

## ORDINANCE NO. NS-2449

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN MAP BY EXPANDING THE URBAN GROWTH BOUNDARY TO INCLUDE A PARCEL OF LAND AND ABUTTING RIGHTS-OF-WAY TOTALING 39.55 ACRES AND DESIGNATING THE PARCEL OF LAND MEDIUM DENSITY RESIDENTIAL (RM), AND REZONING THE PROPERTY TO URBANIZABLE AREA (UA). THE PROPERTY IS LOCATED IMMEDIATELY EAST OF THE EXISTING URBAN GROWTH BOUNDARY SOUTH OF HIGHWAY 20.

### Findings

- A. On February 17, 2022, Hayden Homes initiated a Type III Quasi-judicial amendment to the Bend Area Comprehensive Plan Map to expand the Urban Growth Boundary (UGB) to include 39.55 acres of land south of Highway 20 and east of the current UGB boundary for a mixed-income residential development consistent with the House Bill 4079 pilot program and City of Bend Resolution 3271. The application also included a request to designate the property as Medium Density Residential (RM) and zone the property as Urbanizable Area (UA).
- B. The Hearings Officer held a duly-noticed public hearing on May 10, 2022, to consider proposed the requested amendments. On May 18, 2022, the Hearings Office issued a recommendation to the City Council to adopt the proposed UGB expansion, Comprehensive Map amendment and rezone.
- C. The Bend City Council held a public hearing on June 15, 2022, to consider the Hearings Officer recommendation.
- D. The requested UGB expansion and Comprehensive Plan Map amendment and rezone approved by this Ordinance are consistent with all applicable standards and criteria, including those set forth in Bend Development Code Chapter 4.6, as well as well as Oregon Administrative Rules 660-039 & 660-024.

### THE CITY OF BEND ORDAINS AS FOLLOWS:

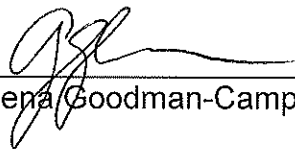
- Section 1. The Urban Growth Area Boundary on the Bend Area Comprehensive Plan Map is amended to include the area described in Exhibit A and shown in Exhibit B.
- Section 2. The Bend Comprehensive Plan Map is amended to designate the property described in Exhibit A and shown in Exhibit B as Medium Density Residential (RM) with a concurrent rezone to Urbanizable Area (UA).
- Section 3. The City Council adopts the Findings of the Hearings Officer in support of this ordinance as shown in Exhibit C.

First reading: June 15, 2022.


Second reading and adoption by roll call vote: July 20, 2022.

YES: Mayor Gena Goodman-Campbell  
Councilor Barb Campbell  
Councilor Melanie Kebler  
Councilor Megan Perkins  
Councilor Stephen Sehgal  
Councilor Mo Mitchell

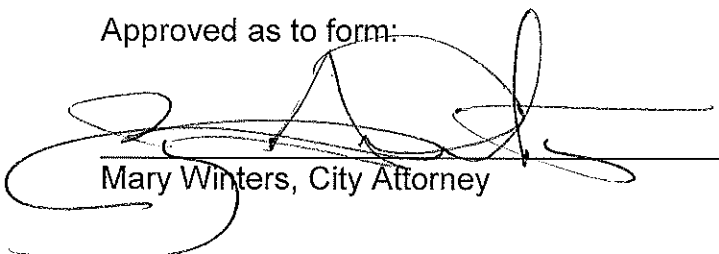
NO: none

  
\_\_\_\_\_  
Gena Goodman-Campbell, Mayor

Attest:

  
\_\_\_\_\_  
Robyn Christie, City Recorder

Approved as to form:

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

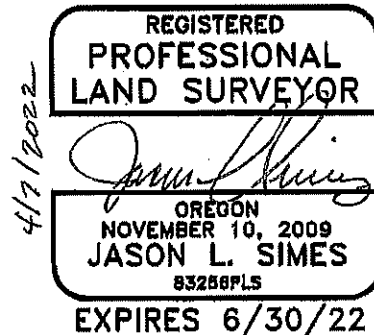
# Exhibit A

A parcel of land located in the Southwest One-Quarter of Section 35, Township 17 South, Range 12 East and the Northwest One-Quarter of Section 2, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

**BEGINNING** at the Northeast corner of Traditions East; Thence North 28°50'56" East 599.17 feet to the South right of way line of US Highway 20; Thence North 28°50'56" East 45.71 feet to the Centerline of US Highway 20; Thence North 0°09'48" West 40.00 feet to the North right of way line of US Highway 20; Thence along said North right of way line North 89°50'12" East 1007.90 feet; Thence South 0°09'48" East 80.00 feet to said South right of way line of US Highway 20 and the Northeast corner of a parcel described in Document 2008-37771, Deschutes County Official Records; Thence along the East line of said Document 2008-37771 and the East line of the Southeast One-Quarter of the Southwest One-Quarter of said Section 35 South 0°38'15" East 1225.72 feet to the Southeast corner of said Document 2008-37771 and the North right of way line of Bear Creek Road; Thence South 0°10'20" East 30.00 feet to a 1/2" iron rod with a yellow plastic cap at the South One-Quarter corner of said Section 35; Thence South 0°09'47" West 30.00 feet to the South right of way line of Bear Creek Road; Thence along said South right of way line of Bear Creek Road the following courses: South 0°28'53" West 25.00 feet; North 89°41'34" West 662.05 feet; North 0°25'17" East 25.00 feet; North 89°41'34" West 661.85 feet; North 0°24'01" East 7.51 feet; North 84°38'48" West 584.46 feet; Thence leaving said courses South 86°51'03" East 582.95 feet to a 3" brass cap at the West One-Sixteenth corner on the South line of said Section 35; Thence North 0°37'15" West 30.00 feet to said North right of way line of Bear Creek Road and the Southwest corner of said Document 2008-37771; Thence along the West line of said Document 2008-37771 and the West line of said Southeast One-Quarter of the Southwest One-Quarter of Section 35 the following courses: North 0°47'01" West 303.96 feet; North 0°38'15" West 304.29 feet; North 0°52'02" West 82.61 feet to the **POINT OF BEGINNING**.

The Basis of Bearings is South 89°41'34" East along the South line of the Southeast One-Quarter of the Southwest One-Quarter of said Section 35 per CS 19430, Records of Deschutes County Surveyor's Office.

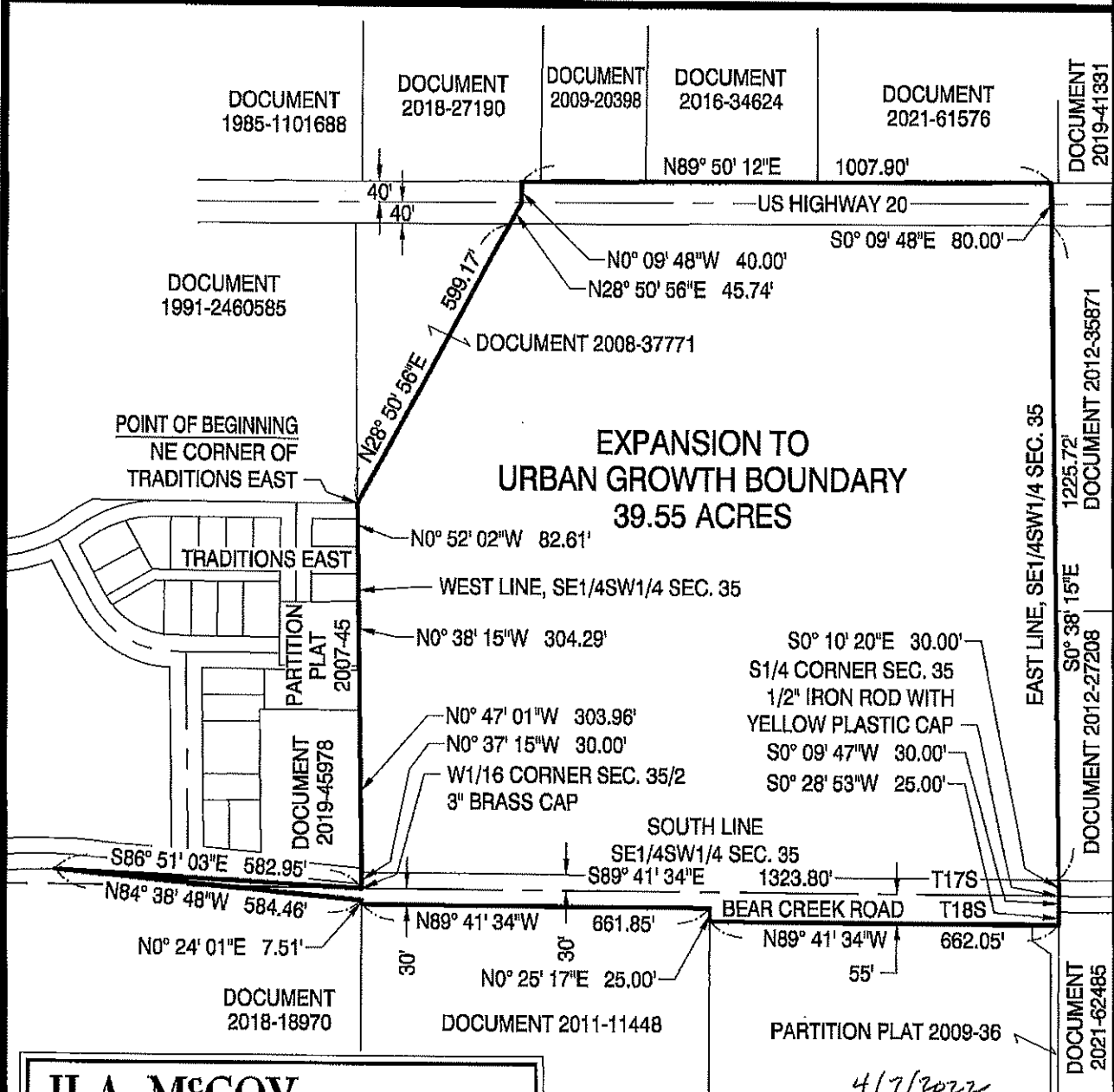
The above described land contains 39.55 acres, more or less.



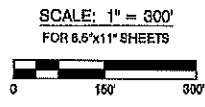
# EXHIBIT B

## URBAN GROWTH BOUNDARY EXPANSION

LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 35, TOWNSHIP 17 SOUTH, RANGE 12 EAST,  
AND THE NORTHWEST ONE-QUARTER OF SECTION 2, TOWNSHIP 18 SOUTH, RANGE 12 EAST,  
WILLAMETTE MERIDIAN, CITY OF BEND, DESCHUTES COUNTY, OREGON.



