

RESOLUTION NO. 3350

A RESOLUTION APPROVING A MULTIPLE-UNIT PROPERTY TAX EXEMPTION FOR PROPERTY LOCATED AT OR NEAR 105 NE FRANKLIN AVENUE

Findings:

- A. The Bend City Council adopted 12.35.010 to 12.35.050 of the Bend Municipal Code (BMC), implementing the Multiple-Unit Property Tax Exemption (MUPTE) program as allowed under ORS 307.600 to 307.637.
- B. MUPTE enables the City Council to grant up to a 10-year property tax exemptions to qualified multi-unit housing projects to encourage higher density housing and redevelopment in the City's core and transit-oriented areas as defined in BMC 12.35.015.
- C. Pursuant to ORS 307.606(1) and BMC 12.35.030.F., if the combined rates of taxation of the City and of all taxing districts whose governing boards agree to the tax exemption policy for the project equal 51 percent or more of the total combined rate of taxation on the property granted the exemption, the exemption is for the property taxes of all taxing districts.
- D. To qualify for MUPTE, a project must include three or more dwelling units, provide public benefits as provided in BMC 12.35.030, be at least two stories in height (or if on a lot larger than 10,000 square feet, be at least three stories in height), be located in an eligible area, and provide at least three public benefits, as provided in BMC 12.35.025. Public benefits must include at least one of: 10% of the units provided as affordable housing units, at least 30% of the units provided as middle-income units, childcare facilities, and open space or publicly accessible park or plaza. Other public benefits may include constructing to a high standard of energy efficiency, providing transit-supportive or mobility-supportive amenities, ground floor commercial, heightened stormwater
- E. The tax exemption under MUPTE applies to residential improvements only, however, the exemption may also apply to parking constructed as part of the multiple-unit housing project, and commercial improvements required as part of the design or public benefits of a project.
- F. In June 2023, the City received an application for MUPTE for a project on a portion of taxlots generally located at 105 NE Franklin Avenue in Bend, Oregon, owned by New Zone Business, LLC, proposing two new 5-story buildings with residential housing units and surface parking, approved under City of Bend Site Plan number PLSPR20230059 (the "Project"). The Project is located in the Core Area Tax Increment Finance District, which is an area eligible for MUPTE, and proposes approximately 199 new dwelling units, though this number may change through further project development. The Project will provide the following public benefits for the MUPTE: a high standard of energy efficiency by installing green building features and achieving Earth Advantage Platinum Certification, enhanced landscaping through the use of native and pollinator friendly plants, and 50% of the parking spaces will have EV charging infrastructure.
- G. The Project includes a north building that fronts NE Franklin Avenue. Because NE

Franklin is a main street, commercial-ready space is required by the Bend Development Code on the first floor of the north building. Therefore, the commercial-ready space in the north building is also eligible for the tax exemption.

- H. The City retained an independent professional consultant to review the Project's financial pro-forma. This consultant determined that the Project would not be feasible but for the tax exemption.
- I. As provided in the Staff Report and Recommendation, attached as Exhibit A to this Resolution, Staff found that the applicant submitted all required materials, and the applicant complies with the program requirements. Staff therefore recommend the application be approved and the exemption granted.
- J. On November 14, 2023, the Bend-La Pine School District (Administrative School District No. 1) adopted Resolution No. 1957, agreeing to the policy of the multiple-unit property tax exemption for the Project.
- K. The Bend La-Pine School District represents 41.3 percent of the 2023 combined tax levy and the City of Bend represents 22 percent of the 2023 combined tax levy. Approval of the multiple-unit property tax exemption from both the Bend La-Pine School District and City of Bend exceeds 51 percent of total combined rate of taxation for the property located at 105 NE Franklin Ave.
- L. Therefore, the MUPTTE Program criteria defined in BMC 12.35.0010 to 12.35.050 and accompanying City policies have been met, subject to the conditions in this Resolution.

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

Section 1. The application for the multiple-unit property tax exemption for a development on tax lots 171232DA08400, 171232DD09201, 171232DD09700, 171232DD09800, as they may be consolidated or adjusted, is approved for the ad valorem taxes for all taxing districts for residential improvements, required commercial-ready space and parking constructed under City of Bend Site Plan approval number PLSPR20230059, subject to the following conditions:

- a) Applicant must provide proof of a deed restriction that prohibits the use of hotels, motels, and short-term vacation rentals on the site for the period of the exemption.
- b) Applicant must demonstrate Earth Advantage Platinum Certification for both residential buildings subject to this exemption before City staff will certify the exemption to the County assessor.
- c) Applicant must submit a water budget to City staff for approval prior to exemption certification. The City will monitor water use throughout the 10-year exemption period. The site can't exceed 20% above the water budget approved before City staff certifies the exemption to the County assessor for the site during the exemption period.
- d) Applicant must demonstrate that 50% of parking spaces on the subject taxlots have EV charging infrastructure prior to Certificate of Occupancy.
- e) The Project must continue to comply with all requirements of the

MUPTE program at Certificate of Occupancy and throughout the exemption period.

