

ORDINANCE NO. NS-2266

AN ORDINANCE AMENDING THE BEND AREA GENERAL PLAN MAP AND ZONING MAP TO CHANGE THE PLAN DESIGNATION AND ZONING OF 1.99 ACRES OF PROPERTY FROM LIMITED COMMERCIAL (CL) TO STANDARD DENSITY RESIDENTIAL (RS) AND TO CHANGE THE NORTHWEST CROSSING OVERLAY FROM MIXED EMPLOYMENT/COMMERCIAL TO 0.82 ACRES OF STANDARD DENSITY RESIDENTIAL AND 1.17 ACRES OF HIGH DENSITY MULTIPLE-FAMILY RESIDENTIAL OVERLAY. THE PROPERTY IS LOCATED AT THE SOUTHEAST CORNER OF NORTHWEST CROSSING DRIVE AND LEMHI PASS DRIVE.

Findings

- A. On February 22, 2016, West Bend Property Company submitted a Type III Quasi-judicial application for a General Plan Map/Zoning Map amendment to change 1.99 acres from Limited Commercial (CL) to Standard Density Residential (RS). The request also includes a change to the Northwest Crossing Overlay from Mixed Employment/Commercial to 0.82 acres of Standard Density Residential and 1.17 acres of High Density Multiple-Family Residential Overlay.
- B. On April 7, 2016, the Hearings Officer held a public hearing on the proposed map amendments.
- C. On April 25, 2016, the Hearings Officer issued a recommendation that the City Council adopt an Ordinance to amend the General Plan Map designation and zoning of the subject property Limited Commercial (CL) to Standard Density Residential (RS) and to change the Northwest Crossing Overlay from Mixed Employment/Commercial to 0.82 acres of Standard Density Residential and 1.17 acres of High Density Multiple-Family Residential Overlay.
- D. The Bend City Council held a public hearing on May 18, 2016, to consider the Hearings Officer recommendation.
- E. The amendments to the Bend Area General Plan Map and Zoning Map approved by this Ordinance meet all applicable Development Code criteria, policies of the Bend Area General Plan, Oregon Statewide Planning Goals, and the Transportation Planning Rule.

THE CITY OF BEND ORDAINS AS FOLLOWS:

- Section 1. The Bend Area General Plan Map is amended to change the designation of 1.99 acres from Limited Commercial (CL) to Standard Density Residential (RS) as contained in Exhibit A.
- Section 2. The Bend Zoning Map and Figure 2.7.330 of the Development Code are amended to change the zoning of 1.99 acres from Limited Commercial (CL) to Standard Density Residential (RS) for consistency with the proposed General Plan designation as depicted in Exhibit A.
- Section 3. The Bend Zoning Map and Figure 2.7.330 of the Development Code are also amended to change the Northwest Crossing Overlay from Mixed

Employment/Commercial to 0.82 acres of Standard Density Residential and 1.17 acres of High Density Multiple-Family Residential Overlay as depicted in Exhibit A.

Section 4. The City Council adopts the Hearings Officer Findings in support of this ordinance as contained in Exhibit B.

First reading: May 18, 2016.

Second reading and adoption by roll call vote: June 1, 2016.

YES: Jim Clinton, Mayor
Doug Knight
Victor Chudowsky
Sally Russell
Nathan Boddie
Casey Roats
Barb Campbell

No: None



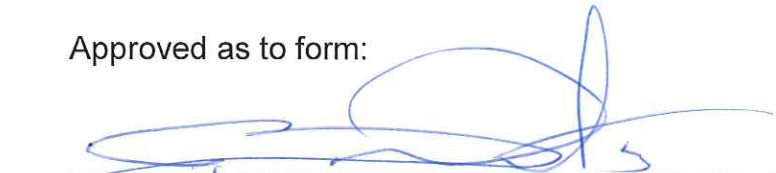
Jim Clinton, Mayor

Attest:



Robyn Christie, City of Bend Recorder

Approved as to form:



Mary Winters, City Attorney

Exhibit A: Proposed Comprehensive Plan Map and Zoning Amendment

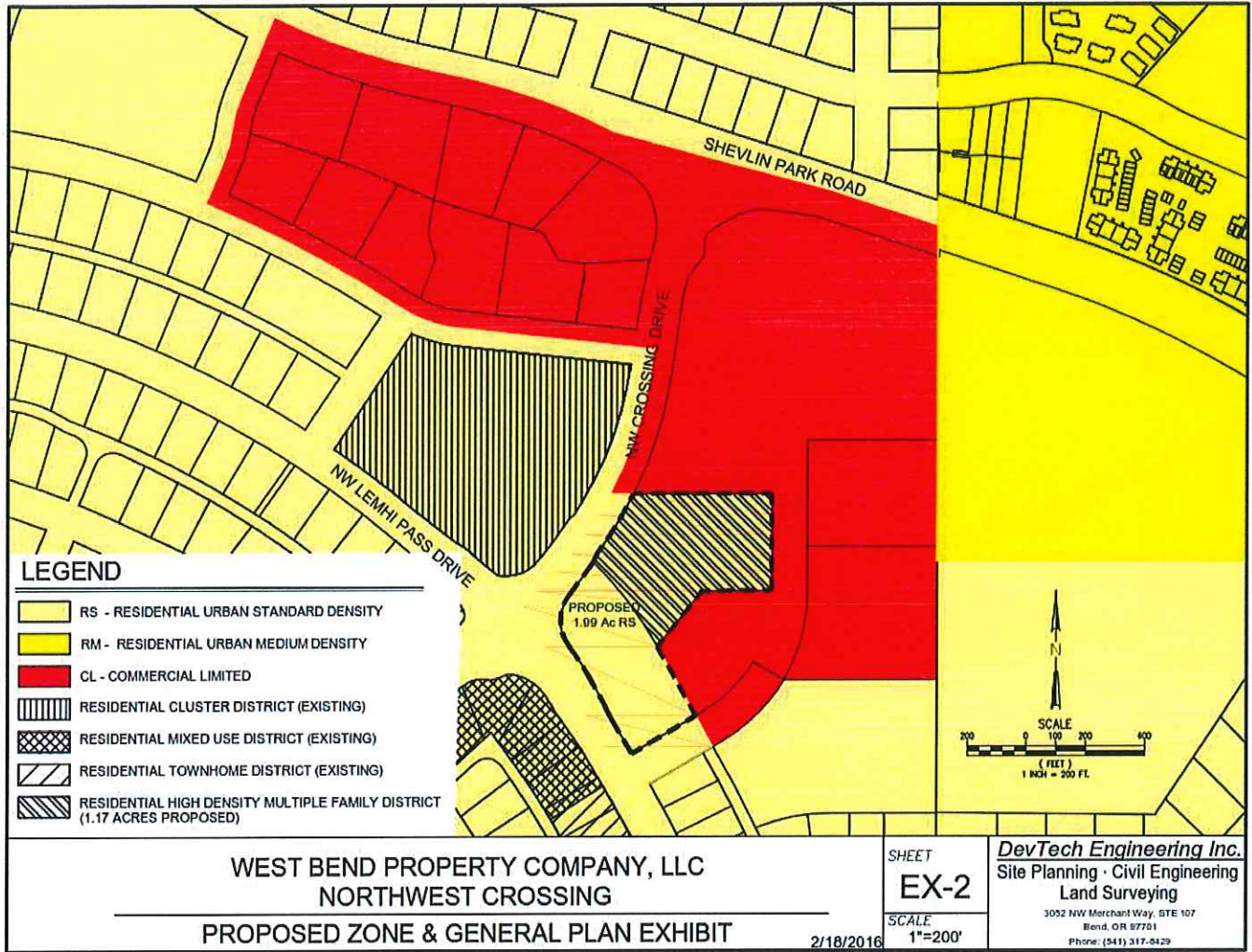


Exhibit B: Hearings Officer Recommendation, PZ-16-0152

DevTech Engineering Inc.
Site Planning · Civil Engineering
Land Surveying

EXHIBIT 'B'
LEGAL DESCRIPTION
0.82 ACRES REDESIGNATED/REZONED TO NORTHWEST CROSSING
STANDARD DENSITY RESIDENTIAL OVERLAY

A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER (NE1/4) OF SECTION 36, TOWNSHIP 17 SOUTH, RANGE 11 EAST, WILLAMETTE MERIDIAN, CITY OF BEND, DESCHUTES COUNTY, OREGON, BEING A PORTION OF PARCEL 1, PARTITION PLAT NO. 2004-65, RECORDED JULY 26, 2004 IN PARTITION PLAT CABINET 3, PAGE 1, OFFICIAL RECORDS DESCHUTES COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED "WHPACIFIC" MARKING THE EASTERLY MOST CORNER COMMON TO THE PLAT OF NORTHWEST CROSSING, PHASE 17, RECORDED NOVEMBER 1, 2012 IN PLAT CABINET H, PAGE 1057 AND THE PLAT OF NORTHWEST CROSSING, PHASES 9 AND 10, RECORDED NOVEMBER 29, 2005 IN PLAT CABINET G, PAGE 937, OFFICIAL RECORDS OF DESCHUTES COUNTY, OREGON, SAID POINT LYING NORTH 27°38'49" WEST, A DISTANCE OF 1258.50 FEET FROM THE EAST QUARTER (E1/4) CORNER OF SAID SECTION 36, MARKED BY A 3-1/4" DIAMETER ALUMINUM CAP MONUMENT STAMPED "WHPACIFIC INC., RE-SET 2015", ALONG WITH OTHER MARKINGS;

THENCE, ALONG THE BOUNDARY OF SAID NORTHWEST CROSSING, PHASES 9 AND 10, THROUGH THE FOLLOWING COURSES:

PROCEEDING TO THE LEFT ALONG A CURVE HAVING A RADIUS OF 435.00 FEET, THROUGH A CENTRAL ANGLE OF 8°41'46", AN ARC DISTANCE OF 66.02 FEET (THE CHORD OF WHICH BEARS NORTH 33°09'25" WEST, A DISTANCE OF 65.96 FEET), TO A POINT OF REVERSE CURVATURE MARKED BY A 5/8" DIAMETER IRON ROD;

THENCE, TO THE RIGHT ALONG A CURVE HAVING A RADIUS OF 95.00 FEET, THROUGH A CENTRAL ANGLE OF 10°25'46", AN ARC DISTANCE OF 17.29 FEET (THE CHORD OF WHICH BEARS NORTH 32°17'25" WEST, A DISTANCE OF 17.27 FEET), TO A POINT OF COMPOUND CURVATURE MARKED BY A 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED "W&H PACIFIC";

THENCE, TO THE RIGHT ALONG A CURVE HAVING A RADIUS OF 68.00 FEET, THROUGH A CENTRAL ANGLE OF 60°18'58", AN ARC DISTANCE OF 71.59 FEET (THE CHORD OF WHICH BEARS NORTH 3°04'57" EAST, A DISTANCE OF 68.33 FEET), TO A POINT OF NON-TANGENT REVERSE CURVATURE MARKED BY A 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED "W&H PACIFIC";

THENCE, TO THE RIGHT ALONG A CURVE HAVING A RADIUS OF 80.00 FEET, THROUGH A CENTRAL ANGLE OF 5°15' 36", AN ARC DISTANCE OF 7.34 FEET (THE CHORD OF WHICH BEARS NORTH 35°18'49" EAST, A DISTANCE OF 7.34 FEET), TO A POINT OF NON-TANGENT REVERSE CURVATURE MARKED BY A 5/8" DIAMETER IRON ROD;

THENCE, TO THE LEFT ALONG A CURVE HAVING A RADIUS OF 1039.00 FEET, THROUGH A CENTRAL ANGLE OF 3°35'40", AN ARC DISTANCE OF 65.18 FEET (THE CHORD OF WHICH BEARS NORTH 36°42'23" EAST, A DISTANCE OF 65.17 FEET), TO A POINT OF NON-TANGENT COMPOUND CURVATURE MARKED BY A 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED "W&H PACIFIC";

THENCE, TO THE LEFT ALONG A CURVE HAVING A RADIUS OF 30.50 FEET, THROUGH A CENTRAL ANGLE OF 7°42'21", AN ARC DISTANCE OF 4.10 FEET (THE CHORD OF WHICH

BEARS NORTH 30°59'25" EAST, A DISTANCE OF 4.10 FEET), TO A POINT OF NON-TANGENCY;
THENCE, DEPARTING SAID BOUNDARY OF NORTHWEST CROSSING, PHASES 9 AND 10, TO THE RIGHT ALONG A CURVE HAVING A RADIUS OF 660.00 FEET, THROUGH A CENTRAL ANGLE OF 15°33'32", AN ARC DISTANCE OF 179.23 FEET (THE CHORD OF WHICH BEARS SOUTH 37°07'05" EAST, A DISTANCE OF 178.68 FEET);
THENCE SOUTH 29°20'19" EAST, A DISTANCE OF 0.82 FEET;
THENCE, SOUTH 29°20'19" EAST, A DISTANCE OF 134.11 FEET;
THENCE, SOUTH 59°27'42" WEST, A DISTANCE OF 0.97 FEET, TO THE NORTHEASTERLY MOST CORNER OF THAT 60.00 FOOT WIDE RIGHT-OF-WAY FOR NW POTTS COURT AS SHOWN ON SAID PLAT OF NORTHWEST CROSSING, PHASE 17, MARKED BY A 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED "WHPACIFIC";
THENCE, SOUTH 59°29'36" WEST, A DISTANCE OF 125.12 FEET, ALONG THE BOUNDARY OF SAID NORTHWEST CROSSING, PHASE 17, TO A 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED "WHPACIFIC";
THENCE, NORTH 30°33'00" WEST, A DISTANCE OF 68.67 FEET, ALONG THE BOUNDARY OF SAID NORTHWEST CROSSING, PHASE 17, TO A 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED "WHPACIFIC";
THENCE, NORTH 26°00'15" WEST, A DISTANCE OF 29.08 FEET, ALONG THE BOUNDARY OF SAID NORTHWEST CROSSING, PHASE 17, TO A 1" DIAMETER BRASS DISC STAMPED "WHPACIFIC";
THENCE, NORTH 28°38'55" WEST, A DISTANCE OF 44.49 FEET, ALONG THE BOUNDARY OF SAID NORTHWEST CROSSING, PHASE 17, TO THE POINT OF BEGINNING.

HEREIN DESCRIBED LANDS CONTAINS 0.82 ACRE, MORE OR LESS.

SUBJECT TO ANY EASEMENTS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD AND THOSE COMMON AND APPARENT ON THE LAND.

BEARINGS ARE BASED ON GPS DERIVED CENTRAL OREGON COORDINATE SYSTEM (C.O.C.S.) VALUES.



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Land Surveying

EXHIBIT 'B'

LEGAL DESCRIPTION

**1.17 ACRES REDESIGNATED/REZONED TO NORTHWEST CROSSING
HIGH DENSITY MULTIPLE-FAMILY RESIDENTIAL OVERLAY**

A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER (NE1/4) OF SECTION 36, TOWNSHIP 17 SOUTH, RANGE 11 EAST, WILLAMETTE MERIDIAN, CITY OF BEND, DESCHUTES COUNTY, OREGON, BEING A PORTION OF PARCEL 1, PARTITION PLAT NO. 2004-65, RECORDED JULY 26, 2004 IN PARTITION PLAT CABINET 3, PAGE 1, OFFICIAL RECORDS DESCHUTES COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED "WHPACIFIC" MARKING THE EASTERLY MOST CORNER COMMON TO THE PLAT OF NORTHWEST CROSSING, PHASE 17, RECORDED NOVEMBER 1, 2012 IN PLAT CABINET H, PAGE 1057 AND THE PLAT OF NORTHWEST CROSSING, PHASES 9 AND 10, RECORDED NOVEMBER 29, 2005 IN PLAT CABINET G, PAGE 937, OFFICIAL RECORDS OF DESCHUTES COUNTY, OREGON, SAID POINT LYING NORTH 27°38'49" WEST, A DISTANCE OF 1258.50 FEET FROM THE EAST QUARTER (E1/4) CORNER OF SAID SECTION 36, MARKED BY A 3-1/4" DIAMETER ALUMINUM CAP MONUMENT STAMPED "WHPACIFIC INC., RE-SET 2015", ALONG WITH OTHER MARKINGS;