**H.A. M'COY**  
ENGINEERING & SURVEYING LLC  
1180 SW LAKE ROAD SUITE 201  
REDMOND, OR 97756  
(541) 923-7554



4/7/2022  
REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
*Jason L. Simes*  
OREGON  
NOVEMBER 10, 2009  
JASON L. SIMES  
83256PLS  
EXPIRES 6/30/22

PROJECT: PARKSIDE PLACE, UGB EXPANSION			PROJECT NO: 20-101
DESIGN: JJW	DATE: 04/07/22	REV: DETAIL 1	PAGE: EXH. B

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



**COMMUNITY  
DEVELOPMENT**

**PROJECT NUMBER:** PLUGB20220115

**HEARING DATE:** May 10, 2022 at 6:00 p.m.  
Deschutes Service Building  
Barnes Sawyer Rooms  
1300 NW Wall St., Bend, Oregon

**HEARINGS OFFICER:** Stephanie Marshall

**APPLICANT:** Hayden Homes  
2464 SW Glacier Place, Suite 110  
Redmond, Oregon 97756

**OWNER:** Porter Kelly Burns, LLC  
5691 Miramar Drive  
Frisco, TX 75034

**LOCATION:** 21455 Hwy 20; Tax Lot 1712350001500

**REQUEST:** Type III Quasi-judicial amendment to the Bend Area Comprehensive Plan Map to expand the Urban Growth Boundary (UGB) to include 39.55 acres of land between Highway 20 and Bear Creek Road, including the abutting Bear Creek Road and Highway 20 rights-of-way, immediately east of the existing UGB boundary. Included with the UGB expansion is a Comprehensive Plan Map amendment to designate the property Medium Density Residential (RM) and to rezone the property to Urbanizable Area (UA).

**STAFF REVIEWER:** Karen Swenson, AICP, Senior Planner  
541-388-5567; [kswenson@bendoregon.gov](mailto:kswenson@bendoregon.gov)

**RECORD CLOSED:** May 10, 2022

**DECISION ISSUED:** May 17, 2022

**APPLICABLE CRITERIA, STANDARDS AND PROCEDURES:**

Oregon Administrative Rules  
Chapter 660-039, Affordable Housing Pilot Program  
Chapter 660-024, Division 24, Urban Growth Boundaries

Oregon Statewide Planning Goals

City of Bend Development Code  
Chapter 4.1, Development Review and Procedures

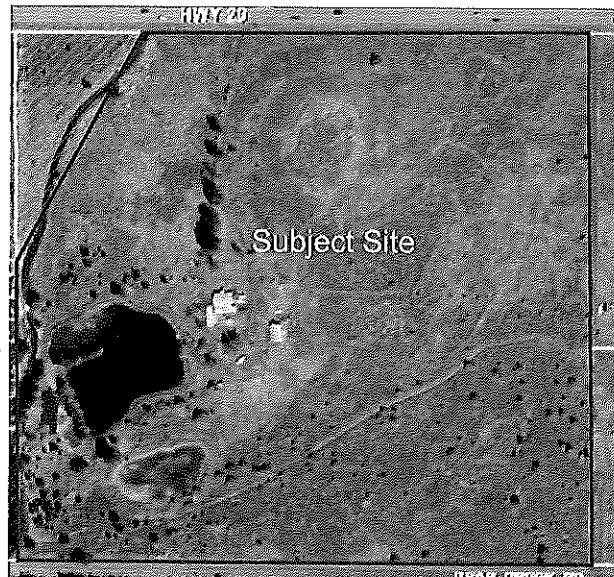
## Chapter 4.6, Land Use District Map and Text Amendments

### Bend Area Comprehensive Plan

#### FINDINGS OF FACT:

- 1. LOCATION:** The property is located immediately east of the Bend City limits between Highway 20 and Bear Creek Road. The site is further identified as a portion of Tax Lot 15 on Tax Assessor's Map 17-12-35.
- 2. ZONING:** The subject property is currently zoned Multiple Use Agricultural (MUA10) by Deschutes County and is designated Rural Residential Exception on the Deschutes County Comprehensive Plan Map. The site is located outside of the City limits of Bend and outside of the acknowledged (UGB).
- 3. SITE DESCRIPTION:** The subject property consists of 35.32 acres (according to Deschutes County DIAL) and is generally rectangular in shape except for a missing triangle in the northwest corner. The proposed UGB expansion also includes the abutting right-of-way of Bear Creek Road and Highway 20 for a total of 39.55 acres.

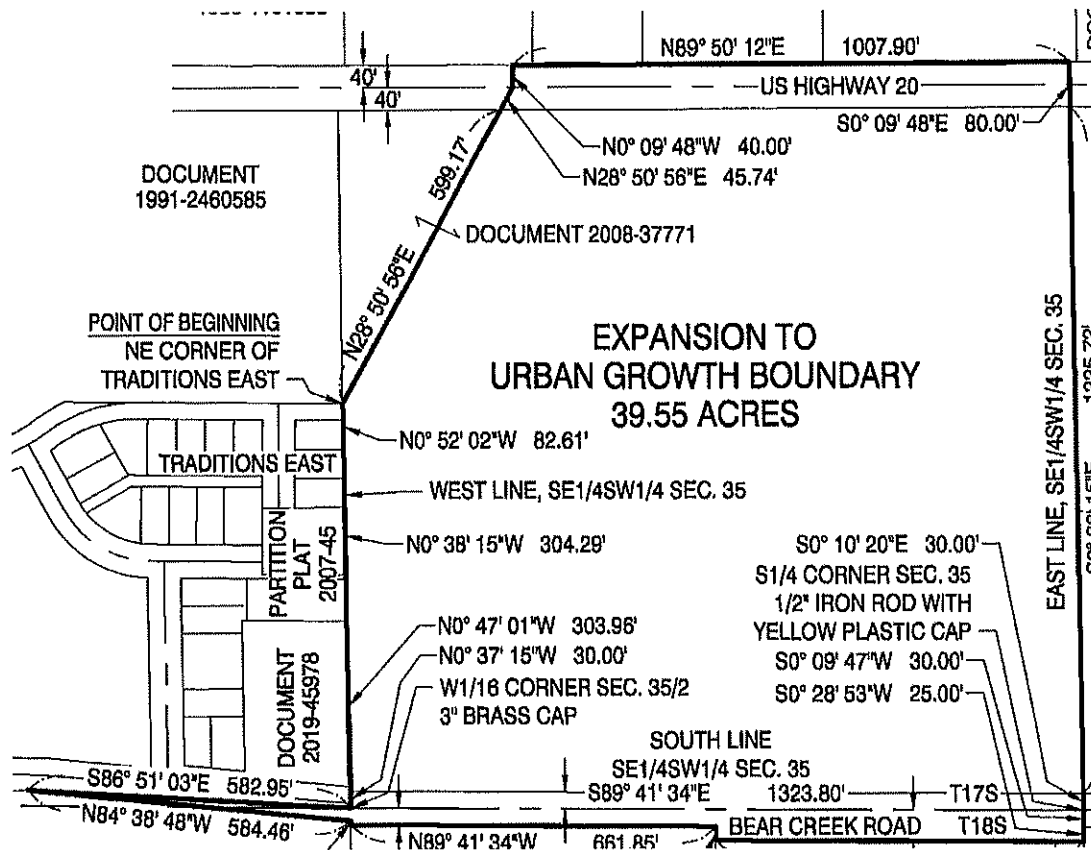
The property abuts two major roadways: Highway 20 (a principal arterial) to the north and Bear Creek Road (a rural collector) to the south. The property abuts the Bend City Limits and Urban Growth Boundary to the west and is situated approximately 0.25 miles from Ward Road (a rural arterial), to the east. A Central Oregon Irrigation District ("COID") canal traverses the property along the western property edge and there are two irrigation water storage ponds on the site.



The site has been developed with a home and outbuildings. Vegetation on the property consists primarily of weeds, annual grasses, sagebrush, scatter juniper trees and clusters of coniferous trees surrounding the dwelling and two ponds on the property.

The abutting right-of-way of Bear Creek Road varies between 90 feet on the eastern half abutting the subject property and 60 feet on the western half abutting the subject property. The right-of-way narrows from approximately 27 feet at the western property line of the subject property to a point located approximately 590 feet west of the subject property. This right-of-way included in the UGB expansion is approximately 2.5 acres. The pavement is approximately 26 feet in width with no frontage improvements abutting the subject property.

The abutting right-of-way of Highway 20 is 80 feet in width and totals approximately 1.9 acres. The pavement is approximately 34 feet in width with no frontage improvements abutting the subject property.



**Total Proposed UGB Expansion Area**

**4. SURROUNDING ZONING AND USES:** The subject property is located between Highway 20 to the north and Bear Creek Road to the south. The western edge borders the Bend UGB. At the northwest corner of the property is a triangular property that is zoned Urbanizable Area ("UA"). This property is located within the Bend UGB, but it is not annexed into the City of Bend. The remainder of the western edge of the property abuts Residential Standard Density ("RS") zoned land within the Bend UGB and City Limits, that has been developed with residential lots and single-family homes.

To the north (across Hwy 20) are three Exclusive Farm Use – Tumalo/Redmond/Bend

("EFU-TRB") zoned tax lots that are developed with single-family homes and/or undeveloped; these properties do not appear to be engaged in farm use. To the east are two MUA-10 zoned tax lots that are developed with single-family homes; these lands do not appear to be engaged in farm use. To the south (across Bear Creek Road) are three EFU-TRB zoned tax lots; these properties are developed with single-family dwellings and one of the tax lots may be engaged in farm use.



**5. PROCEDURAL OVERVIEW:** The current proposal is a necessary step to implement Oregon House Bill (HB) 4079, the Affordable Housing Pilot Project. In 2016, the Oregon Legislature passed HB 4079, which formed a pilot program aimed to help cities build affordable housing. The program allows selected cities to add new housing units on lands currently outside their urban growth boundaries (UGBs) without going through the normal UGB expansion process. One of the goals of the program is to determine if land supply is a barrier to affordable housing in the state.

The law directed the Land Conservation and Development Commission (LCDC) to set up a process to select two pilot projects. The selected cities would be able to use an expedited UGB process, if at least 30 percent of the newly built housing is affordable and the newly added land is protected for this use for at least 50 years. LCDC adopted regulations for the pilot program process and project requirements in OAR 660-039.



In June 2018, the City of Bend submitted an application to LCDC for the Affordable Housing Pilot Project (utilizing the subject property) and in November 2018 LCDC selected the City of Bend for the Pilot Project. In 2020, the applicant entered into a contract on the pilot site (with the original developer) and began a revised feasibility study. On September 1, 2021, the Bend City Council adopted a Resolution to implement a Revised Concept Plan, based on its selection as a HB 4079 Affordable Housing Pilot Project. In October of 2021, the agency charged with administering the Pilot Project, the Department of Land Conservation and Development (DLCD) approved the modified HB 4079 Plan. Neither Resolution 3271, nor the original Resolution 3133, adopted pursuant to HB 4079, were appealed.

Pursuant to statutory authority and implementing regulations, a local government may adjust a UGB at any time. The Land Conservation and Development Commission ("LCDC") has adopted administrative regulations, which implement the statutory authority for UGB expansions, and which serve as criteria for UGB expansion decisions of a City and County. Additionally, the City of Bend has local ordinances that provide standards and criteria for UGB amendments. All UGB modifications must be made according to the applicable state and local criteria.

State of Oregon approval criteria and standards that govern a HB 4079 Affordable Housing Pilot Project UGB expansion are included in:

- OAR 660-039 – Affordable Housing Pilot Program
- OAR 660-024 – Urban Growth Boundaries
- Oregon Statewide Planning Goals
- Oregon Transportation Planning Rule

City approval criteria and standards for a UGB expansion and Comprehensive Plan Map Amendment are included in:

- Goals and policies of the City of Bend Comprehensive Plan
- Criteria and standards of the Bend Development Code

All relevant substantive criteria are addressed below in this recommendation.

