

ORDINANCE NO. NS-2197

AN ORDINANCE AMENDING THE BEND DEVELOPMENT CODE CHAPTER 2.7.400; DEAN SWIFT REFINEMENT PLAN DEVELOPMENT STANDARDS TO ADD SUBAREA "D".

Findings

- A. The Planning Commission held a duly-noticed public hearing on February 25, 2013, to consider proposed amendments to Bend Development Code Section 2.7.400. The Planning Commission recommended approval to the City Council, including recommended findings.
- B. The Bend City Council held a public hearing on April 3, 2013 to consider the Planning Commission's recommendation.
- C. The requested Development Code amendment approved by this Ordinance is consistent with all applicable standards and criteria, including those set forth in Bend Development Code Chapter 4.6.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend Development Code Section 2.7.400 Dean Swift Refinement Plan Development Standards is amended as shown in Exhibit A.

Section 2. The City Council adopts the findings in Exhibit B.

First reading: April 3, 2013.

Second reading and adoption by roll call vote: April 17, 2013.

YES: Mayor Jim Clinton  
Councilor Jodie Barram  
Councilor Scott Ramsay  
Councilor Victor Chudowsky  
Councilor Sally Russell

NO: none

  
\_\_\_\_\_  
Jim Clinton, Mayor

Attest:

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

Approved as to form:

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

## EXHIBIT A

### Article III. Dean Swift Refinement Plan Development Standards

#### 2.7.400 Dean Swift Refinement Plan Development Standards.

A. Purpose. The Dean Swift Refinement Plan overlay is intended to implement the Dean Swift Neighborhood Plan concepts and to create special overlay zoning standards for the residential and mixed-use designations within the refinement plan area. The overlay standards will:

- Provide a variety of housing types.
- Locate higher densities near commercial corridors and services or along transit corridors.
- Create opportunities for neighborhood-oriented services.
- Ensure compatibility within the neighborhood and surrounding area.
- Improve the local street grid for automobiles and pedestrian benefit.
- Create a livable neighborhood for all ages.

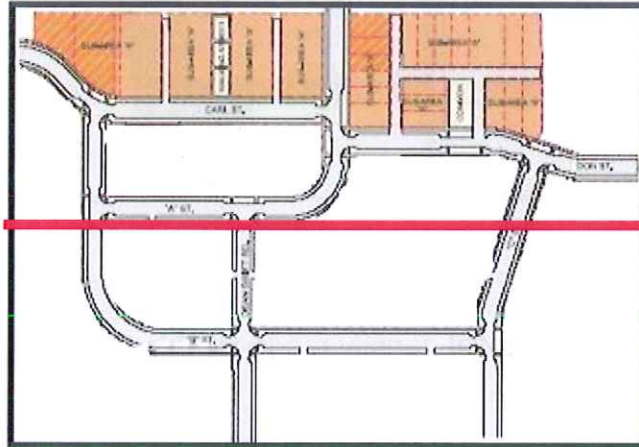
The Dean Swift Refinement Plan area is approximately 29 acres in size. The area is intended to remain primarily residential in character and use. Through the refinement plan public process, approximately 3.55 acres of the total land area was identified for development as Mixed Employment. In addition, residential sub-areas within the neighborhood have been identified to create a transition between the commercial high use areas along Highway 20 and the established residential uses to the south. The sub-areas is are shown on the attached map. The Dean Swift residential neighborhood will have an overall density ~~consistent with the RM Zone~~ between 6.0 and 21 units per acre. However, development standards and densities will be different within each sub-area.

B. Use Standards. The special standards of the Dean Swift Refinement Plan area shall supersede the standards of the underlying zone. Where no special standards are provided, the applicable standards of the underlying zone shall apply.

1. Modified RM Residential Overlay.

- a. Sub-area "A" is located along the north side of Carl and Don Streets and south of the Highway 20 Commercial District. Sub-area "A" does not extend to

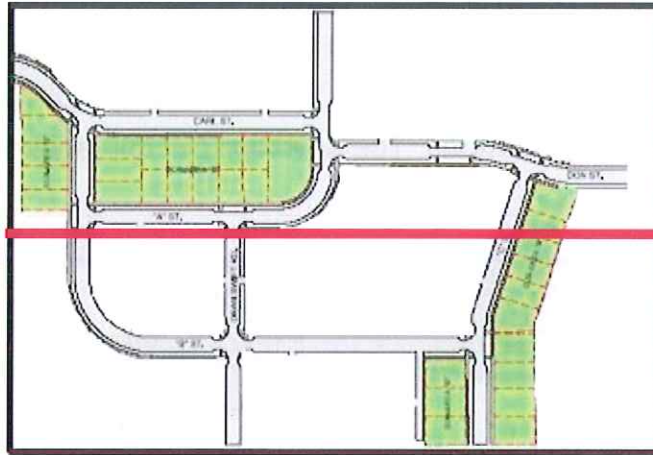
Purcell Boulevard. The purpose of this area is to provide a transition between the commercial development to the north along Highway 20 and the residential neighborhood. The development characteristics of sub-area "A" are as follows:



