to build new or expand parks, trails and recreation facilities needed to serve them. SDC revenues provide a source of funding to finance the acquisition, construction or improvements of District parks, trails and recreation facilities necessitated by growth. The SDC ordinance requires a periodic review and update of the fee calculation. This ensures that the population estimates, facility inventories, construction costs and land prices used to calculate the fee are up-to-date and accurate.

Park, trail, and recreation and support facility land acquisitions are also funded with property taxes, grants, bonds, debt and donations. Each year the District considers land acquisition as part of the annual budget process. Staff and the Board of Directors prioritize land acquisition needs, together with all other needs in the District, such as development, operations and maintenance.

<u>Analysis of Parks, Trails and Natural Areas Needs</u>

The Comp Plan includes a map of park search areas and a trails plan that guides the acquisition of park and trail acquisitions to meet the District's Level of Service (LOS) targets. Each year the District's Board of Directors adopts a Capital Improvement Plan (CIP) that details park development projects and land acquisition based on the needs identified in the Comp Plan.

Staff maintains the inventory of the District's land and trail ownership and updates it annually to reflect newly acquired property. The inventory is then used to calculate and evaluate the District's current LOS compared to the target LOS identified in the Comp Plan. Staff uses this analysis to prioritize park and trail acquisition in the CIP that help fill gaps in the system.

Staff also considers the operations and maintenance requirements of a potential park or trail land acquisition to assure that the District can continue to care for and manage the lands it acquires.

<u>Types of Ownership</u>

The District prefers to own property outright, but uses several ways in which to own property. The first choice of the District is to hold the property in fee simple. Fee simple represents absolute ownership of land, and therefore, the District as owner may do whatever it chooses with the land. Under certain circumstances, however, a bargain sale, quitclaim, easement or license may be the only option available to the District to acquire property.

The types of legal instruments generally used by the District to transfer land ownership or the right to use property owned by another are:

> **Warranty Deed** - In a warranty deed the grantor represents that they own the property free and clear of other claims except for those listed as exceptions on the deed and has a right to sell it to the buyer. An example of property owned by the District via a warranty deed is Goodrich Pasture Park.
>
> **Bargain and Sale Deed** – This is a deed for which the grantor implies to have or have had an interest in the property but offers no warranties of title to the grantee. An example of property owned by the District via bargain and sale deed is Discovery Park.

Quitclaim Deed -- A quitclaim deed is a release by the grantor, or conveyor of the deed, of any interest the grantor may have in the property. If the grantor had fee title, a quitclaim deed will convey clear title. Generally a quitclaim deed relieves the grantor of liability regarding the ownership of the property. Thus, the grantor of a quitclaim deed will not be liable to the grantee, or recipient of the deed, if a competing claim to the property is later discovered. A quitclaim deed is not a guarantee that the grantor has clear title to the property; rather it is a relinquishment of the grantor's rights, if any, in the property. An example of property owned by the District via a quitclaim deed is Pine Nursery Park.

Easement – An easement is a right-of-use over property owned by another individual or entity. Traditionally the permitted kinds of uses are limited, the most important being trail rights-of-way. The easement is for the benefit of the community. An example of property owned by the District via an easement is Mt. Bachelor Village section of Deschutes River Trail.

Conservation Easement – A conservation easement is a transfer of usage rights that creates a legally enforceable land preservation agreement between a landowner and the District for the purposes of conservation. It restricts real estate development, commercial and industrial uses, and certain other activities on a property to a mutually agreed upon level. An example of property owned by the District via a conservation easement is Shevlin Park Conservation Easement.

License – A license is similar to an easement, except it is revocable (1) by the grantor, (2) when a certain event occurs, or (3) on a date certain. An example of property licensed to the District is the Deschutes River Trail through Mt. Bachelor Village.

Leases – In some cases the District will enter into a lease for the use of a property to provide for programming or other needs. Leases are similar in nature to licenses and provide no or very limited interests in a property. These are obtained when acquisition is not feasible or necessary, or when the District wants to use a piece of property on a trial basis to assess feasibility of future acquisition. An example of property leased to the District is the Art Station.

