

ORDINANCE NO. NS-2419

AN ORDINANCE AMENDING THE BEND ZONING MAP TO REMOVE 2.4 ACRES FROM THE BEND CENTRAL DISTRICT OVERLAY AND AMEND THE BEND DEVELOPMENT CODE TO REFLECT SUCH REMOVAL AND RESTRICT USES ON A SITE WITHIN THE DISTRICT

Findings:

- A. On March 19, 2019, the applicant, Les Schwab Tire Centers, submitted a Type III application (PZ-19-0177) to amend the Development Code and Zoning Map to remove a 2.4 acre area of land bounded by 3rd Street, Clay Avenue, 4th Street and Burnside Avenue from the Bend Central District.
- B. The City Council held a public hearing on this application on September 18, 2019 and heard testimony from the applicant and the public. The written record was left open, and was closed on October 9, 2019. The Council deliberated during their regular meeting on October 16, 2019 and reached an initial determination that the application met the criteria set forth in Bend Development Code 4.6.300. The City Council adopted Resolution of Intent to Rezone No. 3178 on November 6, 2019, subject to two special conditions, in addition to the requirements of Section 4.6.400 of the Bend Development Code.
- C. The conditions of Resolution No. 3178 have been satisfied. Based on the entire record, including all testimony and evidence, the Council concluded that the zoning and text amendment can now be effectuated.

Based on these findings,

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council finds that the requested Zone Change is consistent with the criteria of the Bend Development Code Chapter 4.6. In addition to the findings listed above, the Bend City Council adopts the findings in Exhibit C.

Section 2. The Bend Zoning Map is amended by removing the Bend Central District overlay from the 2.4 acre block bounded by 3rd Street, Clay Avenue, 4th Street and Burnside Avenue as shown in Exhibit A.

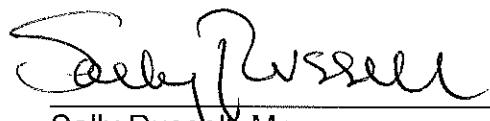
Section 3. The Bend Development Code is amended as described in Exhibit B.

First Reading August 4, 2021.

Second Reading August 18, 2021.

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

NO: none



Sally Russell, Mayor

ATTEST:



Robyn Christie, City Recorder

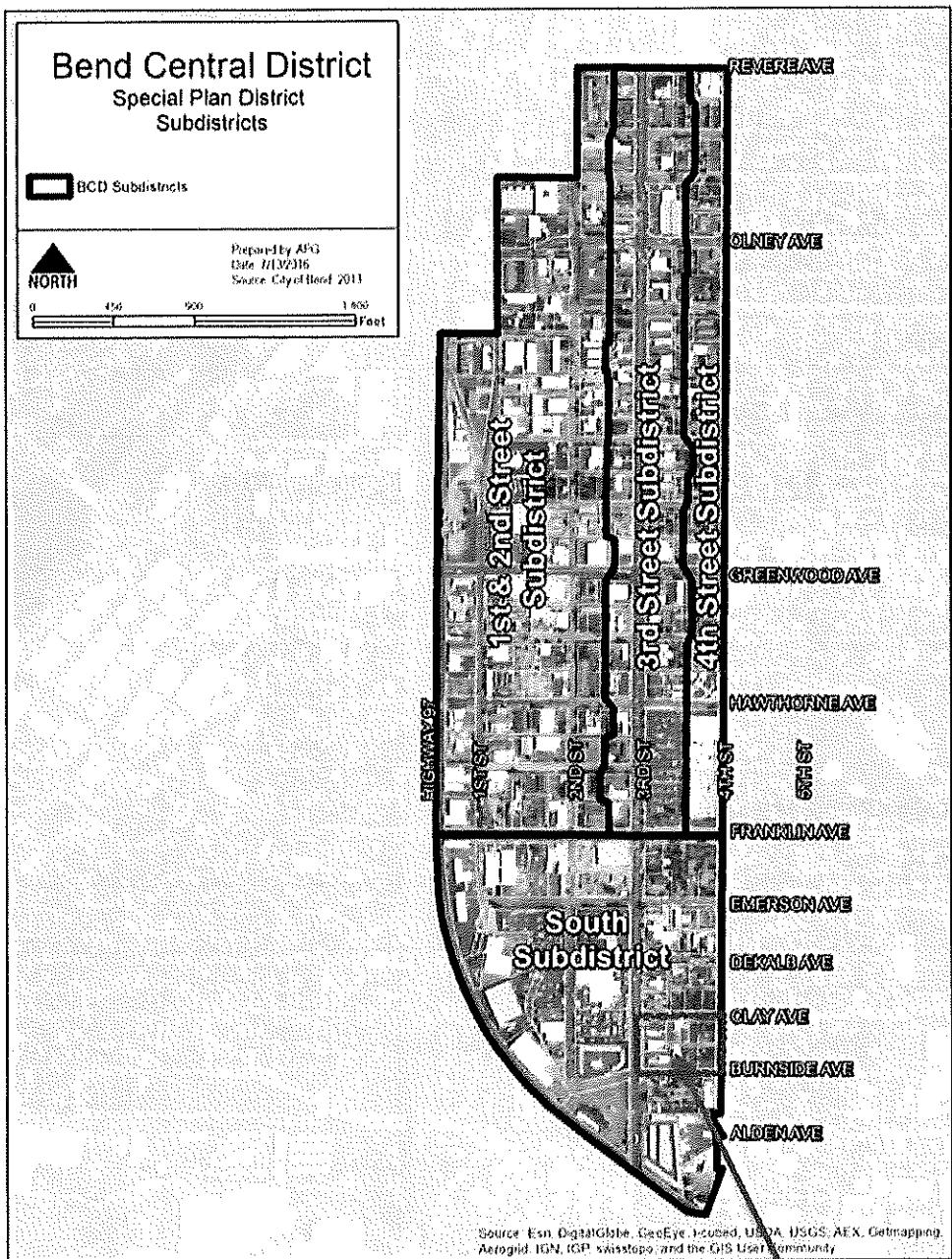
APPROVED AS TO FORM:



Mary A. Winters, City Attorney

EXHIBIT A

Figure 2.7.3210 Subdistrict Map



This figure will be modified to exclude the subject property.