### Sub-area "A"

- The residential density range is 10 to 21 units per gross acre.
- The maximum building height is 40 feet.
- Lot coverage has been increased to 50 percent to allow flexibility to develop higher residential densities.
- Two locations within the sub-area have been designated for "live/work" development. This allows low impact commercial use on the ground floor of a building; provided, that an equal or greater area of residential use is provided on the upper floors.

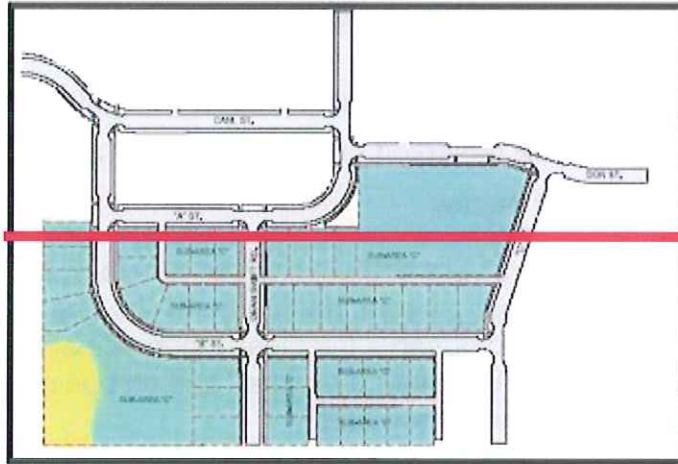
b. Sub-area "B" is located **south of between Carl Street and Damascus Street**, west of Dean Swift Road **and north of the proposed "A Street."** A second portion of sub-area "B" is located along the **east side of the** proposed north/south "C Street" that parallels Purcell Boulevard between Don Street and Bear Creek Road. The purpose of sub-area "B" is to provide a diversity of housing types **in close proximity to goods and services, and density transition to the single-family home development in sub-area "C."** The development characteristics of sub-area "B" are as follows:



### Sub-area "B"

- The residential density range for this sub-area is seven to 12 units per gross acre.
- The minimum lot size in this sub-area is 4,500 square feet, except where zero lot line attached housing is proposed, the minimum lot size can be 2,000 square feet.
- Lot coverage is increased to 45 percent to allow the flexibility for a variety of housing types.
- The maximum building height is 35 feet.

c. Sub-area "C" is the largest sub-area and is located north of Bear Creek Road, south of ~~the proposed "A Street"~~ Damascus Street and Don Street and west of the proposed "C Street." Along the west side of Dean Swift Road. A second area encompasses an existing single family development lying south of Don Street and west of the north/south extension of "C" Street. This area represents a more traditional residential neighborhood. The development characteristics of sub-area "C" are as follows:



### Sub-area “C”

- The residential density range for this sub-area is six to 10 units per gross acre.
- The predominant housing type will be single-family except on corner lots where duplex and triplex units may be developed provided each duplex unit shall access and/or front on different streets.
- Accessory dwelling units that are subordinate to the main home are encouraged.
- The minimum lot size is 5,000 square feet.
- On lots greater than 7,000 square feet, two detached homes may be built, provided all provisions of this code can be met.
- The maximum lot coverage is 45 percent.
- The maximum building height is 35 feet.

d. Sub-area “D” is located north of Bear Creek Road between Dean Swift Road and the north/south extension of “C” Street. This area shall be developed with multi-family housing. The development characteristics of Sub-area “D” are as follows:

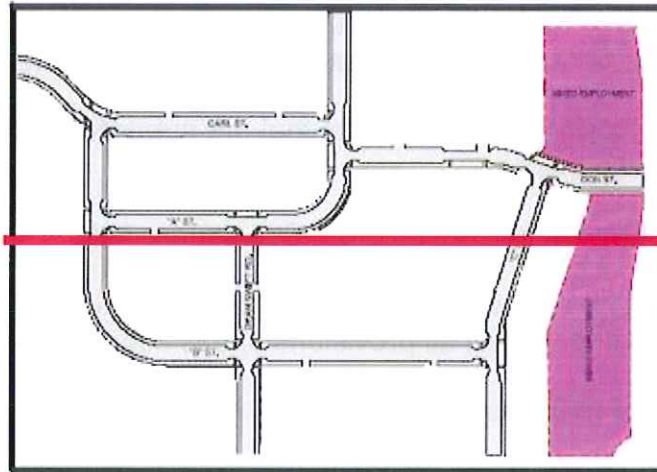
- The residential density range for this sub-area is 12 units to 17 units per acre.
- The predominate housing type shall be multi-family buildings not to exceed 6 units per building.
- The maximum building height is 40 feet.