- 6. PROPOSAL:** The current proposal (Bend UGB Expansion / RM Bend Comprehensive Plan Designation / UA Zone) is the first land use application step to implement a project that will result in 347 housing units, including 108 affordable housing units, known as the future Parkside Place project. The proposal is reviewed in conjunction with an application to Deschutes County for a County Comprehensive Plan and zoning map amendment to redesignate the property from Rural Residential Exception Area (RREA) and Multiple Use Agricultural (MUA10) Zone to Bend Urban Growth Area and Urbanizable Area (UA) District, respectively.

Subsequent to this application/ review, additional City of Bend applications needed to implement Oregon HB 4079 – the Affordable Housing Pilot Program include:

- Transportation System Plan (TSP) Amendment / Alignment
- Master Plan
- Annexation
- Land Division
- Site Plan (for the multi-unit development and park)

The TSP Amendment, Master Plan and Annexation applications will occur concurrently.

**7. PUBLIC NOTICE AND COMMENTS:** The applicant held a virtual neighborhood meeting via Zoom on December 16, 2021. Notification of the UGB expansion was posted to the Oregon Department of Land Conservation and Development (DLCD) Post-Acknowledgement Plan Amendment (PAPA) Online Submittal website by Deschutes County on March 29, 2022. On April 7, 2022, the City of Bend Planning Division sent a public hearing notice to surrounding property owners of record as shown on the most recent property tax assessment roll as well as residents within 500 feet of the subject property, along with the land use representatives of the Larkspur and Mountain View Neighborhood Associations.

Notice of the public hearing was posted on the property in three locations (Highway 20, Bear Creek and the terminus of Livingston Drive) on April 18, 2022. The Hearings Officer held a joint quasi-judicial hearing on this application and the application submitted to the County to amend the County Comprehensive Plan designation and a zone change for the subject property. The Hearings Officer's recommendation to the Deschutes County Board of Commissioners is set forth in a separate document.

One comment was submitted in response to these public notices, in support of the UGB Amendment for the purpose of affordable housing from the Bend-Redmond Habitat for Humanity Director of Land Acquisition and Development submitted a comment letter as follows:

I am writing in reference to project number PLUGB20220115 at 21455 HWY 20 Bend. With the median house price in Bend at 770k is it clear that we are in dire need of affordable housing, and plenty of it. The expansion of the Urban Growth Boundary on this 35 acre plot would provide this much needed housing if it were medium density residential.

It is important to have units available at every level from 30-80% AMI and to have a focus on homeownership.

To name a few of the benefits of homeownership: homeowners are more likely to vote, their children are more likely to graduate and to experience good health.

In order to keep affordable housing affordable, I suggest a portion of the housing to be deed restricted.

At the public hearing, several members of the public asked questions concerning future development of the subject property if the current applications are approved. These questions are summarized as follows:

- Will Highway 20 be included in the UGB and will ODOT lose jurisdiction to review access points from Highway 20, speed limits and maintenance?

- Will there be a sidewalk and bicycle lane on Bear Creek Road? Traffic and speeds on Bear Creek Road are hazardous.
- What percentages of AMI will be considered for affordable housing criteria?
- What will the impact on wildlife be with the continued expansion of City limits, potential development of or around the irrigation canals and piping of COID canals?
- Will light pollution associated with street lights be addressed?
- What about view impacts of a 3-story apartment building on the property?
- Will the affordable housing project include any portions dedicated for senior living?
- Will there be any barrier between future development of the site and existing housing on surrounding properties to protect privacy of surrounding homeowners?

On rebuttal at the public hearing, the Applicant addressed these questions of the public and noted that they are all related to future, actual development of the site. Consideration of these potential impacts will be reviewed by the City of Bend pursuant to its Development Code at such time as applications for development are submitted and an annexation agreement is reached with the City. Piping of canals is up to COID.

**8. APPLICATION ACCEPTANCE DATE:** The application was submitted and deemed complete on March 16, 2022. Pursuant to Section 4.1.530(D) of the Bend Code, quasi-judicial comprehensive plan amendments are exempt from the 120 day review period.

**9. LOT OF RECORD:** The existing lot configuration was created by a property line adjustment approved per PZ-17-0122 by the City of Bend. The original property was determined to be a legal lot of record pursuant to Deschutes County land use file numbers 247-16-00317-ZC/318-PZ.

#### **APPLICATION OF THE CRITERIA:**

#### **CONFORMANCE WITH STATE OF OREGON APPROVAL CRITERIA:**

The proposed UGB expansion, RM Comprehensive Plan designation, and Zone Change from MUA10 to UA are specifically for HB 4079, the Oregon Affordable Housing Pilot Project, which is intended to provide a streamlined process. The Affordable Housing Pilot Project is established in OAR 660-039 and as detailed in that section, the UGB expansion process is exempt from a significant number of State regulations.

#### **A. OAR 660-039 – AFFORDABLE HOUSING PILOT PROJECT**

##### **660-039-0090 Subsequent Events**

**(1) Upon selection by the commission as provided in OAR 660-039-0080(4), the qualifying city shall:**

**FINDING:** At its November 16, 2018 meeting, the Land Conservation and Development Commission (LCDC) selected the City of Bend (and the subject property) for the Affordable Housing Pilot Project. The actions at this point are “subsequent” to the approval; therefore the Hearings Officer finds the current application is a necessary step to implement HB 4079 and address the requirements of this section.

**(a) In concert with the county in which the urban growth boundary is located, amend the urban growth boundary to include the pilot project site, and identify the provisions of law and rules pursuant to OAR 660-039-0030 relating to urban growth boundary amendments that are not applied to allow the pilot project site to be included within the urban growth boundary;**

**FINDING:** The current application, which will ultimately amend the Bend Urban Growth Boundary to include the 35.32 acre pilot project site and the abutting rights-of-way, establishes a RM City Comprehensive Plan Designation, and change the zoning from MUA 10 to UA, is the first official planning action being submitted to carry out the Concept Plan (Exhibit G of the application). Below is a summary of 660-039-0030 which addresses the HB 4079 provisions to which the pilot project is exempted from. All other applicable provisions are addressed thereafter and throughout this recommendation.

**660-039-0030**

***Compliance with Goals, Statutes, Administrative Rules***

***(1) Regarding the pilot project site, a qualifying city submitting a pilot project nomination is exempt from compliance, and the commission is not required to select a pilot project that complies, with:***

- (a) ORS 197A.320;***
- (b) The Land Need or Boundary Location provisions of Goal 14;***
- (c) Goals 3, 4, 6, 8, 9,10, 12, 13, and 19;***
- (d) Goal 11, except that portion applicable to the impact of development of the pilot project site upon existing and planned public facilities within the qualifying city's urban growth boundary;***
- (e) Goal 15, unless the land is within the Willamette River Greenway Boundary;***
- (f) Goals 16, 17, and 18, unless the land is within a coastal shorelands boundary; or***
- (g) Any administrative rules implementing, clarifying, or interpreting these goals.***

***(2) A qualifying city submitting a pilot project nomination is required to make findings showing compliance, and the commission is required to select a pilot project that complies with:***

- (a) Goal 5, regarding resources located on the project site; and (b) Goal 7.***

***(3) Notwithstanding section (1), a qualifying city may not bring high-value farmland within its urban growth boundary to implement a pilot project.***

**(b) Annex the pilot project site to the qualifying city within two years of the acknowledged urban growth boundary amendment;**

**FINDING:** The applicant plans to submit an Annexation Application to the City of Bend concurrent with a Master Plan Application, after approval of this UGB Expansion / Comprehensive Plan Map Designation and Zone Change request. Given the subsequent Annexation Application timelines and requirements, it is expected that the annexation can and will occur within the 2 years of the approved UGB Expansion, in conformance with the requirements of this section. Conditions of approval, provisions of the Annexation Agreement,

a development agreement, and/or other restrictions may be imposed on the property to ensure conformance with this requirement. The Hearings Officer finds this provision may be met.

**(c) Adopt plan and zone designations for the pilot project site that authorize development of the concept plan included in the application;**

**FINDING:** The current application proposes to 1) expand the Bend UGB by 39.55 acres, 2) apply an UGB County Comprehensive Plan designation to the property, 3) apply a Residential Medium Density (RM) City designation to the property, and 4) change the zone from MUA10 to UA. Annexation cannot occur until a Master Plan is approved, which will be based upon the established Concept Plan (Exhibit G). The benefit of the UA zone is that it allows for the City established Master Plan and Annexation process to be utilized on the subject property. The Hearings Officer finds this provision may be met.

Set forth below are the BDC 4.7.900 Annexation provisions:

**4.9.700 Zoning of Annexed Areas**

***The Bend Comprehensive Plan map provides for the future City zoning classifications of all property within the City's Urbanizable Area (UA) District. On the date the annexation becomes effective, the UA District will cease to apply and the zoning map will be automatically updated with the zoning district that implements the underlying Comprehensive Plan map designation.***

The Hearings Officer finds that the current applications, with the subsequent requirements of a Master Plan and Annexation will ensure compliance with this provision.

**(d) Adopt measures ensuring that affordable housing developed on the pilot project site remains affordable for a period of at least 50 years after the selection of the pilot project site; and**

**FINDING:** As established in City of Bend Resolution 3271, Item Q (Exhibit H):

***The City has adopted applicable Comprehensive Plan policies (Policies 5-20 and 5-21) that require that guarantees be in place to ensure affordable housing units will meet affordability requirements for not less than 50 years, phasing requirements for affordable housing units and specified threshold definitions for affordable housing units at 80% of AMI (for dwelling units for sale) and 60% of AMI (dwelling units for rent), unless the city provides support for housing at other levels of affordability. Because the state pilot project rules require affordability at 80% AMI for dwellings for sale of rent and the project as proposed by this developer meets that state criteria and proposes a new model of developer-financed needed housing, the City is supportive of dwelling units for rent at 80% AMI.***

The HB 4079 affordability requirements are set for a period of at least 50 years, which is consistent with adopted policies in the City's Comprehensive Plan. Implementation of the requirements of this section and these Comprehensive Plan policies will be established

through the subsequent Master Plan, Annexation, Subdivision and/or Site Planning review processes. The Hearings Officer finds this provision may be met.

**(e) Issue permits for development on the pilot project site only after annexation of the site to the qualifying city and adoption of measures ensuring that housing developed on the pilot project site will continue to be used to provide affordable housing for a period of at least 50 years after the selection of the pilot project site.**

**FINDING:** After this UGB Expansion occurs, permits for development will only be issued after a Master Plan is approved and Annexation occurs. Furthermore, development will require Land Division approval and Site Plan Review (for the multi-unit development). Through the City of Bend review procedures noted above, assurances will be imposed to ensure 50 years of affordability. The Hearings Officer finds this provision may be met.

**(2) For a post-acknowledgement plan amendment or land use regulation change under OAR chapter 660, division 18 that proposes amendments with any effect upon existing comprehensive plan designations or provisions that impact residential development, or land use regulations that impact residential development, the qualifying city may not, for a period of 50 years after approval of the pilot project by the commission, consider the existence of housing units existing or approved on the pilot project site when making findings regarding the proposed amendment.**

**FINDING:** This provision applies to future PAPAs and/or land use regulation changes. The Hearings Officer finds this provision does not apply to the current application.

