

ORDINANCE NO. NS-2229

AN ORDINANCE AMENDING PORTIONS OF TITLES 3 & 4 OF THE BEND DEVELOPMENT CODE

Findings:

- A. The City of Bend initiated the application on June 5, 2014. Timely and sufficient notice pursuant to Section 4.1.515 of the Development Code was provided.
- B. On October 27, 2014, the Bend Planning Commission held a public hearing to accept testimony on the request. At the conclusion of the hearing, the Commission voted to recommend the proposed text amendments be approved by the City Council.
- C. Notice of the Council's public hearing on November 19, 2014 was mailed to all recognized neighborhood associations on October 29, 2014. A notice of the hearing was also published in the Bend Bulletin on October 31, 2014.
- D. The Bend City Council held a public hearing on November 19, 2014 to accept evidence and consider the Planning Commission's affirmative recommendation. The City Council found that the text amendments satisfy the criteria for approval contained at Section 4.6.200 of the Bend Development Code.
- E. These general findings are further supported by specific findings of fact contained in Exhibit B of this ordinance related to the Bend Development Code, which are incorporated into these findings.


Based on these findings, the City of Bend ordains as follows:

Section 1 The Bend Development Code is amended as depicted in Exhibit A.

First Reading: November 19, 2014.

Second reading and adoption by roll call vote: December 3, 2014.

YES:	Mayor Jim Clinton Councilor Jodie Barram Councilor Mark Capell Councilor Scott Ramsay Councilor Victor Chudowsky Councilor Doug Knight Councilor Sally Russell	NO: none
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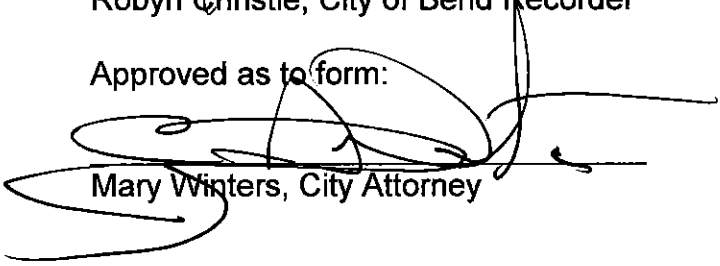
Jim Clinton, Mayor

ATTEST:



Robyn Christie, City of Bend Recorder

Approved as to form:



Mary Winters, City Attorney

EXHIBIT A

Text Amendments to BDC Chapters 3.4, 4.1 & 4.5 City Council Public Hearing Draft

Public Hearing Date: November 19, 2014

Prepared by:
City of Bend Planning Division

Note:

Text in underlined typeface is proposed to be added.

Text in ~~strike through~~ typeface is proposed to be deleted.

Chapter 3.4 PUBLIC IMPROVEMENT STANDARDS

Sections:

- 3.4.100 Purpose and Authority.
- 3.4.150 Waiver and Modification of Public Improvement Standards.
- 3.4.200 Transportation Improvement Standards.
- 3.4.300 Public Use Areas.
- 3.4.400 Sanitary Sewer and Water Service Improvements.
- 3.4.500 Storm Drainage Improvements.
- 3.4.600 Utilities.
- 3.4.700 Easements.
- 3.4.800 Construction Plan Approval and Assurances.
- 3.4.900 Installation.

3.4.100 Purpose and Authority.

A. Purpose. The purpose of this chapter is to provide requirements for design and construction of public and private infrastructure including: transportation facilities; sewer, water and other utilities; and drainage features and activities. One of the primary purposes of this chapter is to provide standards for attractive and safe streets that can accommodate vehicle traffic from planned growth, and provide a range of transportation options, including options for driving, walking, bicycling, transit and other transportation modes. This chapter is intended to guide development through the implementation of the City of Bend Standards and Specifications.

B. Public Improvements Needed for Development. Development shall not occur unless the public improvements serving the development comply with the public facility requirements established or incorporated by this chapter, unless compliance is exempted by this code or unless the applicable standard is modified or waived under BDC 3.4.150.

C. Compliance with Standards. All public improvements constructed as part of a development or to comply with a condition of development approval shall comply with all applicable standards, including but not limited to any standards and specifications adopted by the City applicable to public works or public improvements. The provisions of this chapter prevail over any inconsistent standard or specification unless the applicable standard is modified or waived under BDC 3.4.150.

D. Conditions of Development Approval. No development shall occur unless required public facilities are in place or guaranteed. Improvements required to be constructed by the developer as a condition of development approval, when not voluntarily accepted by the applicant, shall be roughly proportional to the impact of development on public facilities and services. Findings in the development approval shall indicate how the required improvements are related to and roughly proportional to the impact. The City may deny an application if required public improvements are not in place, or the City may impose conditions of approval tying the timing of construction and/or occupancy of a proposed development to anticipated public improvements without requiring the applicant to construct the public improvements. [Ord. NS-2139, 2010; Ord. NS-2016, 2006]

3.4.150 Waiver and Modification of Public Improvement Standards.

A. Authority to Grant Waiver or Modification. Waivers and/or modifications of the standards of this chapter and/or the City of Bend Standards and Specifications may be granted as part of a development approval only if the criteria of subsection (B) of this section are met.

B. Criteria. The Review Authority, after considering the recommendation of the City Engineer, may waive or modify the standards of this title and the City of Bend Standards and Specifications based on a determination that (1) the waiver or modification will not harm or will be beneficial to the public in general; (2) the waiver and modification are not inconsistent with the general purpose of ensuring adequate public facilities; and (3) one or more of the following conditions are met:

1. The modification or waiver is necessary to eliminate or reduce impacts on existing drainage patterns or natural features such as riparian areas, significant trees or vegetation, or steep slopes.
2. An existing structure such as a substantial retaining wall makes widening a street or right-of-way or required placement of lines impractical or undesirable.
3. Street access to an existing lot would be eliminated without the waiver or modification.
4. Building on an existing lot would be infeasible without the waiver or modification.
5. The standard is a street or right-of-way standard and existing structures on the same side of the block make future widening of the remainder of the street or right-of-way unlikely and the additional width on the project site would not be beneficial for sidewalks or parking without the extension for the rest of the block.

6. The modification or waiver is needed to allow development of, or street access to, the property because of topographical constraints.
7. The existing infrastructure (a) does not meet current standards, (b) is and will remain functionally equivalent to current standards, and (c) there is little likelihood that current standards will be met in the area.
8. The installation of the required improvements would likely cause unacceptable significant adverse environmental impacts and the waiver/modification would avoid such impacts.
9. There is insufficient right-of-way to allow a full width street cross-section and additional right-of-way cannot be provided.
10. There is no street or right-of-way adjacent to the property and easement access has been obtained across private property.
11. Required street frontage improvements for individual single-family dwellings could best be accomplished by planned area-wide improvements at a future date.
12. The City has conflicting or inconsistent standards and the proposal would comply with one set of adopted standards. Standards are conflicting or inconsistent only when it is not possible to comply with both. In most situations, the more recently adopted standard should be followed and the older standard may be waived.

Maximization of the number of lots or parcels in a land division is not a reason to allow a waiver or modification.

C. Other Requirements Not Waived. Any waivers under this section do not exempt the developer from submitting plans which meet all other applicable specifications.

D. Application Requirements. The application for a waiver or modification shall be in writing submitted as part of a development application. The City Council may adopt a fee for a waiver/modification application by resolution. The application shall specify which requirement(s) of this chapter and/or the City of Bend Standards and Specifications are at issue and which of the condition(s) listed above are met. The application shall contain a statement explaining why the deviation from the required standards is necessary and why the waiver or modification sought will not harm or will be beneficial to the general public.