Section 2. The tax exemption granted by this Resolution begins July 1 of the year following issuance of a Certificate of Occupancy for the Project, unless the exemption is earlier terminated in accordance with the provisions of BMC 12.35.035. The exemption approved by this Resolution is for the residential buildings and any parking and required commercial-ready space on the same taxlots.

Section 3. City staff are directed to file with the county assessor and send to the applicant at the applicant's last known address a copy of the resolution approving the application on or before April 1, 2024, and to certify the Project as exempt to the County assessor following issuance of Certificate of Occupancy and verification of compliance with all requirements of this Resolution and the BMC Chapter 12.35.

Section 4. If construction of the Project has not been completed and the residential buildings that are subject to this exemption have not received a Certificate of Occupancy on or before January 1, 2031, this approval shall be void unless extended by Resolution of Council at the property owner's request and upon demonstration that the failure to complete the Project was due to circumstances beyond the control of the owner, and that the owner has been acting and could reasonably be expected to act in good faith and with due diligence, pursuant to BMC 12.35.040. Such extension may not exceed 12 additional consecutive months.


Section 5. In addition to the findings set forth above, the City Council adopts and incorporates the Staff Report and Recommendation, attached as Exhibit A, as its findings.

Section 6. This Resolution takes effect immediately upon passage.

Adopted by a vote of the City Council on December 6, 2023.

YES: Mayor Melanie Kebler
Mayor Pro Tem Megan Perkins
Councilor Barb Campbell
Councilor Anthony Broadman
Councilor Ariel Méndez
Councilor Mike Riley
Councilor Megan Norris


NO: none



Melanie Kebler, Mayor

ATTEST:


Robyn Christie, City Recorder

APPROVED AS TO FORM:


Mary A. Winters, City Attorney



CITY OF BEND
COMMUNITY AND
ECONOMIC DEVELOPMENT

**STAFF REPORT FOR
MULTIPLE UNIT PROPERTY TAX EXEMPTION**

PROJECT NUMBER: PRTX202303730
CITY COUNCIL DATE: December 6, 2023
**APPLICANT/
OWNER:** Project^
Caroline Baggott
1116 NW 17th Avenue
Portland, OR 97209

OWNER: New Zone Business LLC
1116 NW 17th Avenue
Portland, OR 97209

**APPLICANT'S
REPRESENTATIVE:** n/a

LOCATION: 105 NE Franklin Avenue; Tax Lots 171232DA07900,
171232DA08001, 171232DA08200, 171232DA08400,
171232DD09201, 171232DD09700, 171232DD09800,
Between Franklin and Emerson Avenues, the Railroad, and along
NE 1st Street

REQUEST: Multiple Unit Property Tax Exemption (MUPT), 10-year tax
abatement on residential improvements

STAFF REVIEWER: Cate Schneider, Senior Management Analyst

RECOMMENATION: Approval

DATE: September 29, 2023

PROJECT & SITE OVERVIEW:

The project site is located at 105 NE Franklin Avenue and is zoned Commercial Limited (CL) and Mixed Employment (ME) within the Bend Central District Special Planned District. The project proposes two new five story multi-family structures at the north and south ends of the site. The north building is proposed to be a mixed-use building with 80,913 gross square feet that includes 100 rental units and 5,219 square feet of commercial space. The southern building is proposed as a 75,383 square foot multi-family building with 99 rental units. In total, the project proposes to build 199 residential units with the following unit mix:

- 103 studios
- 78 1-bedroom units
- 18 2-bedroom units

(During the site plan review process the applicant slightly modified the unit count. The unit numbers above are what was in land use application approval and differ slightly from the MUPTE application materials.)

The three public benefits that the project plans to incorporate, if approved for MUPTE, include:

- High Standard of Energy Efficiency/Green Building Features through Earth Advantage Platinum Certification (Priority Public Benefit)
- Enhanced Landscaping- the project will use native and pollinator friendly plants
- Electric Vehicle (EV) Charging Infrastructure- the project will provide 50% of its total provided parking spaces with EV charging infrastructure.