THENCE, ALONG THE BOUNDARY OF SAID NORTHWEST CROSSING, PHASES 9 AND 10, THROUGH THE FOLLOWING COURSES:

PROCEEDING TO THE LEFT ALONG A CURVE HAVING A RADIUS OF 435.00 FEET, THROUGH A CENTRAL ANGLE OF 8°41'46", AN ARC DISTANCE OF 66.02 FEET (THE CHORD OF WHICH BEARS NORTH 33°09'25" WEST, A DISTANCE OF 65.96 FEET), TO A POINT OF REVERSE CURVATURE MARKED BY A 5/8" DIAMETER IRON ROD;

THENCE, TO THE RIGHT ALONG A CURVE HAVING A RADIUS OF 95.00 FEET, THROUGH A CENTRAL ANGLE OF 10°25'46", AN ARC DISTANCE OF 17.29 FEET (THE CHORD OF WHICH BEARS NORTH 32°17'25" WEST, A DISTANCE OF 17.27 FEET), TO A POINT OF COMPOUND CURVATURE MARKED BY A 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED "W&H PACIFIC";

THENCE, TO THE RIGHT ALONG A CURVE HAVING A RADIUS OF 68.00 FEET, THROUGH A CENTRAL ANGLE OF 60°18'58", AN ARC DISTANCE OF 71.59 FEET (THE CHORD OF WHICH BEARS NORTH 3°04'57" EAST, A DISTANCE OF 68.32 FEET), TO A POINT OF NON-TANGENT REVERSE CURVATURE MARKED BY A 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED "W&H PACIFIC";

THENCE, TO THE RIGHT ALONG A CURVE HAVING A RADIUS OF 80.00 FEET, THROUGH A CENTRAL ANGLE OF 5°15'36", AN ARC DISTANCE OF 7.34 FEET (THE CHORD OF WHICH BEARS NORTH 35°18'49" EAST, A DISTANCE OF 7.34 FEET), TO A POINT OF NON-TANGENT REVERSE CURVATURE MARKED BY A 5/8" DIAMETER IRON ROD;

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THENCE, TO THE LEFT ALONG A CURVE HAVING A RADIUS OF 30.50 FEET, THROUGH A CENTRAL ANGLE OF 7°42'21", AN ARC DISTANCE OF 4.10 FEET (THE CHORD OF WHICH

BEARS NORTH 30°59'25" EAST, A DISTANCE OF 4.10 FEET), TO THE **TRUE POINT OF BEGINNING** FOR THIS DESCRIPTION, SAID POINT LYING NORTH 23°49'03" WEST, A DISTANCE OF 1436.98 FEET FROM SAID EAST QUARTER (E1/4) CORNER OF SECTION 36;

THENCE, CONTINUING TO THE LEFT ALONG SAID CURVE HAVING A RADIUS OF 30.50 FEET, THROUGH A CENTRAL ANGLE OF 4°06'33", AN ARC DISTANCE OF 2.19 FEET (THE CHORD OF WHICH BEARS NORTH 25°04'58" EAST, A DISTANCE OF 2.19 FEET), TO A POINT OF NON-TANGENT REVERSE CURVATURE MARKED BY A 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED "W&H PACIFIC";

THENCE, TO THE RIGHT ALONG A CURVE HAVING A RADIUS OF 29.50 FEET, THROUGH A CENTRAL ANGLE OF 9°40'40", AN ARC DISTANCE OF 4.98 FEET (THE CHORD OF WHICH BEARS NORTH 27°24'40" EAST, A DISTANCE OF 4.98 FEET), TO A POINT OF NON-TANGENT REVERSE CURVATURE MARKED BY A 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED "W&H PACIFIC";

THENCE, TO THE LEFT ALONG A CURVE HAVING A RADIUS OF 671.21 FEET, THROUGH A CENTRAL ANGLE OF 2°04'53", AN ARC DISTANCE OF 24.38 FEET (THE CHORD OF WHICH BEARS NORTH 31°18'11" EAST, A DISTANCE OF 24.38 FEET), TO A POINT OF NON-TANGENT REVERSE CURVATURE MARKED BY A 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED "W&H PACIFIC";

THENCE, TO THE RIGHT ALONG A CURVE HAVING A RADIUS OF 99.50 FEET, THROUGH A CENTRAL ANGLE OF 3°29'44", AN ARC DISTANCE OF 6.07 FEET (THE CHORD OF WHICH BEARS NORTH 32°11'30" EAST, A DISTANCE OF 6.07 FEET), TO A POINT OF NON-TANGENT REVERSE CURVATURE MARKED BY A 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED "W&H PACIFIC";

THENCE, TO THE LEFT ALONG A CURVE HAVING A RADIUS OF 1035.00 FEET, THROUGH A CENTRAL ANGLE OF 1°07'40", AN ARC DISTANCE OF 20.37 FEET (THE CHORD OF WHICH BEARS NORTH 33°19'40" EAST, A DISTANCE OF 20.37 FEET), TO A POINT OF NON-TANGENT COMPUND CURVATURE MARKED BY A 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED "W&H PACIFIC";

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THENCE, DEPARTING SAID BOUNDARY OF NORTHWEST CROSSING, PHASES 9 AND 10, SOUTH 89°56'22" EAST, A DISTANCE OF 234.22 FEET;

THENCE, SOUTH 0°03'38" WEST, A DISTANCE OF 164.37 FEET;

THENCE, SOUTH 89°40'14" WEST, A DISTANCE OF 117.74 FEET;

THENCE, SOUTH 39°01'19" WEST, A DISTANCE OF 120.21 FEET;

THENCE, NORTH 29°20'19" WEST, A DISTANCE OF 0.82 FEET;

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BEARINGS ARE BASED ON GPS DERIVED CENTRAL OREGON COORDINATE SYSTEM (C.O.C.S.) VALUES.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Scott C. Bolduc
OREGON
JULY 20, 2009
SCOTT C. BOLDUC
#79288

EXPIRES: 12-31-2017

DevTech Engineering Inc.
Site Planning · Civil Engineering
Land Surveying

EXHIBIT 'B'
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1.99 ACRES REDESIGNATED/REZONED TO STANDARD DENSITY RESIDENTIAL (RS)

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THENCE, TO THE LEFT ALONG A CURVE HAVING A RADIUS OF 30.50 FEET, THROUGH A CENTRAL ANGLE OF 11°48'54", AN ARC DISTANCE OF 6.29 FEET (THE CHORD OF WHICH

BEARS NORTH 28°56'09" EAST, A DISTANCE OF 6.28 FEET), TO A POINT OF NON-TANGENT REVERSE CURVATURE MARKED BY A 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED "W&H PACIFIC";

THENCE, TO THE RIGHT ALONG A CURVE HAVING A RADIUS OF 29.50 FEET, THROUGH A CENTRAL ANGLE OF 9°40'40", AN ARC DISTANCE OF 4.98 FEET (THE CHORD OF WHICH BEARS NORTH 27°24'40" EAST, A DISTANCE OF 4.98 FEET), TO A POINT OF NON-TANGENT REVERSE CURVATURE MARKED BY A 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED "W&H PACIFIC";

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THENCE, TO THE RIGHT ALONG A CURVE HAVING A RADIUS OF 99.50 FEET, THROUGH A CENTRAL ANGLE OF 3°29'44", AN ARC DISTANCE OF 6.07 FEET (THE CHORD OF WHICH BEARS NORTH 32°11'30" EAST, A DISTANCE OF 6.07 FEET), TO A POINT OF NON-TANGENT REVERSE CURVATURE MARKED BY A 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED "W&H PACIFIC";

THENCE, TO THE LEFT ALONG A CURVE HAVING A RADIUS OF 1035.00 FEET, THROUGH A CENTRAL ANGLE OF 1°07'40", AN ARC DISTANCE OF 20.37 FEET (THE CHORD OF WHICH BEARS NORTH 33°19'40" EAST, A DISTANCE OF 20.37 FEET), TO A POINT OF NON-TANGENT COMPUND CURVATURE MARKED BY A 5/8" DIAMETER IRON ROD WITH YELLOW PLASTIC CAP STAMPED "W&H PACIFIC";

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BEARINGS ARE BASED ON GPS DERIVED CENTRAL OREGON COORDINATE SYSTEM (C.O.C.S.) VALUES.