EXHIBIT B

Table 2.7.3220

Permitted Uses in the Bend Central District by Subdistrict

Land Use	1st/2nd Street	3rd Street	4th Street	South
Residential				
Single-Family Detached Dwelling	N	N	N	N
Attached Single-Family Townhomes	N	L (see subsection (D)(1) of this section)	P	P
Multifamily Residential	L (see subsection (D)(1) of this section)	L (see subsection (D)(1) of this section)	P	P
Residential as Part of Mixed-Use Development	P	P	P	P
Commercial				
Retail Sales and Service	L (see subsection (D)(2) of this section)	P	L (see subsection (D)(2) of this section)	P
Retail Sales and Service (Auto Dependent*)	N	N	N	N**

**** Auto dependent retail sales and service are not permitted on Tax Lots 171232DA08400, 171232DD09700, 171232DD09800, 171232DD09201, 171232DA08200, 171232DA08001, 171232DA07900; the existing use provisions of BDC 2.7.3220.B may not be applied to the referenced property, pursuant to Ordinance xxxx.**

EXHIBIT B

FINDINGS



**COMMUNITY
DEVELOPMENT**

PROJECT NUMBER: PZ-19-0177

REPORT DATE: November 6, 2019

APPLICANT: Les Schwab Tire Centers

LOCATION: The subject property encompasses a city block (Block 8 of Keystone Terrace), situated between NE 3rd and NE 4th Streets, south of NE Clay Avenue and north of NE Burnside Avenue. Tax Lots 4900-5500 on Assessor's Map 17-12-33CC.

REQUEST: Amendment to the City of Bend Zoning Map and an amendment to BDC Figure 2.7.3210 – Subdistrict Map to remove the subject property from the Bend Central District regulations to allow an automobile dependent use. The applicant is proposing to relocate tire sales and service operations from 105 NE Franklin Avenue to the proposed subject property. Auto dependent uses would be prohibited from the existing site at 105 NE Franklin Avenue after relocation.

APPLICABLE CRITERIA, STANDARDS, AND PROCEDURES:

(1) City of Bend Development Code

- (a) Chapter 2.2, Commercial Zoning Districts (CG)
- (b) Chapter 2.7, Special Planned Districts (Bend Central District)
- (c) Chapter 4.1, Development Review and Procedures
- (d) Chapter 4.6, Land Use District Map and Text Amendments
- (e) Chapter 4.7, Transportation Analysis

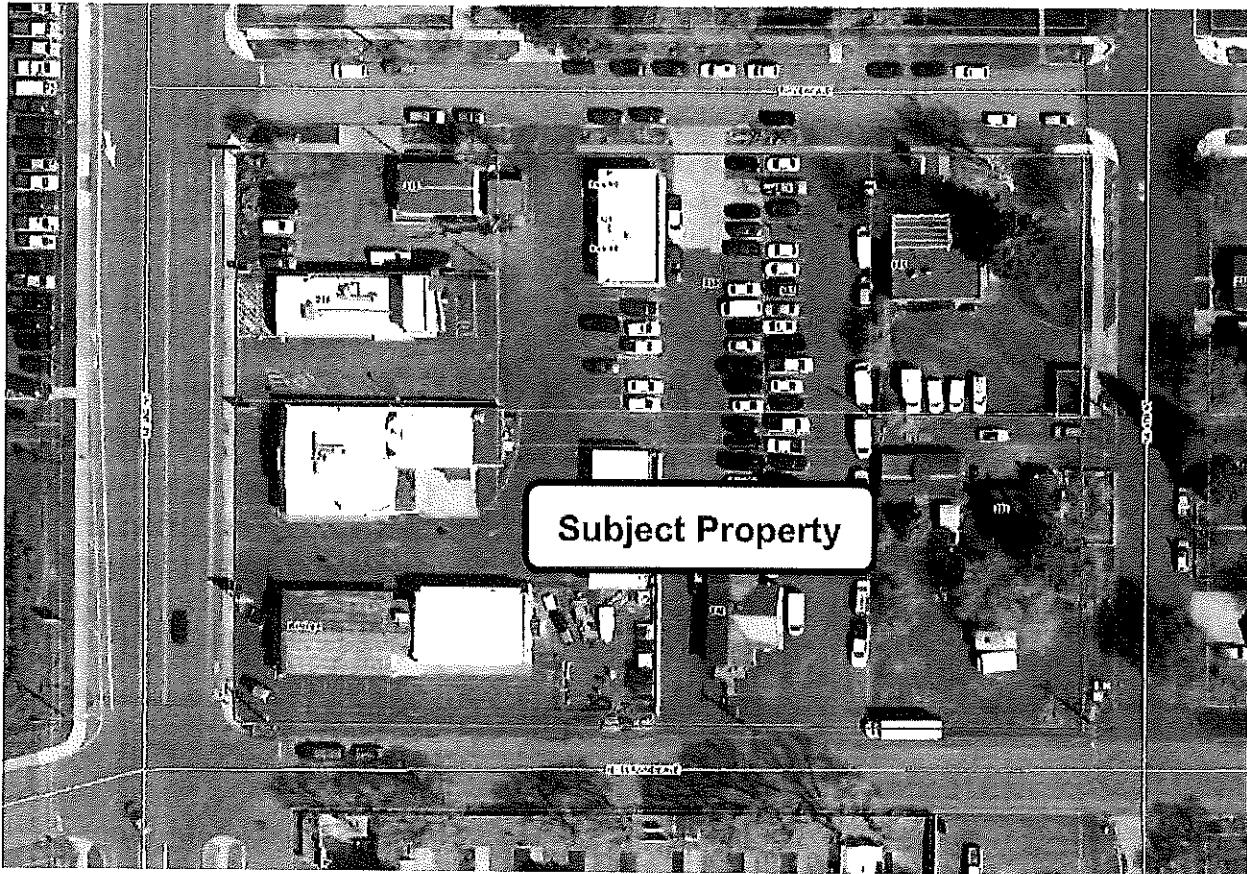
(2) Bend Comprehensive Plan

(3) Oregon Administrative Rules

- (a) Chapter 660-012-0060, Plan and Land Use Regulation Amendments
- (b) Chapter 660-015-0000, Statewide Planning Goals and Guidelines