- The maximum lot coverage is 45%.

**de.** Lot Requirements. The lot requirements for the RM Zone as described in BDC Chapter 2.1 shall be observed unless specifically addressed by each sub-area or as indicated below.

- The minimum front yard setbacks within all sub-areas shall be five feet for buildings except garages and carports shall be set back 18 feet. Corner lots will need to observe the clear vision setbacks in addition to the overlay setbacks. Uncovered porches and stoops may encroach into the setback a maximum of two feet.
- Side and rear yard setbacks do not increase based on building height.
- Vehicular access shall be from an alley where provided.

2. Modified Mixed Employment Overlay.



**Sub-area-modified-ME**

a. The permitted and conditional uses in the Mixed Employment Zone are very diverse. Some of the uses in the ME Zone could adversely impact the residential character of the Dean Swift neighborhood thereby obstructing the intent and purpose of the overlay. For this reason, the overlay zone will restrict the permitted and conditional uses for this area. ME uses within the Dean Swift Refinement Overlay will be limited to the following permitted and conditional uses:

b. Permitted Uses.

- i. Service commercial and retail uses, excluding drive-through service.
  - ii. Professional office, excluding medical uses.
  - iii. Residential housing located above or behind a permitted or conditional use.
  - iv. Auto-related/auto-dependent uses when contiguous to a Commercial Zone.
- c. Conditional Uses.
- i. Commercial day nursery or day care facility that is not part of a service for employees of a permitted or conditional use.
- d. Service commercial, retail or office buildings greater than 5,000 square feet of gross floor area shall provide residential dwelling units above or behind the use at a ratio of two dwelling units per 5,000 square feet.

C. Neighborhood Open Space. An area of land located in the southwest corner of the Plan area with frontage along Bear Creek Road has been designated as open space as shown on the Refinement Plan map. A natural rock outcrop elevates this area. The area would be difficult to develop for residential purposes and shall remain as natural open space unless it is combined with the contiguous property to the west for public use. The development potential for the preserved area may be transferred to the balance of the parcel for development.

D. Street and Pedestrian Standards. All streets within the refinement area are designated as local streets. Bear Creek Road, designated as a minor arterial and Purcell Boulevard, designated as a major collector, border the refinement area. All streets and pedestrian facilities shall be consistent with the requirements of the Bend General Plan, the Zoning Ordinance and the Land Division Ordinance.

E. Alleys. If private or public alleys are proposed within the refinement area, the alley way shall be a minimum of 20 feet in width with a minimum of 18 feet of paved travel surface. All alleys shall comply with emergency service access requirements.

F. Pedestrian Corridors/Trails. Pedestrian corridors and trails shall be dedicated to the City on a final plat. The right-of-way width shall be 15 feet with a minimum 10-foot paved surface.

G. Street Trees. Tall stature trees shall be planted along all street frontages within the Dean Swift Refinement area with the development of the adjacent properties. Those properties located within the flight path of the private airport located south of Bear Creek shall limit selection to tree species with a maximum mature height of 60 feet. Proposed street tree varieties shall be approved by the City prior to planting. The trees shall be planted a maximum of 30 feet apart. Trees shall be a minimum of two-inch caliper measured four feet above the ground at the time of planting. Maintenance of the street trees is the responsibility of the adjacent property owner.

H. Fences. Walls and fences located within the front yard setbacks shall not exceed three and one-half feet in height. Taller fences or walls may be permitted along interior property lines after first obtaining the necessary permits.

I. Lot Access. New lots within the Dean Swift Refinement Plan area shall utilize rear or side alleyways for vehicular access as designated on the circulation plan.

J. Design Standards. The design standards are intended to provide detailed human-scale design to preserve the quaint character of the neighborhood while allowing flexibility to develop a variety of building types.

All single-family, multiple-family, mixed-use and commercial buildings must comply with all of the following standards. The illustrations provided are intended to show how to comply, not restrict building types. Other building types and designs can be used to comply so long as they are consistent with the design standards.

