

ORDINANCE NO. NS - 2436

AN ORDINANCE AMENDING THE BEND COMPREHENSIVE PLAN MAP AND ZONING MAP TO REDESIGNATE AND REZONE 5.73 ACRES FROM MEDIUM DENSITY RESIDENTIAL TO HIGH DENSITY RESIDENTIAL

Findings:

- A. On November 5, 2021, AKS Engineering on behalf of the property owner, V & B Holdings, LLC, submitted a Type III Quasi-judicial application for a Comprehensive Plan Map amendment and Rezone to redesignate and rezone 5.73 acres of Medium Density Residential (RM) to High Density Residential (RH) encompassing Tax Lot 171234AD03900, located southwest of the intersection of NE 27th Street and Mary Rose Place.
- B. On January 13, 2022, Hearings Officer Stephanie Marshall held a public hearing and issued a recommendation that the City Council adopt an Ordinance to modify the Comprehensive Plan Map consistent with the applicant's request.
- C. Public notice for the City Council hearing was provided in accordance with the requirements of BDC 4.1.423-4.1.425. On February 3, 2022, notice was mailed by the Planning Division to surrounding owners of record of property within 500 feet of the subject properties, and to the Mountain View Neighborhood Association representative. On February 3, 2022, *Notice of Proposed Development* signs were posted by the applicant along the three property frontages, visible from abutting rights of way.
- D. The Bend City Council held a public hearing on February 16, 2022, to consider the Hearings Officer's recommendation.
- E. The Comprehensive Plan Map Amendment and Rezone approved by this Ordinance meets all applicable Development Code criteria, policies of the Bend Comprehensive Plan, and Oregon Statewide Planning Goals.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend Comprehensive Plan Map and Zoning Map is amended to redesignate and rezone 5.73 acres as contained in Exhibit A.

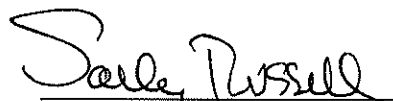
Section 5. In addition to the findings set forth above, the City Council adopts and incorporates the findings in Exhibit B.

First Reading: February 16, 2022

Second reading and adoption by roll call vote: March 2, 2022

YES: Mayor Sally Russell
Mayor Pro Tem Gena Goodman-Campbell
Councilor Barb Campbell
Councilor Melanie Kebler
Councilor Anthony Broadman
Councilor Megan Perkins
Councilor Rita Schenkelberg

NO: none


Sally Russell, Mayor

Attest:


Robyn Christie, City Recorder

Approved as to form:

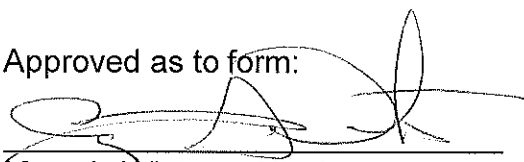

Mary A. Winters, City Attorney

Exhibit B

CITY OF BEND HEARINGS OFFICER FINDINGS, CONCLUSIONS AND RECOMMENDATION TO CITY COUNCIL



COMMUNITY
DEVELOPMENT

PROJECT NUMBER: PLCPMA20211033

PUBLIC HEARING: January 13, 2022, 2:00 p.m.
Virtual public hearing via Zoom

APPLICANT: Inland Oregon, LLC
120 W. Cataldo Ave
Spokane, WA 977201

OWNER: V & B Holdings
PO Box 1208
Pendleton, OR 97801

CONTACT: Joey Shearer
AKS Engineering
2777 NW Lolo Drive
Bend, OR 97703

LOCATION: No situs address. Subject Property is southwest of the intersection
of 27th Street and Mary Rose Place: Tax Lot 171234AD03900

REQUEST: Comprehensive Plan Map Amendment and Zone Change from
Medium Density Residential (RM) to High Density Residential (RH)

STAFF REVIEWERS: Karen Swenson, AICP, Senior Planner; (541) 388-5567;
kswenson@bendoregon.gov
Jill Clough, Engineering Associate; 541-388-5539;
JClough@bendoregon.gov

RECORD CLOSED: January 13, 2022

DATE MAILED: February 1, 2022

APPLICABLE STANDARDS, PROCEDURES AND CRITERIA:

City of Bend Development Code

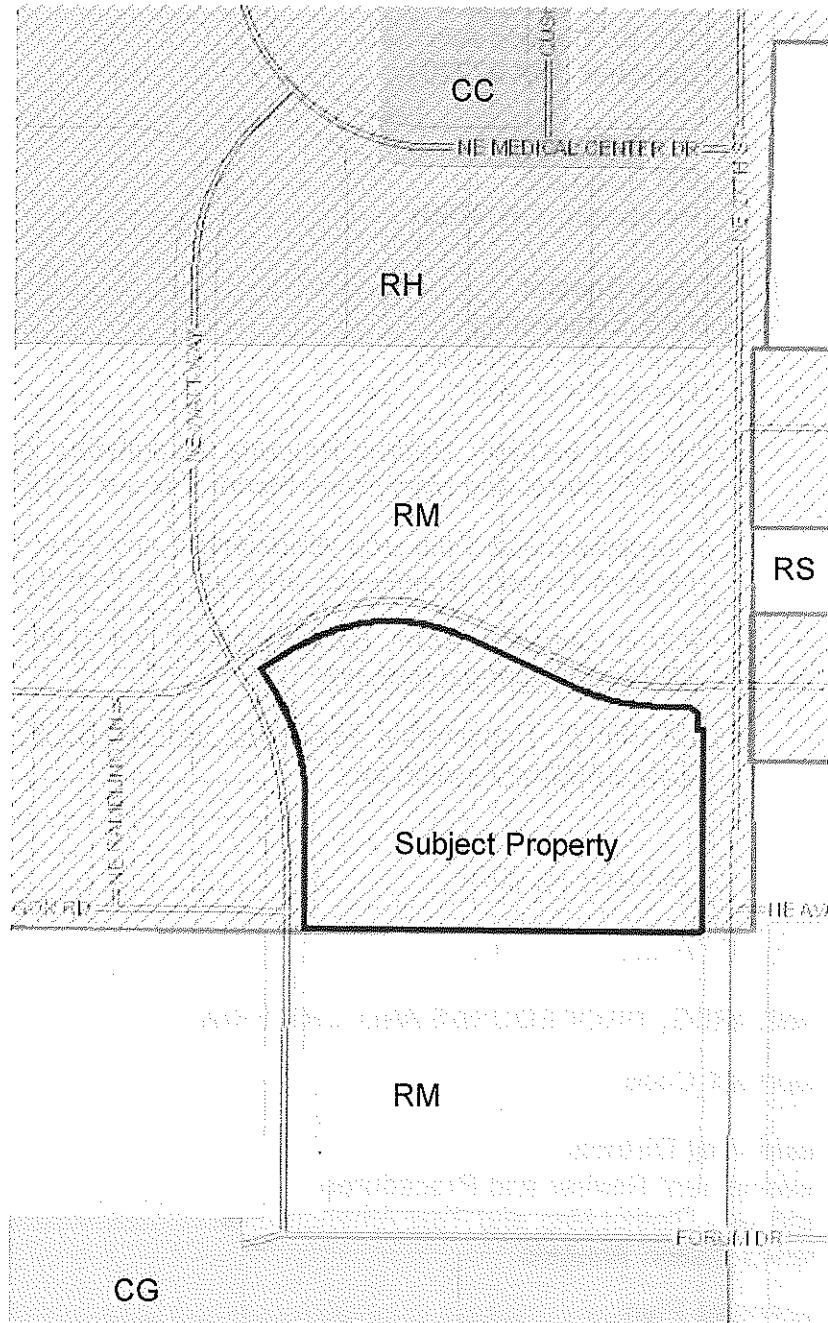
- Chapter 2.1, Residential Districts
- Chapter 4.1, Development Review and Procedures
- Chapter 4.6, Land Use District Map and Text Amendments
- Chapter 4.7, Transportation Analysis

Bend Area Comprehensive Plan

Oregon Administrative Rules

FINDINGS OF FACT:

- 1. LOCATION:** The subject property is located at the southwest corner of 27th Street and Mary Rose Place and is further identified as Tax Lot 171234AD03900.
- 2. ZONING AND PLAN DESIGNATION:** The subject property is zoned Residential Medium Density (RM) and it is designated RM on the City of Bend Comprehensive Plan.