FINDINGS OF FACT:

- 1. LOCATION:** The subject property encompasses a city block (Block 8 of Keystone Terrace), situated between NE 3rd and NE 4th Streets, south of NE Clay Avenue and north of NE Burnside Avenue. Tax Lots 4900-5500 on Assessor's Map 17-12-33CC.



- 2. EXISTING ZONING & GENERAL PLAN DESIGNATION:** The subject property is zoned Limited Commercial (CL) and is within the Bend Central District. The property is also designated CL in the Bend Comprehensive Plan.
- 3. SITE DESCRIPTION & SURROUNDING USES:** The 2.4 acre property encompasses one City block, Block 8 of the Keystone Terrace subdivision. It is bound on the west by NE 3rd Street, on the east by NE 4th Street, on the north by NE Clay Avenue, and on the south by NE Burnside Avenue. The site is developed with eight buildings, parking, circulation, and vehicle storage areas, along with a small amount of landscaping. The existing improvements support Enterprise Rent-a-Car, Hardy's Burgers & Ice Cream, Sangie Hair Spa, Bend Truck Toyz, Vintage Moon Antiques, Cascade Telecommunications, a single-family residence, and an abandoned building.

The properties to the north, west and south are designated Commercial Limited (CL) and the properties to the east are designated Residential High Density (RH). Also, the property extends from 3rd Street to the eastern edge of the Bend Central District.

The properties to the north are generally developed with commercial uses within older converted residences. The properties to the west across 3rd Street are developed with an adult entertainment business, a hotel, and an automobile dealership. The property to the south is developed as an RV Park, and the properties to the east are developed as residences

4. **PROPOSAL:** Amendment to the City of Bend Zoning Map and an amendment to BDC Figure 2.7.3210 – Subdistrict Map to remove the subject property from the Bend Central District regulations to allow an automobile dependent use. The applicant is proposing to relocate tire sales and service operations from 105 NE Franklin Avenue to the proposed subject property. Under the proposal, auto dependent uses would be prohibited from the existing site at 105 NE Franklin Avenue after relocation.

The applicant has submitted a concurrent Site Plan Review application, PZ-19-0267, for a tire services and sales building and a smaller warehouse building. These site plan drawings have been uploaded to the zoning map amendment for reference, but are not the subject of this amendment application. The Site Plan Review application has not yet been deemed complete as of the date of this report, and will be reviewed administratively by City staff when the application fee has been paid and the final decision has been issued by City Council for this zoning map and text amendment application.

5. **BACKGROUND:** The applicant initially submitted a Development Code text amendment to exempt the subject property from the prohibition on automotive dependent uses in the table of permitted uses in the Bend Central District (BDC 2.7.3220). The text amendment to the table of permitted use would have applied to the subject property only. The applicant proposed that the amendment would actually reduce the amount of automotive dependent uses in the district by relocating to a smaller property. City staff believed that this initially proposed text amendment would have set a precedent for allowing individual properties to request an exemption from use regulations intended to implement the zoning overlay. Instead, City staff encouraged the applicant to apply for a zoning map amendment and an amendment to the Bend Central District subdistrict map to remove the subject property from the Bend Central District entirely, as it is located at the far southeastern edge of the district and such a request would not set a precedent for other properties within the district.

Per City code, the original Les Schwab property at 105 NE Franklin Avenue could be purchased by another tire sales and service business without the need for additional City review since it would just be a change in ownership and not a change of use, even though new automobile dependent uses are not allowed in the Bend Central District. Therefore, the applicant has proposed that if this application is approved to allow an automotive dependent use on the subject property, then automotive dependent uses would not be allowed on their existing property at 105 NE Franklin Avenue after the applicant relocates the existing business to the subject property, as conditioned in this decision.

In addition, as a conditioned result of this change, any approval of this application would be specific to the applicant only. The "Intent to Rezone" procedure would apply, and the zone change and text amendment would be implemented only upon approval and execution of the Site Plan Review application to relocate the tire store.

6. **PUBLIC NOTICE AND COMMENTS:** On February 21, 2019, the applicant held a neighborhood public meeting in accordance with BDC 4.1.215, which was attended by nine members of the public. General concerns focused on on-site and street parking, sidewalk improvements, noise and hours of operation, building design, and a 3rd Street crosswalk. City staff sent the Oregon Department of Land Conservation and Development (DLCD) notice of the pending application on July 19, 2019, more than 35 days prior to the first scheduled public hearing (DLCD File No. 010-19). On July 22, 2019, the City mailed a public hearing notice to property owners within 250 feet of the subject property, and representatives of the Larkspur Neighborhood Association. The property was posted with public hearing notice signs on all four frontages for at least 10 days prior to the hearing in accordance with BDC 4.1.125.

Four individuals submitted comments prior to completion of the staff report, and an additional 18 individual submitted comments prior to the Planning Commission public hearing, all of which have been uploaded to ePlans. The majority of the individuals noted that the request is inconsistent with the intent of the Bend Central District, and making an exception for an auto-dependent use is contrary to the vision for the district. Other concerns centered on the additional generated traffic and the associated safety concerns with existing unsafe turning movements, proximity to the railroad underpass, and bus routes to and from Bend High School. Three of the individuals supported the proposal.