**(3) The qualifying city for the pilot project site selected by the commission may not plan or zone the site to allow a use or mix of uses not authorized by the commission unless the qualifying city, in concert with the county, withdraws the pilot project site from the urban growth boundary and rezones the site pursuant to law, statewide land use planning goals and land use regulations implementing the goals that regulate allowable uses of land outside urban growth boundaries.**

**FINDING:** The Concept Plan (Exhibit G) provides residential units, including multi-unit developments, detached single-family homes and townhouses. The Concept Plan does not include any uses that are not authorized by the Commission. The Hearings Officer finds the provisions of this section do not apply.

**CONCLUSION** - As detailed above, the Hearings Officer finds the proposal complies with the applicable provisions of OAR 660-039.

## ***B. OAR 660-024 – URBAN GROWTH BOUNDARIES***

### **660-024-0020 Adoption or Amendment of a UGB**

**(1) All statewide goals and related administrative rules are applicable when establishing or amending a UGB, except as follows:**

**FINDING:** While this section of the OARs would necessitate that the all statewide goals and related administrative rules are applicable (unless excepted in this section), the special provisions of OAR 660-039-0030 (above) establish a number of additional goals and related administrative rules to which the HB 4079 - Affordable Housing Pilot Project is exempted. All applicable goals and administrative rules are addressed in this recommendation. If/when an exemption or exception is established, it is noted.

**(a) The exceptions process in Goal 2 and OAR chapter 660, division 4, is not applicable unless a local government chooses to take an exception to a particular goal requirement, for example, as provided in OAR 660-004-0010(1);**

**FINDING:** The proposal is for an UGB Expansion, a UGB County designation, a RM City of Bend Comprehensive Plan designation, and a Zone Change from MUA10 to UA, specifically for the HB 4079 Affordable Housing Pilot Program. While the HB 4079 Affordable Housing Pilot Program provides exemptions from a number of goals and/or rules, the current proposal is not requesting an exception from any applicable Goal requirement. The Hearings Officer finds this provision is not applicable.

**(b) Goals 3 and 4 are not applicable;**

**FINDING:** The Hearings Officer finds that Goals 3 and 4 are not applicable to UGB expansions; furthermore OAR 660-039-0030 establishes that the HB 4079 project is exempt from Goals 3 and 4.

**(c) Goal 5 and related rules under OAR chapter 660, division 23, apply only in areas added to the UGB, except as required under OAR 660-023-0070 and 660-023-0250;**

**FINDING:** The City of Bend conducted an assessment of Goal 5 when selecting the property for the HB 4079 submittal. As established in City of Bend Resolution 3271:

*N. The Council continues to find the Bend Pilot Project Site satisfies Statewide Land Use Planning Goal 5. The Bend Pilot Project Site contains two ponds identified on the National Wetlands Inventory, which is the inventory of wetland habitat for Deschutes County, pursuant to Deschutes County Ordinance 92-045 and Deschutes County Development Code 23.112.040.3. When the Bend Pilot Project Site containing the ponds is annexed into the City, and before development is approved, the Developer must engage in the required analysis to determine whether the ponds are considered significant under Goal 5. BDC 4.6.300.B.1 or 4.5.200.D.3.c.i. The Central Oregon Irrigation District has turned off the water supply to the ponds and it may be unlikely that there are jurisdictional wetlands on the site, but that remains to be finally determined. If found to be a significant Goal 5 resource, they must be preserved.*

*The Revised Concept Plan proposes 4 acres of Park space to be dedicated to the Bend Park and Recreation District. Based on the provision of open space and parks, and trail connections, and the requirement that further analysis be done to determine whether the ponds are a significant resource, the City finds that the Revised Concept Plan complies with Goal 5.*

The current proposal is for UGB Expansion, a City and County Comprehensive Plan Map Amendment, and a Zone Change, which will ultimately accommodate the Concept Plan (Exhibit G). The City of Bend has found that the Concept Plan and forthcoming City of review procedures (including Master Plan, Annexation, Land Division and Site Plan) will ensure compliance with Goal 5, thus the current proposal is also consistent with Goal 5. Therefore, the Hearings Officer finds the proposal complies with this provision.

**(d) The transportation planning rule requirements under OAR 660-012-0060 need not be applied to a UGB amendment if the land added to the UGB is zoned as urbanizable land, either by retaining the zoning that was assigned prior to inclusion in the boundary or by assigning interim zoning that does not allow development that would generate more vehicle trips than development allowed by the zoning assigned prior to inclusion in the boundary;**

**FINDING:** The proposal includes 39.55 acre expansion to the Bend UGB, the establishment of a RM Bend Comprehensive Plan Designation, and a Zone Change from MUA10 to UA on the property. Until a Master Plan and Annexation occur, the property will be established with an Urbanizable Area zone, which is a zone that does not allow any more trips than the current MUA10 Zone. Therefore, the Hearings Officer finds the TPR requirements of OAR 660-012-0060 need not be applied. Furthermore, OAR 660-039-0030 establishes that the HB 4079 Affordable Housing Pilot Project is exempt from Goal 12 and its implementing rules.

**(e) Goal 15 is not applicable to land added to the UGB unless the land is within the Willamette River Greenway Boundary;**

**(f) Goals 16 to 18 are not applicable to land added to the UGB unless the land is within a coastal shorelands boundary;**

**FINDING:** The project is not within the Willamette River Greenway Boundary or a coastal shore boundary. Therefore, the Hearings Officer finds that Goals 15, 16, 17 and 18 are not applicable. Furthermore, OAR 660-039-0030 establishes that the HB 4079 Affordable Housing Pilot Project is exempt from these Statewide Planning Goals and implementing rules.

**(g) Goal 19 is not applicable to a UGB amendment.**

**FINDING:** The Hearings Officer finds that Goals 19 is not applicable to a UGB amendment. Furthermore, OAR 660-039-0030 establishes that the HB 4079 Affordable Housing Pilot Project is exempt from Goal 19.

**(2) The UGB and amendments to the UGB must be shown on the city and county plan and zone maps at a scale sufficient to determine which particular lots or parcels are included in the UGB. Where a UGB does not follow lot or parcel lines, the map must provide sufficient information to determine the precise UGB location.**

**FINDING:** The Hearings Officer finds that the City and County have extensive documentation of the current Bend UGB, and the maps, sizes and scales accompanying the current proposal



provide sufficient specificity and details to understand, assess, and determine the precise location of the property and the current UGB Expansion area.

**660-24-0040 – 660-024-0067...**

**FINDING:** The provisions of these sections all relate to land need and/or boundary location assessment. OAR 660-039-0030 specifically notes that the HB 4079 lands are exempt from land need or boundary location provisions of Goal 14 (and its implementing rules). Therefore, the Hearings Officer finds the proposal is exempt from these sections.

**660-024-0070 - UGB Adjustments**

**(1) A local government may adjust the UGB at any time to better achieve the purposes of Goal 14 and this division. Such adjustment may occur by adding or removing land from the UGB, or by exchanging land inside the UGB for land outside the UGB. The requirements of section (2) of this rule apply when removing land from the UGB. The requirements of Goal 14 and this division [and ORS 197.298] apply when land is added to the UGB, including land added in exchange for land removed. The requirements of ORS 197.296 may also apply when land is added to a UGB, as specified in that statute. If a local government exchanges land inside the UGB for land outside the UGB, the applicable local government must adopt appropriate rural zoning designations for the land removed from the UGB prior to or at the time of adoption of the UGB amendment and must apply applicable location and priority provisions of OAR 660-024-0060 through 660-020-0067.**

**FINDING:** The majority of the provisions of Goal 14, along with the referenced sections of ORS 197.298, and ORS 197.296 address need and/or boundary location. Pursuant to OAR 660-039-0030, the HB 4079 Affordable Housing Pilot Project is exempt from need and/or boundary location provisions.

**(2) A local government may remove land from a UGB following the procedures and requirements of ORS 197.764. Alternatively, a local government may remove land from the UGB following the procedures and requirements of 197.610 to 197.650, provided it determines:...**

**FINDING:** The proposal does not include the removal of land from the Bend UGB. Therefore, the Hearings Officer finds this section does not apply.

**(3) Notwithstanding sections (1) and (2) of this rule, a local government considering an exchange of land may rely on the land needs analysis that provided a basis for its current acknowledged plan, rather than adopting a new need analysis, provided:...**

**FINDING:** The provisions of this section apply to UGB adjustments and/or exchanges that include both the addition and the subtraction of land from a UGB. The current proposal is for an expansion only. Therefore, the Hearings Officer finds the provisions of this section do not apply.

### **660-024-0075 - Airport Economic Development Pilot Program...**

**FINDING:** The proposed UGB Expansion is for the HB 4079 Affordable Housing Pilot Project, it is not for the Airport Economic Development Pilot Program. Therefore, the Hearings Officer finds this section does not apply.

### **660-024-0080 - LCDC Review Required for UGB Amendments**

**A metropolitan service district that amends its UGB to include more than 100 acres, or a city with a population of 2,500 or more within its UGB that amends the UGB to include more than 50 acres shall submit the amendment to the Commission in the manner provided for periodic review under ORS 197.628 to 197.650 and OAR 660-025-0175.**

**FINDING:** The proposal will expand the Bend UGB by 39.55 acres. The proposal will not expand the UGB by more than 50 acres. Therefore, the Hearings Officer finds the amendment does not need to be provided to the Commission in the manner provided for periodic review under ORS 197.628 to 197.650 and OAR 660-025-0175.

**CONCLUSION** - As detailed above, the Hearings Officer finds the proposal complies with the applicable provisions of OAR 660-024 – Urban Growth Boundaries.

### **C. STATEWIDE PLANNING GOALS**

Pursuant to OAR 660-024-0020, any adoption or amendment of a UGB must be consistent with the statewide planning goals and related administrative rules, except as follows:

- (a) The exceptions process in Goal 2 and OAR 660, division 4, is not applicable unless a local government chooses to take an exception to a particular goal requirement, for example, as provided in OAR 660-004-0010(1);
- (b) Goal 4 is not applicable;
- (c) Goal 5 and related rules under OAR 660, Division 23, apply only in areas that are on a local government's acknowledged Goal 5 inventory;
- (d) Goal 8 is not applicable;
- (e) The Oregon Transportation Planning Rule requirements under OAR 660-012-0060 are satisfied if impacts are not significant. As detailed in the Traffic Report prepared by Transight Consulting, LLC the findings conclude that the proposed urban growth boundary (UGB) reconfiguration can be approved on the transportation system without creating any adverse impacts.
- (f) Goals 15-19 apply to specific geographies in the State and no lands in Lake County are within the stated geographic applicability of these Goals.

Respecting the exceptions noted above (and addressed earlier in this recommendation) and the exemptions of OAR 660-039-0030, the Statewide Planning Goals are applied to the proposed UGB Expansion, as documented below.

## **Goal 1 - Citizen Involvement**

**FINDING:** Goal 1 states that the planning process must involve the citizenry generally, and more specifically calls for any adopted comprehensive plan to include a strategy which clearly defines the processes by which the public will be involved in the on-going planning process. Consistency with this goal requires that a system of citizen outreach, notification, and public meetings or hearings be established to review quasi-judicial and legislative land use actions.

Both the City of Bend and Deschutes County have adopted procedural requirements for amending the UGB, along with Comprehensive Plan Map and Zoning Map amendments. As these procedural requirements are part of the acknowledged comprehensive plans of both Deschutes County and the City of Bend, applications processed under their auspices are by implication consistent with Goal 1. For these reasons, the Hearings Officer finds the proposal is consistent with the Statewide Planning Goal 1.