Appraisal or Realtor's Opinion of Value

The District generally uses an appraisal or Broker's Opinion of Value (BOV) to establish the value of a property being considered for purchase. BOV is based on the licensed real estate broker's inspection of the subject property and recent listings and sales near the subject property. An appraisal is an opinion of value of real property. A licensed appraiser uses various methods to determine the property's "market value." The District will accept any one of three methods for determining value: cost approach, sales comparison approach, or income approach. No two properties are identical, and all properties differ from each other in their location, characteristics, and potential uses (highest and best use). The absence of a market-based pricing mechanism determines the need for an expert appraisal of real property. Even with an expert appraisal property value is subjective. The District uses an appraisal as a basis for negotiations.

Under certain circumstances, especially in the case where federal or state funds are to be used for acquisition, the funding agency may require that the appraisal meet the standards prescribed by the Appraisal Institute in *Uniform Standards for Federal Land Acquisitions*, commonly known as a yellow book appraisal.

Small or time sensitive parcels may not warrant an appraisal because of the cost and time required for a registered appraiser to perform the work. Upon Board direction, the District may directly negotiate directly with the landowner or use a BOV or other accepted means of establishing value (e.g. lot sale cost in new subdivision). If a broker is used by the District to perform this work, the broker must be a licensed real estate broker that has no conflict of interest or relationship of any kind with the seller.

The Board of Directors has the discretion to determine the appropriate method for valuing property that best meets the needs of the District.

Trail Acquisition

Trail acquisition is often opportunistic in nature. Trails can be dedicated through the land use process. Trails that are identified on the *Bend Transportation System Plan* can be exacted and added to the trails system as a requirement of development. Trail segments are also acquired through purchase, easement, donation, license or other means.

Condemnation

Condemnation proceedings may be used to acquire property when negotiations have failed, and the Board has determined that this is the best solution to meet the public need. An example of where eminent domain may be used is to acquire a trail segment that allows for the continuation of an existing trail or the construction of a new trail to meet the objectives of the *Comp Plan*. This method is the last resort for acquisition.

Acquisition Requests

A member of the community or staff may request the District consider a specific acquisition. When such requests are made, staff considers the request with other land acquisition priorities and Comp Plan goals. If the request has merit, it will be presented to the Board of Directors in executive session. The Board will decide if the acquisition meets District goals and direct staff with regard to timing of the acquisition and funding considerations the District should pursue.

Environmental Review/Building Inspections

An Environmental Site Assessment is a report prepared for the District in consideration of acquiring property that identifies potential or existing environmental contamination liabilities. The analysis, often called an ESA, typically addresses both the underlying land as well as physical improvements to the property. In the event the inspection reveals a potential problem, the District shall request that the inspection firm provide details and costs on remediation procedures to remove the contamination. An environmental site assessment is a standard part of the due diligence process for the acquisition of land or structures purchased, gifted, or accepted by the District.

In the event the District purchases or accepts ownership of an existing building, and in addition to an ESA, a building inspection report prepared by a certified building inspector will be conducted to identify any issues or concerns.

Preliminary Title Report and Title Insurance

As part of the due diligence process for the purchase or acceptance of property, the District will review a preliminary title report to identify if there are any exceptions, encumbrances or other limitations on the property that might restrict the District use of the land. Property is to be acquired with as few restrictions as possible to minimize any limitations on the future use of the property. This includes, where possible, the removal of items such as deed restrictions, liens, covenants, conditions and restrictions (CC&Rs), homeowner association membership, or other interests or restrictions.

When a property is being acquired by deed, title insurance is required. Title insurance will be provided by the seller and obtained through a licensed title insurance company.

Gifts of Real Estate

Gifts of real estate may include developed or undeveloped property. Prior to acceptance of real estate, the District shall require an ESA of the property and title report to ensure that the property has no environmental damage or deed conditions unacceptable to the District, and conduct the analysis outlined herein.