The Planning Commission held a public hearing on August 26, 2019; ten individuals provided oral testimony (9 opposed, 1 in support). After considering testimony and deliberation, the Planning Commission voted to recommend denial of the application (5 in support of denial and 1 opposed to denial).

On September 3, 2019, the City mailed a public hearing notice to property owners within 250 feet of the subject property, the land use representative of the Larkspur Neighborhood Association, and all parties of record. The property was posted with public hearing notice signs on all four frontages for at least 10 days prior to the hearing in accordance with BDC 4.1.125.

6. **APPLICATION ACCEPTANCE DATE:** This Development Code Amendment application was submitted on March 13, 2019. Additional required information was uploaded to ePlans on July 17, 2019. The application was deemed complete on July 19, 2019.

APPLICATION OF THE CRITERIA:

CONFORMANCE WITH CITY OF BEND DEVELOPMENT CODE

All applicable criteria and policies related to the request are addressed in the findings below.

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 zoning map and text amendment repeals regulations specific to the subject property only. Therefore, the application will be processed as a quasi-judicial amendment under a Type III procedure, using the standards of approval in subsection (B) and (C) below, as applicable.

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

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

Goal 1: Citizen Involvement

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

FINDING: Chapter 1 of the City of Bend Comprehensive Plan identifies the Bend Planning Commission as the official Citizen Involvement Committee for the City of Bend. The Bend City Council, upon the recommendation of the Planning Commission, adopted the procedures in the Development Code, and those procedures have been acknowledged by the Land Conservation and Development Commission (LCDC).

The adopted Development Code contains provisions to ensure an appropriate level of citizen involvement is achieved for all land use application types; which for this type of application is achieved via the Type III – Quasi-Judicial review procedures.

The first step for citizen involvement in the City of Bend is a Public Meeting required by Section 4.1.215 of the Development Code. Documentation of the Public Meeting held in accordance with the provision of Chapter 4.1.215 is included in the applicant's submitted materials. In addition to the Public Meeting requirements of BDC 4.1.215, citizen involvement is provided by public hearings, which are notified, held, and conducted according to the Type III procedures of BDC Chapter 4.1.400. Type III

procedures require that citizens be informed in three different ways about the public hearings: posted notice, individual mailed notice, and neighborhood association contact. The referenced notices inform citizens about the hearings and indicate that any interested party may participate by submitting written or verbal testimony. The procedures in the adopted Development Code ensure consistency with Statewide Planning Goal 1.

Goal 2: Land Use Planning

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

FINDING: The Text Amendment application will be processed in accordance with the applicable procedures in BDC Section 4.1.800. The City will review and process this application consistent with the procedures detailed in the Bend Development Code, including consideration of any public comments received regarding the application. The City's established review criteria and procedures for evaluating land use decisions ensure that the affected governmental entities and decision-making bodies are involved in the process and are aware of the factual basis for the actions and requests. The proposal includes a plan to amend the City of Bend Development Code and Zoning Map, which will allow auto dependent uses on the subject property. The proposal will be reviewed in accordance with the planning processes and policy framework that have been established in the adopted Bend Development Code (an acknowledged local land use regulation). Therefore, Goal 2 is satisfied.

Goal 3, Agricultural Lands

Goal 4, Forest Lands

FINDING: Goals 3 and 4 are not applicable because the proposal does not impact any agricultural land or forest land.

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

To protect natural resources and conserve scenic and historic areas and open spaces.

FINDING: There are no inventoried Goal 5 resources on the subject property. Therefore, Goal 5 is not applicable to this proposal.

Goal 6: Air, Water and Land Resources Quality

To maintain and improve the quality of the air, water and land resources of the state.

FINDING: With the associated proposed development (concurrent Site Plan Review application PZ-19-0267), sewer and water supplies, transportation systems, and stormwater management will be provided in accordance with the adopted Development Code standards, thus development will maintain water and land resource quality on and

around the property in accordance with the adopted City of Bend implementing ordinances.

Also, there are no streams or other water resources in the vicinity of the subject property that would be adversely affected by the future planned redevelopment. Furthermore, air and water quality are regulated by the Oregon Department of Environmental Quality, outside of the City's land use review process. For the above stated reasons, Goal 6 is not directly applicable to the current proposal.

Goal 7: Natural Hazards

To protect people and property from natural hazards.

FINDING: The subject property does not contain any lands where Goal 7 natural hazards have been identified or mapped. Therefore, Goal 7 is satisfied.

Goal 8: Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

FINDING: The property has not been listed in any statewide inventory of recreational needs, it is not a destination resort, and is not needed to provide recreational needs of the citizens of the state. The property is not an identified Goal 8 resource; therefore Goal 8 is not directly applicable to the proposal.

Goal 9 Economic Development

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

FINDING: The subject property is zoned and designated Commercial Limited (CL) within the Bend Central District. The CL zone is intended to accommodate economic development and the proposal does not decrease the amount of CL zoned land available in the City of Bend; therefore the proposal will not decrease the amount of land intended to accommodate economic opportunities in Bend, consistent with this Goal.

Goal 10: Housing

To provide for the housing needs of citizens of the State.

FINDING: The proposal does not impact any lands that are zoned residential or designated for housing. However, the Bend Central District overlay does permit residential uses as part of a mixed-use development within the 3rd Street subdistrict. Removing the subject property from the Bend Central District. The underlying zoning (CL) also allows residential development as part of a mixed use development, so

removing the subject property from the Bend Central District does not decrease the land available for housing. Therefore, the proposal is consistent with Goal 10.

Goal 11: Public Facilities and Services

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

FINDING: OAR 660-11 implements Goal 11, and notes, "Cities or counties shall develop and adopt public facilities plans for areas within an urban growth boundary containing a population greater than 2,500 persons..." The City of Bend exceeds 2,500 people and has adopted water, wastewater, and transportation public facilities plans. In addition to the adopted public facilities plans, the City has adopted the Bend Development Code.