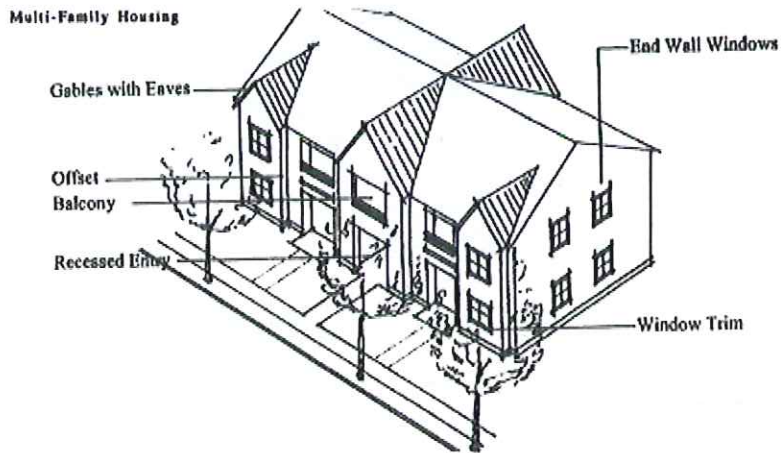
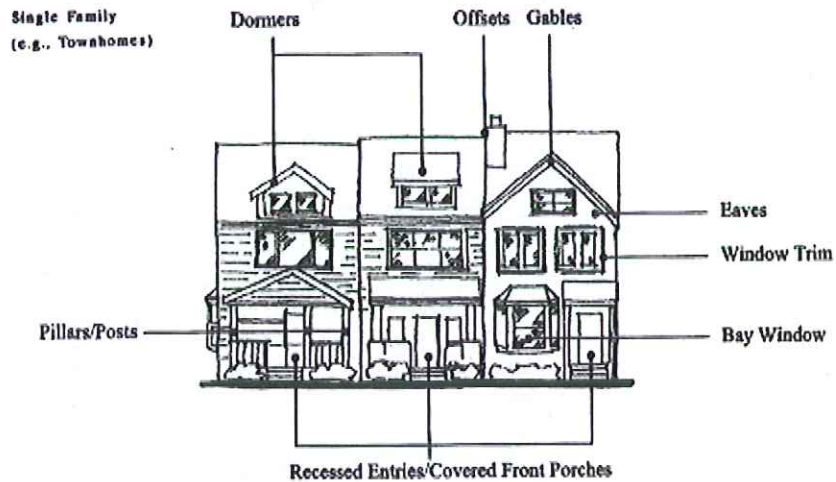
All buildings shall incorporate design features such as offsets, balconies, projections, window reveals, or similar elements to preclude large expanses of building surfaces.

1. Detailed Design Elements. All buildings shall provide detailed design along all elevations (front, sides, and rear). A minimum of five architectural features shall be provided on the front elevation and a minimum of three architectural features shall be provided on the side and rear elevations selected from the following list of features:

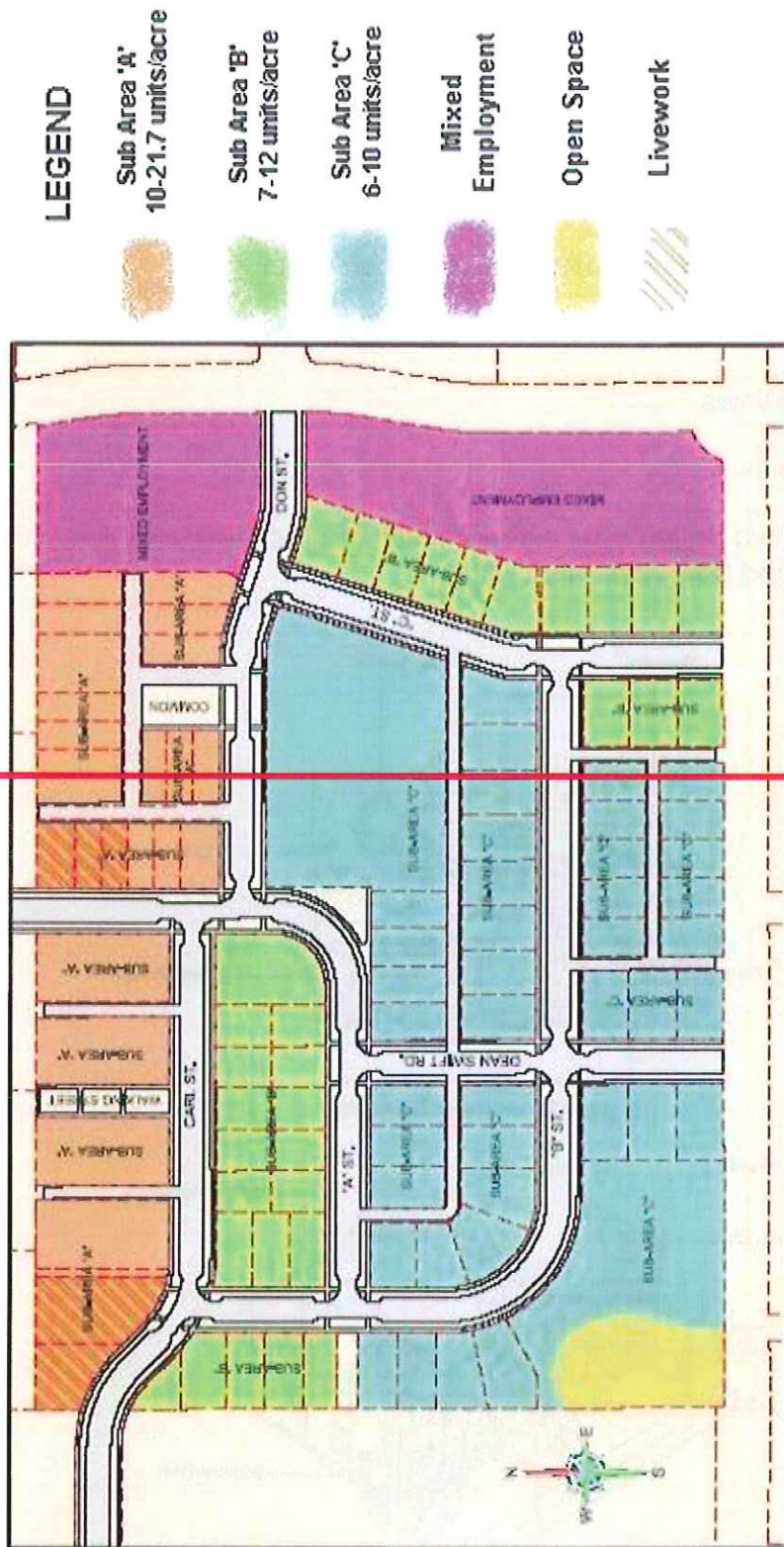
- a. Dormers.
- b. Gables.