E. Conditions. The City may impose a condition of approval requiring a signed agreement not to remonstrate against the formation of a local improvement district. [Ord. NS-2177, 2012; Ord. NS-2139, 2010; Ord. NS-2016, 2006]

3.4.200 Transportation Improvement Standards.

A. Development Requirements. No development shall occur unless the development has frontage or approved access to a public or private street, in conformance with the provisions of BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation, and the following standards are met:

1. Streets within or adjacent to a development shall be improved in accordance with the Bend Urban Area Transportation System Plan (TSP), provisions of this chapter and other pertinent sections of this code.
2. Development of new streets, and additional street width or improvements planned as a portion of an existing street, shall be improved in accordance with this section, and public street right of way and private street easements shall be dedicated to the ~~applicable~~ City, Deschutes County or the Oregon Department of Transportation ~~State jurisdiction~~.
3. All new and/or existing streets and alleys shall be paved per the City of Bend Standards and Specifications document.

B. Variances. Variances to the transportation design guidelines in this section may be granted by means of a Class C variance, as governed by BDC 5.1.400(B)(4), Variance to Transportation Improvement Requirements. A variance may be granted under this provision only if a required improvement is not feasible due to topographic constraints or constraints posed by sensitive lands or the project does not meet the exception standards listed herein.

C. Creation of Rights-of-Way for Streets and Related Purposes. Streets shall be created through the approval and recording of a final subdivision or partition plat; except the City may approve the creation of a Public Right-of-Way by acceptance of a deed, where no plat will be recorded; and provided, that the street is deemed essential for the purpose of implementing the Bend Urban Area Transportation System Plan, and the deeded right-of-way conforms to this code. All deeds of dedication shall be in a form prescribed by the City and shall name "the public" as grantee.

D. Creation of Vehicular Access and Public Utility Easements. The City may require a vehicular access and public utility easement established by deed when the easement is necessary to provide for vehicular access and circulation and/or provision of public utilities in conformance with BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation or other sections of this Code. Access easements shall be created and maintained in accordance with the Uniform Fire Code Section 10.207 and City of Bend Standards and Specifications.

E. Street Location, Width and Grade. Except as noted below, the location, width and grade of all streets shall conform to the City of Bend Standards and Specifications document, the provisions of this chapter and an approved street plan or subdivision plat. Street location, width and grade shall be determined in relation to existing and planned streets, topographic conditions, public convenience and safety, and in appropriate relation to the proposed use of the land to be served by such streets.

1. Street grades shall be designed and/or constructed as approved by the City Engineer in accordance with the design standards in Tables A through E in this section.
2. Where the location of a street is not shown in an existing street plan in conformance with subsection (I) of this section, Future Street Plan and Extension of Streets, the location of streets in a development shall either:
 - a. Provide for the continuation and connection of existing streets in the surrounding areas, conforming to the street standards of this chapter; or
 - b. Where it is impractical to connect with existing street patterns because of topographical constraints or where the existing built environment precludes future street connections, the applicant shall conform to a street plan approved by the Review Authority. Such a plan shall be based on the type of land use to be served, the volume of traffic, the capacity of adjoining streets and the need for public convenience and safety.

F. Minimum Rights-of-Way and Street Sections. Street rights-of-way and improvements shall be the widths defined in Street Improvement Standards Tables A through E. Additional right-of-way may be required at intersections ~~of local streets with major collectors or arterial streets~~ to accommodate intersection widening and roundabouts.

The following tables and attached notes describe street improvement standards as follows:

Table A: Improvement Standards for Dedicated Public Roadways in Residential Zones.

Table B: Improvement Standards for Dedicated Public Roadways in Commercial Zones.

Table C: Improvement Standards for Dedicated Public Roadways in Industrial Zones.

Table D: Improvement Standards for Private Streets.

Table E: Improvement Standards for Dedicated Public Roadways on Hillsides.

Table A: Improvement Standards for Dedicated Public Roadways in Residential Zones

(UAR, RL, RS, RM-10, RM and RH)

Street Classification	Minimum Right-of-Way	Minimum Pavement Width	Minimum Planter Strips	Max. Grade (3)	Sidewalks Both Sides	Bike Lanes	Curbs
Principal Arterial (2)	100'	76'	5'	6%	Yes	Yes	<u>Yes</u>
Major Arterial	100'	76'	5'	6%	Yes	Yes	<u>Yes</u>
Minor Arterial	100'	56'	<u>5'7"</u>	6%	Yes	Yes	<u>Yes</u>
Major Collector	80'	56'	<u>5'6"</u>	8%	6'	Yes	<u>Yes</u>
Local Street RM or RH	60'	36'	<u>5'6"</u>	10%	6'	No	<u>Yes</u>
Local Street (1) UAR, RL, RS, RM-10	60'	24'/28'/32'	<u>5'7"</u>	10%	5'	No	<u>Yes</u>
Cul-de-sac all Residential Zones	60'	24'	<u>5'7"</u>	10%	5'	No	<u>Yes</u>
Alley	20'	20'	None	10%	None	No	<u>No</u>

Notes: Requirements:

1. Local Streets:

- a. 24-foot-wide street – No parking allowed on either side of the street.
- b. 28-foot-wide street – Parking allowed on one side in alternating parking bays (parking bays shall alternate from side to side of the street to provide parking from both directions, and shall be eight feet wide and meet City of Bend Standards and Specifications).
- c. 32-foot-wide street – Parking allowed both sides in UAR, RL, RS, and RM-10 Zones.
- d. 36-foot-wide street – Parking allowed both sides in RM and RH Zones.
- e. Special street widths (see subsection (F)(3) of this section).

2. Expressways and arterials that are Oregon Department of Transportation (ODOT) facilities shall meet ODOT design standards.

3. See Table E for grade exceptions in steep terrain areas.

~~1. Performance Standards for 30-Foot Wide Local Residential Streets. A narrow 30-foot wide street pavement section, with parking both sides, may be approved when the following performance standards are met:~~

- ~~a. The street is connected to a grid street pattern at both block ends.~~
- ~~b. Blocks have dedicated public alley access to the roadway, constructed to City of Bend Standards and Specifications.~~
- ~~c. Block length does not exceed 300 feet.~~
- ~~d. Adjacent property use is single family residential only in an RS Zone.~~
- ~~e. All parking requirements for single family residential use are met on site.~~

Table B: Improvement Standards for Dedicated Public Roadways in Commercial Zones

CB, CC, CL, CG, ME, MR, PF and PO

Street Classification	Minimum Right-of-Way	Minimum Pavement Width	Minimum Planter Strips Width	Minimum Turn Lane/ Median Island Width (1)	Maximum Grade (2)	Direct Site Access	Sidewalks Both Sides	Curbs
Principal Arterial (3)	100'	76'	5'	11'/16'	6%	No	6'	<u>Yes</u>
Major Arterial	100'	76'	5'	11'/16'	6%	No	6'	<u>Yes</u>
Minor Arterial	100'	56'	<u>5'8"</u>	11'/16'	6%	No	6'	<u>Yes</u>
Major Collector	80'	56'	<u>5'6"</u>	11'/16'	6%	Yes	6'	<u>Yes</u>
Local	60'	36'	<u>5'7"</u>	None	10%	Yes	5'	<u>Yes</u>
Alley (4)	20'	20'	None	None	10%	Yes	None	<u>No</u>

Notes: Requirements:

1. The first dimension is the minimum required width of the turn lane while the second dimension applies to the raised median width constructed between intersections:
 - a. Intersection turn lane pocket width is 11 feet while the median end cap width is five feet in width.
2. See: Table E for grade exceptions in steep terrain areas.
3. Expressways and arterials that are Oregon Department of Transportation (ODOT) facilities shall meet ODOT design standards.
4. ~~Alleys: Not~~ Alleys are not required in Commercial Zones.