In addition to these public benefits, the project plans to build a public plaza space that will include trees, landscaping, seating alcoves, benches, and an area for pop-up events that will account for more than 10% of the site's area as well as enhance NE 1st Street through the site with a pedestrian oriented street and provide private amenity space inside the buildings for co-working, fitness and wellness centers and lounge/gathering spaces.

The property where the project is proposed was formerly the location of the Les Schwab Tire Center that recently relocated to NE 3rd Street. The site is currently unoccupied.

A Type II Site Plan Review application (PLSPR20230059) was approved on September 13, 2023.

Figure 1. Site Location



Figure 2. Project Rendering



ADRIAL VIEW OF 31ST STREET - RENDERING

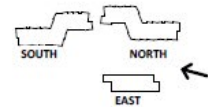
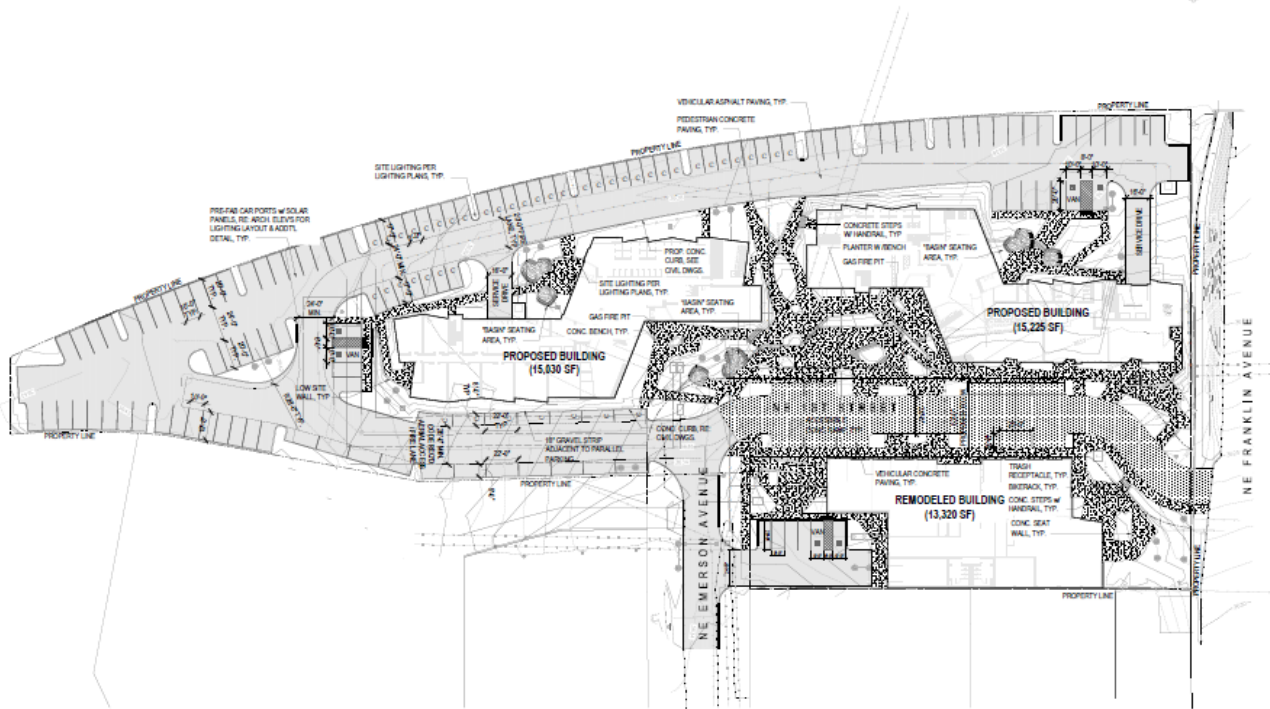


Figure 3. Site Plan



INFRASTRUCTURE NEEDED TO SERVE THE SITE

The applicant submitted a sewer and water analysis through their application PRSWA202208184. The City identified preliminary mitigations necessary for this site to be served with infrastructure that will be finalized based on the final design submittal required by the land use approval for this site. The applicant received a letter from City of Bend Private Engineering Division confirming this as part of their application.

ELIGIBILITY CRITERIA

APPLICATION OF THE CRITERIA:

LOCATION/ELIGIBLE ZONE REQUIREMENTS

This project is located within the Core Area Tax Increment Finance Area which is an eligible site for the MUPTE Program per BMC 12.35.015(D).

MULTI-STORY REQUIREMENTS

Projects on lots that are greater than 10,000 sf are required to be three (3) or more stories in height to be eligible for the MUPTE Program per BMC 12.35.015(C). The proposed project is located on a lot larger than 10,000 square feet and is proposing both buildings to be 5 stories and therefore satisfies this requirement.