- c. Recessed entries.
- d. Covered porches.
- e. Cupolas or towers.
- f. Pillars or posts.
- g. Eaves with a minimum 12-inch projection.
- h. Window trim with a minimum four-inch width.
- i. Offsets in building face or roof by a minimum of 16 inches.
- j. Bay windows.
- k. Balconies.
- l. Decorative patterns on exterior finish (e.g., scales/shingles, wainscoting, board and batt, masonry).



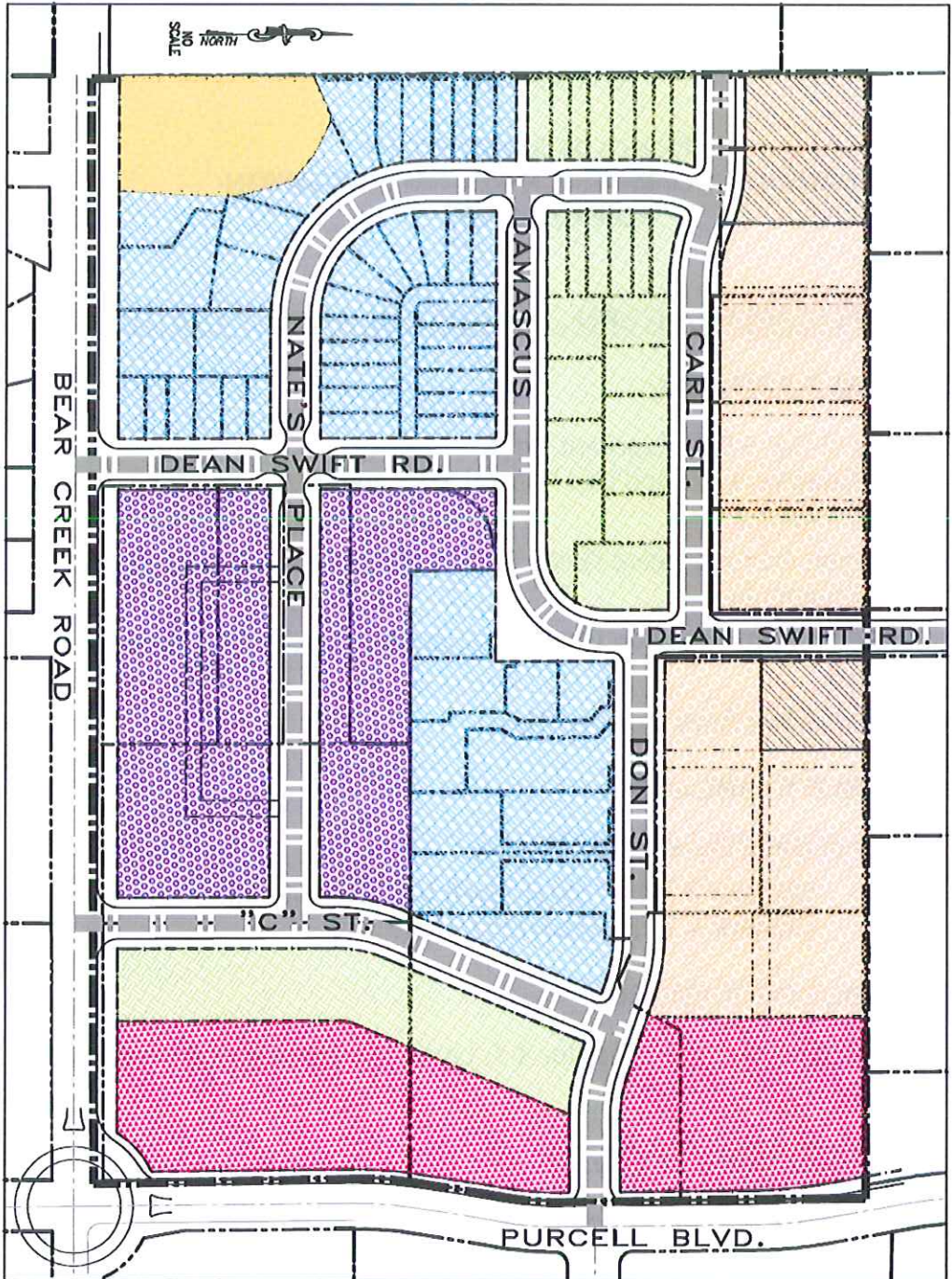
Detailed Design Elements



Dean Swift  
Refinement Plan

Sun Country Engineering & Surveying, Inc.  
 920 SE Armour Dr., Bend, OR 97702  
 541-382-8882

DEAN SWIFT  
 REFINEMENT PLAN UPDATE  
 2013

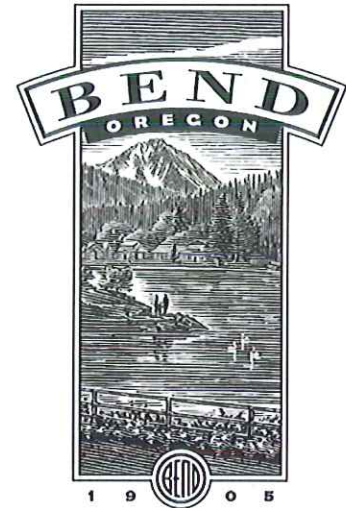


**MAP LEGEND**

	PLAN BOUNDARY
	EXISTING TAX LOTS
	PROPOSED ROADWAY
	PROPOSED ACCESSWAY
	AREA BOUNDARY
	SUB AREA 'A' 10-217 Un/Ac
	SUB AREA 'B' 7-12 Un/Ac
	SUB AREA 'C' 6-10 Un/Ac
	SUB AREA 'D' 12-17 Un/Ac
	MIXED EMPLOYMENT
	OPEN SPACE
	LIVE/WORK

**EXHIBIT B**

**FINDINGS IN SUPPORT OF  
PLANNING COMMISSION RECOMMENDATION  
FOR PZ 12-456**



**I. APPLICABLE CRITERIA, STANDARDS & PROCEDURES:**

**APPLICABLE CRITERIA:**

- (1) City of Bend Development Code,
  - (a) Chapter 4.6; Land Use District Map and Text Amendments