Hatched area = Medical District Overlay

3. **SITE DESCRIPTION & SURROUNDING USES:** The 5.73 acre site was created in its current configuration as Parcel 3 of Partition Plat 2002-67 (Deschutes County Record No. 2002-55176). The subject property is located along the southern boundary of the Medical District Overlay Zone (MDOZ) and is zoned RM. The site has frontage on three streets: NE 27th Street (major arterial), NE Mary Rose Place (local), and NE Watt Way (local). Land to the west is zoned RM and contains a duplex subdivision. Properties to the north are zoned RM and are developed with the senior housing and medical office buildings. To the south, the site abuts the Fox Hollow Apartments and is one block from The Forum Shopping Center, which contains a variety of shopping and services such as Safeway, Costco, Whole Foods, and Office Max.
4. **PROPOSAL:** Type III Comprehensive Plan Map amendment to change the land use designation from Medium Density Residential (RM) to High Density Residential (RH) with a concurrent rezone from RM to RH. Development of the site is contemplated but is not before the Hearings Officer in this review. Compliance with applicable land use criteria for future, contemplated development is not reviewed herein.
5. **PUBLIC NOTICE AND COMMENTS:** The applicant held a virtual public meeting at 5:30 p.m. on October 6, 2021, in compliance with COVID-19 protocol and in accordance with the requirements of BDC 4.1.215. Approximately a half dozen neighbors, including the designated representative of the Mountain View Neighborhood Association, attended the virtual meeting, and these individuals indicated support for the (future) proposed surplus parking above the minimum requirement and asked questions about the (future) construction duration. The developer confirmed that, when developed, use of the subject property would be for market rate housing and that short term rentals will not be allowed.

Notice of the proposed Comprehensive Plan Map amendment was sent to the Department of Land Conservation and Development (DLCD) on December 7, 2021. Notice for the public hearing before the Hearings Officer on January 13, 2021 was mailed on December 10, 2021. A "Notice of Proposed Development" sign was also posted on the site near the intersection along all three street frontages on December 28, 2021. Only one written public comment was received by the Planning Division prior to the public hearing. The Fair Housing Council of Oregon requested some additional data which was added to this staff report. Notices were sent to participating City Departments and other affected agencies for comment. The agency comments and recommendations that the Planning Division received in response are contained in the project file and have been considered by the Hearings Officer.

At the public hearing before the Hearings Officer, the chairperson for the Boyd Acres Neighborhood Association indicated support for the applications, stating the subject property is a "very appropriate place for higher density [development] without pushing it to the max." A representative from the Mountain View Neighborhood Association stated she was neither for nor against the proposed plan amendment and rezone. Mike Maxwell, the property manager for Snoberry Village, which is located across 27th Street from the subject

property addressed potential traffic light changes, which may be addressed in the future site plan application for development of the subject property.

6. **LEGAL LOT OF RECORD:** The subject property was created in its current configuration as Parcel 3 of Partition Plat 2002-67 (Deschutes County Record No. 2002-55176). The Hearings Officer finds the subject property is a legal lot of record.
7. **APPLICATION SUBMITTAL:** The application was submitted on November 5, 2021 and deemed complete on November 30, 2021. Because the application includes a Post Acknowledgement Plan Amendment (PAPA), the Hearings Officer finds it is not subject to the 120-day statutory time limitation for review.
8. **SUBSEQUENT APPLICATION:** The applicant has uploaded a site plan for 170-unit senior housing units on the subject property that will be submitted for Site Plan Review if the proposed Comprehensive Plan Map and zoning amendment are approved. This subsequent application is not before the Hearings Officer at this time.

FINDINGS OF CONFORMANCE WITH APPLICABLE CRITERIA AND PROCEDURES

Chapter 4.6 Land Use District Map and Text Amendments

4.6.300 Quasi-Judicial Amendments.

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

FINDING: The application proposes an amendment to the Comprehensive Plan Map and a corresponding zone change affecting a single property and the application of existing policy to a specific factual setting. There, the application requires a Type III quasi-judicial review procedure, requiring use of the standards of approval in Subsection B (Criteria for Quasi-Judicial Comprehensive Plan Map Amendments) and Subsection C (Criteria for Quasi-Judicial Zone Changes). The Hearings Officer finds that review of the applicant's proposed quasi-judicial amendments (plan amendment and zone change) is properly before me under Type III review.

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

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

FINDINGS: The applicable Statewide Planning Goals are addressed below. The Hearings Officer finds this criterion is met.

GOAL 1, CITIZEN INVOLVEMENT

The City of Bend has an established citizen involvement program. The subject application is being processed according to Chapter 4.1 of the BDC, which involves public notification and a public hearing. Documentation for the required neighborhood meeting, held on October 6, 2021, is included in Exhibit C of the application. Public notice and a public hearing before the Hearings Officer, as required by the BDC, provided further opportunity for public involvement. The City Council is the final decision maker in Type III applications that require the adoption of an ordinance, as here, and specifically, for site-specific plan amendments and zone changes. BDC 4.1.426.B, .427. The Hearings Officer finds that Goal 1 is satisfied.

GOAL 2, LAND USE PLANNING

Goal 2 is intended "To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions." The goal of orderly land use planning is achieved through the implementation of the adopted and acknowledged Bend Comprehensive Plan, the Bend Zoning Map and the Bend Development Code. Through this quasi-judicial application and compliance with the criteria and requirements of the BDC, the Hearings Officer finds the application will substantially comply with Goal 2. Therefore, Goal 2 is satisfied.

GOALS 3 and 4, AGRICULTURAL AND FOREST LAND

The Hearings Officer finds that Goals 3 and 4 are not applicable because the property is not designated agricultural land or forest land.

GOAL 5, NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES

The subject property is vacant and has been identified in the City's Comprehensive Plan as appropriate for housing. There are no known historic or natural resource areas that would be adversely impacted by the Plan Map Amendment and Zone Change, nor are there any special overlay zones on the property, other than the MDOZ, that implement Goal 5. The Hearings Officer finds that Goal 5 is satisfied.