**Table C: Improvement Standards for Dedicated Public Roadways in
Industrial Zones IL and IG**

Street Classification	Minimum Right-of-Way	Minimum Pavement Width	Minimum Planter Strips Width	Minimum Turn Lane/ Median Island Width (1)	Maximum Grade (2)	Direct Site Access	Sidewalks Both sides	Curbs
Principal Arterial (4)	100'	76'	5'	11'/16'	6%	No	<u>6'</u>	<u>Yes</u>
Major Arterial	100'	76'	5'	11'/16'	6%	No	<u>6'</u>	<u>Yes</u>
Minor Arterial	100'	56'	<u>5'7"</u>	11'/16'	6%	No	<u>6'</u>	<u>Yes</u>
Major Collector	80'	56'	<u>5'7"</u>	11'/16'	6%	Yes	<u>6'</u>	<u>Yes</u>
Local: No Parking	60'	36'	<u>5'7"</u>	None	10%	Yes	<u>5'</u>	<u>Yes</u>
Local: w/ Parking	60'	44'	<u>5'6"</u>	None	10%	Yes	<u>5'</u>	<u>Yes</u>

Notes: Requirements:

1. The first dimension is the minimum required width of the turn lane while the second dimension applies to the raised median width constructed between intersections:
 - a. Intersection turn lane pocket width is 11 feet while the median end cap width is five feet in width.
2. See: Table E for grade exceptions in steep terrain areas.
3. ~~Alleys: Not~~ Alleys are not required in Industrial Zones.
4. Expressways and arterials that are Oregon Department of Transportation (ODOT) facilities shall meet ODOT design standards.
5. Pavement Widths. The required pavement width shall be determined based upon the factors listed below:
 - a. Street classification in the Transportation System Plan;
 - b. Anticipated traffic volume for the City's planning horizon year;

- c. On-street parking needs;
- d. Sidewalk and bikeway requirements based on anticipated level of use;
- e. Requirements for placement of utilities;
- f. Street lighting;
- g. Minimizing drainage, slope, and sensitive lands impacts, as identified by the General Plan;
- h. Street tree location, as provided for in BDC Chapter 3.2;
- i. Protection of significant vegetation, as provided for in BDC Chapter 3.2;
- j. Safety and comfort for motorists, bicyclists, and pedestrians;
- k. Street furnishings (e.g., benches, lighting, bus shelters, etc.), when provided;
- l. Access needs for emergency vehicles; and
- m. Consistent extension of existing street section.

~~63.~~ Future Street Widths and Special Building Lines. To ensure that adequate transportation corridors will be preserved for the future, the special setbacks established in subsection J shall apply. ~~a special setback of 50 feet from the centerline shall be applied to City streets with a functional classification of expressway, primary arterial, major arterial, and minor arterial. Collector streets shall have a special setback of 40 feet from the centerline for all City streets with a functional classification of collector. The special setback shall be measured at a right angle to the street centerline with the required setback of the underlying zone added to the special setback distance.~~

74. Exceptions to Minimum Rights-of-Way Standards.

- a. Where opposite sides of the street are designated on the General Plan with different land use zones, the zone with the greater requirement for right-of-way dedication and pavement width will govern both sides of the street.
- ~~b. Where the PF, Public Facilities Zone exists, the street improvement standard for the abutting zoning shall apply.~~ *Added to Table B.*

Table D: Improvement Standards for Private Streets

Street Classification	Minimum Roadway Easement Dedication	Pavement Width	Maximum Grade	Direct Site Access	Bike Lanes	Sidewalks	Curbs
Local Residential Streets	Greater than or equal to street improvement width including sidewalks.	24'/28'/32'	10%	Yes	No	5' both sides	<u>Yes</u>
"T" Courts Less Than or Equal to 150 Feet Long	40'	24'	12%	Yes	No	No <u>Yes</u>	<u>Yes</u>
Local Commercial Streets	Greater than or equal to street improvement width, including sidewalks.	36'	10%	Yes	No	5' both sides	<u>Yes</u>

Notes: Requirements:

1. Drainage must be retained on site and not drain to public right-of-way.
2. Minimum roadway easement dedication (private property) with public property access dedicated for specific use for vehicle and pedestrian circulation.
3. Private streets shall ~~meet local street~~ be constructed to public standards for dedicated public roadways (Tables A through C) except as modified by Table D. Private streets shall contain a public access easement and public utility easement for the entire width of the private street from the outside of each sidewalk, inward, and for the entire length of the private street.

4. Collector and higher classification roadways are not permitted to be private.

Table E: Improvement Standards for Dedicated Public Roadways on Hillsides

Street Classification	Minimum Right-of-Way	Minimum Pavement Width	Max. Grade	Sidewalks Both Sides Curb Tight	Bike Lanes	Curbs
Minor Arterial (All Zones)	100'	36'	8%	6'	Yes	<u>Yes</u>
Major Collector (All Zones)	80'	36'	8%	6'	Yes	<u>Yes</u>
Local: RM or RH Parking Both Sides	60'	36'	10%	6'	No	<u>Yes</u>
Local: RS	60'	24'/28'/32' (3)	10%	5'	No	<u>Yes</u>
Local Cul-De-Sac	60'	24'/28'/32' (3)	10%	5'	No	<u>Yes</u>
Alley	20'	20'	10%	None	No	<u>No</u>

Notes-Requirements:

1. Hillside street standards apply to those portions of streets constructed on existing slopes exceeding 15 percent.
2. Planter strips are not required on those portions of the street that qualify for Hillside Standards.
3. Local Streets:
 - a. 24-foot-wide street - No parking allowed on either side of the street.
 - b. 28-foot-wide street - Parking allowed on one side in alternating parking bays (Parking bays shall alternate from side to side of the street to provide parking from both directions, and shall be eight feet wide and meet City of Bend Standards and Specifications).

- c. 32-foot-wide street – Parking allowed both sides in UAR, RL, RS, and RM-10 Zones.
- d. 36-foot-wide street – Parking allowed both sides in RM and RH Zones.
- e. Special street widths (see subsection (F)(3) of this section).

G. Traffic Controls.

- 1. Traffic signals/roundabouts shall be required and installed in accordance with BDC Chapter 4.7, Transportation Analysis, with development when traffic control warrants are met, in conformance with the Highway Capacity Manual and Manual of Uniform Traffic Control Devices. Traffic signal/roundabout design shall be approved by City Engineer. The developer’s financial responsibility and the timing of improvements shall be included as a condition of development approval.
- 2. Traffic controls on roads under State jurisdiction shall be determined by the Oregon Department of Transportation.

H. Medians. The use of landscaped medians improves community appearance, helps maintain system mobility and reduces the effects of wide street widths to all modes of travel. Medians will be landscaped with water efficient plant materials that are easily maintained ~~unless otherwise indicated below.~~

- 1. The design of medians on roads under City jurisdiction shall be approved by the City Engineer. ~~At intersections where left turn pockets are constructed, the 16-foot wide median will transition to an 11-foot wide left turn lane with a five foot pedestrian refuge median separating the left turn lane from oncoming traffic. Intersections and access must comply with BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation.~~
- 2. The design of medians on roads under State jurisdiction shall be approved by the Oregon Department of Transportation. ~~A lesser median standard may be approved by the City Engineer under the following conditions:~~
 - a. ~~A 12-foot landscape median may be approved if pedestrian refuges are not required because adequately spaced offset intersections safely accommodate pedestrian crossings at the 12-foot median opposite a 12-foot turn pocket.~~
 - b. ~~A six-foot landscaped median may be approved where the 20-year projected average daily traffic (ADT) volumes are less than 5,000 and where pedestrian refuge is required.~~

~~e. Collector streets with no medians may be approved if 20 year projected ADT volumes are less than 5,000 and no pedestrian crossing safety issues are identified.~~

~~3. In Commercial and Industrial Zones, medians may be approved as painted islands or two way left turn lanes when all of the following conditions exist:~~

~~a. Pavement width is 56 feet or less.~~

~~b. Significant truck turning activity is anticipated and demonstrated.~~

~~c. No alternate access route for trucks is available.~~

~~d. Public safety will not be compromised.~~

~~4. Medians on roads under State jurisdiction shall be determined by the Oregon Department of Transportation.~~

I. Future Street Plan and Extension of Streets.

1. When a street plan has been developed and adopted by City Council along with an area plan, such as a Refinement Plan, that street plan shall guide the location and spacing of future streets pursuant to City of Bend Standards and Specifications.