Prior to acceptance of real property, the gift shall be approved by the District Board of Directors. Criteria for acceptance of the property shall include, but not be limited to:

- Determination if the property is useful to the District
- Consideration of any restrictions, reservations, or easement or other limitations associated with the property
- Consideration of any deed restriction that the donor may wish to place on the property
- Payment of carrying costs, which may include insurance, property taxes, mortgages, or notes, etc., associated with the property
- Maintenance requirements
- Results of an environmental review and/or building inspection.
- Review and acceptance of a title report
- Whether any specialty report such as archaeological assessment, geotechnical study or other inspections should be obtained prior to acceptance

Standard Acquisition Protocol

The typical course of action for acquiring property is as follows:

- Identify potential land or property to be acquired based on the Comp Plan or other needs
- Analyze the land to determine extent to which it meets acquisition needs
- Discuss initial acquisition with Board during executive session
- Board determines timing of acquisition
- Confirm seller's willingness to proceed with acquisition prior to expenditure of funds for due diligence and associated legal costs
- Obtain appraisal, realtor's opinion-of-value, or other means of establishing market value of property
- Negotiate cost and other terms with the seller
- District legal counsel prepares purchase agreement
- Take offer with total acquisition cost to Board for approval in public meeting
- Have title report, environmental study and other necessary reports produced and reviewed by staff and legal counsel to complete due diligence
- If due diligence review provides acceptable results, the Executive Director executes closing of property

Board Approval

Pursuant to ORS 192.660 (2)(e), the Board may consider real property transactions in executive session. During executive session, the Board may consider the merits of acquiring the property and all contract details. Authorization of the purchase must be made in an open session where the public will have an opportunity to comment on the acquisition. The open session discussion shall include a clear description of the property to be acquired and all costs associated with the acquisition. Once the Board has approved the purchase, the executive director will execute the contract and closing procedures.

____
Nathan Hovekamp, Chair

Land Acquisition Policy

Purpose

This policy establishes guidelines for the acquisition of real property for parks, trails, natural areas, recreation facilities, or other needs. Acquisition may entail the transfer of ownership or the acquisition of easements, licenses, or leases that establish the district's legal right to use a property for its needs.

This policy is designed to:

- Provide clear guidance for district staff and the board of directors to follow when acquiring property; and
- Allow the district to respond to needs for property acquisition with a strategic, proactive, and consistent approach.

Background

Oregon law gives park and recreation districts the power to "construct, reconstruct, alter, enlarge, operate and maintain such lakes, parks, recreation grounds and buildings as, in the judgment of the district board, are necessary or proper, and for this purpose to acquire by lease, purchase, gift, devise, condemnation proceedings or otherwise such real and personal property and rights of way, either within or without the limits of the district as, in the judgment of the board, are necessary or proper, and to pay for and hold the same." (ORS 266.410 (3))

The *Bend Park and Recreation District Comprehensive Plan* (comprehensive plan) establishes objectives that guide development of the park and recreation system and recommends that the district acquire property for new parks, trails, recreation facilities and natural areas to ensure equitable access to parks and recreation opportunities throughout the district. The district also acquires property for maintenance shops, storage facilities, administration, and other operational needs.

Types of Ownership

The district prefers to own property in fee simple. Fee simple is the strongest form of ownership, providing full and irrevocable ownership of land, and any buildings on that land. The land is owned outright, without any limitations or restrictions other than those of record at the time of acquisition and local zoning ordinances. However, under certain circumstances an easement, license, or lease may be the only option available to the district to acquire the right to use a piece of property.

The types of legal instruments generally used by the district to acquire ownership or the right to use property are:

> **Warranty/Special Warranty Deed** – The grantor under a warranty deed conveys its entire interest in the property and warrants that the property is free from encumbrances except as specifically provided in the deed. The grantor under a warranty deed covenants that it owns the property being conveyed, that it has the right to convey that property, and that it will defend the title to the property. (A special warranty deed has the same legal effect except that the covenant of freedom from encumbrances is limited to those created or suffered by the grantor, and the covenant of warranty is limited to defending title against persons claiming "by, through or under" the grantor.) An example of property owned by the district via a warranty deed is Goodrich Pasture Park.
>
> **Bargain and Sale Deed** – The grantor under a bargain and sale deed conveys its entire interest in the property, but offers no warranties of title to the grantee. It is usually given in circumstances where the grantor wants to avoid potential liability for title defects and, consequently, where the grantee agrees to rely on title insurance for protection against such defects. An example of property owned by the district via bargain and sale deed is Mirror Pond.
>
> **Quitclaim Deed** – The grantor under a quitclaim deed conveys whatever title or interest, legal or equitable, that it may have in the property on the date of the deed. If the grantor of a quitclaim deed has fee title, a quitclaim deed will convey that title, but the grantor will not be liable to the grantee if grantor had some lesser title, or if a competing claim to the property were later discovered. Also, unlike warranty, special warranty, or bargain and sale deeds, a quitclaim deed does not convey after-acquired title. Therefore, a quitclaim deed is most often used to release a cloud on title and should not be accepted as a conveyance of fee title except in the most unique of circumstances. An example of property owned by the district via a quitclaim deed is Pine Nursery Park (where the federal law authorizing its sale to the district mandated that the United States could only deliver a quitclaim deed).
>
> **Easement** – An easement grants a nonpossessory interest that allows the grantee to use property owned by another individual or entity. The district typically acquires easements for trails or other uses that do not require complete ownership. An example of property operated by the district via an easement is the Mt. Bachelor Village section of Deschutes River Trail.
>
> **Conservation Easement** – A conservation easement is a transfer of use rights that creates a legally enforceable land preservation agreement between a landowner and