GOAL 6, AIR, WATER AND LAND RESOURCES QUALITY

The subject property has been identified in the City's Comprehensive Plan as appropriate for housing. Furthermore, the BDC has established standards, requirements, and procedures for reviewing applications involving natural resources, including the Waterway Overlay Zone (WOZ) and Areas of Special Interest (ASI). The subject property is not located within the WOZ and do not contain ASI. Future land use applications on this property will be reviewed in accordance with the Bend Development Code standards. Therefore, the Hearings Officer finds that Goal 6 is satisfied.

GOAL 7, NATURAL HAZARDS

The subject property has been identified in the City's Comprehensive Plan as appropriate for housing. No natural hazards have been inventoried or identified on the subject property or immediate vicinity and the surrounding area has been developed. When future development is proposed for the site, the development proposal will be reviewed for compliance with the applicable standards in place to protect people and property from natural hazards. Therefore, the Hearings Officer finds that Goal 7 is satisfied.

GOAL 8, RECREATION NEEDS

The subject property has been identified in the City's Comprehensive Plan as appropriate for housing.¹ It is located approximately one-half mile or less from two Bend Park & Recreation District (BPRD) facilities – Pilot Butte Neighborhood Park and Providence Park – as well as Pilot Butte State Park. These facilities provide future residents of the subject property with local recreational opportunities. The Hearings Officer finds that Goal 8 is satisfied.

GOAL 9, ECONOMIC DEVELOPMENT

Goal 9 is intended "To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens." The subject property has been identified in the City's Comprehensive Plan as appropriate for housing. The property is also located in the Medical District Overlay Zone (MDOZ), which provides economic lands for a variety of health care and related services. The Bend Comprehensive Plan recognizes the regional significance of the MDOZ.

Increasing the residential density of the subject property will increase the opportunity for future residents of the subject property to utilize the services available in the District without relying exclusively on automobile trips to access them. The location is within one-half mile of the St. Charles Medical Center complex and hospital, and is even closer to other medical facilities that will be utilized in a relatively greater proportion by the age set for which future development of the subject property is contemplated than by other members of the City's population.

The RH zone is the most common base zone in this regionally significant economic district. The proposed amendments will not diminish the amount of land or permitted uses within the MDOZ overlay and will support the continued growth and diversity of Bend's economy. Therefore, the Hearings Officer finds that Goal 9 is satisfied.

GOAL 10, HOUSING

Goal 10 is intended to "Provide for the Housing Needs of the citizens of the State." The proposed amendments will help meet the City's projected housing needs, because it will provide additional density for the subject property to proceed with a proposal that will facilitate additional senior housing.

¹ Although not applicable to the Hearings Officer's review of the proposed plan map amendment and rezone, the contemplated future development of the property does not involve the siting of recreational facilities or destination resorts.

According to the City's 2016 Housing Needs Analysis (HNA), demographic trends show that Baby Boomers are the fastest growing segment of Deschutes County's population. The proportion of Deschutes County's population aged 65 years or over is projected to increase from 15% in 2010 to 27% in 2035. From 2010 to 2035, it's anticipated that this age group will have grown by more than 37,000 in Deschutes County. The HNA finds that the major impact of the aging of the baby boomers on demand for new housing will be through demand for housing types specific to seniors. More broadly, the HNA forecasts an increasing need for denser housing over the planning period, including more than 4,800 multifamily units.² The proposed amendments, if approved, will allow the applicant to submit an application for a 170-unit multi-family senior housing complex with multiple amenities for the residents. Such future proposal, if approved, will help provide for the City of Bend's housing needs. The Fair Housing Council concurs with the applications and supports future development of the site for a 170-unit multi-family senior housing complex.

For all of these reasons, the Hearings Officer finds that Goal 10 is satisfied.

GOAL 11, PUBLIC FACILITIES AND SERVICES

Goal 11 is intended to "To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development." The subject property has been identified in the City's Comprehensive Plan as appropriate for housing.

The BDC contains provisions that ensure an orderly and efficient arrangement of public facilities will be provided to serve permitted uses. City sewer and water service are available to the subject property. The Utility Availability Memo submitted with the application includes details on the current water and sewer infrastructure available to serve the property. The subject property has frontage on NE 27th Street, NE Mary Rose Place, and NE Watt Way. The City issued the Traffic Analysis Memo (TAM), Exhibit D of the application, that includes review of the applicant's Transportation Facilities Report (TFR).

The anticipated mitigation identified in the Traffic Analysis Memo related to adding sidewalks to Mary Rose Place and NE Watt Way will be addressed with a future Site Plan Review application. The existing transportation facilities are discussed in subsequent sections, and compliance with the Transportation Planning Rule is demonstrated below.

The Comprehensive Plan Map Amendment will not result in the need to amend existing policies or projects in the City's adopted facilities plans. The local land use regulations adopted by the City of Bend ensure that all development conforms to adopted public facilities plans and BDC regulations. Therefore, the Hearings Officer finds that Goal 11 is satisfied.

GOAL 12, TRANSPORTATION

Goal 12 is intended "To provide and encourage a safe, convenient and economic transportation system." Goal 12 is implemented through the Transportation Planning Rule

² If the proposed amendments are approved, the applicant intends to immediately submit an application for a 170-unit multi-family senior housing complex with multiple amenities for the residents. Such proposal would not be possible under current RM zoning.

(TPR), OAR 660 Division 12. Compliance with the TPR is addressed below in these Findings, Conclusions and Recommendation of the Hearings Officer.

GOAL 13, ENERGY CONSERVATION

Goal 13 is intended "To conserve energy." The proposed amendments will allow greater density in an area where goods and services are available to residents within walking distance or transit service, thereby reducing vehicle trip distances. A reduction in vehicle miles traveled from increased density will potentially conserve energy. Therefore, the Hearings Officer finds that Goal 13 is satisfied.

GOAL 14, URBANIZATION

Goal 14 is intended "To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities." The subject property is currently within the Bend Urban Growth Boundary and designated for urban development. Therefore, the Hearings Officer finds that Goal 14 is met.

- 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: The applicant and City Planning Staff have identified the Comprehensive Plan policies that are applicable to the application. The Hearings Officer's findings regarding consistency with these identified policies are set forth in findings below.

PREFACE

FUTURE PLAN UPDATES

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.

FINDING: According to the City's 2016 Housing Needs Analysis (HNA), demographic trends show that Baby Boomers are the fastest growing segment of Deschutes County's population. The proportion of Deschutes County's population aged 65 years or over is projected to increase from 15% in 2010 to 27% in 2035. From 2010 to 2035, it's anticipated that this age group will grow by more than 37,000 individuals in Deschutes County.

The HNA finds that the major impact of the aging of the baby boomers on demand for new housing will be through demand for housing types specific to seniors. More broadly, the HNA forecasts an increasing need for denser housing over the planning period, including more than 4,800 multifamily units.

The Hearings Officer finds the applicant has met its burden of demonstrating a public need and benefit for the proposed amendments. The HNA findings demonstrate a public need for increased density, particularly to accommodate senior housing developments. The proposed amendments will provide public benefit in that they will help provide for the City of Bend's housing needs, and more specifically, housing needs of senior citizens aged 65 years and older, which demographic is established to be significantly increasing over the next thirteen (13) years. The Hearings Officer finds this requirement is met.

CHAPTER 1, PLAN MANAGEMENT AND CITIZEN INVOLVEMENT

POLICIES

Development within the Urban Growth Boundary

1-7 The City 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.