2. When no adopted street plan exists for the site, a future street plan shall be filed by the applicant in conjunction with an application for a subdivision development, in order to facilitate orderly development of the street system. The plan shall show the pattern of existing and proposed future streets from the boundaries of the proposed land division development and shall include other parcels properties within ~~not less than~~ 400 feet of the site boundaries, and other developed streets or public rights-of-way or natural barriers surrounding and adjacent to the proposed development land division. The street plan is not binding; rather, it is intended to show potential future street extensions with future development.

3. Streets shall be extended to the boundary lines of the parcel or tract property to be developed, when the Review Authority determines that the extension is necessary to give street access to, or permit a satisfactory future development division of, adjoining land. The point where the streets temporarily end shall conform to subsections (I)(3)(a) through (c) of this section:

- a. These extended streets or street stubs to adjoining properties are not considered to be cul-de-sacs, since they are intended to continue as through streets when the adjoining property is developed.
- b. A City-approved barricade shall be constructed at the end of the street by the developer ~~subdivider~~ and shall not be removed until authorized by the City or other applicable agency with jurisdiction over the street. The Review Authority may also require signs that indicate the location of a future road connection.
- c. Temporary turnarounds (e.g., hammerhead or bulb-shaped configuration) shall be constructed for stub streets over 150 feet in length.

4. Construction of partial width streets shall not be permitted, except as approved by the City Engineer. A ~~residential~~ partial street improvement may be approved only at the outer boundaries of a development subdivision where the street is required by other land use requirements and it is likely that adjacent underdeveloped property ~~of residential zoning~~ will complete the street construction. The following limitations shall apply:

- a. Partial street improvements are only allowed where available right of way is insufficient to allow a full street improvement. ~~the final street design is 32 feet or wider, parking both sides.~~
- b. ~~Partial street improvements are not allowed where the property line is the UGB or City Limits.~~
- c. ~~“No Parking” signs meeting MUTCD standards shall be installed on both sides of the street and removed only when the roadway is completed to 32 foot width or wider.~~

J. Special Setbacks.

- 1. Purpose. The purpose of this subsection is to ensure that adequate rights-of-way will be available for the appropriate street improvements as the City grows and that there will be no conflicts with the built environment.
- 2. Applicability. The special setback standards shall be applied to any lot or parcel that abuts a public right-of-way.
- 3. Setback.

- a. Unless waived under BDC 3.4.150, all buildings or structures shall be set back from planned future rights-of-way the minimum distance established in the applicable zoning district.
- b. Unless waived under BDC 3.4.150, the special setback from existing substandard width rights-of-way shall comply with Table F.

Table F: Special Setback Standards

Street Classification	Additional Setback from Centerline of Street
Local Street	30 feet
Collector	40 feet
Arterial (Principal, Major, Minor)	50 feet

Note: The additional setback line shall be an assumed property boundary for the purpose of sidewalk construction.

K. Street Alignment and Connections.

1. Staggering of streets making “T” intersections at collectors and arterials shall be located to conform with the spacing standards contained in the Bend Urban Area Transportation System Plan and BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation.
2. Spacing between local/local street intersections shall conform to the spacing standards contained in the City’s Standards and Specifications document and BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation. This standard applies to four-way and three-way (offset) intersections. Offset local street alignments shall be at least 125 feet distance between the centerlines of the streets.
3. All ~~local and collector~~ streets that abut a development site shall be extended within the site to provide through circulation, unless prevented by environmental or topographical constraints, existing development patterns or compliance with other standards in this code. This exception applies only when it is not possible to redesign or reconfigure the street pattern to provide required extensions. Land is considered topographically constrained if the slope is greater than 15 percent for a distance of 250 feet or more. In the case of environmental or topographical constraints, the mere presence of a constraint is not sufficient to show that a street connection is not possible. The applicant must show why the environmental or topographic constraint precludes a street connection.

4. Proposed streets or street extensions shall be located to provide access to existing or planned commercial services and other neighborhood facilities, such as schools, shopping areas and parks.

5. In order to promote efficient vehicular and pedestrian circulation throughout the City, the design of ~~subdivisions~~ developments and alignment of new streets shall conform to the standards in BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation.

L. Sidewalks, Planter Strips, Curbs, Bicycle Lanes. Sidewalks, planter strips, curbs and bicycle lanes shall be installed in conformance with the applicable provisions of the Bend Urban Area Transportation System Plan, the General Plan, City of Bend Standards and Specifications and the following standards:

1. The planter strip distance is measured from the face of the curb to the inside edge of the sidewalk.
2. Sidewalks shall be separated from the street by a planter strip and placed at the property line, where practicable, or as otherwise directed by the City Engineer.
3. In areas with high pedestrian volumes, the City Engineer may approve a minimum 10-foot-wide sidewalk, curb tight, with street trees in tree wells and/or landscape planters.
4. Bicycle lanes shall be constructed on all collector and arterial streets unless otherwise designated.
5. ~~Sidewalks and planter~~ Planter strips are not required on T-courts.
6. ~~In no instance shall the planter strip be wider than seven feet at the intersection. This may require the sidewalk to taper from the property line alignment to within seven feet of the curb.~~
7. All public and private streets shall have sidewalks and curbs.

M. Intersection Angles. Streets shall be laid out so as to intersect at an angle as near to a right angle as practicable, except where topography requires a lesser angle. In no case shall the centerline angle be less than 80 degrees. ~~In addition, the following standards shall apply:~~

1. ~~Street design shall provide a minimum of 50 feet of centerline tangent past the intersecting right of way unless a lesser distance is approved by the City Engineer.~~
2. ~~Intersections that are not at right angles shall have a minimum corner radius of 20 feet along the~~

~~right of way lines of the acute angle.~~

~~3.—Right of way lines at intersections with arterial streets shall have a corner radius of not less than 30 feet.~~

N. Existing Rights-of-Way. Whenever existing rights-of-way adjacent to or within a ~~tract~~ property are of less than standard width, additional rights-of-way shall be provided at the time of subdivision or site development, in conformance with Tables A through E in this section.

O. Cul-de-Sacs. A cul-de-sac street shall only be used when the applicant demonstrates that environmental or topographical constraints, existing development patterns, or compliance with other standards in this code precludes street extension and through circulation.

1. All cul-de-sacs shall terminate with a circular turnaround. Circular turnarounds shall have a curb radius of no less than 45 feet. Turnarounds may be larger when they contain a landscaped island or parking bay in their center. When an island or parking bay is provided, there shall be a fire apparatus lane of 20 feet in width.

~~2.—The length of the cul de sac shall be measured along the centerline of the roadway from the near side of the intersecting street to the farthest point of the cul de sac.~~

~~3.—Connecting pedestrian and bicycle access corridors. Where appropriate at cul de sacs, or along blocks more than 600 feet in length, pedestrian and bicycle access corridors shall be provided to minimize travel distance between subdivisions, parks, schools, primary trails, and collector or arterial streets. The Review Authority may determine based on evidence in the record that construction of a separate access corridor is inappropriate or impracticable. Such evidence may include but is not limited to:~~

~~a.—The nature of abutting existing development makes construction of an access corridor impractical.~~

~~b.—The access corridor would cross a natural area with significant natural habitat and construction would be incompatible with protection of natural values.~~

~~c.—The access corridor would cross topography where slopes exceed 30 percent or where path grade would exceed 18 percent slope.~~

P. Grades and Curves. Grades shall not exceed those shown in Tables A through E in this section, unless approved through a waiver in accordance with BDC 3.4.150 ~~variance in accordance with BDC Chapter 5.1.~~

1. Centerline curve radii and vertical curves shall conform to the American Association of State Highway and Transportation Officials (AASHTO) design criteria.
2. At the intersections of arterial and/or collector streets, the approach grade shall average no more than +/- four percent for 250 feet from the edge of the intersecting roadway at full improvement. Local streets intersecting arterials or collectors shall provide a minimum of 50 feet of approach grade at no more than an average of +/- four percent.
3. Existing conditions may warrant additional design criteria. All streets and intersection designs shall be subject to the approval of the City Engineer.
4. Lesser grades may be required at intersections as per City specifications. Grades in excess of 10 percent are subject to Fire Department approval.