HOTELS, MOTELS, SHORT TERM VACATION RENTALS ON SITE

The MUPTE Program requires that projects include a restriction on transient occupancy uses, including use by any person or group of persons entitled to occupy for rent for a period of less than 30 consecutive days (including bed and breakfast inns, hotels, motels, and short-term rentals). If Council approves this project, the applicant will need to demonstrate a restriction of uses on the property for the period of the exemption satisfactory to the City before staff certifies the exemption with the County Assessor's office.

DEMONSTRATION OF FINANCIAL NEED

The applicant submitted a proforma income statement both with and without the tax exemption to demonstrate that the project would not be financially viable but for the property tax exemption. These proforma were then reviewed by a third party independent financial consultant hired by the City.

Johnson Economics completed a review of the proformas in July 2023. A summary of their findings is included as Attachment A. The review confirms that the Platform project is not financially viable on its own; the assumed returns are below what would be necessary for the market to develop this project. The analysis demonstrates that even with the MUPTE benefit, the project is still operating on tight profit margins.

Based on the findings of the financial analysis, the applicant was asked to clarify the basis for their construction cost assumptions. They provided copies of the cost estimates they received from three general contractors.

JUSTIFICATION FOR ELIMINATION OF ANY EXISTING HOUSING AND BUSINESSES ON THE PROJECT SITE

The existing site is vacant and therefore there is no anticipated displacement of housing or businesses by the project and therefore no mitigation is proposed. This meets the requirements of the MUPTE Program.

PUBLIC BENEFIT REQUIREMENTS

MUPTE requires that applicants provide three public benefits including one priority public benefit to qualify for the MUPTE program, per BMC 12.35.025.

Priority Public Benefit

The applicant plans to receive Earth Advantage (EA) Platinum certification for both buildings. This requires the applicant to incorporate a high level of sustainable, energy efficient and green building features. The applicant submitted documentation including a preliminary scoring sheet that demonstrates that they are on track to reach EA Platinum certification. Approval will be conditioned on future verification of EA Platinum certification.

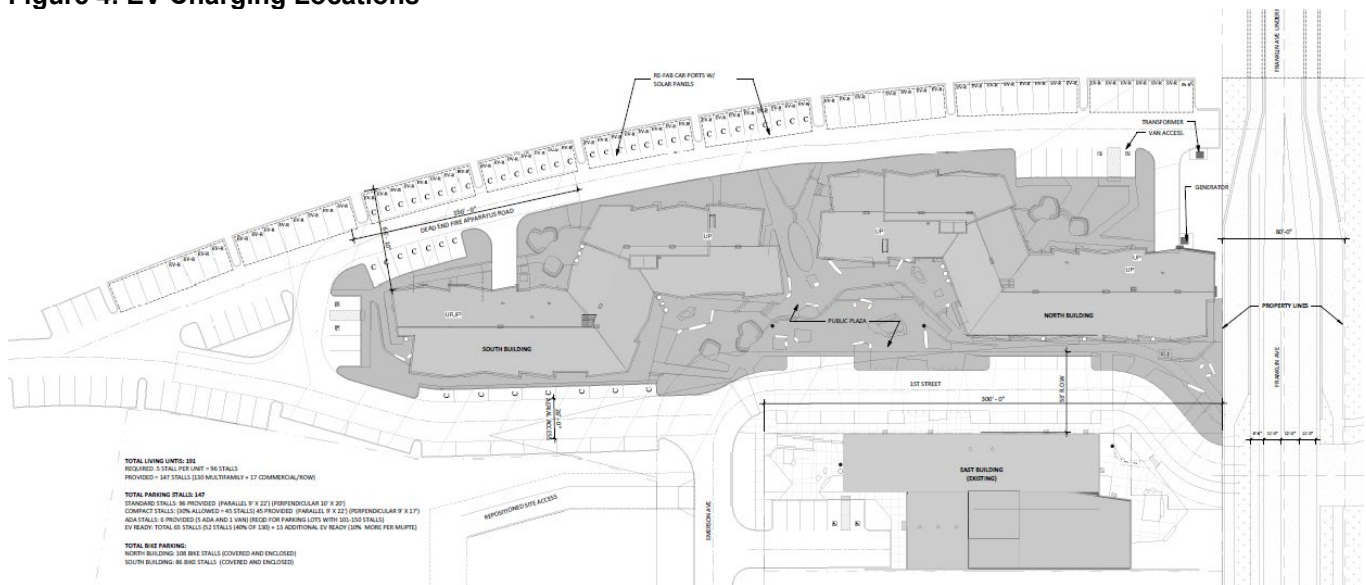
Additional Public Benefits

In addition to the Priority Public Benefit, the applicant is required to provide two additional public benefits. The applicant plans to utilize the following benefits to meet those requirements: 1) Enhanced Landscaping; and 2) Electric Vehicle (EV) Charging.