The area surrounding the property is within a generally developed subdivision that is provided with public facilities. The proposed Development Code Text Amendment and Zone Change is consistent with the public facilities and services goal that requires the City to plan and develop land in a timely, orderly and efficient fashion, based upon the availability of public services. All needed public facilities and services are available to serve the property, and the facilities and services are planned to be upgraded in association with redevelopment, as detailed in the associated Site Plan Review Application. Fully improved streets surround the property (or will surround the property with associated development), and water and sewer services are available in the abutting rights of way. The associated Site Plan Review Application includes analyses of water, sewer and the transportation system confirming that with planned improvements, there will not be any capacity issues for the planned development. Redevelopment of the existing Les Schwab site at 105 NE Franklin Avenue will be required to follow the same process. Additionally, emergency services are available in the area through City of Bend Fire and Police Departments.

Collectively, the adopted local land use regulations provide a framework that ensures that a timely, orderly, and efficient arrangement of public facilities and services are achieved throughout the City. By ensuring conformance with the adopted public facilities plans and the Development Code regulations, consistency with Goal 11 will be assured.

Goal 12: Transportation

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

FINDING: Goal 12 is implemented through the Transportation Planning Rule, OAR 660-12-0060, in addition to local land use regulations. The current proposal includes a TPR Analysis, detailed findings of which are included under BDC 4.6.600 below. As detailed in the TPR Analysis, the proposed Development Code Text Amendment and Zone Change will not significantly affect a transportation facility, and therefore will comply with the TPR.

The City of Bend Transportation System Plan (TSP) is implemented through adopted policies of the Comprehensive Plan, along with the standards and criteria of the Bend Development Code. The proposal is accompanied by a Site Plan Review application. In association with the Site Plan review, the planned development will be required to conform to the applicable transportation provisions of the Bend Development Code (including Chapter 4.7). Future development of the existing Les Schwab site will be required to follow the same process.

Because the proposal complies with the TPR and is consistent with all Comprehensive Plan Policies related to transportation, and further because the associated Site Plan Review will be required to conform to all Development Code requirements (including those related to access and transportation), the proposal is consistent with Goal 12.

Goal 13: Energy

To conserve energy.

FINDING: The proposal will remove a property from the BCD, which will allow Auto Dependent Retail Sales and Service on a specific area of land that is currently within the Bend Central District. The associated Site Plan Review application (PZ-19-0267) will be required to comply with all Development Code requirements and future construction will be required to meet all adopted Building Code requirements, which implement this policy. The same processes will be required of any redevelopment of the existing Les Schwab site.

Overall the planned development pattern of the Comprehensive Plan and Development Code, along with Building Code requirements will continue to ensure that energy will be conserved to a level commensurate with the goals of the City and this Statewide Planning Goal.

Goal 14 Urbanization – “To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

FINDING: The subject property is located within the Urban Growth Boundary and City Limits. Therefore this goal is not relevant to the proposed amendment.

Goals 15 through 19 –

FINDING: These goals are not applicable because they only pertain to areas in western Oregon.

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

The submitted project narrative included a wide range of Comprehensive Plan policies that the applicant proposed were relevant to the requested Development Code text and

zoning map amendments. City staff selected those Comprehensive Plan policies most pertinent to the proposal.

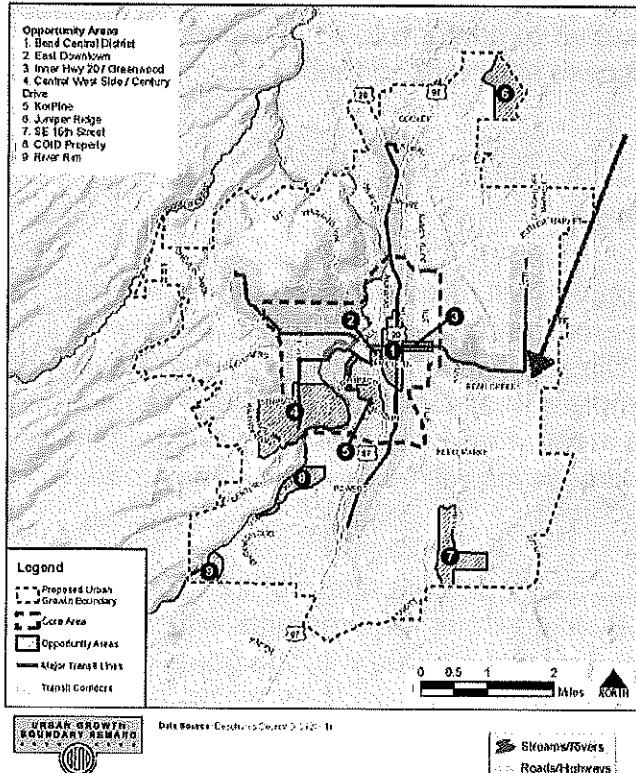
1-8 The City and county will encourage infill and redevelopment of appropriate areas within Bend Central Core, opportunity Areas and transit corridors (see Figure 11-1).

Figure 11-1: Core Area, Transit Corridors, and Opportunity Areas

FINDING: Figure

Bend UGB
Opportunity Areas
July 19, 2016

ed below:



As detailed on the figure, the existing site and subject property are both located within the Bend Central District (an opportunity area), along major transit routes, and identified as being within a "Transit Corridor" in the Comprehensive Plan; therefore this policy encourages infill and redevelopment of both the existing site and the subject property. The applicant has argued that the proposal will facilitate redevelopment of a Les Schwab Tire Center on the subject property, which would free up the existing site for redevelopment, consistent with the use provisions of the Bend Central District, at a location more proximate to downtown. However, the applicant has chosen to relocate to another property within the Bend Central District which restricts automotive dependent uses, rather than a location outside of the Bend Central District where these uses are allowed. While the proposal will include redevelopment of a block within this opportunity area, the applicant is requesting to redevelop the site with a use that is currently not allowed within the Bend Central District; therefore the present application is before the review authority.