Q. Curbs, Curb Cuts, Ramps, and Driveway Approaches. Concrete curbs, curb cuts, curb ramps, bicycle ramps and driveway approaches shall be constructed in accordance with BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation, City of Bend Standards and Specifications and the following standards:

1. Curb exposure shall be per City Standards and Specifications.
2. All public and private streets shall have curbs, except there ~~There~~ shall be no curbs on alleys unless otherwise approved by the City Engineer.
3. Curb extensions at local residential street intersections are optional. If provided, the minimum width between the curb extensions shall be 24 feet. Curb extensions shall not be used on streets with bike lanes.

R. Street Adjacent to Railroad Right-of-Way. Wherever the proposed development contains or is adjacent to a railroad right-of-way, a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land shall be created. New railroad crossings and modifications to existing crossings are subject to review and approval by the Oregon Department of Transportation and the rail service provider.

S. Development Adjoining Arterial Streets. Where a development adjoins or is crossed by an existing or proposed arterial street, the development design shall provide access to/from the arterial consistent with BDC

Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation, and City of Bend Standards and Specifications.

T. Alleys, Public or Private. Alleys shall conform to the standards in Tables A through E in this section. While alley intersections and sharp changes in alignment shall be avoided, the corners of necessary alley/alley intersections shall have a radius of not less than 12 feet, except where Fire Department access is required, the inside radius shall not be less than 30 feet. Right-of-way dedication for public alleys or roadway dedication for private alleys will be increased to match the pavement width.

U. Private Streets. Private streets shall connect with public streets to complete the City's transportation system grid where practical.

V. Street Names. All street names shall be approved by Review Authority. No street name shall be used that will duplicate or be confused with the names of existing streets in Deschutes County, except for extensions of existing streets. Street names, signs and numbers shall conform to the established pattern in the surrounding area, except as requested by emergency service providers and shall comply with City of Bend Standards and Specifications.

W. Survey Monuments. Upon completion of a street improvement and prior to acceptance by the City, it shall be the responsibility of the developer's registered professional land surveyor to provide certification to the City that all boundary and interior monuments shall be re-established and protected.

X. Street Signs. The City, County or State with jurisdiction shall install all signs for traffic control. The cost of signs required for new development, including stop signs and any other roadway signs, shall be the responsibility of the developers and shall be installed as part of the street system developed and approved through the land use process. Street name signs shall be installed by developers at all street intersections per City of Bend Standards and Specifications.

Y. Street Light Standards. Street lights shall be installed in accordance with City of Bend Standards and Specifications. Where a private street intersects a public street, a street light shall be installed. [Ord. NS-2150, 2010; Ord. NS-2016, 2006]

3.4.300 Public Use Areas.

Public open space and parks contribute to the livability of a growing community. They provide space for outdoor recreation and habitat for urban wildlife. These urban spaces are maintained and managed by the Bend Metro Park and Recreation District (BMPRD). Future public use areas are evaluated through the City's land use application process.

A. Neighborhood Parks. The following standards will be used to evaluate a proposed development subdivision to determine if the property includes an area that is suitable for a neighborhood park. Upon meeting these standards, the developer shall enter into negotiations with the Bend Metro Park and Recreation District regarding district purchase of land within the property proposed for ~~subdivision~~ development for construction of a neighborhood park.

1. The subject property is located within a service area identified on the Neighborhood Parks Plan Map adopted by the Bend Metro Park and Recreation District as needing neighborhood parks.
2. The property proposed for ~~subdivision~~ development is 10 acres or larger in area.
3. The Bend Metro Park and Recreation District has indicated that the subject property contains a sufficient area that is suitable for neighborhood park development based on the Bend Metro Park and Recreation District Neighborhood Park Classification and Development Standards.

B. Dedication Requirements.

1. Where a proposed park, playground or other public use shown in a plan adopted by the Bend Metro Parks and Recreation District is located in whole or in part in a proposed development subdivision, the City may require the dedication or reservation of this area ~~on the final plat for the subdivision~~.
2. If determined by the City Council to be in the public interest in accordance with adopted General Plan policies, and where an adopted plan of the City does not indicate proposed public use areas, the City may require the dedication or reservation of areas within the ~~subdivision~~ development of a character, extent and location suitable for the development of parks and other public uses.
3. All required dedications of public use areas shall conform to BDC 3.4.100(D), Conditions of Development Approval.

C. Acquisition by Public Agency. If the developer is required to reserve land area for a park, playground, or other public use, the land shall be transferred by deed to the appropriate public agency within six months following final ~~plat~~ approval, at a price agreed upon prior to approval of the development plat, or the reservation shall be released to the property owner.

D. Additional Considerations for Future Park Development.

1. All lots or parcels that are developed with residential structures shall pay an applicable system development charge for park development as provided for under BC Chapter 12.10 and ORS 223.297 through 223.314. The amount of the system development charge shall be pursuant to a Bend Metro Parks and Recreation District resolution. The system development charge shall be payable at the time of issuance of the building permit.

2. As a condition of approval, the land owner of a proposed ~~subdivision or partition~~ development of land lying within the Bend Urban Growth Boundary, but outside the boundaries of the Bend Metro Park and Recreation District, shall be required to sign an annexation agreement with the Bend Metro Park and Recreation District. [Ord. NS-2016, 2006]

3.4.400 Sanitary Sewer and Water Service Improvements.

A. Sewers and Water Mains Required. Sanitary sewers and water mains shall be installed to serve each new development and to connect developments to existing mains in accordance with the City's construction specifications as described in the City of Bend Standards and Specifications document and the applicable General Plan policies.

B. Sewer and Water Plan Approval. Construction of sewer and water improvements shall not commence until the City Engineer has approved all sanitary sewer and water plans in conformance with City of Bend Standards and Specifications.

C. ~~Master Planned~~ Public Facility Plan Improvements. Proposed sewer and water systems shall be sized to accommodate additional development within the area as projected by the Water and Sewer Public Facility Plans ~~Master Plan~~. The developer may be entitled to system development charge credits and reimbursement for the ~~master planned~~ improvements if eligible under the applicable provisions of the Bend Code.