the district for the purposes of conservation. It restricts real estate development, commercial and industrial use, and certain other activities on a property to a mutually agreed upon level. An example of property operated by the district via a conservation easement is the Shevlin Park Conservation Easement.

License – A license is similar to an easement, except that it is revocable by the grantor, sometimes at will, or upon the occurrence of a certain event or the expiration of a certain period of time. An example of property licensed to the district is the Central Oregon Historic Canal Trail through property owned by the Central Oregon Irrigation District.

Lease – A lease gives the tenant a possessory interest in a piece of property for a set period of time. In some cases, the district will enter into a lease for the use of a property to provide for programming or other needs, but when acquisition of fee ownership is not feasible or necessary, or when the district wants to use a piece of property on a trial basis to assess feasibility of future acquisition. An example of property leased to the district is the Riverbend Park off-leash area.

<u>Property Valuation</u>

The District uses several methods to establish the value of a property being considered for acquisition.

Appraisal – An appraisal is a determination of a property's market value by a licensed appraiser. The district will accept any one of three appraisal methods: cost approach, sales comparison approach, or income approach. In certain circumstances, e.g., when federal or state funds are being used for acquisition, an appraisal that meets the standards prescribed by the Appraisal Institute in the *Uniform Appraisal Standards for Federal Land Acquisitions*, commonly known as a "yellow book" appraisal, may be required. In some instances, the district and the property owner may choose a mutually agreeable appraiser to determine a property's market value.

Broker Opinion of Value – A Broker's Opinion of Value (BOV) is a valuation method based on a licensed real estate broker's inspection of a property and comparison of recent nearby listings and sales. For the district to use this method, the value must be determined by a licensed real estate broker that has no conflict of interest, or relationship of any kind, with the seller(s).

Alternative Valuation – Small time-sensitive parcels or parcels with little value may not warrant an appraisal because of the cost and time required for a registered appraiser to perform the work. Upon board direction, the district may use other means of determining the value of a property in place of an appraisal or broker's opinion of value.

The board of directors has discretion to determine the appropriate method for valuing property that is in the best interest of the district and the total amount the district is willing to offer for any particular property acquisition.

Trail Right-of-Way Acquisition

Trail right-of-way acquisition is often opportunistic in nature. Trail rights-of-way are routinely acquired through land use processes. Board approval is not required for the acquisition of property, easements, or licenses for trails that are acquired through land use processes.

Trail rights-of-way are also acquired through direct negotiation between district staff and property owners. Acquisition of property, easements, or licenses for trails that are identified in the district's comprehensive plan do not require additional board approval if the cost of the easement or license to be obtained is within the purchasing authority limits of the district's executive director and does not require condemnation.

Negotiation Methods

The district may negotiate the acquisition of property directly with property owners or use a third-party agent to identify properties and/or help facilitate complex property transactions. When utilizing a third-party agent, the district will adhere to the procedures contained within this policy. The district will not let a third-party agent finalize a property transaction without the necessary approvals contained within this policy.

Eminent Domain

The district may use its eminent domain authority to condemn property when negotiations have failed, when requested by a property owner, or when the board has determined that it is the preferred method of acquisition and in the best interest of the public. An example of where condemnation may be used is to acquire property that allows for the continuation of an existing trail or the construction of a new trail to meet the objectives of the district's comprehensive plan.