Chapter 6 Economy

General Policies

6-1 *Bend's economic lands (commercial, industrial and mixed use) serve Bend residents and the needs of a larger region.*

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

- *Commercial and Mixed Use-designated lands support retail, tourism, and arts and culture uses to serve a local and regional role.*

FINDING: These policies note that Bend's economic lands serve a regional purpose. It can be further argued that the downtown area serves a primary location for regional art, culture, retail, tourism and employment. The applicant has argued that moving the Les Schwab Tire Center from its existing site will free up that property for redevelopment; redevelopment that can utilize all of the incentives of the Bend Central District, including the possibility of mixed-use (ground floor commercial and upper level residential), taller buildings, lesser parking requirements, proximity to bicycle, pedestrian and public transit routes and facilities, proximity to downtown and proximity to the makers district. However, the same argument would hold true if the applicant relocated to a property outside of the Bend Central District.

6-11 *The City will periodically review existing development and use patterns on industrial and commercial lands. The City may consider modifying Comprehensive Plan designations and zoning to better respond to opportunities for redevelopment and revitalization of employment lands in underutilized areas.*

FINDING: While the City is not undertaking a formal periodic review at this time, the currently proposed Development Code Text Amendment and Zone Change is an owner initiated proposal to modify the Development Code and Zoning Map to redevelopment of site in the Bend Central District. The applicant has argued that the proposal will provide an opportunity for redevelopment on the existing site in a manner that is consistent with the vision of the Bend Central District. However, the request is for the removal of the subject property from the Bend Central District to allow an automotive dependent use that is currently not allowed within the district. While redevelopment of the subject property would occur with the associated Site Plan Review application, it would not redevelop consistent with the vision of the Bend Central District.

Commercial Development

6-28 *The City will encourage development and redevelopment in commercial corridors that is transit-supportive and offers safe and convenient access and connections for all transportation modes.*

FINDING: Both the existing site and the subject property are located in transit supportive commercial corridors. The existing site, however, is nearer to the downtown core, with safer and more convenient access for pedestrians and bicyclists to commercial uses, parks, and public amenities, and thus is better suited for urban style mixed use development. This policy encourages redevelopment of both of the sites. The

proposal will result in redevelopment of the subject property and provide the opportunity for redevelopment on the existing site. However, under this proposal, only the existing site would be redeveloped consistent with the Bend Central District.

6-30 The City shall strive to retain and enhance desirable existing commercial areas and encourage property owners' efforts to rehabilitate or redevelop older commercial areas.

FINDING: The existing site and subject property are both in existing commercial areas within the Bend Central District "opportunity area". This policy establishes that the City should encourage property owner's efforts to rehabilitate or redevelop the older commercial sites. The applicant has submitted a concurrent Site Plan Review application for redevelopment of the subject property and plans to market the existing site for sale (which is the first step in redevelopment of that site). Including a Development Code restriction (as proposed) on the existing site, which will prohibit auto-dependent uses, will ensure that redevelopment of the existing site will be consistent with the intent and vision of the Bend Central District. However, this policy does not direct the City to alter existing code to assist in redevelopment efforts.

6-32 All commercial developments shall be subject to development standards relating to setbacks, landscaping, physical buffers, screening, access, signs, building heights, parking areas, and design review.

6-35 Commercial developments that abut residential zones or residential uses shall be subject to special setback and screening provisions.

FINDING: Development of the subject property (and the future redevelopment of the existing site) will be required to comply with all Development Code standards, which implement these policies. This Development Code Text Amendment and Zone Change application is accompanied by a Site Plan Review application for the subject property. As detailed in the associated Site Plan Review application, the planned development is proposed to comply with applicable setback, landscaping, physical buffers, screening, access, sign, building height, parking and design review requirements. Future development on the existing site will be required to follow the same process. The application and associated Site Plan review process ensures consistency with these policies.

Chapter 7 – Transportation Systems

Bend Central District Plan (BCD):

7-83 The city will partner with property owners and developers to make improvements to transportation facilities within the District Overlay to improve connections for all modes of travel, including implementing a well-connected system for pedestrians, bicyclists, and transit users.

FINDING: Upon approval of the Development Code Text Amendment and Zone Change (in association with development on the subject property), the applicant will be

required to improve all abutting rights of way in accordance with the applicable City Standard and Bend Central District specific street design standards. Any future redevelopment of the existing site would similarly be required to improve the abutting rights of way. As proposed and as required by Site Plan Review, the proposal is consistent with this policy.

7-84 *The city will implement street designs identified in the District Plan over the long term. Improvements may be phased in over time and will be refined, as needed and appropriate, through more detailed facility design processes.*

FINDING: As noted above, upon approval of the Development Code Text Amendment and Zone Change (in association with Site Development Review on the subject property), the applicant will be required to improve all abutting rights of way in accordance with the applicable City Standard and Bend Central District specific street design standards. Any future redevelopment of the existing site would similarly be required to improve the abutting rights of way. As proposed and as required by Site Plan Review, the proposal is consistent with this policy.

Chapter 9: Community Appearance

9-5 *Special design and landscaping requirements shall be established along streets that include, but not be limited to Highway 20 West; Highway 97 and 3rd Street; Greenwood Avenue and Highway 20 East; Franklin Avenue; Riverside Avenue opposite Drake Park; Newport Avenue; Galveston Avenue from the river to 14th Street; Century Drive to the Deschutes National Forest boundary; Reed Market Road; NE 27th Street from Reed Market Road to Butler Market Road; and Mt. Washington Drive.*

FINDING: The subject property is located along NE 3rd Street, an area that is identified as having special design and landscaping requirements. All required improvements necessary to implement this policy will be implemented via the approval criteria of Chapter 4.2 for Site Plan Review¹. The applicant has submitted a Site Plan Application (for the subject property) in association with this submittal. As detailed in the Plan Set of that application (and included as reference to this application) the associated development will include 4 access points onto the City Block and make improvements to the surrounding rights of way, in accordance with City Standards. Any future development of the existing site will be required to follow a similar review and approval process. The adopted Development Code requirements implement this policy and the associated development application conforms to the Site Plan approval criteria; therefore the overall proposal is consistent with these policies.