D. Inadequate Capacity. Development may be restricted by the City where a deficiency exists in the existing water or sewer system that cannot be rectified by the development and which, if not rectified, will result in a

threat to public health or safety, or surcharging of existing mains, or violations of State or Federal standards pertaining to operation of domestic water and sanitary sewer treatment systems. ~~Any such restrictions shall conform to the criteria and procedures contained in ORS 197.505.~~

3.4.500 Storm Drainage Improvements.

- A. Storm Drainage Improvements Required. Storm drainage facilities shall be depicted on City-approved engineered construction drawings and installed to serve each new development in accordance with applicable City construction specifications as described in the City of Bend Standards and Specifications and BC Title 16, Grading, Excavation, and Stormwater Management.
- B. Accommodation of Upstream Drainage. Drainage facilities shall be designed and constructed to accommodate increased runoff so that discharge rates existing before the proposed development shall not be increased, and accelerated channel erosion will not occur as a result of the proposed land disturbance or development activity. Such facilities shall be subject to review and approval by the City Engineer.
- C. Effect on Downstream Drainage. Where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the City shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for management of additional runoff caused by the development in accordance with City of Bend Standards and Specifications. Drainage shall not be directed to an existing watercourse, channel, stream or canal. Storm drainage facilities shall comply with applicable State and Federal regulatory requirements.
- D. Easements for Existing Watercourses. Where an existing watercourse traverses a development, such as a natural watercourse, drainage way, channel or stream, or any other existing drainage facility including but not limited to irrigation canals, laterals and associated ditches, there shall be provided and recorded an easement conforming substantially with the lines of such existing watercourses and such further width as will be adequate for conveyance and maintenance, as determined by the City Engineer.
- E. Easements for Developed Drainage Facilities. Where new drainage facilities are provided that include elements located outside the dedicated public right-of-way, such facilities shall be located within an area provided for in a recorded easement. The easement shall be adequate for conveyance and maintenance as determined by the City Engineer. [Order No. 2012-01, 2012; Ord. NS-2016, 2006]

3.4.600 Utilities.

A. Underground Utilities. All utility lines including, but not limited to, those required for electric, communication, lighting and cable television services and related facilities, shall be placed underground, except for surface-mounted transformers; surface-mounted connection boxes and meter cabinets; temporary utility service facilities during construction; and high capacity electric lines operating at 50,000 volts or above, which may be placed above ground.

The following additional standards apply to all development, in order to facilitate underground placement of utilities:

1. The developer shall make all necessary arrangements with the serving utility to provide the underground services. All above-ground equipment shall not obstruct clear vision areas and safe intersection sight distance for vehicular traffic in conformance with BDC Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation.
2. The City reserves the right to approve the location of all surface-mounted facilities.
3. All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets.
4. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

B. Easements. Easements shall be provided and recorded for all underground utility facilities where required by the City. [Ord. NS-2016, 2006]

3.4.700 Easements.

A. Requirement. Easements for sewer facilities, storm drainage, water facilities, street facilities, electric lines or other public/private utilities shall be dedicated on a final plat, or other instrument approved by the City ~~provided for in the deed restrictions.~~

B. Provision. The developer or applicant shall make arrangements with the City, the applicable district and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development.

C. Standard Width. The City's standard width for exclusive public main line utility easements shall be 20 feet,

unless otherwise specified by the utility company, applicable district, or City Engineer. [Ord. NS-2016, 2006]

3.4.800 Construction Plan Approval and Assurances.

A. Plan Approval and Permit. Public improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting, parks, or other requirements, shall not be undertaken except after the plans have been approved by the City and the developer has signed a Public Facilities Infrastructure Agreement (PFIA), paid permit fees, and received a permit. The amount of the permit fee shall be set by City Council with the annual adoption of a fees resolution.

B. Performance Guarantee. The City may require the developer or subdivider to provide bonding or other performance guarantees to ensure completion of required public improvements in accordance with the provisions of BDC 4.2.500, Bonding and Assurances for All Developments, and 4.3.400, Final Plat.

C. Work within the Public Rights-of-Way. The City shall approve all contractors and their subcontractors who work in the City rights-of-way. [Ord. NS-2016, 2006]

3.4.900 Installation.

A. Conformance Required. Improvements installed by the developer, either as a requirement of these regulations or at his/her own option, shall conform to the requirements of this chapter, approved construction plans, and to improvement standards and specifications adopted by the City, referenced within the City of Bend Standards and Specifications.

B. Commencement. Work shall not begin until the City has reviewed and approved the construction plans and notified the contractor of the approval.

C. Resumption. If work is discontinued for more than one month, it shall not be resumed until the City is notified in writing.

D. City Inspection. Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require minor changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest. Modifications requested by the developer shall be subject to land use review under BDC 4.1.1300, Limitations on Approvals. Any monuments that are disturbed before all improvements are completed by the ~~subdivider~~ developer shall be replaced prior to final acceptance of the improvements.

E. Engineer's Certification. All public improvements shall be designed and certified by a civil engineer licensed and registered in Oregon. The civil engineer's professional stamp and signature shall provide written certification to the City that all improvements, workmanship and materials are in accord with current and standard engineering and construction practices, conform to approved plans and conditions of approval, and are of high grade. Engineer's certification is required prior to City acceptance of the public improvements, or any portion of the improvement ~~thereof~~, for operation and maintenance.

Chapter 4.1 DEVELOPMENT REVIEW AND PROCEDURES

4.1.1325 Modification of Approval.

A. ~~An applicant may apply to modify an approval~~ may be modified at any time after a decision becomes final ~~period of 60 days has elapsed from the time a development approval has become final.~~

B. Modification Review Procedures.

1. A modification that does not have significant additional impacts on surrounding properties shall be reviewed only under the criteria applicable to the aspect(s) of the proposal that are to be modified.
2. A modification that has significant additional impacts on surrounding properties shall be reviewed under all criteria applicable to the entire approval and may, at the discretion of the City, require the filing of a new application.
3. A modification shall not be considered to have significant additional impacts on surrounding properties if the identified impacts could be addressed under the applicable provisions of this Code at the time of future development (e.g. a future Site Plan Review or Conditional Use Permit application).
4. A modification that is a new proposal shall be filed as a new application.

~~Unless otherwise specified in this code, the grounds for filing a modification shall be that a change of circumstances since the issuance of the approval makes it desirable to make changes to the proposal, as approved. A modification shall not be filed as a substitute for an appeal or to apply for a substantially new proposal or one that would have significant additional impacts on surrounding properties.~~

~~C.—An application to modify an approval shall be directed to one or more discrete aspects of the approval, the modification of which would not amount to approval of a substantially new proposal or one that would have significant additional impacts on surrounding properties. Any proposed modification, as defined in this section, shall be reviewed only under the criteria applicable to that particular aspect of the proposal. Proposals that would modify an approval in a scope greater than allowable as a modification shall be treated as an application for a new proposal.~~

~~DC.~~ An application for a modification of a Type I approval shall be processed as a Type I application. All other modifications shall be processed as a Type II application unless elevated to a Type III process by the Community Development Director.

~~ED.~~ ~~The effect, if any, of a modification upon the original approval time limitation shall be established in the modification decision.~~ The original approval time limitation is governed by BDC 4.1.1310.

~~FE.~~ ~~For modification of approval~~ Modification of a PUD or Special Area Plan Master Planned Subdivision issued prior to the adoption of this code, any proposed modification approved under land use regulations in place prior to August 6, 2006 shall be subject to the approval criteria in BDC 4.5.300(C)(2)a-f.

F. Modifications of development approvals other than those described in subsection E above approved prior to August 6, 2006 shall meet the approval criteria contained in the appropriate corresponding section of this Code (e.g. modification of a Site Plan Review approval is subject to Chapter 4.2; modification of a Conditional Use Permit is subject to Chapter 4.4, etc.).

Chapter 4.5

MASTER PLANNING AND DEVELOPMENT ALTERNATIVES

4.5.300 Master Planned Developments.

A. Applicability. The Master Planned Development designation may be applied over any of the City's land use districts for any property or combination of properties three acres or greater in size. For projects consisting of one or more properties totaling 20 acres or larger at the date of adoption of this code, a Master Neighborhood Development Plan shall be required in conformance with BDC 4.5.400, Master Planned Neighborhood Development.

B. Review and Approval Process.

1. Review Steps. There are three required steps for Master Planned Development approval:

a. Step 1 - the approval of a concept development plan. The concept development plan shall include an area plan that depicts the development site concept including the surrounding area within 500 feet, and a facilities plan for sewer, water and transportation, and park facilities;

b. Step 2 - the approval of a tentative development plan. A tentative development plan shall identify the final proposed location of all lots, tracts, parcels, open space, rights-of-way, building envelopes, zoning designations and other features; and

- c. Step 3 – the approval of preliminary subdivision plat(s) and/or site development review application(s).