Any condemnation actions carried out by the district must adhere to the procedures and notification requirements contained within the Oregon Revised Statutes. All condemnation actions carried out by the district require the board to pass a resolution of intent which clearly states the public necessity and purpose for which the property is being acquired.

Environmental Site Assessment

An Environmental Site Assessment (ESA) is a report, for property that the district is considering acquiring, obtained to identify potential or existing environmental contamination liabilities. An ESA typically addresses both the underlying land as well as any physical improvements on that land. In the event the ESA reveals a potential problem, the district shall request that the consultant provide details and costs estimates for possible remediation procedures to mitigate any concerns. The district requires an ESA for all property acquired via a deed, and purchase agreements shall include the right to terminate the acquisition if the environmental condition of the property is unacceptable. ESAs are not commonly conducted for the acquisition of easements, licenses, or leases.

Building Inspections
When the district acquires an existing building for public use, the district may choose to have a building inspection report prepared by a certified building inspector to identify any issues or concerns.

Title Review
For all properties acquired by deed, the district will review a preliminary title report to identify if there are any restrictive covenants, encumbrances, or other matters of record that might restrict the district's use of the land. Potential encumbrances may include deed restrictions, liens, covenants, conditions and restrictions (CC&Rs), homeowners' association membership, or other interests or restrictions. As a general policy, the district prefers property with as few encumbrances as possible to minimize any limitations on future use of the property and the district will pursue the removal of encumbrances whenever possible.

Title Insurance
For all properties acquired by deed, the district may choose to have the seller provide title insurance, obtained through a licensed title insurance company. The district may also choose to purchase its own title insurance for properties received by donation or in other unique circumstances.

Boundary Survey
A boundary survey may be required by the title company or desired by the district. A boundary survey will define property lines based on a predetermined boundary description. Conducting a boundary survey will help determine if there are any encroachments, floodplains, easements, or other encumbrances affecting the property, and will map encumbrances to help illustrate their impact on the property. The district may elect to have additional surveys and studies done to better understand the existence, location, and impact of any encumbrances.

Acquisition Requests
A member of the community or staff may request the district consider a specific acquisition. When such requests are made, staff will consider the request with other land acquisition priorities and the district's comprehensive plan goals.

Gifts of Real Estate
The district may accept gifts of developed or undeveloped property. Prior to acceptance of property by gift, the district will evaluate the property according to the procedures and guidelines contained in this policy. Additional considerations for gifts of property may include consideration of any deed restrictions that the donor may wish to place on the property and any other associated costs with acceptance of the property.

All gifts of property must be approved by the board of directors. Property acquired through land use processes shall not be considered a gift for the purposes of this policy.

Board Consideration and Approval

Pursuant to ORS 192.660(2)(e), the board may consider real property transactions in executive session. During executive session, the board may consider the merits of acquiring the property and proposed contract details, but any final action must take place in an open session where the public will have an opportunity to comment. Discussions in open session shall include a clear description of the proposed property interest to be acquired and, if approving purchase of the property, all costs associated with the acquisition. Resolutions of necessity prior to condemnation must also be made in an open session.

Board approval is not required for the acquisition of property, easements, or licenses for trails that are identified in the district's comprehensive plan, if the cost of the property, easement, or license is within the purchasing authority limits of the district's executive director and does not require condemnation.

BOARD AGENDA COMMUNICATION

AGENDA DATE:	October 17, 2023
SUBJECT:	Approve Acquisition of the Coulter Property
STAFF RESOURCE:	Sara Anselment, Planner Michelle Healy, Deputy Executive Director
PREVIOUS BOARD ACTION:	Previously discussed in Executive Session
ACTION PROPOSED:	Authorize property acquisition
STRATEGIC PLAN:	
Pillar:	Operations & Management Practices
Outcome:	A balance between caring for existing infrastructure and new development
Strategy:	Ensure the district is maintaining its adopted level of service targets

BACKGROUND

The district has been actively pursuing the purchase of properties in order to meet the comprehensive plan goal to have a park located within one-half mile of most homes within the district. There are 32 Park Search Areas identified in the comprehensive plan where residents are located more than a half mile from a park. Working with the district's contracted land acquisition agent, EPIC Land Solutions, the district negotiated the purchase of 4.29-acres of land located at 20185 Reed Lane (the "property") in southwest Bend (see Exhibit A) to serve residents in Park Search Area 18.