CITY OF BEND HEARINGS OFFICER DECISION

PROJECT NUMBER: PZ-16-0152 (Plan Amendment/Zone change)

APPLICANT/ OWNER: West Bend Property Company
2754 NW Crossing Dr, Ste 201
Bend, OR 97703

LOCATION: Tax Lot 302 on Deschutes County Assessor's Map 17-11-36.

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

HEARINGS OFFICER: Laurie E. Craghead

APPLICABLE CRITERIA, STANDARDS, AND PROCEDURES

- (1) City of Bend Development Code
 - (a) Chapter 2.1, Residential Districts (RS)
 - (b) Chapter 2.2, Commercial Districts (CL)
 - (c) Chapter 2.7, Special Planned Districts (Northwest Crossing Overlay Zone)
 - (d) Chapter 4.1, Land Use Review and Procedures
 - (e) Chapter 4.6, Land Use District Map and Text Amendments
 - (f) Chapter 4.7, Transportation Analysis
- (2) The Bend Area General Plan
- (3) Oregon Administrative Rules
 - (a) Chapter 660-012-060, Plan and Land Use Regulation Amendments
 - (b) Chapter 660-015, Division 15, Statewide Planning Goals and Guidelines

FINDINGS OF FACT

1. **LOCATION:** The Hearings Officer adopts the findings in the Staff Report¹ as follows:

The subject property is located east of NW Crossing Drive, between Shevlin Park Road and Lemhi Pass Drive. The property has not been assigned an address and is depicted as Tax Lot 302 on the Deschutes County Tax Assessor's Map 17-11-36.

¹ The Staff Report is not dated, but this Hearings Officer received notice on March 31, 2016, that the Staff Report was available online in the City of Bend's ePlans system. A revised version of the staff report is currently in ePlans and all references to the Staff Report are to the version online as of April 4, 2016.

As was in the Staff Report, below is an aerial view of the property with the tax lot marked.



2. **EXISTING ZONING & GENERAL PLAN DESIGNATION:** The Hearings Officer adopts the findings in the Staff Report as follows:

The subject property is zoned Limited Commercial (CL) on the Bend Zoning Map and designated Limited Commercial (CL) on the Bend Area

General Plan (BAGP) Map. The property is located within the NorthWest Crossing Overlay Zone and the Commercial/Mixed Employment Overlay District.

3. **SITE DESCRIPTION & SURROUNDING USES:** The Hearings Officer adopts the findings in the Staff Report as follows:

The property is 7.15 acres in size. It is vacant and vegetated with native vegetation and trees. The property has a varied topography; it is generally level at the south/southeast quadrant, with slopes near the western property line and near the middle of the property.

Surrounding Zoning

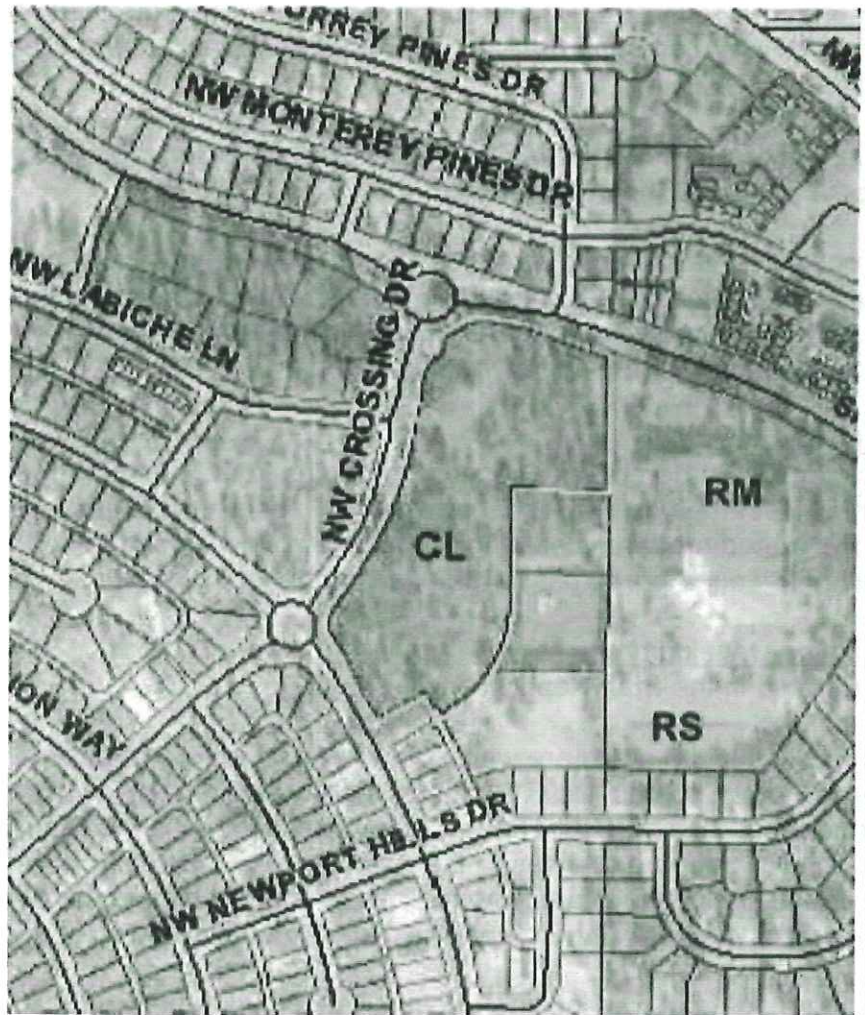
The property is bordered by RS zoned properties to the south and west, CL zoned properties to the west/northwest, RS zoned properties to the north, RM zoned properties east/northeast, CL zoned properties to the east, and RS zoned properties to the east/southeast.

Surrounding Development

As was stated in the Staff Report,

The properties to the south are within NorthWest Crossing and developed with single-family homes, the RS zoned property to the west is vacant, the CL zoned property to the west/northwest is developed with medical offices, the RS zoned properties to the north (across Shevlin Park Drive) are developed with single family homes, and the properties to the east are developed with a church, church parking, and a Pacific Power substation.

Surrounding rights of way include Shevlin Park Road to the north, a Minor Arterial; NW Crossing Drive to the west, a Major Collector; and Lemhi Pass Drive to south, a Major Collector. Also Potts Court has been constructed as a local street, within 60 feet of right of way, at the southeast corner of the property.



Surrounding Development

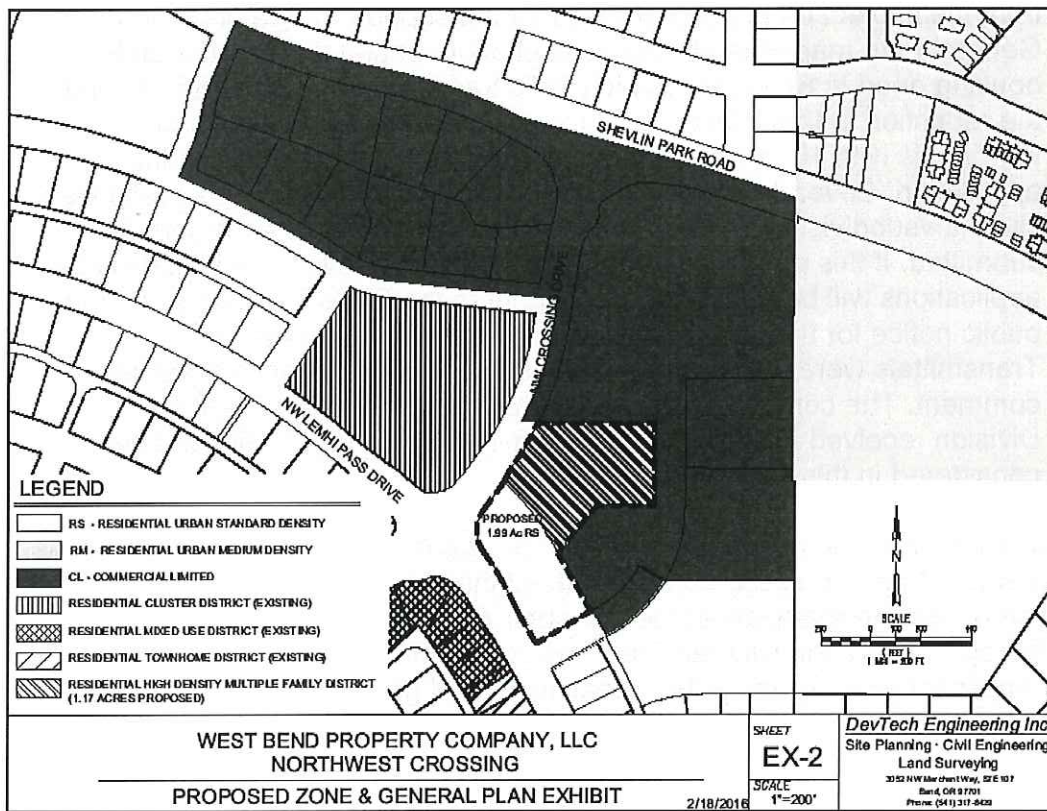
The properties to the south are within NorthWest Crossing and developed with single-family homes, the RS zoned property to the west is vacant, the CL zoned property to the west/northwest is developed with medical offices, the RS zoned properties to the north (across Shevlin Park Drive) are developed with single family homes, and the properties to the east are developed with a church, church parking, and a Pacific Power substation.