Chapter 11 – Growth Management

General Growth Management Policies

¹ With the Transportation Facilities Report and Transportation Planning Rule Assessment, which have been completed, additional improvements have not been identified.

11-1 The City will encourage compact development and the integration of land uses within the Urban Growth Boundary to reduce trips, vehicle miles traveled, and facilitate non-automobile travel.

FINDING: The Development Code Text Amendment and Zone Change Application is being submitted to facilitate the relocation of a Les Schwab Tire Center to a site that is currently within the Bend Central District. The Bend Central District was adopted with special standards to implement this policy, including limitations on new uses, enhanced development standards, specific parking requirements, and enhanced design provisions.

The applicant has argued that a way to approach this policy is to consider if a Les Schwab Tire Center at the existing location will better carry out the intent of the Bend Central District and achieve consistency with this policy than at the subject property. The applicant suggests that a Les Schwab Tire Center at the subject property would be more consistent with this policy than at the existing site, for the following reasons:

- Maintenance of a tire center in the Bend Central District - By maintaining the tire center within the current Bend Central District boundary, residents of Bend Central District and the surrounding area (with vehicles), along with individuals who work in the Bend Central District and surrounding area (with vehicles) will have access to tire sales and services. The availability of services in close proximity to residences and employment, allows for connecting trips, shorter trip length, service to occur while at work, and/or forgoing need to travel outside of the Bend Central District (or area) to have a vehicle serviced.
- Location of Existing Site- The location of the existing Les Schwab Tire Center is at a gateway between the Bend Central District and Bend's downtown core. Transportation modeling for the City's Urban Growth Boundary expansion documented that this area experiences short trip lengths, few vehicle miles traveled, and the high levels of non-auto modes of travel. The existing site is well suited for a mixed-use development that would achieve the intent of this policy. The applicant has suggested that improving the existing site with a Les Schwab Tire Center will not maximize the potential of this site, will maintain an auto-dependent use in this key area, and will not realize/utilize all of the incentives of the Bend Central District.
- Location of the subject property - While located within the current Bend Central District boundary, the subject property is not situated at a gateway to downtown. Further, it is located along the 3rd Street Corridor; a street that, while it will be enhanced to better accommodate pedestrians, will continue to serve vehicular travel needs of the community. Being located in an area that is not near downtown, and does not currently have pedestrian and/or safe bicycle connectivity, the ability for the subject property to reduce trips, vehicle miles traveled, and facilitate non-automobile travel is not as great as at the existing site.

For these reasons, the applicant argues that the relocation to another site will facilitate the redevelopment of the existing site with a use and type of development that will

reduce vehicle miles traveled and facilitate non-automobile travel. However, this argument would still hold true if the applicant were electing to relocate to a property outside of the Bend Central District. Therefore, the requested Development Code Amendment and Zone Change application for the subject property is not the only avenue to redevelopment of the existing site.

The applicant claims that the maintenance of a tire center in the Bend Central District will reduce vehicle miles traveled due to its proximity to residents and employees within the Bend Central District, but then notes that the location of the subject property does not lend itself currently to this advantage due to its reduced pedestrian and/or safe bicycle connectivity in the area. In addition, the nature of the proposed use itself is auto-dependent which requires an automobile to be driven to and from the location to be serviced.

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

FINDING: As noted in findings above, the existing site and subject property are both located within the Bend Central District (an opportunity area), along major transit routes, and identified as being within a "Transit Corridor" in the Comprehensive Plan; therefore this policy encourages infill and redevelopment of both the existing site and the subject property.

The applicant has argued that the proposal will facilitate redevelopment of a Les Schwab Tire Center on the subject property, which would free up the existing site for redevelopment, consistent with the use provisions of the Bend Central District, at a location more proximate to downtown. However, the applicant has chosen to relocate to another property within the Bend Central District which restricts automotive dependent uses, rather than a location outside of the Bend Central District where these uses are allowed. While the proposal will include redevelopment of a block within this opportunity area, the applicant is requesting to redevelop the site with a use that is currently not allowed within the Bend Central District.

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

FINDING: The Bend Central District has special street standards for some streets. Upon approval of the Development Code Text Amendment and Zone Change (in association with the concurrent Site Plan Review Application), the applicant plans to improve the streets surrounding the subject property in accordance with the Development Code and Bend Central District established street design standards. Any future redevelopment of the existing site will similarly be required to make right of way improvements in association with development.

The adopted Development Code requirements implement this policy and the associated development application (for the subject property) will be required to conform to the Site Plan approval criteria; therefore the overall proposal is consistent with this policy.

Policies for Centers and Corridors

11-6 The City will encourage vertical mixed use development in commercial and mixed use zones, especially where those occur within the Central Core, Opportunity Areas and along transit corridors.

11-9 The City will encourage development and redevelopment in commercial corridors that is transit-supportive and offers safe and convenient access and connections for all modes.

FINDING: The proposal is being submitted to accommodate redevelopment in an Opportunity Area that is transit-supportive and can be improved with public infrastructure to provide safe and convenient access for all modes of transportation; therefore these policies encourage development of the subject property.

The proposal will allow for redevelopment of the subject property and provide an opportunity for redevelopment of the existing site, in a manner that could utilize the development incentives of the Bend Central District (which have been established to encourage mixed use development). The overall proposal therefore is consistent and/or contributes to consistency with these policies.

As noted in findings above, the existing site and subject property are both located within the Bend Central District (an opportunity area), along major transit routes, and identified as being within a "Transit Corridor" in the Comprehensive Plan. While redevelopment of the existing site could occur with vertical mixed uses after relocation to the subject property, the proposal and associated Site Plan Review application for the subject property does not include vertical mixed use development.