FINDING: The subject property is located approximately one-half mile or less from Pilot Butte Neighborhood Park, Providence Park, Bend Church of the Nazarene, the St. Charles Medical Center complex, and a wide variety of medical services offered within the MDOZ. Nearby commercial areas include Neff Place and The Forum Shopping Center. Cascades East Transit Routes 5, 6, and 7 provide service along NE 27th Street, which abuts the property to the east.

The property has been identified in the City's Comprehensive Plan as appropriate for housing. The proposed Comprehensive Plan Map Amendment and related rezoning to RH will provide more future residents with the opportunity to live in close proximity to these facilities, services and transit options than would be permitted under the existing RM zoning. These future residents may be encouraged to utilize alternative modes of transportation and potentially reduce vehicle miles traveled and vehicle trips given that many of these destinations are accessible by non-automobile modes of travel. The proposed amendments will encourage compact development and the integration of land uses within the UGB to reduce trips, vehicle miles traveled and facilitate non automobile travel. With many nearby medical and retail facilities, the subject property is a prime location for development at RH density.

For the foregoing reasons, the Hearings Officer finds the proposed amendments are consistent with this policy.

1-8 The City and county will encourage infill and redevelopment of appropriate areas within Bend Central Core, opportunity Areas and transit corridors (see Figure 11-1).

FINDING: The subject property, when developed, will be an infill development because it is currently a vacant property located in an area that is mainly developed. Further, NE 27th Street is identified as a major transit line on Figure 11-1. The proposed plan amendment and zone change will encourage infill and redevelopment of the subject property along a transit corridor consistent with this policy. The Hearings Officer finds the proposed amendments are consistent with this policy.

Chapter 5: Housing

Housing Mix, Density, and Affordability

- 5-4 The City will apply plan designations, zoning districts and development code regulations to implement the mix of housing indicated in the adopted Housing Needs Analysis.**

FINDING: According to the City's 2016 Housing Needs Analysis (HNA), demographic trends show that baby boomers are the fastest growing segment of Deschutes County's population. The proportion of Deschutes County's population aged 65 years or over is projected to increase from 15% in 2010 to 27% in 2035. From 2010 to 2035, it is anticipated that this age group will have grown by more than 37,000 individuals in Deschutes County.

The HNA finds that the major impact of the aging of baby boomers on demand for new housing will be through demand for housing types specific to seniors. More broadly, the HNA forecasts an increasing need for denser housing over the planning period, including more than 4,800 multifamily units.

An increase in density resulting from adoption of the proposed amendments to the comprehensive plan and zoning designation will allow an application for future development of the subject property for multifamily units, implementing the mix of housing and specifically addressing the need for senior housing indicated in the HNA. In turn, the proposed amendments will help provide for the City of Bend's housing needs. The Hearings Officer finds the proposed amendments are consistent with this policy.

- 5-5 The main purpose of maximum densities shown on the Plan Map is to maintain proper relationships between proposed public facilities and services and population distribution. One purpose of minimum densities is to assure efficiency of land use, particularly for larger sites. Another is to encourage development of housing in locations and at densities that support healthy, accessible, and affordable housing choices.**

FINDING: The Utility Availability Memo (Exhibit E) and Traffic Analysis Memo (Exhibit D) address the water and sewer infrastructure and transportation facilities available to serve the anticipated future density under the requested RH zone. The proposed comprehensive plan map amendment and rezone will assure efficiency of land use for the subject property, which is a larger site and will encourage development of housing in locations and at densities that support healthy, accessible and affordable housing choices. The existing utility services will be reviewed again as part of a future Site Plan Review application to ensure that these facilities are adequate to serve the future development. The Hearings Officer finds the proposed amendments are consistent with this policy.

- 5-6 Upon application, the City shall zone residential lands within City's corporate limits in accordance with their plan designations, and without a separate showing of public need, subject only to conditions, if applicable, requiring availability of public sewer or public water before occupancy.**

FINDING: The application includes a proposed zone change to apply the RH zone consistent with the proposed RH comprehensive plan designation. The Utility Availability Memo (Exhibit E) and Traffic Analysis Memo (Exhibit D) address the water and sewer infrastructure and transportation facilities available to serve the anticipated additional density under the requested RH zone. These existing utility services will be reviewed again as part of a future site plan review application to ensure that these facilities are adequate to serve the future development. For the foregoing reasons, the Hearings Officer finds the proposed amendments are consistent with this policy.

5-7 The City will continue to create incentives for and remove barriers to development of a variety of housing types in all residential zones, consistent with the density ranges and housing types allowed in the zones. This policy is intended to implement the City's obligation under the State Housing Goal to "encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type, and density".

FINDING: According to the City of Bend Housing Needs Analysis (HNA), Bend's needed housing mix shows an increase in need for denser housing types including multifamily housing. The HNA further finds that the population growth in number of people over age 65 years old is driving this demand.

By approving the applications for comprehensive plan and zone amendment to increase residential density on the subject property, the City will create incentives for and remove barriers to development of a variety of housing types, and will "encourage the availability of adequate numbers of needed housing units," and "allow for flexibility of housing location, type and density." The applicant is prepared to submit a site plan application for a senior housing project with 170-units upon approval of the plan and zoning amendments.

Approval of the proposed amendments will implement the City's obligations under the State Housing Goal. For the foregoing reasons, the Hearings Officer finds the proposed amendments are consistent with this policy.

5-13 Existing residentially-designated areas that are adjacent to commercial or mixed use designations may be re-designated for Residential Medium and High density development.

FINDING: The subject property is located approximately one-half mile or less from a range of commercial services including The Forum Shopping Center and the wide variety of medical services available within the MDOZ and the St. Charles Medical Center complex. These locational characteristics make the site an ideal property to be re-designated for Residential High density development. The Hearings Officer finds the proposed amendments are consistent with this policy.

Residential Compatibility

5-31 Residential areas will offer a wide variety of housing types in locations best suited to a range of housing types, needs and preferences.

FINDING: Within a few blocks of the subject property, there are a variety of residential uses and housing types, including Fox Hollow Apartments and Cedarwest Apartments to the south, duplexes of the Rose Terrace Subdivision to the west, and senior housing and memory care to the north. The record shows that Fox Hollow Apartments would today be designated RH under the comprehensive plan and zoning code (22 dwelling units/acre). Further, the property is located within one-half mile or less of Pilot Butte Neighborhood Park, Providence Park, and the St. Charles Medical Center complex. Nearby commercial shopping areas include Neff Place and The Forum Shopping Center. The Hearings Officer finds the proposed amendments are consistent with this policy.

5-38 Medium-and high-density residential developments should have good access to transit, K-12 public schools where possible, commercial services, employment and public open space to provide the maximum access to the highest concentrations of population.

FINDING: The subject property is located approximately one-half mile or less from Pilot Butte Neighborhood Park, Providence Park, Bend Church of the Nazarene, the St. Charles Medical Center complex, and a wide variety of medical services available within the MDOZ. Nearby commercial areas include Neff Place and The Forum Shopping Center. Cascades East Transit Routes 5, 6 and 7 provide regular service along NE 27th Street which fronts the property to the East.