- (2) Oregon Administrative Rules 660-012-0060, Plan and Land Use Regulation Amendments
- (3) Oregon Administrative Rules Chapter 660, Division 15, Oregon Statewide Planning Goals
- (4) Bend Urban Area General Plan

**APPLICABLE STANDARDS:**

- (1) City of Bend Development Code,
  - (a) Chapter 2.7.400; Dean Swift Refinement Plan
  - (b) Chapter 4.7; Transportation Analysis

**APPLICABLE PROCEDURES:**

Bend Development Code, Chapter 4.1, Land Use Review and Procedures

**II. PROCEDURAL FINDINGS:**

**PUBLIC NOTICE AND COMMENTS:**

The applicant held a public meeting on the proposed amendment on October 24, 2012, prior to submittal of the application on August 22, 2011. The City sent notice of the proposed amendment to DLCD on December 3, 2012, as well as to City Departments and other affected agencies. Public notice for the Planning Commission hearing was mailed on February 14, 2013 to all property owners within 250 feet of the proposed subarea "D" within the Dean Swift Refinement Plan area, as well as to the Larkspur Neighborhood Association representatives. The Planning Commission conducted a public hearing to accept testimony and deliberated on the request on February 25, 2013. Testimony and comments received by the Planning Commission are included in the record.