## **Goal 2 – Land Use Planning**

**FINDING:** Goal 2 is the primary framework upon which all other planning goals rest. It requires that local governments establish a comprehensive plan and implementing measures to govern the uses of land within their jurisdiction and which may be urbanized in the future. It also requires that land use decisions be made “based on an adequate factual basis.” Evaluation of a particular proposal in terms of Goal 2 is based on two important considerations: 1) the local government's own land use plan, and 2) the extent to which the proposal is consistent with that plan or other applicable planning framework. Goal 2 also sets forth criteria for allowing an exception to other statewide planning goals; however, such an exception is not requested in this case, as the proposal is to expand the Bend UGB through the procedures established for the implementation of HB 4079 and required by Goal 14, Urbanization.

The City of Bend and Deschutes County both have acknowledged comprehensive plans as required by Goal 2. These plans are implemented by zoning codes, growth management mechanisms, and/or other environmental regulations, all of which have been acknowledged for Goal consistency purposes. Furthermore, both implementation programs include decision-making criteria, which require that proposals demonstrate compliance with applicable review criteria for all land use decisions.

The current proposal includes comprehensive evaluation of the proposal in terms of all applicable elements of the City and County comprehensive plans, as well as the statutes and administrative rules governing urban growth boundaries. The proposed UGB expansion and associated map amendments are for a property that has been reviewed and considered by both the City of Bend and LCDC (in their approval of the HB 4079 Affordable Housing Pilot Project, Exhibit I – Application and Exhibit J – Approval Letter). The submittal relies upon evidence in the record that includes an analysis of housing needs of the City of Bend and the subject property's ability to accommodate the needs.

In summary, the Hearings Officer finds sufficient evidence has been provided to demonstrate that the UGB expansion and associated map amendments can be reviewed and approved through planning processes and policy frameworks that are appropriate under Goal 2, and the decision to expand the Bend UGB, designate lands RM, and rezone to UA (to accommodate

the HB 4079 Affordable Housing Pilot Project) has an adequate factual base. For this reason and because the proposal is based on acknowledged comprehensive plans and implementing ordinances, the Hearings Officer finds the proposal is consistent with Statewide Planning Goal 2.

### **Goal 3 - Agricultural Land**

**FINDING:** Pursuant to OAR 660-039-0030, which implements the HB 4079 - Affordable Housing Pilot Project, the proposal is exempt from Goal 3.

### **Goal 4 - Forest Land**

**FINDING:** Pursuant to OAR 660-039-0030, which implements the HB 4079 - Affordable Housing Pilot Project, the proposal is exempt from Goal 4.

### **Goal 5 - Natural Resources**

**FINDING:** The City of Bend conducted an assessment of Goal 5 when selecting the property for the HB 4079 submittal. As established in City of Bend Resolution 3271:

*N. The Council continues to find the Bend Pilot Project Site satisfies Statewide Land Use Planning Goal 5. The Bend Pilot Project Site contains two ponds identified on the National Wetlands Inventory, which is the inventory of wetland habitat for Deschutes County, pursuant to Deschutes County Ordinance 92-045 and Deschutes County Development Code 23.112.040.3. When the Bend Pilot Project Site containing the ponds is annexed into the City, and before development is approved, the Developer must engage in the required analysis to determine whether the ponds are considered significant under Goal 5. BDC 4.6.300.B.1 or 4.5.200.D.3.c.i. The Central Oregon Irrigation District has turned off the water supply to the ponds and it may be unlikely that there are jurisdictional wetlands on the site, but that remains to be finally determined. If found to be a significant Goal 5 resource, they must be preserved.*

*The Revised Concept Plan proposes 4 acres of Park space to be dedicated to the Bend Park and Recreation District. Based on the provision of open space and parks, and trail connections, and the requirement that further analysis be done to determine whether the ponds are a significant resource, the City finds that the Revised Concept Plan complies with Goal 5.*

The current submittal is for UGB Expansion, a RM Bend Comprehensive Plan designation, and a Zone Change from MUA 10 to UA, that will ultimately accommodate the Concept Plan (Exhibit G). The City has found that the Concept Plan and forthcoming City of Bend review procedures will ensure compliance with Goal 5. The Hearings Officer finds the proposal is consistent with Goal 5.

## **Goal 6 – Air, Water, and Land Resource Quality**

**FINDING:** Pursuant to OAR 660-039-0030, which implements the HB 4079 – Affordable Housing Pilot Project, the proposal is exempt from Goal 6.

## **Goal 7 - Areas Subject to Natural Hazards**

**FINDING:** The City of Bend conducted an assessment of Goal 7 when selecting the property for the HB 4079 submittal. As established in City of Bend Resolution 3271:

*O. The Council continues to find that the proposal satisfies Goal 7 because the City has considered the risks of the natural hazard wildfire in the evaluation of the Bend Pilot Project Site. There are other natural hazards such as floods and landslides that are not addressed here because the Bend Pilot Project Site is not a location where such hazards might occur. The Bend Comprehensive Plan Policy 11-5 requires the City to adopt strategies to reduce wildfire hazard on lands inside the City and included in the Urban Growth Boundary. These strategies may include the application of the International Wildland-Urban Interface Code or equivalent with modifications to allow buffers of aggregated defensible space, or similar tools, as appropriate. Prior to approval of development on the Bend Pilot Project Site, the proposal must demonstrate compliance with Statewide Planning Goals including Goal 7, as designated by the Planning Director, under BDC 4.6.300.B.1 or 4.5.200.D.3.c.i. Based on the Concept Plan and the requirements in the Bend Development Code for compliance with the Statewide Planning Goals, the City finds that the Revised Concept Plan complies with Goal 7.*

The current proposal is for UGB Expansion, a RM Bend Comprehensive Plan designation, and a Zone Change from MUA 10 to UA, that will ultimately accommodate the Concept Plan (Exhibit G). The City has found that the Concept Plan and forthcoming City of Bend review procedures will ensure compliance with Goal 7. The Hearings Officer finds the proposal is consistent with Goal 7.

## **Goal 8 – Recreational Needs**

**FINDING:** Pursuant to OAR 660-039-0030, which implements the HB 4079 - Affordable Housing Pilot Project, the proposal is exempt from Goal 8.

## **Goal 9 - Economic Development**

**FINDING:** Pursuant to OAR 660-039-0030, which implements the HB 4079 - Affordable Housing Pilot Project, the proposal is exempt from Goal 9.

## **Goal 10 - Housing**

**FINDING:** Pursuant to OAR 660-039-0030, which implements the HB 4079 - Affordable Housing Pilot Project, the proposal is exempt from Goal 10.

## **Goal 11 - Public Facilities and Services**

**FINDING:** Pursuant to OAR 660-039-0030, which implements the Affordable Housing Pilot Project, the proposal is exempt from Goal 11, except that portion applicable to the impact of development of the pilot project site upon existing and planned public facilities within the qualifying city's urban growth boundary.

Goal 11 requires local governments to establish public facilities plans in order to provide for the "timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development." This Goal is primarily implemented by the City of Bend, which has adopted public facilities plans and standards.

As documented in the application submittal, the HB 4079 Application Submittal (Exhibit I), the Avion Water Company Will Serve Letter (Exhibit K), the City of Bend Sewer Analysis (Exhibit L), and the Traffic Study, prepared by Transight Consulting LLC (Exhibit M), the subject property is able to be served by public water, sanitary sewer, and transportation systems, and the Applicant is committed to making the extensions needed to provide/extend the noted facilities and services. Once the property brought into the UGB, the applicant will undertake all required steps to update the TSP, along with the necessary planning, designing and extending of services (as required through the Master Plan, Annexation, Land Division and Site Plan processes), to accommodate the Concept Plan and the ultimate development of the site. The proposal is consistent with the current public facilities master plans and it has been shown that the property can be provided public facilities and services, concurrent with development.

For the foregoing reasons, the Hearings Officer finds the proposal is consistent with Goal 11.

## **Goal 12 -Transportation**

**FINDING:** Pursuant to OAR 660-039-0030, which implements the HB 4079 - Affordable Housing Pilot Project, the proposal is exempt from Goal 12.

## **Goal 13 - Energy Conservation**

**FINDING:** Pursuant to OAR 660-039-0030, which implements the HB 4079 - Affordable Housing Pilot Project, the proposal is exempt from Goal 13.

## **Goal 14 - Urbanization**

**FINDING:** Goal 14 requires that all cities develop an urbanization framework as part of their comprehensive plan, appropriate implementing measures, and to periodically review the supply of land within the urban growth boundary. The current proposal is a unique project that will implement HB 4079 and provide affordable housing in Bend.

The project is intended to be a streamlined process, and given LCDC's approval of the City of Bend for the project (and the subject property in particular additional "Need" or "Boundary Location" assessment is not required. Therefore, the only applicable administrative rules that implement Goal 14 are those established in OAR 660-024 that are not related to need or location.

A complete review of the applicable section was addressed above and as noted therein, the proposal complies with the requirements. Furthermore, the proposal includes a Concept Plan that has been authorized by both the City and DLCD, urbanization policies have been adopted as part of Bend's acknowledged Comprehensive Plan and (as documented below), and the proposal is consistent with the Bend Comprehensive Plan.

For these reasons, the Hearings Officer finds the current proposal is consistent with Goal 14.

**CONCLUSION** - As detailed above, the Hearings Officer finds the proposal complies with the applicable Statewide Planning Goals.

#### ***D. OREGON TRANSPORTATION PLANNING RULE SECTION 660-012-0060 PLAN AND LAND USE REGULATION AMENDMENTS***

**FINDING:** Pursuant to OAR 660-039-0030, which implements the HB 4079 - Affordable Housing Pilot Project, the proposal is exempt from Goal 12 and the rules implementing it.

#### **CONFORMANCE WITH CITY OF BEND DEVELOPMENT CODE**

##### **Chapter 4.1, Land Use Review and Procedures**

##### **4.1.427 Site Specific Plan Amendments and Zone Changes.**

**Any change initiated by an individual that includes a plan amendment and zone change for specific real property may be accompanied by the appropriate applications for a specific development proposal. Approval of such a plan amendment and zone change accompanied by a specific development proposal may be conditioned upon initiation of the development proposal within a specified time period, at the discretion of the Hearings Body, to ensure no greater intensity of use than that contemplated in the proceeding. Approvals of site-specific plan amendments and zone changes that are not accompanied by applications for a specific development proposal shall be based on evaluation of the highest impact uses authorized in the proposed zone.**

**Because site-specific plan amendments require an alteration of the Bend Area General Plan by action of the City Council, they shall be processed through the Type III quasi-judicial proceeding where the initial Hearings Body makes a recommendation to the City Council for a final decision.**

**FINDING:** This application was submitted by the Hayden Homes for an amendment to the Bend Urban Growth Boundary (UGB) to add 39.55 acres of land into the UGB for subsequent development of a mixed-income residential development. The request is a site specific amendment that will be processed as a Type III quasi-judicial proceeding subject to a hearing before the Hearings Officer and final action by the City Council and Deschutes County Board of Commissioners. The Hearings Officer finds the proposal is reviewed in accordance with this provision.

## 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 applicant may be approved, approved with conditions, or denied.

**FINDING:** The proposal involves the expansion of the Bend UGB and a RM Bend Comprehensive Plan designation on the property, affecting only one property. The review involves the application of existing policy to a specific factual setting. Therefore, according to this section, the proposal is to be reviewed via the Type III Quasi-Judicial Review process. The Hearings Officer finds the proposal is reviewed in accordance with this provision.