The property has been identified in the City's Comprehensive Plan as appropriate for housing. The proposed Comprehensive Plan Map Amendment and related proposed up-zoning to RH will provide more future residents with the opportunity to live in close proximity to these facilities, services and bus transit options than would be permitted under the existing RM zoning. The Hearings Officer finds these characteristics make the proposal consistent with the City's policy to provide the maximum access to these services to the highest concentrations of population.

5-52 All residential areas will be provided with community water and sewer services and other facilities necessary for safe, healthful, convenient urban living consistent with the density of development.

FINDING: The submitted Utility Availability Memo and Utility Maps (Exhibit E) indicate that the following sewer facilities are available to serve the subject property:

- An 8-Inch PVC gravity main that enters the development site in the South East corner, parallel with NE Avamere Place.
- A 30-inch PVC gravity trunk main located to the east in NE 27th St.
- An 8-Inch PVC gravity main located to the west in NW Watt Way.

The Utility Availability Memo and Utility Maps (Exhibit E of the applicaiton) indicate the following water facilities are available to serve the site:

- An 8-Inch Ductile Iron gravity main to the north within NE Mary Rose Pl.
- A 10-inch Ductile Iron gravity main to the west within NE Watt Way.
- A 12-Inch Ductile Iron gravity main to the east within NE 27th St.
- All mains are located within Pressure Zone 5.

The Hearings Officer finds that the availability of these facilities show that the proposed amendments are consistent with this policy.

5-53 Residential development shall be coordinated with other land use elements and community facilities which are consistent with projected housing densities.

FINDING: The subject property is currently an undeveloped lot located within an area of the City developed with a variety of community facilities within the MDOZ. The property is located approximately one-half mile or less from community facilities such as Pilot Butte Neighborhood Park, Providence Park, Bend Church of the Nazarene, the St. Charles Medical Center complex, and a wide variety of medical services available within the MDOZ. Nearby commercial areas include Neff Place and The Forum Shopping Center. Cascades East Transit Routes 5, 6, and 7 provide regular service along NE 27th Street which fronts the property to the East.

The property has been identified in the City's Comprehensive Plan as appropriate for housing. The proposed Comprehensive Plan Map Amendment and related up zoning to RH will provide more future residents with the opportunity to live in close proximity to these facilities, services and bus transit options than would be permitted under the existing RM zoning. The Hearings Officer finds these characteristics make the proposal consistent with the City's policy to coordinate residential development with these existing land use elements.

Chapter 6: Economy

General Policies

6-2 Bend is a regional center for health care, art and culture, higher education, retail, tourism, and employment. The economic land policies recognize Bend's role in the region, and the need to support uses that bolster the local and regional economy:

- **The Medical District Overlay Zone provides economic lands for a variety of health care and related services to a population much larger than the City of Bend.**
- **Commercial and Mixed Use-designated lands support retail, tourism, and arts and culture uses to serve a local and regional role.**
- **Public Facility and Special Plan Districts support higher education to serve Bend residents and the needs of the region.**
- **Industrial and Mixed Employment-designated land located at Juniper Ridge has a local and regional role.**

FINDING: The Medical District Overlay Zone has regional significance. The increased residential density that will be allowed on the site resulting from the proposal will create the opportunity for more future residents to utilize these services without relying exclusively on automobile trips to access them. The RH zone is the most common base zone in the District. For these reasons, the Hearings Officer finds the proposal is compatible with the existing Comprehensive Plan and Zoning Map and is consistent with this policy.

Chapter 7: Transportation Systems

Mobility

7-7 The City will plan for efficient access for employees, customers, emergency services, and freight carriers to and from employment, commercial, and industrial lands by all modes of travel.

FINDING: The proposal does not require changes or major improvements to the transportation network, as the network servicing the property is substantially complete. However, the proposed Plan Amendment and Zone Change will provide increased opportunities for future residents to patronize the businesses in the vicinity of the property that are easily accessed by walking, biking, and transit resulting in efficient access for more future residents and customers than existing zoning. The Hearings Officer finds the proposed amendments are consistent with this policy.

7-8 The City will improve connectivity and address deficiencies in the street network with the understanding that connectivity needs and conditions may vary based on an area's existing and planned land uses and street network (e.g., large lot industrial areas may have different needs than residential areas).

FINDING: With the exception of the sidewalks that are needed along the boundary streets fronting the property discussed in the Traffic Analysis Memo in Exhibit E, the street network serving the property has no deficiencies. Installation of sidewalks will be addressed in a future Site Plan Review application. The Hearings Officer finds the proposed amendments are consistent with this policy.

7-9 The City will limit the location and number of driveways and vehicular access points on higher order streets (arterials and collectors) to maintain public safety and future traffic carrying capacity, while preserving appropriate access to existing and future development.

FINDING: The subject applications do not include proposed development of the subject property which will be reviewed in a subsequent application. The record shows, however that future development on the subject property will be allowed access from NE Mary Rose Place and NE Watt Way, and access will not be permitted from NE 27th Street (arterial) as discussed in the Traffic Analysis Memo in Exhibit D. The Hearings Officer finds the proposed amendments are consistent with this policy.

7-15 The City requires applicants with new land use proposals to assess the adequacy of the transportation system and ensure safe and efficient transportation for

people using all modes. The City will assess the motor vehicular adequacy of the transportation system based on a peak hour analysis unless specified by the City Engineer. The City currently uses volume to capacity (v/c) targets and safety to evaluate intersection performance for motor vehicles. The City may adjust the v/c target, temporarily or permanently, for a specific intersection based on locational constraints, safety concerns, road classification, and/or surrounding existing or planned land uses. The City may impose reasonable conditions and mitigation requirements on development in proportion to their impacts. The City may use a measurement other than v/c in the future.

FINDING: The City issued the Traffic Analysis Memo in Exhibit D, which provides an assessment of the adequacy of the transportation system to ensure safe and efficient transportation for people accessing the subject property using all modes of transportation. The Hearings Officer finds the transportation system is adequate to serve the property under the proposed comprehensive plan map amendment and re-zoning; the proposed amendments are consistent with this policy.

Transit

Transit is a critical tool for maximizing the equity and efficiency of the City's transportation system. Recognizing the importance of an effective transit system, the City will continue to closely coordinate with transit service providers.

7-34 In coordination with the City's public transportation providers and community members, including those who have been historically underserved in transit, the City will work to improve and prioritize the availability of all forms of transportation and transportation technologies by establishing mobility hubs and reducing reliance on Hawthorne Station.

7-35 In order to increase transportation options and support existing and planned land uses, the City will work with its public transportation provider to improve the efficiency and effectiveness of existing services in Bend; expand services to underserved areas; and support regional systems that encourage residents of nearby communities to travel to Bend by public transit.

FINDING: The proposed plan amendment and re-zone does not involve transit improvements. However, if the subject property is developed as will be proposed in a subsequent site plan application, such project is served by Cascades East Transit Routes 5, 6, and 7 on NE 27th Street. The Hearings Officer finds that the proposed amendments are likely to result in increased transit usage.

Environmental

7-62 The City will consider the environmental impacts of the overall transportation system and act to mitigate negative effects and enhance positive features.

FINDING: The proposed plan amendment and re-zone will likely reduce the environmental impacts of the overall transportation system. The up-zone to RH will allow more future

residents to live at this location than under the current RM zoning; such residents will be in close proximity to the shopping and services the area offers. Most of these destinations are accessible by walking, biking, or transit from this location, potentially reducing overall demand on the transportation system if residents choose these options. For these reasons, the Hearings Officer finds the proposed amendments are consistent with this policy.