Enhanced Landscaping: The applicant has submitted preliminary landscaping plans developed by Szabo Landscape Architecture that are consistent with Chapter 12 of the Bend Code and Chapter 3.2 of the Bend Development Code. The current plans include no grass areas. Future approval will be conditioned based on future staff verification that the applicant meets Chapter 12 of Bend Code and Chapter 3.2 of the Bend Development Code as well as the submittal and approval of a water budget for the site. The City will monitor water use throughout the 10-year exemption period. The site cannot exceed 20% above the approved water budget during the exemption period.

Electric Vehicle (EV) Charging: Applicant is required to provide at least 10 percent more parking spaces with EV charging infrastructure, conduit for future electric vehicle charging stations, than the minimum required. Currently Oregon Building Codes require that multifamily projects provide 40% of provided parking spaces with EV charging infrastructure. Therefore, the applicant is required to provide at least 50% of parking spaces with EV infrastructure. The applicant plans to provide 117 onsite parking spaces for the north and south buildings; therefore, 59 of these spaces must be provided with EV charging infrastructure. The applicant plans to provide 65 parking spaces with EV charging infrastructure.

Figure 4. EV Charging Locations



ESTIMATED EXEMPTION: This project is estimated to receive a total 10-year tax exemption of approximately **\$4,400,000** based on an estimated building value of \$43,953,675 for only the residential improvements.

The total estimated tax collection for this project between fiscal years 2027 through 2036 is estimated to be \$5,600,000 without the exemption and \$1,200,000 with the exemption. If the project were to not move forward, total tax collection for the 10-year period of the site would be approximately \$585,000.

The estimated impact of this exemption would only impact the Bend Urban Renewal Agency's Core Area Tax Increment Finance Fund. The project, if approved for the tax exemption, is estimated to generate approximately \$11,100,000 in TIF revenue over the 30-year lifetime of the district.

Estimates assume that building value, the proportion of the project that is commercial, and timeline are all provided by the developer. The estimate is preliminary and subject to change and is based on a variety of factors including Deschutes County Tax Assessor's assessment of the property and future change property ratio (CPR) rates. Estimates could also vary depending on when the Core Tax Increment reaches the maximum indebtedness established in the Plan (\$195 Million).

TAXING DISTRICT REVIEW PROCESS

All of the Taxing District agencies are being provided with a 45-day comment period to review the application materials and this staff report which will occur between September 29 – November 13, 2023.

In order for the tax exemption to apply to the full taxable amount, approval by taxing district agency boards that comprise at least 51% of the combined tax levy is required. The City is seeking to have the policy of the MUPT program approved by all of the taxing districts. This

application is being considered individually while an approval process for the policy of the MUPTE program is worked on.

Expected timeline for taxing district review of 105 NE Franklin

- September 29 – November 13, 2023: Review and comment period for all taxing districts
- November 14, 2023: Bend-La Pine School District review and decision
- December 6, 2023: Bend City Council review and decision on the MUPTE application for 105 NE Franklin

CONCLUSION: Based on the application materials submitted by the applicant, and these findings, the proposed project meets all applicable criteria for City Council approval.

CONDITONS TO BE MET IF APPROVED, IN ADVANCE OF EXEMPTION CERTIFICATION WITH TAX ASSESSOR’S OFFICE:

1. Applicant must provide proof of a deed restriction that prohibits the use of hotels, motels, and short-term vacation rentals on the site for the period of the exemption.
2. Applicant must demonstrate Earth Advantage Platinum Certification for both multifamily buildings prior to exemption certification.
3. Applicant must demonstrate compliance with Enhanced Landscaping Requirements to be verified by staff.
4. Applicant must submit a water budget to City staff for approval prior to exemption certification. The City will monitor water use throughout the 10-year exemption period. The site can't exceed 20% above the water budget for the site during the exemption period.
5. Applicant must demonstrate that EV Charging infrastructure is provided as approved for the MUPTE Program in future inspections prior to Certificate of Occupancy.

ATTACHMENTS

- **Attachment A:** Review of MUPTE Application, Project^, 105 NE Franklin Memorandum prepared by Johnson Economics
- **Attachment B:** Application Materials