Surrounding rights of way include Shevlin Park Road to the north, a Minor Arterial; NW Crossing Drive to the west, a Major Collector; and Lemhi Pass Drive to the south, a Major Collector. Also Potts Court has been constructed as a local street, within 60 feet of right of way, at the southeast corner of the property.

This Hearings Officer visited the subject property and finds that the Applicant's Burden of Proof Statement ("BOP") and the Staff Report description of the subject property to

be accurate with no need to add any further description from the personal observations.

4. **PROPOSAL:** As stated in the Staff Report, the Applicant proposes a Type III Amendment to the Bend Area General Plan Map and Zone Change from CL (Limited Commercial) to RS (Standard Density Residential) for 1.99 acres. The application also includes an amendment to the Northwest Crossing overlay zone to converting 0.82 of those 1.99 acres from Northwest Crossing Mixed Employment/Commercial Overlay to Northwest Crossing Standard Density Overlay District and 1.17 acres of those acres to Northwest Crossing High Density Multiple Overlay District. The map below depicts the area to be changed.



5. **PUBLIC NOTICE AND COMMENTS:** The Hearings Officer adopts the findings in the Staff Report as follows:

Prior to submitting this Plan Amendment/Zone change application, the Applicant held a public meeting on February 11, 2016, and notified property owners within 500 feet and the Summit West and River West neighborhood associations. On March 10, 2016, the Planning Division sent notice of the public hearing on the proposed Plan Amendment/Zone Change to surrounding owners of record of property within 250 feet of the

subject property as shown on the most recent property tax assessment roll, and to the Summit West and River West Neighborhood Associations. As of the date of this report, four public comments have been received in response to the notice. One public comment was from PacifiCorp, which did not have concerns with the Plan Amendment/Zone Change as presented, but wanted to ensure that adequate turning radius for large vehicles on Potts Court was maintained as this road is the permanent ingress and egress for PacifiCorp's Shevlin Park substation. The City of Bend Affordable Housing Advisory Committee also submitted a letter, supporting the zone change for the project to address the need for workforce housing in Bend. A third letter from a neighbor a few blocks from the subject property expressed strong support for the proposed General Plan map amendment/zone change, based on the affordable housing need in Bend, access to public transportation and services, and the reduction in traffic impacts. A fourth letter was submitted by six individuals with 10 distinct comments expressing concern about the application. Several comments expressed concern regarding a preliminary site plan/subdivision that the Applicant has not yet finalized or formally submitted. If this proposal is approved, Site Plan Review and subdivision applications will be reviewed subsequent to the City's final decision, and public notice for those applications will be provided at that time. Transmittals were also sent via ePlans to other participating agencies for comment. The comments and recommendations that the Planning Division received in response are contained in the project file and were considered in this staff report.

The document from the neighbors, entitled on ePlans as "PZ-16-0152 Comments," ("Comments"), that expressed concerns about the application included complaints that the notice of and the materials at the pre-application public meeting were inadequate. Since the staff report, the City received from the Applicant a second copy of the mailing list the Applicant used for the public meeting as well as other documentation of the Applicant's additional efforts to notify property owners in NorthWest Crossing of the meeting. Additionally, the Applicant submitted an April 6, 2016 letter from David Ford of West Bend Company addressing the concerns of the neighbors. The Hearings Officer finds that the Applicant complied with all the requirements in the Bend Development Code ("BDC") 4.1.215 for the pre-application public meeting.

In addition to the additional information the Applicant submitted regarding the public meeting, after the Staff Report was originally uploaded to ePlans,² the City received, prior to and at the public hearing, several letters and e-mail in support of the application. Those letters were from Al Johnson and Susan Brody, Laura Fritz, Sandy Garner, Syd Synder and Deschutes County Commissioner Tammy Baney. Additionally, Susan Brody submitted at the public hearing a petition in support of the plan and zone change signed

² "ePlans" is the City's online project file viewer website.

by several Northwest Crossing neighbors. All documents are in the project file on ePlans.

The record includes comments from two City of Bend ("City") agencies. The first, dated March 4, 2016, is from the Growth Management Department expressing general support for the application but saying that it must include a zoning map amendment to amend the Northwest Crossing Overlay district map.

The second comment is from Robin Lewis, Transportation Engineer, saying that the plan and zone change, while reducing the amount of commercial zoning to which adjacent property owners could walk or ride a bike, are not significant enough to require an amendment to the City's Transportation System Plan.

A public hearing on the application was held on April 7, 2016, beginning at 9:00 am. The record includes a list of those who testify at the hearing. All were in support of the application.

6. **APPLICATION ACCEPTANCE DATE:** The Hearings Officer adopts the findings in the Staff Report as follows:

The application for this Plan Amendment and Zone Change was submitted on February 19, 2016 and the required submittal materials were uploaded to ePlans on February 22, 2016. Upon receipt of the required application fees on March 9, 2016, the application was formally accepted as complete.

Because this application includes a request to amend the Bend Area General Plan ("BAGP") map, per BDC 4.1.430.C., no deadline is applicable to this application. The Hearings Officer also agrees that the application was complete because it did include a request to amend the Northwest Crossing Overlay zoning district map. Therefore, the application is not for an intent to rezone, but for a rezone of the subject property.

7. **SUBDIVISION REVIEW:** As the Staff Report in this section, incorporated by reference herein, says, once this application is approved, the Applicant intends to submit a subdivision and site plan applications. Although the Applicant submitted conceptual drawings for an eventual subdivision and site plan applications, the Hearings Officer finds that the drawings and any comments regarding them are not relevant for determining whether the plan and zoning map application meets the requisite criteria in the Statewide Planning Goals, the BAGP or BDC Chapter 4.6. The application must meet the criteria separate from any intended specific use of the subject property. Because most of the comments from the neighbors who wrote in opposition to the zone change are related to the specific subdivision and site plan drawings and not to the plan and zoning map amendment criteria, the Hearings Officer does not find them persuasive in determining whether this application meets the applicable criteria.

APPLICATION OF THE CRITERIA

Although the Staff report listed BDC. Chapters 2.1, Chapter 2.2, and Chapter 2.7 as applicable criteria, those chapters are applicable only as a basis of assuring that the proposed zone district changes are allowed in the NorthWest Crossing planned area. Nothing else in those chapters apply directly to this application. The Hearings Officer finds that the proposed plan and zoning designations are ones allowed in the NorthWest Crossing planned area and are addressed directly in the BOP and the Staff Report.

CONFORMANCE WITH CITY OF BEND DEVELOPMENT CODE

CHAPTER 4.1 DEVELOPMENT REVIEW PROCEDURES.

GENERAL FINDINGS: Per BDC 4.1.1600, BAGP map and zone changes are Type III applications. BDC 4.1.426, says that Type III decisions are made by the Planning Commission or a Hearings Officer. BDC 4.1.429 says that the Hearings Officer is the review authority for zone changes. BDC 4.1.427 says that site-specific plan amendment and zone change decisions by the Hearings Officer are recommendations to City Council, the latter of which is the final decision maker.