Chapter 11: Growth Management

General Growth Management Policies

(See related policies in Chapter 1, Plan Management and Citizen Involvement and Chapter 10, Natural Forces.)

11-1 The City 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.

FINDING: Future development of the subject property will involve infill development within the Urban Growth Boundary in an area of the City developed with a variety of shopping and services accessible by walking, biking, and transit. The Hearings Officer finds that up-zoning the property will provide the opportunity for more future residents to live in a location where these options are attractive choices for reducing vehicular trips and vehicle miles traveled thereby facilitating non-automobile travel. For these reasons, the Hearings Officer finds the proposed amendments are consistent with this policy.

11-2 The City will encourage infill and redevelopment of appropriate areas within Bend's Central Core, Opportunity Areas and transit corridors (shown on Figure 11-1).

FINDING: Future development of the subject property will constitute an infill development because the property is current vacant and located in an area that is mainly developed. Further, 27th Street is identified as a major transit line on Figure 11-1. The Hearings Officer finds that the proposed Plan Amendment and Zone Change will increase the overall development potential of the property consistent with this policy.

11-3 The City will ensure that development of large blocks of vacant land makes efficient use of land, meets the city's housing and employment needs, and enhances the community.

FINDING: The proposed plan amendment and rezone will facilitate the development of a vacant block so that a proposal may be submitted for land use approval for a needed housing option for a growing population of seniors. According to the adopted Housing Needs Analysis, the number of people over age 65 years old is projected to grow by more than 37,000 individuals over the planning period, resulting in greater demand for small single-family dwellings, cottages, accessory dwelling units, townhomes, apartments, and condominiums. The Hearings Officer finds that up-zoning the subject property will increase capacity of the site to meet this need with additional apartment homes. For these reasons, the Hearings Officer finds the proposed amendments are consistent with this policy.

11-4 Streets in the Centers and Corridors, Employment Districts, Neighborhoods, and Opportunity Sites will have the appropriate types of pedestrian, biking, and transit scale amenities to ensure safety, access, and mobility.

FINDING: The proposed plan amendment and re-zone does not involve or require new streets. Nevertheless, NE 27th Street is an arterial street that has been improved with bike lanes and sidewalks and is identified as a major transit service line. Sidewalks are needed on the development side of NE Mary Rose Place and NE Watt Way, which will be addressed in a future Site Plan Review application. The Hearings Officer finds the proposed amendments are consistent with this policy.

Policies for Land Use and Transportation

11-6 Medium and high-density residential development should have good access to transit, K-12 public schools where possible, commercial services, employment and public open space to provide the maximum access to highest concentrations of population.

FINDING: The subject property is located approximately one-half mile or less of Pilot Butte Neighborhood Park, Providence Park, Bend Church of the Nazarene, the St. Charles Medical Center complex, and a wide variety of medical services available within the MDOZ. Nearby commercial areas include Neff Place and The Forum Shopping Center. Cascades East Transit Routes 5 provided service along 27th Street which fronts the property to the East.

The property has been identified in the City's Comprehensive Plan as appropriate for housing. The proposed Plan Map Amendment and related up-zoning to RH will provide more future residents with the opportunity to live in close proximity to these facilities, services and bus transit options than the existing RM zoning. These characteristics make the proposal consistent with the City's policy to provide the maximum access to these services to the highest concentrations of population. The Hearings Officer finds the proposed amendments are consistent with this policy.

11-7 The City shall continue to use and develop performance standards and guidelines that can reduce vehicle trip lengths and/or promote non-vehicle transportation modes.

FINDING: Future development of the subject property will involve infill development in an area of the City developed with a variety of shopping and services accessible by walking, biking, and transit. Up-zoning the property will provide the opportunity for more future residents to live in a location where these options are attractive choices. Therefore, approval of the applications will help the City meet applicable performance standards and guidelines to reduce vehicle trip lengths and/or promote non-vehicle transportation modes. The Hearings Officer finds the proposed amendments are consistent with this policy.

11-8 The City shall consider potential land needs for long-range transportation system corridor improvements and related facilities including transit during the review of subdivisions, partitions, and individual site applications.

FINDING: The subject applications do not require review of subdivisions, partitions and/or individual site applications. Nonetheless, considering the fact the applicant intends to submit a site plan application for development of the subject property, the subject property is located along the NE 27th Street corridor. NE 27th Street is an arterial street improved to City standards with transit services. The Hearings Officer finds the proposed amendments are consistent with this policy and notes that the City shall consider potential land needs for long-range transportation system corridor improvements and related facilities including transit during the review of a future site plan application for development of the subject property.

11-11 The City should be receptive to innovative development proposals, including zone changes, plan amendments, and text changes that promote alternatives to vehicular traffic thus reducing vehicle trips and reduced trip lengths.

FINDING: This application includes a request for approval of a Plan Amendment and Zone Change to facilitate future infill development for multifamily homes for seniors in an area of the City developed with a variety of shopping and services accessible by walking, biking, and transit. Therefore, the Hearings Officer finds the proposed zone change is consistent with this policy to promote fewer vehicle trips and shorter trip lengths. For these reasons, the Hearings Officer finds the proposed amendments are consistent with this policy.

Policies for Centers and Corridors
(See related policies in Chapter 6, Economy.)

11-23 The City will encourage development and redevelopment in commercial corridors that is transit-supportive and offers safe and convenient access and connections for all modes.

FINDING: This application includes a request for approval of a Plan Amendment and Zone Change to facilitate future infill development of a vacant property located in a commercial corridor on a major transit line. The Plan Amendment and Zone Change will increase the overall development potential of the property with variety of shopping and services accessible by walking, biking, and transit. The Hearings Officer finds the proposed amendments are consistent with this policy.

11-27 The City will encourage development and redevelopment in commercial corridors that is transit-supportive and offers safe and convenient access and connections for all modes.

FINDING: The application includes a request for approval of a Plan Amendment and Zone Change to facilitate future infill development of a vacant property located on a commercial corridor on a major transit line. The Plan Amendment and Zone Change will increase the overall development potential of a property with variety of shopping and services accessible by walking, biking, and transit. The Hearings Officer finds the proposed amendments are consistent with this policy.

11-28 The City will encourage the development of Neighborhood Commercial centers. Such centers should be scaled to serve the frequent needs of the residents of the neighborhood.

FINDING: The applications do not involve a Neighborhood Commercial center. However, there are a variety of shopping and services in the area accessible by walking, biking, and transit to serve the needs of the future residents of the neighborhood.

**Policies for Residential Areas and Neighborhoods
(See related policies in Chapter 5, Housing.)**

11-32 The City will support re-designation of suitable areas that are within a 1/4 mile walk to transit corridors from a lower density designation to a higher density designation, where plan amendment criteria are otherwise met.

FINDING: The applications include a request for approval of a Plan Amendment and Zone Change to facilitate future infill development involving the development of a vacant property along NE 27th Street. NE 27th Street is identified as a major transit line on Figure 11-1. The proposed Plan Amendment and Zone Change will redesignate the property from a lower density designation (RM) to a higher density designation (RH), meets application plan amendment criteria, and therefore deserves the support of the City. The Hearings Officer finds the proposed amendments are consistent with this policy.