The proposed property is owned by the Julia F. Coulter Revocable Living Trust (the "sellers") and is zoned for medium density residential development. The property consists of one parcel; however, it is split in two by Coulter Lane. The district intends to partition the property and retain the larger portion, east of Coulter Lane (approximately 3.2 acres), for future park development. The portion of the property west of Coulter Lane (approximately 1.1 acres) is not needed for district purposes and could be sold to a third party.

The district entered into a purchase and sale agreement (PSA) with the sellers on August 18, 2023. Per the terms of the PSA the agreed to purchase price is $4 million, and the closing is conditioned on the satisfactory completion of the district's due diligence and board approval. The phase 1 environmental site assessment, title review and ALTA property survey are complete, satisfying the due diligence requirements. Staff is now seeking board approval to proceed with closing.

BUDGETARY IMPACT

The 2024-2028 Capital Improvement Plan allocates a total of $5,746,959 in system development charges (SDCs) for the acquisition of neighborhood park properties. However, the current fiscal year budget only includes $3.5 million. The agreed upon purchase price for this Property is $4 million, plus additional costs for closing, legal, due diligence and the costs to subsequently partition the property to prepare the land west of Coulter Lane for potential sale in the future.

The change in timing of other SDC-funded projects will likely free up funds in this year's budget to cover the additional funding necessary for the purchase and associated costs for this acquisition. However, during the board workshop this winter staff will review the overall SDC budget and discuss if any adjustments would be necessary before the end of the fiscal year.

Proceeds from the potential sale of the portion of the property west of Coulter Lane could help offset costs, however, those proceeds are dependent upon future board approval of a sale, which would likely not happen this fiscal year.

STAFF RECOMMENDATION

Staff recommends the board authorize the executive director to proceed with the purchase of the property and approve the surplus of the portion of the property (about 1.1 acres) west of Coulter Lane not needed for district purposes.

MOTION

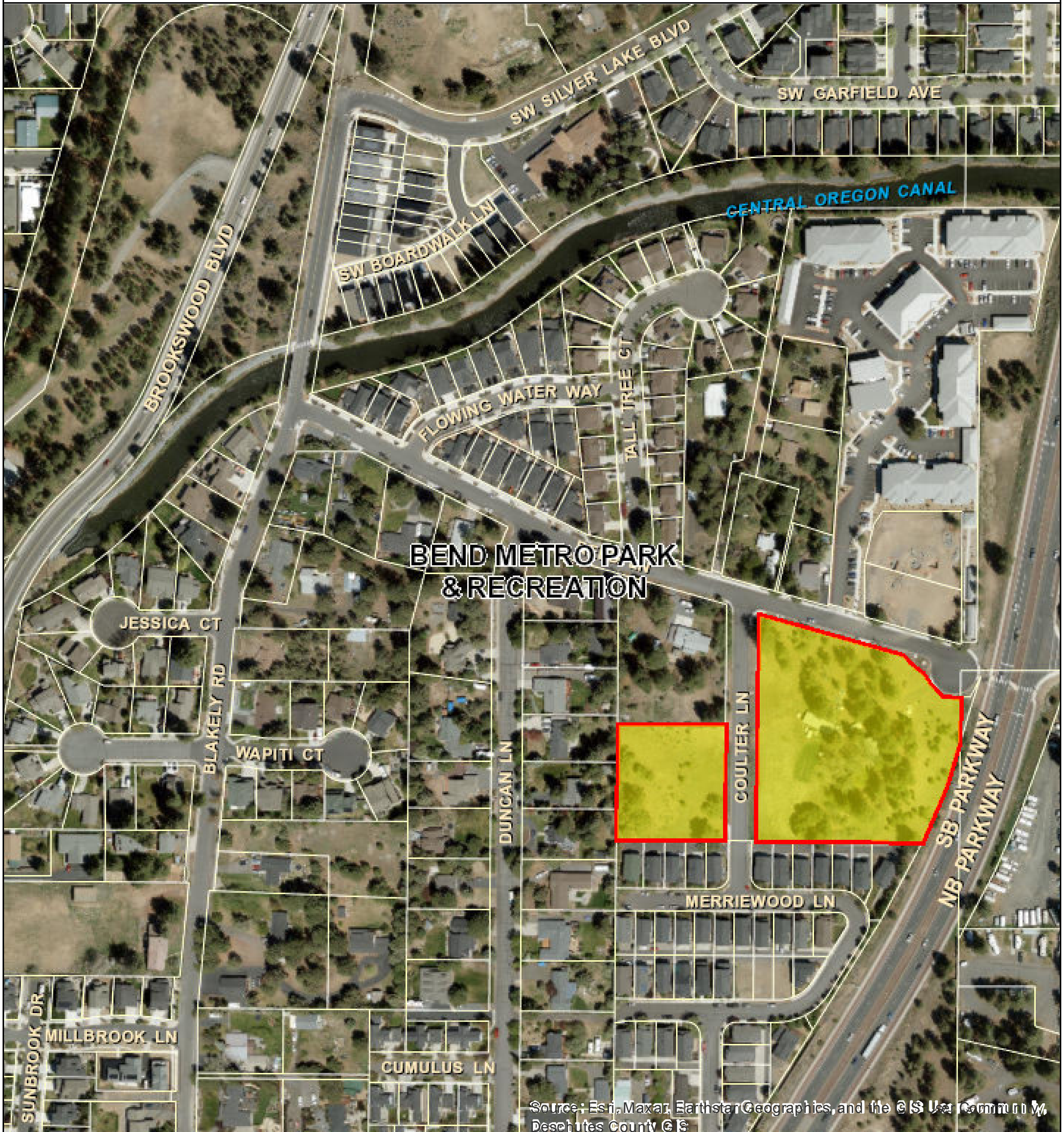
I move to: (1) authorize the district to purchase the Property for an amount not to exceed $4,000,000, plus all related closing, legal, and due diligence costs, and otherwise on the terms and conditions set forth in the PSA; (2) authorize the Executive Director to execute and deliver such instruments and documents as are necessary to effect the transactions contemplated by the PSA; and (3) find that the 1.1-acre portion of the property west of Coulter Lane is not needed for public use and that the public interest may be furthered by sale of that 1.1-acre portion of the Property.