Because the proposal was for a site-specific BAGP map amendment and zone change, the application is a Type III application heard by this Hearings Officer and this decision is the recommendation to the City Council. Therefore, the general procedural provisions listed above were complied with for this application.

4.1.215 Public Meeting

FINDINGS: The Applicant described in its initial BOP how it complied with the requirements of this section. On or about March 22, 2016, a group of six residents in Northwest Crossing submitted a letter in saying that these residents believed that the Applicant had not complied with the notice requirements for this pre-application public meeting nor the requirements for materials to be available at the public meeting. On or about March 31 and April 6, 2016, the Applicant submitted documents describing how it complied with the notice and meeting requirements if this code provision. The Hearings Officer finds that these later documents sufficiently document the Applicant's compliance with this code provision.

4.1.225 Acceptance of Application and 4.1.412 Completeness Check

FINDINGS: The Staff Report statements regarding the application acceptance and completeness check are incorporated by reference herein. Therefore, this requirement was met.

4.1.423 Mailed Notice of Type III Applications

FINDINGS: The Staff Report says that Staff complied with its requirement and nothing was submitted to the contrary. Therefore, this requirement was met.

4.1.425 Posted Notice of Type II or Type II Applications

FINDINGS: The record includes a picture of the notice of the proceeding posted on the subject property. This Hearings Officer saw such notice during the site visit.

4.1.800 Quasi-Judicial Hearings

FINDINGS: All provisions in this section were adhered to for this application. A hearing was held on April 7, 2016. At the conclusion of the hearing, no party requested that the hearing be continued or that the record remain open for additional evidence or testimony. Therefore, this hearings officer closed the hearing and the record at the conclusion of the hearing.

CHAPTER 4.6 LAND USE DISTRICT MAP AND TEXT AMENDMENTS

4.6.100 Purpose

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this Code, the Bend Area General Plan, the Bend Area General Plan map and the land use district map. These will be referred to as "map and text amendments." Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law.

FINDINGS: Although the BOP and the Staff Report addressed this provision as a basis for the application, land use case law has repeatedly stated that, without a clear indication otherwise, purpose statements in local zoning code are not approval criteria. Thus, while the City, which constitutes the "community" for purposes of this application, may indeed have a need for more rental and/or affordable housing to justify the application, the Hearings Officer finds that such a purpose is not necessary in order to file or approve a BAGP and/or zoning map change.

Should a higher decision maker find that the last sentence of the purpose statement is approval criteria and because that is the same criterion as in BDC 4.6.300(B)(4), the Hearings Officer adds, to assist the City Council, that the Hearings Officer finds that the many documents submitted into the record by the applicant along with the testimony at the public hearing by Erin Marlow, the Bend 2030 Committee Chair, John Gilbert, a member of Pacific Crest Affordable Housing, LLC ("Pacific Crest"), Syd Snyder and many others demonstrate the change in the community conditions over the last few years for which this application, if approved, will address. The documents and the testimony spoke to the ever increasing need in the City for a mix of housing types. This

mix should include multi-family housing regardless of whether or not it would be affordable housing. The rental market in the City is less than one percent (1%). The fact that West Bend and Pacific Crest have a proven track record and this affordable housing project has been so public, the Hearings Officer finds that this project will be an affordable housing project such that changing the BAGP and zoning maps to allow for multi-family housing reflects the need to address changing community conditions in the City.

4.6.300 Quasi-Judicial Amendments.

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

FINDINGS: The Hearings Officers agrees that the Type III procedure is appropriate for this application because the proposed BAGP and zoning map changes are site specific to a property that is owned by one owner. Additionally, the application is subject to specific criteria and the City must make a decision on the application.

As stated above, the City complied with the Type III review process with the notice and holding of a public hearing before the Hearings Officer. This decision is a recommendation to the City Council before which a public hearing will also be held, after which, the City Council may choose to adopt, amend or reject these findings and recommendations.

- 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:

FINDINGS: The Applicant submitted a BOP explaining how it determined that the approval criteria will be met. The following are the findings on the specific criteria.

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

FINDINGS: The Hearings Officer finds as follows regarding each of the Statewide Planning Goals.

Goal 1, Citizen Involvement

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

FINDINGS: The Hearings Officer agrees with the Staff Report that the City and the Applicant complied with this goal and adopts and incorporates by reference herein, the findings in the Staff Report.

Goal 2, Land Use Planning

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

FINDINGS: The Hearings Officer agrees with the Staff Report that the City adopted criteria and procedures in order to evaluate land use application. Additionally, the Hearings Officer agrees that, in addressing the other criteria in BDC 4.6.300(B), as discussed below, the Applicant provided an adequate factual basis for approving this application and this goal is satisfied.

Goal 3, Agricultural Lands

Goal 4, Forest Lands

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

FINDINGS: The Hearings Officer agrees with the Staff Report and the BOP that the subject property is not agricultural or forest land and contains none of the resources listed in Goal 5. Therefore, these goals are not applicable to this proposal.

Goal 6, Air, Water and Land Resources

FINDINGS: Both the Staff Report and the BOP stated that the proposed plan and zone designation changes will not having impacts on the listed resources. The Hearings Officer finds the proposal will not impact land resources because the land is already inside the City limits and the urban growth boundary and already zoned for urban uses.

Additionally, no evidence was presented that the proposed plan and zone map changes will have any additional strain or impact on a City water resource. In fact, the Applicant's documents show that water to the subject property is already available and it is just a matter of the specific structures connecting to the existing City water system.

Finally, at the public hearing, the Applicant's representative, Greg Blackmore, a neighbor and retired land use lawyer, Al Johnson, and John Gilbert, a member of Pacific Crest Affordable Housing, LLC, all testified that the application meets this goal because the Transportation Planning Rule analysis shows that the changes will actually result in fewer vehicle trips than had the zoning remained commercial. Therefore, the air quality will be better under the new zoning than under the current zoning. The Hearings Officer finds the TPR analysis and the testimony credible to show that the proposal will not impact and, in fact, may improve the air resource of the City.

Therefore, the proposal satisfies this goal.

***Goal 7, Areas Subject to Natural Hazards
Goal 8, Recreational Needs***

FINDINGS: The Hearings Officer adopts the Staff Report findings for these goals and agrees that they are not applicable to this request.

***Goal 9, Economic Development
To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.***

FINDINGS: As the Staff Report noted, Goal 9 is implemented through OAR 660-009. That state administrative rule has specific criteria regarding what an applicant must do to demonstrate that post-acknowledgement plan amendments, which the proposal is, does not impact lands designated for economic development. OAR 660-009-0010(4) says, however, that it does not apply unless the amendment would be for land "in excess of two acres within an existing urban growth boundary."

In a submitted Public Comments document, five owners of property within the Northwest Crossing area argue that the rule should apply because the 1.99 acres chosen by the Applicant for this application is very close to the two acres in the rule. The rule, however, is an absolute threshold as to when it applies. Because the proposal does not involve "in excess of two acres," the state administrative rule does not apply and, therefore, neither does this goal.

Goal 10, Housing

Provide for the Housing Needs of the citizens of the State

FINDINGS: The Staff Report and the BOP state that this goal is met because the plan and zoning map changes will meet the need for affordable housing. Those statements, however, are based on particular subdivision and site plan proposals expected to be submitted subsequent to the plan and zoning map changes. Those were not before this Hearings Officer and this Hearings Officer finds that the approval or denial of the application cannot be based on those specific development plans.

Nonetheless, the Hearings Officer finds that the proposal satisfies this goal because the various "Changing Need" documents submitted by the Applicant and the testimony of David Ford, Erin Marlow, Syd Snyder and others demonstrated that the additional availability of land for multi-family housing of any type is needed within the City limits. Additionally, the Applicant demonstrated that this location for such multi-family housing is appropriate because of the other commercial areas within walking and biking distance of the subject property, including the adjacent medical offices.

In order to assure compliance with this standard, David Ford of the Applicant, West Bend Property Company LLC, said that the Applicant would be willing to accept a condition of approval that requires that any subdivision and site plan submitted for multi-family housing must be for affordable housing. The Hearings Officer, however, finds such a condition is not necessary since, as stated above, the Applicant and others who testified at the hearing demonstrated that the community, which City-wide, needs for multi-family housing in order to provide for a variety of housing types and satisfy a variety of housing needs of the City's residents.