### **III. FINDINGS OF CONFORMANCE WITH APPLICABLE CRITERIA AND PROCEDURES:**

#### **Chapter 4.6 Land Use District Map and Text Amendments**

##### **4.6.300 Quasi-Judicial Amendments**

**A. Applicability, Procedure and Authority.** Quasi-judicial amendments generally refer to a plan amendment or zone change affecting a single or limited group of properties and that involves the application of existing policy to a specific factual setting. Quasi-judicial amendments shall follow the Type III procedure, as governed by Chapter 4.1, Land Use Review and Procedures using the standards of approval in Section 4.6.300.B, Criteria for Quasi-judicial Amendments below. Based on the applicant's ability to satisfy the approval criteria, the applicant may be approved, approved with conditions, or denied.

**FINDING:** This application has both quasi-judicial and legislative characteristics. The application will establish development standards and criteria that impact specific property owned and managed by the applicant. The application of these standards to a limited group of properties is consistent with the criteria for a quasi-judicial amendment as provided in Section 4.6.300 of the Bend Development Code. The more focused criteria of a quasi-judicial amendment as specified in Section 4.6.300 is applied. However, because the application is an amendment to the Bend Development Code, final action is through an ordinance adopted by the City Council as required for Type IV legislative changes in Section 4.1.500.

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

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

**FINDING:**

**Goal 1, Citizen Involvement**, is "To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process." The City adopted a citizen involvement program in compliance with this Goal, codified in BDC Chapter 4.1. The first step for citizen involvement is the public meeting required by BDC Section 4.1.215, which the applicant conducted on August 22, 2011. Notice of the public meeting was provided to owners of record of property located within 250 feet of the subject property and the designated representative of the Larkspur Neighborhood Associations. Public Notice for this hearing was conducted in conformance with the notice requirements of Section 4.1.423 for Type III land use applications, which ensures that citizens are informed about the public hearing.

**Goal 2, Land Use Planning**, is "To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions." The Dean Swift Refinement Plan

Ordinance 2197

Page 13 of 17

contains the adopted and acknowledged land use regulations for the subject area. All development within this area must comply with the Bend Development Code and state statutes therefore this goal is met.

Goals 3, 4, and 5 are not applicable because the properties do not include any agricultural land, forest land, or inventoried open spaces, scenic areas, historic resources, or natural resources.

Goal 6 is not applicable because the text amendment will not have any impacts to air, water and land Resources Quality.

Goals 7 and 8 are not applicable because the subject properties are not within an identified natural hazard area, nor within an area identified for recreational use.

**Goal 9, Economic Development** is *“To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.”* Goal 9 was found to be met when the Dean Swift Refinement Plan - Special Plan District was initially reviewed and adopted. The proposed amendment will not impact Goal 9 Economic Development.

**Goal 10, Housing**, is to *“Provide for the Housing Needs of the citizens of the State”*. The proposed amendment will not impact the City's projected housing needs, as the amendment does not seek to change the residential plan designation. Staff notes that the proposal seeks to increase the number of potential dwelling units that can be constructed on the subject property by adding a new subarea with a maximum density of 17 dwelling units per gross acre to the approved refinement plan area.

**Goal 11, Public Facilities and Services**, is *“To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”* The area subject to the proposed amendment is zoned and plan designated to accommodate medium density residential development. The subject area can be served by the public sanitary sewer, water, storm drainage, police, fire, schools, parks therefore this goal is satisfied.

**Goal 12 Transportation**, is *“To provide and encourage a safe, convenient and economic transportation system.”* Goal 12 is implemented through the Transportation Planning Rule, OAR 660 Division 12. Compliance with this rule is addressed further on in this report.

**Goal 13 Energy**, is *“To conserve energy.”* The proposed amendment will allow greater density in an area where goods and services are available to residents within walking distance or transit service whereby reducing vehicle trip distances which could result in a reduction in vehicle miles traveled, thus potentially conserving energy.

**Goal 14 Urbanization**, is *“To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”* The subject area is currently within the Bend Urban Growth Boundary and designated for urban development, therefore this Goal is met.

Goals 15 through 19 are not applicable because they only pertain to areas in western Oregon.

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

**FINDING:** The Bend Area General Plan is the City's Comprehensive Plan. The subject application is consistent with the applicable plan policies as identified below, from the applicant's burden of proof statement.

**Chapter 5 – Housing and Residential Lands**

**#1. Future development and local development standards shall recognize and respect the character of existing areas.**

**#3. The development of infill areas may, as an alternative to the standard subdivision review process, proceed through a public involvement process that would allow the maximum flexibility of design and provide for neighborhood participation.**

**FINDING:** The Dean Swift Refinement plan was approved through a public process resulting in the adoption of a refinement plan. A refinement plan is intended to provide alternative development standards intended to meet site specific needs. This proposal to modify the refinement plan densities is being reviewed through a public process with the Planning Commission in a manner consistent with the original approval process. The proposal to increase the density to 17 units per gross acre for 4.5 acres of land along Bear Creek Road continues to provide a density transition for the lower density homes to the south. The proposed density is well within the range of density for the RM designation. The actual design of the development will be reviewed with site plan review.