2. Approval Process. A Master Planned Development seeks to change one or more of the development standards contained in this code, the underlying zoning and/or Bend Area General Plan designation. Therefore, a Master Planned Development concept plan application shall be reviewed using the Type III procedure in accordance with BDC Chapter 4.1, Development Review and Procedures.

The tentative development plan may be reviewed using the Type II procedure in accordance with BDC Chapter 4.1, Development Review and Procedures, and shall ensure substantial compliance with the approved/proposed MPD concept development plan.

In order to expedite the process, the review steps, notification and hearings may be combined. The applicant shall submit an application in conformance with the following provisions:

- a. The Master Planned Development shall include, but not be limited to, the informational requirements of BDC 4.3.200, General Requirements, as well as the following elements:
 - i. Existing and planned major street network plans, including proposed arterial, collector and local street alignments within the master planned area and where the streets will connect with the existing street system.
 - ii. Existing and planned water and sewer facilities to serve the master planned area, including line sizes, general location or routes and how the lines will tie into adjacent areas and facilities.
 - iii. Existing and planned pedestrian and bicycle corridors within the master planned area and where these facilities will connect with existing facilities.
 - iv. Public and/or private parks, open space or common areas.
 - v. Planned densities and types of uses within the affected area.
 - vi. A written narrative that explains or describes:
 - (A) How the proposed water, sewer and street system will be adequate to serve the size and type of development and uses planned for this area;

(B) How the location and sizing of water and sewer facilities on site will be consistent with the existing and planned facilities;

(C) How adequate water flow volumes will be provided to meet fire flow and domestic demands; and

(D) The function and location of any private utility system.

vii. Draft Development Code text in a format prescribed by the City, which provides special development standards intended to implement the proposed MPD.

b. No application for a Master Planned Development shall be approved unless the applicant can explain in a written narrative how the following requirements are met:

i. The MPD contributes to orderly development and land use patterns in the area, will be compatible with adjacent developments and will not adversely affect the character of the area.

ii. The MPD will not create excessive demand on public facilities and services required to serve the development.

iii. The MPD contributes to the orderly development of the Bend area transportation network of roads, bikeways, and pedestrian facilities, and does not conflict with existing public access easements within or adjacent to the development.

iv. The MPD provides for the preservation of natural features and resources such as streams, lakes, natural vegetation, designated areas of special interest, and other natural resources to the maximum degree practicable. Preservation shall be considered impracticable when it would prevent development of public streets, public utilities, needed housing or land uses permitted by the applicable land use district. The term prevent in this standard means that the development cannot be designed to avoid the significant tree(s). An inability to achieve maximum permitted density by complying with this subsection shall not in itself be considered to prevent development.

v. The MPD conforms to the Bend Area General Plan Map, or amendments to the General Plan Map, text or policies shall be proposed and approved as part of the Master Planned Development plan in conformance with BDC Chapter 4.6.

C. Applicability of BDC Title 3, Design Standards. The development standards of BDC Title 3 apply to all Master Planned Developments, unless otherwise specified as part of a MPD concept proposal.

1. Concept Development Plan Submission.

a. General Submission Requirements. The applicant shall submit an application containing all of the general information required for a Type II or III procedure, as governed by BDC Chapter 4.1, Development Review and Procedures. In addition, the applicant shall submit the following information:

i. A statement of planning objectives to be achieved by the Master Planned Development through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant.

ii. A concept schedule indicating the approximate dates when construction of the Master Planned Development and its various phases are expected to be initiated and completed.

iii. Narrative report or letter documenting compliance with the applicable approval criteria contained in this code.

iv. Special studies or reports prepared by qualified professionals may be required by this code, the City Planning Director, Planning Commission or City Council to determine potential traffic, geologic, noise, environmental, natural resource and other impacts, and required mitigation.

b. Additional Information. In addition to the general information described above, the concept development plan application shall include the following exhibits and information:

i. Site analysis map, as defined in BDC 4.2.300, Design Review;

ii. Conceptual site plan (e.g., general land use, building envelopes, circulation, open space, utility connections, and other information necessary to convey the concept plan);

iii. Grading concept plan (for hillside or sloping properties, or where extensive grading is anticipated);

- iv. Landscape concept plan and tree preservation plan in accordance with BDC Chapter 3.2;
- v. Architectural concept plan (e.g., information sufficient to describe architectural styles, building heights, and general materials);
- vi. Sign concept plan (e.g., locations, general size, style and materials of signs);
- vii. Copies of all existing covenants and restrictions, and general description of proposed restrictions or covenants (e.g., for common areas, access, parking, etc.).
- viii. Facilities plan showing how the planned development will be served by streets, sewer and water.

2. Concept Development Plan Approval Criteria. The applicant shall submit a narrative and plans detailing how the following criteria are satisfied. The City shall make findings demonstrating that all of the following criteria are satisfied when approving, or approving with conditions, the concept plan. The City shall make findings demonstrating that one or all of the criteria are not satisfied when denying an application:

- a. Bend Area General Plan. All relevant provisions of the Bend Area General Plan are met except as proposed to be modified by the applicant in conformance with the submittal requirements and criteria of subsection ~~(C)(1)~~ (B)(2) of this section.
- b. Land Division Chapter. All of the requirements for land divisions, as applicable, shall be in conformance with BDC Chapter 4.3, Subdivisions, Partitions, Replats and Property Line Adjustments; except as proposed to be modified by the applicant in conformance with subsection ~~(C)(1)~~ (B)(2) of this section.
- c. Applicability of BDC Chapters 2.0 and 3.0. All of the land use and design standards contained in BDC Chapters 2.0, Land Use District Administration, and 3.0, Development Standards Administration, are met, except as proposed to be modified by the applicant in conformance with subsection (C)(1) of this section.
- d. Requirements for Open Space. Public and private open space within a development is highly encouraged as a public benefit. Open space, consistent with the purpose of this chapter, shall be designated within a Master Planned Development when:

- i. The Master Planned Development area is 40 acres or greater; or
 - ii. The applicant is seeking exceptions to Bend Area General Plan, zoning designations or the standard Development Code provisions and/or density.
- e. Standards for Open Space Designation. The following standards shall apply:
- i. The open space area shall be shown on the concept development plan and recorded with the final plat or separate instrument; and
 - ii. The open space shall be conveyed in accordance with one of the following methods:
 - (A) By dedication to the Park District or City as publicly owned and maintained open space. Open space proposed for dedication to the Park District or City must be acceptable with regard to the size, shape, location, improvement, environmental condition, and budgetary and maintenance abilities;
 - (B) By leasing or conveying title (including beneficial ownership) to a corporation, owners association or other legal entity. The terms of such lease or other instrument of conveyance must include provisions (e.g., maintenance, property tax payment, etc.) suitable to the City.
- f. Standards for Approval. In granting approval for a Master Planned Development concept development plan the applicant must demonstrate that the proposal is consistent with the criteria for land division approval in BDC 4.3.300, Tentative Plan.
- g. Additional Approval Criteria for Master Planned Development Applications. A recommendation or a decision to approve, approve with conditions or to deny an application for a MPD application shall be based on the criteria listed in BDC 4.6.300(B), Criteria for Quasi-Judicial Amendments.

D. Administrative Procedures.

1. Land Use District Map Designation. After a Master Planned Development concept development plan and tentative development plan have been approved, the approved Master Planned Development designation for the subject development site shall be shown on a map maintained by the City that illustrates the location of approved Master Planned Developments and the approved MPD overlay text

will be added to BDC Chapter 2.7 as a new Planned District.

As a condition of approval, the applicant shall record a Deed Restriction on the subject properties and all future lots and parcels created, noting inclusion in the approved Master Planned Development area.