**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:

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

**FINDING:** A comprehensive review of the Statewide Planning Goals was addressed above. The goals and findings detailed in that section are incorporated herein by reference. As the Hearings Officer found above, the proposal conforms to all applicable Statewide Planning goals and thus with this City of Bend approval criterion.

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

**FINDING:** The Comprehensive Plan establishes a set of policies at the end of each chapter. As detailed in the findings below, the Hearings Officer finds the proposed expansion of the Bend UGB and a RM Bend Comprehensive Plan designation on the property conforms to all relevant Comprehensive Plan policies.

#### ***Bend Comprehensive Plan***

#### ***Chapter 1: Plan Management and Citizen Involvement***

#### ***General Policy Guidance***



**1-1 The Goals stated within this Comprehensive Plan are intended to be guiding and aspirational; they are not regulatory policies. The Policies in the Comprehensive Plan are intended to provide standards for the City in adopting land use regulations, and compliance with the implementing regulations shall be deemed in compliance with the Comprehensive Plan.**

**FINDING:** This policy provides general direction regarding the Comprehensive Plan, Goals, Policies, and implementing regulations. As documented throughout this recommendation, the proposal conforms to all applicable implementing regulations. Therefore, the Hearings Officer finds the application is consistent with this policy.

### ***Urban Planning Coordination***

**1-3 Growth in the Bend Area shall be managed through the cooperative efforts of the City of Bend and Deschutes County.**

**FINDING:** The current proposal is intended to accommodate growth in the Bend Area. As detailed throughout this recommendation, the proposal requires submittal to and review by both the City of Bend and Deschutes County. The Hearings Officer finds the application is consistent with this policy.

### ***Development within the Urban Growth Boundary***

**1-6 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.**

**FINDING:** While the current application does not include any "development", future applications, including Master Plan, Annexation, Land Division, and Site Plan, will include development. As documented on the Concept Plan, the applicant plans to extend sewer, water, and transportation facilities to and through the property.

The application is supported by a Will Serve letter from Avion Water Company (Exhibit K), a Sewer Analysis from the City of Bend (Exhibit L) and a Traffic Report from Transight Consulting LLC (Exhibit M). Collectively, these documents show that there is (or will be, with the planned improvements) adequate capacity, that the property can be served by facilities with development, and that the applicant will extend said facilities to and through the property, consistent with this policy. Implementation of the Concept Plan (Exhibit G) will be further review and analyzed through the subsequent Master Planning, Annexation and Land Division processes. The Hearings Officer finds that the current submittal packet, along with the subsequent City review processes will ensure consistency with this policy.

### ***Citizen Involvement***

**1-16 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.***

**FINDING:** Prior to this submittal, informational meetings were held before the City Council and the abutting neighborhood associations. Furthermore, the applicant held the Public Meeting required under BDC 4.1.215 prior to submittal (Exhibit F), and this review process will involve a public hearing before a Hearings Officer and the City Council (along with the Deschutes County Board of County Commissioners). The Hearings Officer finds that the established review procedures ensure consistency with this policy.

## ***Chapter 2: Natural Features and Open Space***

### ***2-1 The city will inventory and maintain a list of natural features and open space lands that are important to the community.***

**FINDING:** As noted in the City of Bend Resolution 3721, the subject property contains two water storage ponds that may be resources and/or wetlands.

*N. The Council continues to find the Bend Pilot Project Site satisfies Statewide Land Use Planning Goal 5. The Bend Pilot Project Site contains two ponds identified on the National Wetlands Inventory, which is the inventory of wetland habitat for Deschutes County, pursuant to Deschutes County Ordinance 92-045 and Deschutes County Development Code 23.112.040.3. When the Bend Pilot Project Site containing the ponds is annexed into the City, and before development is approved, the Developer must engage in the required analysis to determine whether the ponds are considered significant under Goal 5. BDC 4.6.300.B.1 or 4.5.200.D.3.c.i. The Central Oregon Irrigation District has turned off the water supply to the ponds and it may be unlikely that there are jurisdictional wetlands on the site, but that remains to be finally determined. If found to be a significant Goal 5 resource, they must be preserved.*

*The Revised Concept Plan proposes 4 acres of Park space to be dedicated to the Bend Park and Recreation District. Based on the provision of open space and parks, and trail connections, and the requirement that further analysis be done to determine whether the ponds are a significant resource, the City finds that the Revised Concept Plan complies with Goal 5.*

The current submittal is for UGB Expansion and a RM Bend Comprehensive Plan designation, that will ultimately accommodate the Concept Plan (Exhibit G). The City has found that the Concept Plan and forthcoming City of Bend review procedures will ensure compliance with Goal 5, thus the proposal is also consistent with intent of this policy. The forthcoming process will require the applicant to determine whether these water storage ponds are significant resources through a jurisdictional determination by the Oregon Department of State Lands prior to annexation. If the water storage ponds turn out to be jurisdictional, a wetland determination would be needed prior to subdivision/Site Plan Review. The Hearings Officer finds that conformance with this policy will occur with the forthcoming Master Planning effort and Annexation.

**2-2 The City and Bend Park and Recreation District shall share the responsibility to inventory, purchase, and manage public open space, and shall be supported in its efforts by the city and county. The City recognizes the Park and Recreation District as the urban service provider of parks within the UGB.**

**FINDING:** As documented on the submitted Concept Plan (Exhibit G), the proposal includes a park, whereupon the storage ponds are located. In the event that the storage ponds are determined to be important to the community (through the Master Plan and Annexation processes), they could be preserved, as the area of the ponds will ultimately become a park, that will be owned and maintained by the Park District. The Hearings Officer finds the proposal will be consistent with this policy.

**2-6 Major rock outcrops, stands of trees, or other prominent natural features identified in the Comprehensive Plan shall be preserved as a means of retaining the visual character and quality of the community.**

**FINDING:** Through the Master Plan and Annexation process, in the event that the storage ponds are determined to be important to the community, they will be listed as Wetlands and Riparian Areas and preserved consistent with this policy.

**2-25 Wetland areas that are significant Goal 5 resources to be protected through the city's riparian corridor standards are those areas listed and mapped in the Comprehensive Plan.**

**FINDING:** As noted in the City of Bend Resolution 3271, the subject property contains two water storage ponds that may be resources and/or wetlands.

*N. The Council continues to find the Bend Pilot Project Site satisfies Statewide Land Use Planning Goal 5. The Bend Pilot Project Site contains two ponds identified on the National Wetlands Inventory, which is the inventory of wetland habitat for Deschutes County, pursuant to Deschutes County Ordinance 92-045 and Deschutes County Development Code 23.112.040.3. When the Bend Pilot Project Site containing the ponds is annexed into the City, and before development is approved, the Developer must engage in the required analysis to determine whether the ponds are considered significant under Goal 5. BDC 4.6.300.B.1 or 4.5.200.D.3.c.i. The Central Oregon Irrigation District has turned off the water supply to the ponds and it may be unlikely that there are jurisdictional wetlands on the site, but that remains to be finally determined. If found to be a significant Goal 5 resource, they must be preserved.*

*The Revised Concept Plan proposes 4 acres of Park space to be dedicated to the Bend Park and Recreation District. Based on the provision of open space and parks, and trail connections, and the requirement that further analysis be done to determine whether the ponds are a significant resource, the City finds that the Revised Concept Plan complies with Goal 5.*

The current submittal is for UGB Expansion and a RM Bend Comprehensive Plan designation, that will ultimately accommodate the Concept Plan (Exhibit G). The City has found that the

Concept Plan and forthcoming City of Bend review procedures will ensure compliance with Goal 5, thus the proposal is also consistent with intent of this policy. The forthcoming process will require the applicant to determine whether these water storage ponds are significant resources under Goal 5 through a jurisdictional determination by the Oregon Department of State Lands prior to annexation. If the water storage ponds turn out to be jurisdictional, a wetland determination would be needed prior to subdivision/Site Plan Review. The Hearings Officer finds that conformance with this policy will occur with the forthcoming Master Planning effort and Annexation.

### ***Chapter 3: Community Connections***

#### ***Parks and Recreation Facilities***

**3-7 Sites for small neighborhood parks are not shown on the Land Use Plan Map, but the city shall encourage private or public parties to develop small neighborhood parks.**

**FINDING:** The property does not contain any City recognized historic sites, mapped parks, or school district sites. Therefore, the Hearings Officer finds that the policies of this chapter are generally not relevant to the current application. However, the property does include a planned extension of the Big Sky Park Trail, as noted in the Bend Parks and Recreation District's Comprehensive Plan, along the property's western boundary. The Concept Plan design accommodates this trail extension and includes a substantial park, which is encouraged by this policy.

### **Chapter 4 - Population and Demographics**

**FINDING:** This chapter addresses City requirements for the City when calculating population and demographic data. The Hearings Officer finds that the policies of this chapter are not relevant to the current application.

### **Chapter 5 – Housing**

**5-9 The City and County will support public and private non-profit and for-profit entities that provide affordable housing in Central Oregon.**

**FINDING:** The proposal is the initial planning step to develop an affordable housing development in Central Oregon. According to this policy, the proposal should be supported.

**5-12 To promote complete neighborhoods and the integration of other supporting uses, the City will employ a master planning process for large development sites which are 20 acres or greater. The master plan process will offer two options for approval: 1) applying clear and objective standards or 2) applying discretionary standards for more flexibility.**

**FINDING:** Subsequent to the UGB Expansion, the applicant will proceed through the required Master Planning process for the subject property, consistent with this policy.

**5-20** When affordable housing development is required by City policy or code or to meet eligibility criteria for a City incentive program or a policy requirement, affordable housing means housing with a sales price or rental amount that is within the means of a household that may occupy moderate- and low-income housing. Unless otherwise specified, affordable housing must meet one of the thresholds defined below. Nothing in this policy prevents the city from providing support for housing at other levels of affordability.

- In the case of dwelling units for sale, affordable means housing in which the mortgage, amortized interest, taxes, insurance, and condominium or association fees, if any, constitute no more than 30 percent of such gross annual household income for a family at 80% of the area median income, based upon most recent HUD Income Limits for the Bend Metropolitan Statistical Area (Bend MSA).
- In the case of dwelling units for rent, affordable means housing for which the rent and utilities constitute no more than 30 percent of such gross annual household income for a family at 60% of the area median income, based upon most recent HUD Income Limits for the Bend MSA.

**FINDING:** The proposal is a required step for the development of the HB 4079 Affordable Housing Pilot Project. City of Bend Resolution 3271 establishes the following related to affordability:

*The City has adopted applicable Comprehensive Plan policies (Policies 5-20 and 5-21) that require that guarantees be in place to ensure affordable housing units will meet affordability requirements for not less than 50 years, phasing requirements for affordable housing units and specified threshold definitions for affordable housing units at 80% of AMI (for dwelling units for sale) and 60% of AMI (dwelling units for rent), unless the city provides support for housing at other levels of affordability. Because the state pilot project rules require affordability at 80% AMI for dwellings for sale of rent and the project as proposed by this developer meets that state criteria and proposes a new model of developer-financed needed housing, the City is supportive of dwelling units for rent at 80% AMI.*

The submitted Concept Plan (Exhibit G) will provide affordable housing in accordance with the HB 4079 requirements and City of Bend Resolution 3271, consistent with this policy.