**#11. Residential areas shall offer a wide variety of housing types in locations best suited to each housing type.**

**#21. Densities recommended on the Plan shall be recognized in order to maintain proper relationships between proposed public facilities and services and population distribution.**

**FINDING:** The Dean Swift Refinement Plan subareas meet the intent of this policy by planning for the highest density housing closest to the Hwy 20 transit corridor and the availability of goods and services. The Dean Swift Refinement Plan also specifies the type of housing anticipated within each subarea providing a broad variety of housing.

The proposed subarea "D" proposes an area along Bear Creek Road to be developed at a density of 17 units per acre. This range of density can only be accomplished through the construction of multi-plex apartments. The applicant has indicated that the apartment complex will consist of four and six-plex units designed to have an outward appearance of large single family homes.

The Dean Swift Refinement Plan area has a General Plan designation of Residential Urban Medium Density, RM. The proposed increase to 17 units per gross acre is consistent with the density range of 7.3 to 21.7 units per gross acre for both the RM plan and zoning designation. The City has planned public facilities and services based on the RM density for the Dean Swift Refinement Plan area.

**#54. A refinement plan that includes residential areas may prescribe residential density limits on specific properties which differ from the density range provided for in the General Plan. However, the average density of residential development allowed within a refinement plan area shall comply with the density limitations of the General Plan.**

**FINDING:** The average density within the Dean Swift refinement plan area at build-out will be well within the density range of 7.3 to 21.7 units per acre prescribed by the General Plan for the RM zone as well as the refinement plan density range of 6.0 to 21 units per gross acre. The proposed change to increase the density within the new subarea "D" will further ensure the density range is met.

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

**FINDING:** Full urban services are available to the subject property. Public infrastructure consists of water, sewer, transportation facilities, emergency services (fire and police), and schools. The City's policy for the provision of the public facilities is expressed in the Bend Urban Area General Plan, the Development Code, and the City's capital improvement plan and public facility master plans. Adequate capacity to serve future development of the subject area will be analyzed at the time of site plan review

- 4. Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use district map regarding the property that is the subject of the application; and the provisions of Section 4.6.600; Transportation Planning Rule Compliance.**

**FINDING:** The Dean Swift Refinement Plan was approved in August 2003 as a new planned district. It was anticipated that the properties within the Dean Swift plan area would build out quickly once the plan was adopted. The plan required property owners to work together to ensure the area would develop as envisioned. However, ten years later, only about one third of the neighborhood has developed. Properties have since changed ownership several times and most of the original property owners have sold out. The downturn in the economy beginning in 2007 has made the ability to develop the property in conformance with the adopted refinement plan more difficult.

With the completion of the recent Transit Corridor Study, the city identified the Dean Swift area as an opportunity area for "transit oriented development". Transit Route #6 uses Dean Swift Road as a routing option between the Hawthorn Transit Center and the Hwy 20 corridor. This



makes the area attractive for higher density housing. The housing trend in Bend is no longer single family detached housing but instead on the construction of multi-family apartments. Unfortunately, the 2003 Dean Swift Refinement Plan restricts the development of multi-family housing in subarea "B" to duplex, triplex and single family housing with an ADU.

Staff finds that there has been a change in the neighborhood and the community brought about by the economic recession. The community has a need for multi-family housing in areas that are served by transit and are within walking distance to goods and services. In addition, the City of Bend did not have a transit system in place in 2003 when the Dean Swift Refinement Plan was adopted.

#### **4.6.600 TRANSPORTATION PLANNING RULE COMPLIANCE**

**When a development application includes a proposed comprehensive plan amendment or land use district change, or both, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060.**

**FINDING:** The applicant has not proposed a change to the comprehensive plan or zoning district maps. The applicant's proposal increases the residential density of a specific area within the Dean Swift Refinement Plan area to a density that is within the density range for the existing RM zone. A Transportation Impact report was submitted per Chapter 4.7, Transportation Analysis, of the Development Code. The results of the study show that the applicant's proposal to increase the density does not significantly affect a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060.

#### **IV. CONCLUSIONS:**

Based on the above Findings, the Planning Commission finds that the proposed amendment to the Dean Swift Refinement Plan - Special Planned District text meets all applicable Development Code criteria, policies of the Bend Urban Area General Plan, Oregon Statewide Planning Goals, and the Transportation Planning Rule.