Finally, the plan and zone changes proposed will provide for a transitional area between the single family dwelling zoning, which will run along Lemhi Pass Road, and the multi-family zoning, which will be between the single family dwelling zoning on Lemhi Pass Road and Shevlin Park Road. Thus, the proposal will help provide for the needed housing mix. As a result, the proposal satisfies this goal.

Goal 11, Public Facilities and Services

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

FINDINGS: The Hearings Officer adopts the Staff Report findings for this goal and finds that the proposal satisfies this goal.

Goal 12, Transportation

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

FINDINGS: The Hearings Officer adopts the Staff Report findings for this goal and finds that the proposal satisfies this goal.

Goal 13, Energy

To conserve energy.

FINDINGS: At the public hearing, Greg Blackmore, Al Johnson and John Gilbert all directed attention to the TPR analysis submitted by the Applicant. That TPR analysis shows that the number of vehicles miles will be reduced with the proposed plan and zone changes. Therefore, the conservation of energy will be achieved and the Hearings Officer finds that the proposal satisfies this goal.

Goal 14, Urbanization

Goal 15, Willamette River Greenway

Goal 16, Estuarine Resources

Goal 17, Coastal Shore/lands

Goal 18, Beaches and Dunes

Goal 19, Ocean Resources

FINDINGS: The Hearings Officer adopts the findings of the Staff Report regarding these goals and agrees that these goals are not applicable to this proposal, specifically because the subject property is already within the City's urban growth boundary such that Goal 14 is not applicable and is not within any of the special areas of Goals 15 through 19.

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

FINDINGS: As the Staff Report said, the City's Comprehensive Plan is entitled the "Bend Area General Plan" ("BAGP"). Chapters 2 through 4 and 8 through 10 have no policies applicable to this proposal. The policies in those chapters are primarily directives to the City regarding what type of development criteria to adopt. The other applicable policies are discussed as follows.

BEND AREA GENERAL PLAN POLICIES

PREFACE

Future Plan updates

The General Plan is a document that changes over time to reflect new information and new directions for the future. Amendments or additions to the General Plan text, exhibits, and policies go through a public hearing and review process before being adopted by the governing bodies. Changes and updates can be generated in at least six ways:

- Regularly scheduled reviews and updates by the city and county.* Every five years, beginning in the year 2000, the city and county will review the population growth, the housing mix and acreage needs, the industrial lands absorption, and the commercial lands absorption against the long-term forecasts in the General Plan. Other issues may also be evaluated during these regular views.

- *Preparation of more detailed refinement plans for neighborhoods or geographic areas.* As provided for in Oregon land use law, the city or county may prepare more detailed land use and development plans for parts of the urban area that have large vacant or under-utilized parcels. Such refinement plans could address future street patterns and other utility systems, housing density and compatible uses, site and design standards, locations for parks, schools, and open space, and other land use issues.
- *Evaluation of land use topics required to be reviewed under the Oregon Land Conservation and Development Commissions periodic review of the General Plan.* The state requires all local plans to be updated periodically to comply with applicable new state laws, administrative rules, or to incorporate new data available to the state.
- *Other state laws or legislative actions that require changes to the Plan outside of the normal periodic review cycle.* The state legislature or the voter referendum/initiative process can require changes to local land use plans within a specific time period.
- *City or county response to new issues or changes.* Issues that were unforeseen during the development of the plan can arise that have an impact on a particular neighborhood or the whole urban area. The city and county officials can direct staff to amend the Plan to address these issues.
- *Changes proposed by individuals or other agencies.* A proposal by an individual, corporation, or public agency to change to the Plan text, land use map, other exhibits, or policies shall be considered as determined by the procedures ordinance. A person or agency proposing a change has the burden to demonstrate a public need and benefit for the change.

FINDINGS: The paragraph in the last bullet under the section in BAGP Preface can be interpreted to constitute approval criteria such that a corporation, such as the Applicant, that proposes a BAGP change, must “demonstrate a public need and benefit for the change.” Should the City Council make that interpretation, the Hearings Officer finds that the Applicant demonstrated that need by the submittal of the “Changing Need” documents that show the ever increasing lack of rental housing in the City. As noted below, several people also testified at the hearing regarding this need. David Ford, a member of the Applicant, also testified that, in 10 years, no one has been interested in the subject property for commercial purposes. Additionally, Erin Marlow testified that the City still has a 5 to 5.5% commercial unit vacancy rate whereas the residential rental vacancy rate is less than one percent. This is substantial evidence that the need for rental housing is greater than any need to maintain the subject property for commercial uses.

Additionally, the Applicant provided documentation and several people testified to the City's specific great need for affordable housing. The Hearings Officer finds that such a need is more likely to be met by multi-family zoning than merely having available single family zoning. Rezoning the property to allow for high density, multi family uses, therefore, will benefit the City by making available an additional area where affordable housing is highly likely to be constructed where very little affordable housing now exists.

Finally, the discussion below shows how the application is consistent with the BAGP in general. As a result, the Hearings Officer finds that the application is consistent with this BAGP policy.

CHAPTER 1: PLAN MANAGEMENT AND CITIZEN INVOLVEMENT

Development within the Urban Growth Boundary

- 4. New developments shall pay to extend planned sewer, water, and transportation facilities to and through the property if the development occurs prior to the scheduled construction of those facilities shown in the capital improvement plan.**

FINDINGS: The Hearings Officer adopts the Staff Report findings for this BAGP policy and finds that the proposal is consistent with this policy.

- 5. The city and county will encourage compact development and the integration of land uses within the Urban Growth Boundary to reduce trips, vehicle miles traveled, and facilitate non-automobile travel.**

FINDINGS: The Hearings Officer concurs with the Staff Report findings that this policy is an attempt to limit urban sprawl. Providing for a mix of housing types within an area that is close to the commercial and recreational areas listed in the Staff Report as this proposal does, achieves this policy. Changing the zoning on the 1.99 acres does not significantly limit the amount of commercially zone land available because the rest of the much larger parcel will remain commercial providing plenty of opportunity to establish commercial uses within non-automobile travel distances for residents in the area. As the BOP says and David Ford testified and no one refuted, there has been little interest in the commercial land in this area. The current need for a mixture of housing types in the City is much greater than the need for the 1.99 acres of commercial land. Having the multi-family zoning in this location will also assist in the integration of land uses within the UGB since they will be close to the medical facilities on adjacent lots, the commercial area adjacent to the multi-family housing zone and near to other commercial and recreational areas. Thus, rezoning this small area to allow for single family dwellings to transition into multi-family dwellings will provide for dwellings that will facilitate non-automobile travel as opposed to providing such housing through a UGB expansion or in areas further away from the commercial and recreational areas.

Although the CL zone does allow for some multi-family dwellings in conjunction with the commercial uses, rezoning specifically to the high-density, multi-family zone will allow more multi-family dwelling units to be constructed than would be allowed in the CL zone since the latter allows residential only in conjunction with a "mixed-use" development (BDC 2.2.300). The Hearings Officer agrees that this increase in multi-family housing will also enhance the nearby commercial areas since more people will be accessing those areas.

The Hearings Officer also adopts the Staff Report findings under this policy. Thus, even without considering the specific future development discussed by the applicant, the above demonstrates, the proposal is consistent with this BAGP policy.

6. The city and county will encourage infill and redevelopment of the core area of the city.

FINDINGS: The Hearings Officer adopts the Staff Report findings for this BAGP policy and finds that the proposal is consistent with this policy.

Citizen Involvement

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.

FINDINGS: The Hearings Officer adopts the Staff Report findings and adds that BDC requires additional land use procedures with citizen involvement at the time of any application for a specific development. Thus, the proposal is consistent with this BAGP policy.

CHAPTER 5: HOUSING AND RESIDENTIAL LANDS

Residential Compatibility

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

FINDINGS: The Hearings Officer adopts the Staff Report findings for this BAGP policy and finds that the proposal is consistent with this policy.

2. In areas where existing urban level development has an established lot size pattern, new infill subdivision or PUD developments shall have a compatible lot transition that respects the number of adjoining lots, lot size and building setbacks of the existing development while developing residential densities within the range for the underlying zone. New

developments may have smaller lots or varying housing types internal to the development.