- 5-21** In order to ensure the continued affordability of affordable housing that has been committed by a property owner or required by the City, the City may:
- Specify a minimum number of years that affordability must be maintained;
  - Require an applicant to demonstrate how affordability will be ensured throughout the specified period, including addressing how units will be made available to households meeting the targeted income level, resale/recapture for ownership units, and/or rent increases for rental units, as applicable;
  - Establish phasing requirements for construction of affordable housing units;
  - Condition land use approvals to implement affordable housing requirements;

- **Require restrictive covenants, deed restrictions, and/or related instruments as deemed necessary by the City; and/or**
- **Require other measures deemed necessary by the City.**

**FINDING:** Consistent with the HB 4079 requirements, the applicant plans to maintain affordability for at least 50 years through deed restrictions. Furthermore, as detailed on the submitted Concept Plan (Exhibit G), the applicant plans to construct affordable housing units in early phases and consistently throughout the development so that the minimum 30% ratio required by HB 4079 is always exceeded. As previously noted, measures will be implemented to ensure affordability of these units through the Master Plan, Annexation, and/or Land Division processes, consistent with this policy.

### **Residential Compatibility**

**5-27 Private covenants and deed restrictions recorded hereafter that support compact urban form, higher densities and better access to affordable housing are encouraged as supportive of City policy.**

**FINDING:** The proposal will ultimately result in a covenant or restriction that will support affordable housing; therefore the proposal is encouraged.

**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:** As detailed on the submitted Concept Plan (Exhibit G), the design includes a variety of housing types, including multi-unit, detached single-family homes, and townhouses, consistent with this policy.

### **Transportation connectivity**

**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 proposal includes placing a RM Comprehensive Plan designation on the property. As detailed in the Concept Plan (Exhibit G), City of Bend Resolution 3271 (Exhibit H), and as a requirement of the HB 4079 project, the site can and will be made accessible to a transit stop served by a fixed transit corridor with at least 8 weekday trips in each direction, within ¼ mile distance via a sidewalk or pedestrian walkway. Furthermore, the design includes a 4 acre park and a multi-use trail along the western property line. The property is also within 0.4 miles of Commercial and Mixed-Use zones that are developed with commercial services and employment opportunities. Regarding schools, the site is within 1.5 miles of Bear Creek Elementary and Pilot Butte Middle School, and within 2 miles of Bend High School and the application is support by a letter from the Bend La Pine School District (Exhibit N), indicating their ability and willingness to serve the subject property.

For the aforementioned reasons, the Hearings Officer finds the site is suited for the RM Comprehensive Plan designation and the proposal is consistent with this policy.

### **Public utilities and services**

**5-48 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.**

**5-49 Residential development shall be coordinated with other land use elements and community facilities which are consistent with projected housing densities.**

**5-50 Electric power, telephone, and cable TV distribution and service lines shall be located underground in new developments.**

**5-51 New street names shall be unique within the County.**

**FINDING:** As detailed on the Concept Plan (Exhibit G), the Avion Water Will Service Letter (Exhibit K), the City of Bend Sewer Analysis (Exhibit L), and the Traffic Report (Exhibit M), the site can be provided with water, sewer and other services and facilities. While not applicable to the current UGB Expansion and RM Comprehensive Plan designation, these policies will be implemented through the subsequent Master Plan, Annexation, and Land Division processes. The Hearings Officer finds that the City procedures to implement the Concept Plan will ensure consistency with these policies.

### **Chapter 6 - Economy**

**FINDING:** The proposal does not impact any economic lands. Therefore, the Hearings Officer finds the policies of this section are not relevant.

### **Chapter 7 – Transportation Systems**

#### **Equity**

**The City of Bend believes that we thrive when all individuals, from all parts of our City, have affordable and equitable access to a full range of transportation choices to meet their daily needs, including, but not limited to, employment, housing, healthcare, education, recreation, and shopping. The City recognizes that the transportation system has historically underserved some community members, and that their needs require particular attention as transportation investments, programs, and services are prioritized and funded. Those populations historically underserved by the transportation system include but are not limited to: people who cannot or choose not to drive (including children); persons with disabilities; people who cannot afford a motor vehicle; people living in areas where there are concentrations of impoverished and/or minority populations; and groups that have been subjected to racism and/or discrimination.**

**The City defines transportation equity as being achieved when all community members, with respect to age, race, disability, gender, income and location in the City have access to safe, comfortable, affordable, and reliable transportation choices to meet their daily transportation needs. Transportation equity helps ensure that disparities are reduced and access to daily needs and key destinations are fairly provided.**

**FINDING:** While not directly applicable to the current proposal, the property will have access to Highway 20, to Bear Creek Road, and to Livingston Drive. As depicted on the Concept Plan (Exhibit G) and as required by HB 4079, the site will provide for and/or be in close proximity to a transit stop with at least 8 weekday trips, a park will be provided, and the area is in close proximity to commercial amenities to the west. Furthermore, the area is and will continued to be served by the Bend La Pine School District, who have provided documentation of the ability and willingness to serve the area (Exhibit N).

The Hearings Officer finds that, while the policies of this section are not applicable, the fact that the project will provide affordable housing, the location of the UGB Expansion and planned amenities will contribute to an equitable transportation system, consistent with the intent of this section.

## **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:** While not directly applicable to the current proposal, it is noted that HB 4079 requires that the development provide for a transit stop with at least 8 weekday trips; through the overall development project, the applicant will ensure that such requirements are met. The Hearings Officer finds that, while the policies of this section are not applicable to the current application, the fact that the project will provide Affordable Housing and will contribute to transit system, the project is consistent with the intent of this section and the above noted policies.



## **Funding**

The City's Transportation Plan defines capital projects and programs that meet ongoing operation and maintenance needs, add system capacity; improve safety; increase transit, pedestrian and bicycle mobility; support new growth; and meet ongoing operating and maintenance needs.

**7-60** Funding for transportation infrastructure in expansion areas, as identified in the 2016 urban growth boundary (UGB) expansion, will be determined either before or upon area plan and/or master plan approval (unless exempted). Funding must be established prior to, or concurrently with, annexation. Transportation and infrastructure funding agreements will be memorialized for each expansion area property or properties in a development agreement as part of master plan or area plan approval and/or annexation. City/private developer cost sharing may be based on the following:

- Adequate resources are provided for ongoing maintenance, operation, and preservation of new infrastructure, including technology;
- Construction and modernization of existing infrastructure is to City standards and specifications;
- The investment in transportation infrastructure helps solve existing transportation safety, capacity, and/or other apparent functional issue within the existing City limits;
- There is an opportunity for local, state and/or federal grants to leverage the private investments and provide partnerships;
- Other factors as determined by the City Manager.

**FINDING:** Subsequent to bringing the property into the Bend UGB, the applicant will proceed to the Master Plan and Annexation Application processes. Through those processes and consistent with the policies of this section, the applicant will finalize and memorialize the financing plan for the project. The Hearings Officer finds that the current proposal, along with the City required Master Plan and Annexation procedures will ensure consistency with these policies.

## **Chapter 8: Public Facilities and Services**

### **Sewer Collection Facilities**

**8-1** All new development within the City Limits should be connected to City sewer.

**8-8** The preference of the City is to serve development through gravity conveyance and use of the Water Reclamation Facility.

**8-9** If lift stations are required to serve new development, regional pump stations shall be relied upon to the extent practicable versus individual or smaller lift stations.

**FINDING:** These policies are implemented via the approval criteria of BDC Chapters 4.9 Annexations, 4.5 Master Planning and Development Alternatives, 4.2 for Site Plan Review and 4.3 for Land Divisions. The applicant has prepared a Concept Plan (Exhibit G) and provided a Sewer Analysis from the City of Bend (Exhibit L). The Concept Plan and the Sewer Analysis document that sewer can be extended to the development site consistent with these policies. With the subsequent applications, the applicant will extend sewer mains and laterals, in accordance with City Standards. The Hearings Officer finds that the Concept Plan in addition to the adopted Development Code requirements which implement these policies, will ensure that overall project is consistent with these policies.

### **Water Facilities and Systems**

**8-15 The City of Bend is the provider of water service for the City's service area under Statewide Planning Goal 11.**

**8-16 Avion Water Company is the provider of water service for its franchise area under Statewide Planning Goal 11 and pursuant to the franchise agreement between the City and Avion adopted under Ordinance NS 1514, as amended.**

**8-18 Within the urban planning area, public and private water systems shall be consistent with City Standards and Specifications for construction and service capabilities.**

**FINDING:** The subject property is within the Avion Water Company service area and these policies are implemented via the approval criteria of BDC Chapters 4.9 Annexations, 4.5 Master Planning and Development Alternatives, 4.2 for Site Plan Review and 4.3 for Land Divisions. The applicant has prepared a Concept Plan (Exhibit G) and provided a Will Serve Letter from Avion Water Company (Exhibit K). The Concept Plan and the will serve letter document that water can be extended to the development consistent with these policies. With the subsequent applications, the applicant will extend water mains and laterals in accordance with City Standards, consistent with these policies.

The Hearings Officer finds that the Concept Plan, in addition to the adopted Development Code requirements which implement these policies will ensure that overall project is consistent with these policies.

### **Storm Drainage Facilities and Systems**

**8-29 The City shall reduce the quantity of runoff and discharge of pollutants to the maximum extent practicable by integrating stormwater runoff controls into new development and redevelopment land use decisions. Controls may be required to minimize illicit discharges or pollutants of concern.**

**8-30 The City shall implement and enforce requirements for an erosion and sediment control program for public and private construction and post-construction activities.**

**8-37** As part of site approval, or as a condition on tentative maps, as necessary, the City shall require permanent stormwater pollution control site design or treatment measures or systems and an ongoing method of maintenance over the life of the project.

**8-38** The City shall minimize particulate matter pollution through controls over new and redevelopment (including erosion and sediment controls on grading, quarrying, vegetation removal, construction, and demolition), industrial processes, parking lots and other activities that pose a threat to water quality.

**8-39** The City shall require the following stormwater protection measures for all new development and redevelopment proposals during the planning, project review, and permitting processes:

**FINDING:** These policies are implemented via the approval criteria of BDC Chapters 4.9 Annexations, 4.5 Master Planning and Development Alternatives, 4.2 for Site Plan Review and 4.3 for Land Divisions.

The adopted Development Code requirements implement these policies and the associated development application (for the subject property). Therefore, the Hearings Officer finds the overall proposal is consistent with these policies.

### **Chapter 9: Community Appearance**

**FINDING:** The policies of this section are implemented through the design and development standards of the Development Code. The Hearings Officer finds that all design requirements will be reviewed with the subsequent Master Plan, Land Division and Site Plan applications, which will ensure consistency with the policies of this chapter.

### **Chapter 10: Natural Forces**

**FINDING:** The proposal does not impact air quality, noise, energy conservation, natural hazards, steep slopes, or wildfire risks. Therefore, the Hearings Officer finds the policies of this chapter are not relevant to this review.