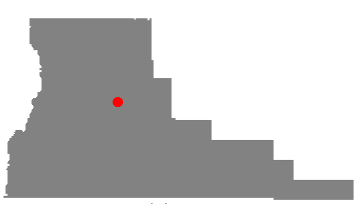
ATTACHMENT

Exhibit A - Subject Property

Exhibit A

Coulter Property





Date: 10/6/2023

N

0 162.5 325 650 ft

1 inch = 376 feet

Board Calendar
2023-2024
This working calendar of goals/projects is intended as a guide for the board and subject to change.

November 7 – Canceled for ORPA

November 21
WORK SESSION
CONSENT AGENDA
- Codify Personnel Policies

BUSINESS SESSION
- Approve consultant contract for Hollinshead Park – *Ian Isaacson (15 min)*
- Approve construction contract for Little Fawn Park – *Jason Powell (15 min)*
- MUPTE Project Review, Jackstraw Mixed-Use Project – *Rachel Colton and Applicant (20 min)*

December 5
WORK SESSION
- ORPA Awards

BUSINESS SESSION
- Accept 2022-23 Annual Comprehensive Financial Report – *Eric Baird and Brenda Bartlett (20 min)*
- Approve consultant contract for Art Station – *Jason Powell (15 min)*

December 19
WORK SESSION
- Community Needs Survey report – *Sara Anselment and RRC (30 min)*

BUSINESS SESSION
- Appoint Budget Committee Members– *Kristin Donald (15 min)*
- Adopt Resolution No. XXX Approving new Local Contracting Rules – *Justin Sweet (15 min)*
- Approve Lease Amendment for Boys and Girls Club – *Justin Sweet (15 min)*
- Approve Exclusion Policy – *Jeff Hagler (30 min)*

January 2
WORK SESSION
BUSINESS SESSION
- Approve Pine Nursery Phase 5 concept plan – *Bronwen Mastro (15 min)*
- Approve preferred concept for Manzanita Ridge – *Bronwen Mastro (15 min)*

January 16
WORK SESSION
BUSINESS SESSION