FINDINGS: The proposal provides for a strip of single family residential zoning along Lemhi Pass Road. That will provide for a transition area between the existing single family dwellings and the area zoned multi-family. Additionally, the BDC has provisions that require specific setbacks and lot sizes that will provide for the compatible lot transition between the single family dwellings and the multi-family dwellings should a specific development proposal be applied for by the Applicant or any other developer in this 1.99 acre area. Therefore, the proposal is consistent with this BAGP policy.

- 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.**

FINDINGS: No evidence was presented that the subject area is an "infill area." Therefore, this policy, although addressed in the BOP and Staff Reports, is not applicable to this proposal.

- 5. Of necessity, nonresidential uses will have to abut residential areas in different parts of the community. In these instances, any nonresidential use shall be subject to special development standards in terms of setbacks, landscaping, sign regulations, and building design.**

FINDINGS: The Hearings Officer adopts the Staff Report findings for this BAGP policy and finds that the proposal is consistent with this policy.

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

FINDINGS: The Hearings Officer adopts the Staff Report findings for this BAGP policy and finds that the proposal is consistent with this policy.

Housing density and affordability

- 21. Densities recommended on the Plan shall be recognized in order to maintain proper relationships between proposed public facilities and services and population distribution.**
- 22. In developing a subdivision, Planned Unit Development, or multifamily housing project the following uses and natural conditions may be deducted from the gross acreage of the property for the purpose of density calculations:**
 - areas dedicated for public park use or public open space;**

- areas developed for active recreational uses such as golf courses, tennis courts, swimming pools, and similar uses;
- land in excess of 25 percent slope that is not developed;
- natural wetlands and riparian areas that remain in a natural condition; and,
- “Areas of Special Interest” designated on the General Plan Land Use Map.

30. Density bonuses may be considered as an incentive to providing affordable housing.

FINDINGS: The Hearings Officer adopts the Staff Report findings for these three BAGP policies and finds that the proposal is consistent with these policies.

Transportation connectivity

31. Medium-and high-density residential developments shall be located where they have good access to arterial streets and be near commercial services, employment and public open space to provide the maximum convenience to the highest concentrations of population.

FINDINGS: The Hearings Officer adopts the Staff Report findings for this BAGP policy and finds that the proposal is consistent with this policy.

Policies 32 – 43

FINDINGS: The Hearings Officer finds that these policies are implemented through the BDC development criteria. Once the Applicant submits a specific development application, such as a subdivision or site plan application, the City will require adherence to those criteria. Thus, these policies are not applicable to this proposal for the plan and zoning map amendments.

Public utilities and services

44. All residential areas shall be provided with community water and sewer services and other facilities necessary for safe, healthful, convenient urban living consistent with the density of development.

45. Residential development shall be coordinated with other land use elements and community facilities which are consistent with projected housing densities.

FINDINGS: The Hearings Officer adopts the Staff Report findings for these two BAGP policies and finds that the proposal is consistent with these policies.

CHAPTER 6: THE ECONOMY AND LANDS FOR ECONOMIC GROWTH

Commercial Development

- 22. The city shall strive to retain and enhance desirable existing commercial areas and encourage property owners efforts to rehabilitate or redevelop older commercial areas.**

FINDINGS: Both the BOP and the Staff Report interpret this policy to apply to only developed commercial areas because of the use of the word "existing." Because of the use of the word "area" and because the second half of the sentence addresses "older" commercial areas, which is something different than just an "existing" commercial area, an equally plausible interpretation is that any area zoned commercial is an area the City is to strive to retain and enhance.

Nonetheless, the policy is not a mandate but something for which the City should strive. The proposal does not conflict with this policy even if the second interpretation is made by the City because, as David Ford testified to, this area may not be a "desirable" existing commercial area. The BOP says and Mr. Ford testified that no one has had an interest in locating a commercial use in this area in the entire 10 years that the Applicant has owned this property. Also, Erin Marlow, the Chair of the Bend 2030 committee, testified that the vacancy rate for commercial property in the City is 5 to 5.5%, whereas the vacancy rate for rental housing is less than 1%. As Ms. Marlow testified, this indicates that the City has a more pressing need for housing options than commercial options.

Therefore, the Hearings Officer finds that the proposal is consistent with this policy.

- 27. Commercial developments that abut residential zones or residential uses shall be subject to special setback and screening provisions.**

FINDINGS: The Hearings Officer adopts the Staff Report findings for this BAGP policy and finds that the proposal is consistent with this policy.

CHAPTER 7: TRANSPORTATION SYSTEMS

6.9.1 Transportation and Land Use

- 1. Medium and high-density residential development shall be located where they have good access to arterial streets and be near commercial services, employment and public open space to provide the maximum convenience to high concentrations of population.**

FINDINGS: The Hearings Officer adopts the Staff Report findings for this BAGP policy and finds that the proposal is consistent with this policy. Additionally, the Hearings

Officer adds that all the subsequent policies in Chapter 7 are either applicable at the time of a development application, such as a subdivision or site plan application, or are directives to the City regarding adoption of land use criteria. Thus, they are not applicable to this proposal.

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; and**

FINDINGS: The Hearings Officer adopts the Staff Report findings for this criterion and adds that the BOP states and no one refuted that sewer, water and roads are already adjacent to the subject property. Connecting to these public facilities should not be difficult for the Applicant when constructing a specific development. Additionally, as the Applicant's TPR analysis shows, the City's transportation network will support this zone change. The number of vehicle trips will be reduced than if it were to remain commercial, reducing the stress on the neighborhood roads and on the adjacent arterials. Additionally, City bus stops are a short distance from the subject property. Therefore, this criterion is met by the proposal.

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 BDC 4.6.600,**

FINDINGS: As stated above, the Applicant and others testifying at the hearing and providing written testimony prior to and during the public hearing demonstrated that the City has an extreme and current need for housing options given that the rental vacancy rate is less than 1%. The documents listed in the Staff Report for this criterion submitted by the Applicant are substantial evidence that this rate has been decreasing over the years, causing a change in the community.

Additionally, the Hearings Officer also adopts the findings of the Staff Report regarding this criterion. Those staff findings relate to the documented need for affordable housing. Although rezoning this property does not necessarily guarantee that affordable multi-family housing will be built as opposed to luxury multi-family housing, the Applicant, presented substantial evidence of the need for more multi-family housing, regardless of whether it will be affordable housing or not. Rezoning this property to allow for multi-family housing, however, increases the likelihood that affordable housing will be constructed in this location. The ability to construct the multi-family housing, therefore, will address the change in the community. Furthermore, the Applicant provided a TPR analysis demonstrating compliance with the TPR as required by BDC 4.6.600. Therefore, this criterion is met by the proposal.

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.

OAR 660-012-0060

Plan and Land Use Regulation Amendments

FINDINGS: The Hearings Officer adopts the Staff Report findings regarding BDC 4.6.600 and OAR 660-012-0060 and finds that both the City criterion and the state TPR criterion are met by this proposal.

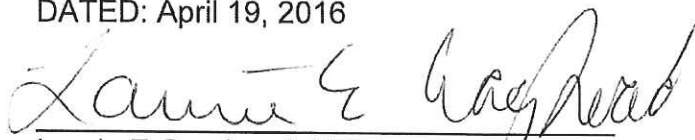
CONCLUSION:

The Hearings Officer recommends to the City Council that the City Council approve the application and change the BAGP designation for and rezone the 1.99 acre subject property from CL to RS. Additionally, the Hearings Officer recommends that the rezoning of the subject property include rezoning 0.82 acres within the NorthWest Crossing Standard Density Residential District and 1.17 acres within the NorthWest Crossing High Density Multiple-Family District. In order for the City Council to do that, however, the Applicant must specify through the submittal of a legal description the exact areas for the changed BAGP designations and rezoning. Therefore, the agrees with the Staff Report and recommends a condition of approval requiring that the Applicant must submit a legal description and a more accurate site map before the new plan and zoning designations are effective.

RECOMMENDED CONDITION OF APPROVAL:

The new BAGP and zoning designations for the subject property will not be effective until the applicant submits a legal description and accurate site map depicting the areas for the new BAGP designation and new zoning.

DATED: April 19, 2016


Laurie E Craghead, Hearings Officer