11-34 Medium-and high-density residential developments should have good access to transit, K-12 public schools where possible, commercial services, employment, and public open space to provide the maximum access to the highest concentrations of population.

FINDING: The property is located approximately one-half mile or less of Pilot Butte Neighborhood Park, Providence Park, Bend Church of the Nazarene, the St. Charles Medical Center complex, and a wide variety of medical services available within the MDOZ. Nearby commercial areas include Neff Place and The Forum Shopping Center. Cascades East Transit Routes 5 provided service along 27th Street which fronts the property to the East.

The property has been identified in the City's Comprehensive Plan as appropriate for housing. The proposed Plan Map Amendment and related up zoning to RH will provide more future residents with the opportunity to live in close proximity to these facilities, services and bus transit options than the existing RM zoning. These characteristics make the proposal consistent with the City's policy to provide the maximum access to these services to the highest concentrations of population. The Hearings Officer finds the proposed amendments are consistent with this policy.

**BDC 4.6.300.B. Criteria for Quasi-Judicial Comprehensive Plan Amendments
(continued)**

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

FINDING: The subject property is within the incorporated area of the City of Bend and is currently served with City utilities. The Utility Availability Memo (Exhibit E) includes analysis of current facilities for the subject property and indicates that the existing facilities are adequate to support future projects of a scale permitted under the planned RH Comprehensive Plan designation. Anticipated mitigations can be addressed as part of Site Plan Review for future development.

The Traffic Analysis Memo in Exhibit D indicates that anticipated trips associated with future development of the property under the RH zone will not negatively impact surrounding transportation networks. Trip generation from a senior housing community, for which a site plan application will be submitted if the subject applications are approved, do not even meet the City's thresholds for requiring a Transportation Impact Analysis. Future applications for construction on the subject property will have to demonstrate compliance with the applicable portions of the BDC addressing public facilities, services, and transportation networks on a project-specific level. Therefore, the Hearings Officer finds this criterion is met.

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

FINDING: The City's 2016 Housing Needs Analysis (HNA) documents demographic trends that are evidence of change within the Deschutes County and the Bend community driving the increase in demand for senior housing and an increase in density of development. The HNA shows that Baby Boomers are the fastest growing segment of Deschutes County's population. The proportion of Deschutes County's population aged 65 years or over is projected to increase from 15% in 2010 to 27% in 2035. From 2010 to 2035, it is anticipated that this age group will have grown by more than 37,000 individuals in Deschutes County.

The HNA finds that the major impact of the aging of the baby boomers on demand for new housing will be through demand for housing types specific to seniors. More broadly, the HNA forecasts an increasing need for denser housing over the planning period, including more than 4,800 multifamily units. These findings from the HNA show that the project will help provide for the City of Bend's housing needs in response to changing demographics within Deschutes County and the City of Bend.

The City Council adopted the following goals for the 2021-2023 biennium that took effect on July 1, 2021 related to housing that reflect the changing demographic trends in the community:

- *Remove and reduce regulatory barriers for development of housing, with an emphasis on incentivizing rent and price restricted affordable housing, middle income housing, and housing that serves vulnerable community members...*
- *Work to ensure housing opportunities occur in all areas of the City are near schools, parks, services and employment opportunities*

While the applications do not involve "price restricted affordable housing", the proposed plan amendment and rezone will help further the goal by reducing a regulatory barrier (the density limits in the existing RM zone) that will result in increased housing opportunity for vulnerable community members (seniors).

Finally, the subject property is located approximately one-half mile or less of Pilot Butte Neighborhood Park, Providence Park, Bend Church of the Nazarene, the St. Charles Medical Center complex, and a wide variety of medical services available within the MDOZ. Nearby commercial areas include Neff Place and The Forum Shopping Center. Cascades East Transit Routes 5 provided service along 27th Street which fronts the property to the east. The proximity of the property to the multitude of services within the MDOZ and area shopping centers make the RH zoning designation a more suitable designation than the existing RM designation. The proposed Plan Map Amendment will allow the RH designation to be implemented on the property consistent with the policy guidance in the BDC and the City Council goals for the 2021-2023 biennium that took effect on July 1, 2021.

The multi-family development to the south, Fox Hollow, is zoned RM and was developed in 1993 at 22 dwelling units per acre (126 units on 5.7 acres). The record shows that Fox Hollow Apartments would today be designated RH under the comprehensive plan and zoning code. The density threshold between RM and RH is 21.7 units per acre, which makes this existing abutting development compatible with the proposed RH zoning on the subject property.

For all the foregoing reasons, the Hearings Officer finds evidence of change in the neighborhood or community of the subject property, which supports the request for plan amendment and rezoning. Therefore, the criteria are met.

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

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 TPR requires a two-step analysis. First, under OAR 660-012-0060(1), the applicant must determine if the application will “significant affect,” [an existing or planned transportation facility] as that term is defined in OAR 660-012-0060(1). If it will not, then the analysis ends, and the TPR is satisfied. The City may rely on transportation improvements found in transportation system plans, as allowed by OAR 660-012-0060(4)(a), (b), and (c), to show that failing intersections are not made worse or intersections not now failing do not fail in the future. If the application “significantly affects a transportation facility,” then the applicant must demonstrate appropriate mitigation under OAR 660-012-0060(2).

OAR 660-012-0060

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
(b) Change standards implementing a functional classification system; or
(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

(2) If a local government determines that there would be a significant effect, then the local government must ensure that allowed land uses are consistent with the identified function, capacity, and performance standards of the facility measured at the end of the planning period identified in the adopted TSP through one or a combination of the remedies listed in (a) through (e) below, unless the amendment meets the balancing test in subsection (2)(e) of this section or qualifies for partial mitigation in section (11) of this rule. A local government using subsection (2)(e), section (3), section (10) or section (11) to approve an amendment recognizes that additional motor vehicle traffic congestion may result and that other facility providers would not be expected to provide additional capacity for motor vehicles in response to this congestion.

(a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.

(b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.

(c) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.

(d) Providing other measures as a condition of development or through a development agreement or similar funding method, including, but not limited to, transportation system management measures or minor transportation improvements. Local governments shall, as part of the amendment, specify when measures or improvements provided pursuant to this subsection will be provided.

(e) Providing improvements that would benefit modes other than the significantly affected mode, improvements to facilities other than the significantly affected facility, or improvements at other locations, if:

- (A) The provider of the significantly affected facility provides a written statement that the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards;**
- (B) The providers of facilities being improved at other locations provide written statements of approval; and**
- (C) The local jurisdictions where facilities are being improved provide written statements of approval.**

FINDING: The proposed amendment to the City's Comprehensive Plan Map and Zoning Map will not "significantly affect" a transportation facility under OAR 660-012-0060(1), based on the findings in the City's TAM and the transportation analysis prepared by Transpo Group (Exhibit D).

The transportation analysis concludes that the proposed Comprehensive Plan Map Amendment and Zone Change will not result in any significant impacts. Although the planned 170-unit senior housing community is not before the City in these applications, the Hearings Officer notes that such future housing community in the RH zone would generate fewer trips than a traditional multifamily project at maximum RM density. Additionally, the project will not generate sufficient trips to trigger a TIA for the Site Plan Review stage of development review. Development of the site with 170-units would result in a density of 25.3 units per acre, which is at the low end of allowable density in the RH zone. The applicant has noted that it does not desire to "max out" allowable RH density in its future site plan application.