2. Time Limit for Filing a Tentative Development Plan. Within three years after the date of approval of the concept plan, the applicant or his or her successor shall prepare and file with the City a tentative development plan, in conformance with the requirements of this chapter. If the tentative development plan is not submitted within three years, the Master Planned Development concept plan shall expire.

3. Extension. The City shall, upon written request by the applicant and payment of the required fee, grant a written extension of the approval period not to exceed one year; provided, that all of the following are satisfied:

- a. No changes have been made on the original conceptual development plan as approved;
- b. There have been no changes to the applicable Bend Area General Plan policies and ordinance provisions on which the approval was based.

4. Tentative Development Plan Submission Requirements. The applicant shall submit an application for a tentative development plan. The contents of the application information shall be determined by the conditions of approval for the concept development plan. At a minimum, the tentative development plan shall identify the final proposed location of all lots, tracts, parcels, open space, rights-of-way, building envelopes and other features, prior to approval of a development permit (e.g., Land Division, Development Review, Site Development Review, etc.). The tentative development plan shall be reviewed using a Type II procedure in conformance with BDC Chapter 4.1, Development Review and Procedures.

5. Tentative Development Plan Approval. The City shall approve the tentative development plan upon finding that the final plan conforms to the concept plan and all required conditions of approval. Minor changes to the approved concept development plan may be approved with the tentative development plan, if consistent with all of the site development review standards set forth in this code and the following criteria:

- a. Increase or decrease of residential densities or lot coverage by no more than 15 percent, when such change conforms to the Bend Area General Plan;

- b. A reduction to the amount of open space or landscaping by no more than 10 percent;
- c. An increase in lot coverage by buildings or changes in the amount of parking by no more than 15 percent. Greater changes require approval of a modification in conformance with BDC Chapter 4.1, Development Review and Procedures;
- d. No change in land use shall be permitted without approving a modification to an approved concept development plan in conformance with BDC Chapter 4.1, Development Review and Procedures;
- e. No change that places development within environmentally sensitive areas including ASIs or areas subject to a potential hazard shall be approved without approving a modification to an approved concept development plan in conformance with BDC Chapter 4.1, Development Review and Procedures;
- f. The location of buildings, proposed streets, parking lot configuration, utility easements, landscaping or other site improvements shall be as proposed on the concept development plan, or as modified through conditions of approval. Changes in the location or alignment of these features by more than 50 feet shall require approval of a modification, in conformance with BDC Chapter 4.1, Development Review and Procedures; and
- g. Other changes made to the approved concept development plan shall require approval of a modification, in conformance with BDC Chapter 4.1, Development Review and Procedures.

6. Development Review and Building Permit Approvals. Upon receiving tentative development plan approval, the applicant may apply for one or more development reviews (e.g., Land Division, Development Review, Site Development Review, etc.). Building permits shall not be issued until all required development permits have been issued and appeal periods have ended.

- a. Development Review. BDC Chapter 4.2, Site Plan Review and Design Review, applies to developments requiring Site Development Review or Architectural Design Review. BDC Chapter 4.3, Subdivisions, Partitions, Replats and Property Line Adjustments, applies to land divisions (partitions and subdivisions).

~~7. Modification of a Master Planned Development. A modification request shall be subject to a Type II application procedure and the applicable criteria used for the initial approval. The Planning Director~~

may decide to refer the request to the Hearings Body for a hearing as a Type III application if the original approval was determined by a Hearings Body.

EXHIBIT B

Findings of Fact Legislative Code Amendment PZ-14-0430

Procedural Findings:

The application was initiated on June 5, 2014. Notice of the proposed amendments was provided to the Department of Land Conservation and Development (DLCD) on June 5 & August 15, 2014. Notification of the public hearing before the Bend Planning Commission was printed in the October 7, 2014 edition of the Bulletin. The Planning Commission held a public hearing and voted in favor of recommending approval to the City Council on October 27, 2014. Notification of the public hearing before the City Council was printed in the October 31, 2014 edition of the Bulletin. The City Council held a first reading on November 19, 2014 and a second reading on December 3, 2014.

Criteria of Approval:

The criteria applied to legislative plan amendments are found within the Bend Development Code (BDC) Chapter 4, Section 4.6.200. The criteria are:

1. *The request is consistent with the applicable State land use law;*
2. *The request is consistent with the applicable Bend Area General Plan goals and policies;*
3. *The applicant can demonstrate a public need or benefit for the proposed amendment.*

Application of the Criteria:

1. **The request is consistent with the applicable State land use law;**

FINDING: The proposed amendments are consistent with the applicable State land use law. In particular, they will satisfy Goal 1: Citizen Involvement, Goal 2: Land Use Planning, Goal 9: Economic Development, and Goal 11: Public Facilities and Services.

Goal 1, Citizen Involvement, is satisfied through following the City's acknowledged text amendment process that includes a Planning Commission public hearing, followed by a City Council public hearing.

Goal 2, Land Use Planning, is met because the City followed the land use planning process and policy framework established in the City's acknowledged comprehensive plan and development code as a basis for the decisions and actions related to the new regulations regarding the use of land and to assure an adequate factual base for these decisions and actions. The proposed ordinance was adopted by the City Council after

a public hearing. Multiple opportunities were provided for review and comment by citizens and affected governmental units during the preparation of this ordinance.

Goal 9, Economic Development, is satisfied because the proposed amendments will clarify and streamline various provisions of the Bend Development Code which regulate the City's public improvement standards and development review procedures.

Goal 11, Public Facilities and Services, is satisfied because the proposed amendments will make the City's existing public improvement standards easier to understand and apply.

Because the proposed code amendments are limited in scope, there are no other Statewide Planning Goals applicable to this ordinance. Likewise, there are no applicable Oregon Revised Statutes or Oregon Administrative Rules that apply to these code amendments.

2. The request is consistent with the applicable Bend Area General Plan goals and policies;

FINDING: The "goals" established in the general plan express the desires of the residents of Bend as the City progresses into the future. The "goals" are generally carried out through "policies", which are statements of public policy. The City reviewed the Comprehensive Plan and found only Chapter 1 to be directly applicable to the proposed text amendments.

Chapter 1 of the Bend Area General Plan includes the following goal:

- Public/Civic Involvement* – Encourage involvement by all citizens, corporate and individual, to keep the city vital and the Plan an "evolving vision".
- Implementing Consistent Ordinances* – Implement the plan through effective, clear and consistent ordinances and language that reflect the intent of the vision.

Chapter 1 also includes the following public policies:

15. The city shall continue to use advisory committees in their planning process, members of which are selected by an open process, and who are widely representative of the community.
16. The city will use other mechanisms, such as, but not limited to, meetings with neighborhood groups, planning commission hearings, design workshops, and public forums, to provide an opportunity for all the citizens of the area to participate in the planning process.

Chapters 4.1 and 4.6 of the Development Code together require the Planning Commission and the City Council to hold public hearings prior to acting on amendments

to the text of the Development Code. Prior to the required public hearings, the proposed text amendments were posted on the City's website, and the public was invited to submit written comments on the draft amendments. Based upon input from the Planning Commission, the Planning Division's proposed amendments to the Public Improvement Standards in Chapter 3.4 were refined.

Based on the findings stated above, the City Council concludes that the proposed text amendments are consistent with the applicable General Plan goals and policies.

3. The applicant can demonstrate a public need or benefit for the proposed amendment.

FINDING: There is a public need for clear and consistent development regulations and review procedures that conform to state law and the City's customer service objectives. Regulations which clarify and streamline various provisions of the code which regulate the City's public improvement standards and development review procedures also provide a public benefit to the community.

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 City is proposing to adopt text amendments to the Bend Development Code, a functional component of the comprehensive plan. The City has analyzed the proposed text amendments and has found that none of the changes would cause a "significant effect" under ORS 660-012-0060.

Conclusion:

Based on the above findings, the City Council concludes that the proposed Development Code text amendments meet all applicable criteria for adoption.