### **Chapter 11 – Growth Management**

#### **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 proposal includes placing a RM Comprehensive Plan designation on the subject property. As detailed in the submitted Concept Plan (Exhibit G), City of Bend Resolution 3271 (Exhibit H), and as a requirement of the HB 4079 project, the site can and will be made accessible to a transit stop served by a fixed transit corridor with at least 8 weekday

trips in each direction, within ¾ mile distance via a sidewalk or pedestrian walkway. Furthermore, the design includes a 4 acre park and a multi-use trail along the western property line. The property is also within 0.4 miles of Commercial and Mixed-Use zones to the west that are developed with commercial services and employment opportunities. Regarding schools, the site is within 1.5 miles of Bear Creek Elementary and Pilot Butte Middle School, and within 2 miles of Bend High School. Furthermore, the application is supported by a letter from the Bend La Pine School District (Exhibit N), indicating their ability and willingness to serve the subject property.

For the foregoing reasons, the Hearings Officer finds the site is suited for the RM Comprehensive Plan designation and the proposal is consistent with this policy.

**11-9 Developments at the edge of the urban area shall be designed to provide connectivity to existing and future development adjacent to the urban area.**

**FINDING:** The subject property is at the eastern edge of the Bend Urban Area. As shown on the Concept Plan (Exhibit G), the design includes connectivity along Hwy 20, Livingston Drive, and Bear Creek Road. Subsequent to the UGB Expansion and RM designation, the Concept Plan will be implemented through the Master Planning Process, Annexation, Land Division and Site Plan review procedures. The Hearings Officer finds that the purpose of HB 4079, the Concept Plan and the City of Bend Review requirements will ensure consistency with this policy.

**11-13 As areas that are currently beyond Bend's existing Urban Growth Boundary (UGB) are urbanized, the city, property owners, developers and all applicable service districts shall work cooperatively to develop appropriate plans for extensions and connections of the transportation system, including but not limited to: roads, sidewalks, trails and/or public transportation. The objective of this planning effort will be to ensure that the new areas promote and facilitate the development of urban land use densities and systems that will fulfill the goals and objectives of the Transportation System Plan.**

**FINDING:** As detailed on the Concept Plan (Exhibit G), along with the Avion Water Company Will Serve Letter (Exhibit K), the City of Bend Sewer Analysis (Exhibit L), the Transight Consulting Traffic Report (Exhibit M), along with comments from COID, ODOT, BPRD and COIC, the Concept Plan includes connections and extensions of public facilities, utilities and services to and through the subject property. Subsequent to the UGB Expansion and RM designation, the Concept Plan will be implemented through the Master Planning Process, Annexation, Land Division and Site Plan review procedures. The Hearings Officer finds the purpose of HB 4079, the Concept Plan and the City of Bend Review requirements will ensure consistency with this policy.

**11-19 The City of Bend shall work with Deschutes County and the Bend Parks and Recreation District (where applicable) to acquire, develop and maintain those sections of trails that are located outside of the Bend UGB, but are inside a URA, and are part of a trail plan or map that has been adopted by the city of Bend.**

**FINDING:** Throughout the HB 4079 Application process and to date, the Applicant has worked in cooperation with the City of Bend, Deschutes County and BPRD to identify a park, along with a trail system throughout the site. Subsequent to approval, the applicant plans to finalize the plan of reservation / preservation of the park / open space, which will occur through the Master Plan and Annexation processes, along with the Land Division process. The Hearings Officer finds the Concept Plan and the City of Bend Review requirements will ensure consistency with this policy.

**11-21 Transportation facilities currently located on rural lands shall not be constructed to an urban standard until the area is brought into the UGB.**

**FINDING:** Transportation Facility improvements are noted on the Concept Plan (Exhibit G), however the applicant does not plan to make improvements or construct any facilities until the property is brought into the UGB, Master Planned, Annexed and received approval of a Land Division. The Hearings Officer finds the proposal and subsequent development review procedures will ensure consistency with this policy.

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

**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 proposal includes placing a RM Comprehensive Plan designation on the subject property. As detailed in the Concept Plan (Exhibit G), City of Bend Resolution 3271 (Exhibit H), and as a requirement of the HB 4079 project, the site can and will be made accessible to a transit stop served by a fixed transit corridor with at least 8 weekday trips in each direction, within  $\frac{3}{4}$  mile distance via a sidewalk or pedestrian walkway. Furthermore, the design includes a 4 acre park and a multi-use trail along the western property line. The property is also within 0.4 miles of Commercial and Mixed-Use zones to the west that are developed with commercial services and employment opportunities. Regarding schools, the site is within 1.5 miles of Bear Creek Elementary and Pilot Butte Middle School, and within 2 miles of Bend High School. Furthermore, the application is support by a letter from the Bend La Pine School District (Exhibit N), indicting there ability and willingness to serve the subject property.

For the foregoing reasons, the Hearings Officer finds the site is suited for the RM Comprehensive Plan designation and the proposal is consistent with this policy.

**General UGB Expansion Policies**

**The following policies are intended as local policy guidance to evaluating alternative future UGB expansions in the context of meeting state laws and administrative rules and balancing the factors established in state regulations. The emphasis on “guidance” above recognizes that the City will define goals and evaluation criteria to be applied for each unique UGB expansion process.**

**11-69** The City will consider the value of balancing and distributing UGB expansions geographically around the city consistent with State of Oregon laws and rules to distribute the benefits (and impacts) of growth and to provide more options for new neighborhoods.

**11-70** The City will utilize new growth in expansion areas as a strategy to help make existing neighborhoods, centers, corridors, and employment districts inside the boundary more “complete” by: diversifying the housing mix; providing local commercial services and jobs; increasing transportation connectivity; and providing needed public facilities such as parks and schools.

**11-71** The City will take into consideration the context of land beyond a single UGB expansion to inform the type and intensity of uses that are appropriate in each potential expansion area.

**11-73** The City will consider the relative ability of proposed expansion areas to address the city’s affordable housing needs in balancing the social and economic consequences of bringing alternative expansion areas into its urban growth boundary.

**FINDING:** These policies are intended to address boundary location analyses of UGB Expansions. The HB 4079 Affordable Housing Pilot Program is specifically exempt from the need and boundary location provisions of state rules (OAR 660-039-0030). It therefore follows, and the Hearings Officer finds, that the guidance of these policies is not relevant to the current proposal. Furthermore, in the City’s selection of the subject property for the HB 4079 Affordable Housing Pilot Project, the City has determined that the site conforms to the policies of this section, to the extent applicable.

#### **Specific Expansion Area Policies**

**FINDING:** These policies apply to lands already in the UGB. Therefore, the Hearings Officer finds these policies are not applicable to the proposed UGB Expansion.

**CONCLUSION:** As detailed above, the Hearings Officer finds the proposal complies with the applicable Comprehensive Plan policies.

#### **BDC 4.6.300 Quasi-Judicial Amendments. (Continued)**

**Criterion 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

**FINDING:** The current UGB Expansion proposal and RM Comprehensive Plan designation will not result in any new development, thus will not create any impacts. Nonetheless, the proposal will allow for the development process to begin, it will provide a path for Master Planning, Annexation and ultimately for development. Through the overall development process, public

facilities plans need to provide for the “timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.” This requirement is primarily implemented by the City of Bend Master Plan and Land Division Requirements, along with the adopted public facilities plans and standards.

As set forth above in this recommendation, the HB 4079 Application Submittal (Exhibit I), the Avion Water Company Will Serve Letter (Exhibit K), the City of Bend Sewer Analysis (Exhibit L) and the Transportation Report, prepared by Transight Consulting (Exhibit M), the subject property is able to be served by public water, sanitary sewer, and transportation systems. Furthermore, the applicant will provide/extend the noted facilities and services as required. Once the property brought into the UGB, the applicant will undertake all required steps to update the TSP, along with the necessary planning, designing and extending of services (as required through the Master Plan, Annexation, Land Division and Site Plan processes), to accommodate the Concept Plan (Exhibit G) and the ultimate development of the site.

The Hearings Officer finds the proposal conforms to the current public facilities master plans and it has been shown that the property can be provided public facilities and services, concurrent with development. The proposal is therefore consistent with this approval criterion.

Regarding services (schools, parks, fire and police), upon development the property will be within the incorporated area of the City of Bend, the Bend La Pine School District boundary, and the Bend Park and Recreation District boundary.

Schools: The Bend-La Pine School District regularly completes Facilities Plans that ensure capacity is provided throughout the District service area. The District has provided a letter indicating the ability and willingness to serve the property (Exhibit N), and upon establishment of the RM designation, all future Site and Facilities planning efforts will accurately account for the needs of the site.

Parks: The subject property is located within the BPRD's boundaries. The Park District has a Comprehensive Plan to ensure park capacity is provided throughout the District service area. As documented on the Concept Plan (Exhibit G), the proposal adds a substantial park to the area and the Park District has indicated their support of the project (attachment to the HB 4079 Application – Exhibit I).

Fire and Police Protection: Subsequent to Annexation and when the site is developed, it will be located within the City of Bend, which is served by City Police and Fire Departments. Development will result in an increased property tax base, which will be directed to the City's General Fund and allocated to provide police and fire services throughout the City.

The Hearings Officer finds that the combination of the built facilities, public facilities plans, and the Development Code requirements for development ensure that adequate public facilities are currently provided or will be provided concurrent with development, in conformance with this approval criterion.

**Criterion 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:** Throughout the adoption and roll-out of the HB 4079 project, the state documented that a high number of Oregonians, particularly low income Oregonians, were paying more than 30% of their income on housing. Amongst this housing environment, Oregon State Legislators passed 4 housing bills in 2016:

- HB 4079 Affordable Housing Pilot Project
- HB 4143 Tenant protections
- SB 1533 Inclusionary zoning and construction excise tax
- SB 1573 Limit voter approval of city annexations

The premise of the Affordable Housing Pilot Project is to understand potential changes if UGB rules are relaxed to bring in land that would not otherwise be urbanized, and if the lower cost of such land will allow a set-aside for affordable housing to become feasible.

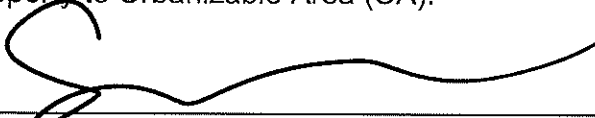
The Hearings Officer finds that the passing of HB 4079, the adoption of the implementing rules in OAR 660-039, and the selection of the City of Bend (and the subject property) all constitute changes that have occurred since the property was last zoned, which justify the UGB Expansion and the RM Bend Comprehensive Plan designation.

**Criterion 5: Approval of the request is consistent with the provisions of Section 4.6.600; Transportation Planning Rule Compliance.**

**FINDING:** Pursuant to OAR 660-039-0030, which implements the Affordable Housing Pilot Project, the proposal is exempt from Goal 12 and the rules implementing it.

**CONCLUSION:** Based on the findings set forth above, the Hearings Officer determines that the State of Oregon approval criteria governing the proposed HB 4079 Affordable Housing Pilot Project UGB Expansion and the criteria of BDC 4.6.300.B for quasi-judicial map amendments are met for the Urban Growth Boundary expansion and Comprehensive Plan Map amendment as proposed.

**RECOMMENDATION:** As set forth in the above Findings, Conclusions and Recommendation, the Hearings Officer recommends that the City Council adopt the findings and conclusions in this Recommendation and 1) expand the Urban Growth Boundary by 39.55 acres, including the subject site and the abutting rights-of-way, 2) amend the Comprehensive Plan Map to designate the subject property Medium Density Residential (RM), and 3) rezone the subject property to Urbanizable Area (UA).



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Stephanie Marshall, City of Bend Hearings Officer