The proposed mitigation for sidewalks on NE Mary Rose Place and NE Watt Way will be accepted in a future Site Plan Review application. The Hearings Officer finds that because this analysis is based on a number of trips that is below the maximum number of trips that could be generated with full buildout at RH densities, the following condition of approval is necessary:

Condition of approval: *Future development on the site as zoned RH will be limited to 629 ADT, as demonstrated within the Traffic Analysis Memo PRTFR202105786.*

Since there are no anticipated additional impacts, no mitigations or transportation improvements are necessary related to the Plan Map Amendment as required under OAR 660-012-0060(2). Additional project specific transportation review will be included as part of a formal Site Plan Review application and the Applicant will comply with all City standards and requirements. The Hearings Officer finds this criterion is met.

(3) Notwithstanding sections (1) and (2) of this rule, a local government may approve an amendment that would significantly affect an existing transportation facility without assuring that the allowed land uses are consistent with the function, capacity and performance standards of the facility where:

- (a) In the absence of the amendment, planned transportation facilities, improvements and services as set forth in section (4) of this rule would not be adequate to achieve consistency with the identified function, capacity or performance standard for that facility by the end of the planning period identified in the adopted TSP;***
- (b) Development resulting from the amendment will, at a minimum, mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development through one or a combination of transportation***

improvements or measures;

(c) The amendment does not involve property located in an interchange area as defined in paragraph (4)(d)(C); and

(d) For affected state highways, ODOT provides a written statement that the proposed funding and timing for the identified mitigation improvements or measures are, at a minimum, sufficient to avoid further degradation to the performance of the affected state highway. However, if a local government provides the appropriate ODOT regional office with written notice of a proposed amendment in a manner that provides ODOT reasonable opportunity to submit a written statement into the record of the local government proceeding, and ODOT does not provide a written statement, then the local government may proceed with applying subsections (a) through (c) of this section.

FINDING: The transportation analysis and the City's TAM provide substantial evidence that the Comprehensive Plan Map Amendment and Zone Change will not "significant affect" transportation facilities under OAR 660-012-0060(1). The Hearings Officer finds that the provisions under this subsection do not apply.

(4) Determinations under sections (1)–(3) of this rule shall be coordinated with affected transportation facility and service providers and other affected local governments.

(a) In determining whether an amendment has a significant effect on an existing or planned transportation facility under subsection (1)(c) of this rule, local governments shall rely on existing transportation facilities and services and on the planned transportation facilities, improvements and services set forth in subsections (b) and (c) below.

(b) Outside of interstate interchange areas, the following are considered planned facilities, improvements and services:

(A) Transportation facilities, improvements or services that are funded for construction or implementation in the Statewide Transportation Improvement Program or a locally or regionally adopted transportation improvement program or capital improvement plan or program of a transportation service provider.

(B) Transportation facilities, improvements or services that are authorized in a local transportation system plan and for which a funding plan or mechanism is in place or approved. These include, but are not limited to, transportation facilities, improvements or services for which: transportation systems development charge revenues are being collected; a local improvement district or reimbursement district has been established or will be established prior to development; a development agreement has been adopted; or conditions of approval to fund the improvement have been adopted.

(C) Transportation facilities, improvements or services in a metropolitan planning organization (MPO) area that are part of the area's federally-approved, financially constrained regional transportation system plan.

(D) Improvements to state highways that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when ODOT provides a written statement that the improvements are reasonably likely to be provided by the end of the planning period.

(E) Improvements to regional and local roads, streets or other transportation facilities or services that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when the local government(s) or

transportation service provider(s) responsible for the facility, improvement or service provides a written statement that the facility, improvement or service is reasonably likely to be provided by the end of the planning period.

(c) Within interstate interchange areas, the improvements included in (b)(A)–(C) are considered planned facilities, improvements and services, except where:

(A) ODOT provides a written statement that the proposed funding and timing of mitigation measures are sufficient to avoid a significant adverse impact on the Interstate Highway system, then local governments may also rely on the improvements identified in paragraphs (b)(D) and (E) of this section; or

(B) There is an adopted interchange area management plan, then local governments may also rely on the improvements identified in that plan and which are also identified in paragraphs (b)(D) and (E) of this section.

(d) As used in this section and section (3):

(A) Planned interchange means new interchanges and relocation of existing interchanges that are authorized in an adopted transportation system plan or comprehensive plan;

(B) Interstate highway means Interstates 5, 82, 84, 105, 205 and 405; and

(C) Interstate interchange area means:

(i) Property within one-quarter mile of the ramp terminal intersection of an existing or planned interchange on an Interstate Highway; or

(ii) The interchange area as defined in the Interchange Area Management Plan adopted as an amendment to the Oregon Highway Plan.

(e) For purposes of this section, a written statement provided pursuant to paragraphs (b)(D), (b)(E) or (c)(A) provided by ODOT, a local government or transportation facility provider, as appropriate, shall be conclusive in determining whether a transportation facility, improvement or service is a planned transportation facility, improvement or service. In the absence of a written statement, a local government can only rely upon planned transportation facilities, improvements and services identified in paragraphs (b)(A)-(C) to determine whether there is a significant effect that requires application of the remedies in section (2).

FINDING: This section of the Transportation Planning Rule requires coordination with affected transportation service providers. All roads serving the subject property are under City of Bend jurisdiction.

The City of Bend has reviewed the applicant's transportation analysis and issued the TAM in Exhibit D showing that neither the proposed plan amendment and rezone, nor potential future development of the subject property with a 170-unit senior housing facility, will "significantly affect" the surrounding streets and transportation system under OAR 660-012-0060(1). The City is not required to coordinate with the Oregon Department of Transportation (ODOT) or Deschutes County (County) because no transportation facility controlled by ODOT or the County will be affected by this application. The Hearings Officer finds that the City has complied with the provisions of this section in this determination.

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

- 1. The amendment will bring the Zoning Map into conformance with the Comprehensive Plan Map.**

FINDING: This application includes a concurrent Comprehensive Plan Map Amendment and Zone Change from RM to RH. With the concurrent zone change, the amendment will bring the zone map into conformance with the amended Comprehensive Plan Map. The Hearings Officer finds this criterion is met.


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

FINDING: A Traffic Analysis Memo was submitted (Exhibit D) and a Utility Availability Memo was provided (Exhibit E) which together demonstrate that the property and affected area is presently provided with adequate public facilities, services, and transportation networks to support the future use. The recommended mitigations are feasible and can be addressed with the future development of the property. The Hearings Officer finds this criterion is met.

CONCLUSIONS: Based on the findings set forth above, the Hearings Officer determines that the proposed Comprehensive Plan Map amendment and proposed rezone of the subject property meets all applicable criteria with the following condition:

Condition of Approval: *Future development on the site as zoned RH will be limited to 629 ADT, as demonstrated within the Traffic Analysis Memo PRTFR202105786.*

RECOMMENDATION: As set forth in the above Findings, Conclusions and Recommendation, the Hearings Officer recommends that the City Council adopt the findings and conditions in this Recommendation and amend the Comprehensive Plan Map and Zoning Map as proposed by the applicant.



Stephanie Marshall, City of Bend Hearings Officer