The applicant has chosen to relocate to another property within the Bend Central District which restricts automotive dependent uses, rather than a location outside of the Bend Central District where these uses are allowed. While the proposal will include redevelopment of a block within this opportunity area, the applicant is requesting to redevelop the site with a use that is currently not allowed within the Bend Central District

Policies for Employment Districts

11-13 The City will periodically review existing development and use patterns on industrial and commercial lands. The City may consider modifying Comprehensive Plan designations and Zoning to better respond to opportunities for redevelopment and revitalization of employment lands in underutilized areas.

FINDING: While the City is not undertaking a formal periodic review at this time, the currently proposed Development Code Text Amendment and Zone Change is an owner initiated proposal to modify the Development Code and Zoning Map to redevelopment

of site in the Bend Central District. The applicant has argued that the proposal will provide an opportunity for redevelopment on the existing site in a manner that is consistent with the vision of the Bend Central District. However, the request is for the removal of the subject property from the Bend Central District to allow an automotive dependent use that is currently not allowed within the district. While redevelopment of the subject property would occur with the associated Site Plan Review application, it would not redevelop consistent with the vision of the Bend Central District

Conclusion: Based upon the forgoing findings, the proposal is consistent with some of the relevant Comprehensive Plan Policies as noted above, while other policies may be indirectly achieved through relocation, but not specifically to another location in the Bend Central District.

Approval 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;

FINDING: The subject property is in an area that has been developed with public facilities, services, and transportation networks, since Bend's infancy (Keystone Terrace was platted in 1921). The subject property is located in an area that has been determined to be an "Opportunity Area" and forecasted for redevelopment. Historically, the overall property has been developed with both commercial development and residential development. Currently, the site has eight buildings located upon it: Enterprise Rent-a-Car, Hardy's Burgers & Ice Cream, Sangie Hair Spa, Bend Truck Toyz, Vintage Moon Antiques, Cascade Telecommunications, a single-family residence, and an abandoned building. Since the original submittal of this application, a few of these businesses have closed or relocated outside of the subject property in anticipation of this application process.

Public facilities and services that are considered with applications of this type include sewer, water, police, schools, fire, parks and transportation.

The Development Code establishes "development" as the appropriate time to extend facilities. Site Plan approval criterion 4.2.500.D.7 establishes that "*All required public facilities have adequate capacity, as determined by the City, to serve the proposed use; ...*" and the Land Division criterion 4.3.300.E.4 establishes that "*All required public facilities have adequate capacity, as determined by the City, to serve the proposed subdivision, partition or replat.*" Furthermore, Chapter 3.4 requires that public facilities be extended in accordance with City Standards. The current proposal is accompanied by a Site Plan Review Application for a new Les Schwab Tire Center at the subject property, and the application is supported by analyses of the water, sewer, and transportation systems. A comprehensive review of the Site Plan Review standards and approval criteria, impacts to public facilities, and public facility needs will be reviewed in the concurrent / associated Site Plan Review Application process.

As detailed in the Site Plan Review application for the proposed development, by extending water and sewer laterals in accordance with City Standards and providing

transportation mitigating measures, as detailed in the Transportation Analysis Memo (BP-19-1355), the new development area will also be provided with adequate public facilities. The same level of review would occur with any new development on the existing site.

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

Schools: The Bend-La Pine School District regularly completes Facilities Plans that ensure capacity is provided throughout the District service area. The most recent Facilities Assessment was completed in 2016 and that study utilized densities forecast in the City of Bend Comprehensive Plan. The Comprehensive Plan is based upon the Urbanization Study, the Housing Needs Analysis, and ultimately on the Buildable Lands Inventory (BLI). These documents identify the existing site and subject property as designated CL, and the Public Facilities Plan accounted for students accordingly. The proposal does not modify any comprehensive plan or underlying zoning designation, thus will not impact the School District's site and facilities planning conclusions or available capacity.

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, which is generally directed at residential uses. The subject is in close proximity to Juniper Park, Jaycee Park and Vince Genna Stadium. The Park District Comprehensive Plan reviews land use applications based on impacts to existing park facilities and the need to provide additional park facilities in the vicinity. As the existing site and subject property are developed sites, no impact to or need for parking facilities is anticipated.

Fire and Police Protection: The property is located within the City of Bend, which is served by City Police and Fire Departments. Allowing the Development Code Text Amendment and Zone Change will not impact Fire and Police Service needs. The combination of the built facilities, public facilities plans, and the Development Code requirements for development (Site Plan Review application) ensure that adequate public facilities are currently provided or will be provided concurrent with development, in conformance with this approval criterion.

Approval 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: The applicant contends that there have been both a change in the neighborhood and a mistake in Comprehensive Plan and associated Development Code provisions that implement the Bend Central District, which document compliance with this approval criterion.

Change of Neighborhood/Community

Since the original opening of the Les Schwab Tire Center at 105 NE Franklin Avenue in 1955, the population of Bend has grown, available land supply has diminished, and most recently the City has adopted new provisions to incentivize mixed-use development, higher density development, and alternative modes of transportation in the Bend Central District. Amongst this change, the existing site of the Les Schwab Tire Center (at a gateway to downtown) has experienced increased bicycle and pedestrian traffic, which is expected to increase even more significantly as the Bend Central District vision is realized. The applicant has argued that maintaining the auto-dependent use in the Bend Central District is beneficial for a number of reasons (noted below), but notes that maintaining the use in the exact location will result in the potential for increased conflicts between automobiles and users of alternative modes of transportation. Given the changed community, the applicant has argued that the proposed relocation of the Les Schwab in the Bend Central District provides the following benefits.

- Maintenance of a tire center in the Bend Central District - By maintaining the tire center within the current Bend Central District boundary, residents of Bend Central District and the surrounding area (with vehicles), along with individuals who work in the Bend Central District and surrounding area (with vehicles) will have access to tire sales and services. The availability of services in close proximity to residences and employment, allows for connecting trips, shorter trip length, service to occur while at work, and/or forgoing need to travel outside of the Bend Central District (or area) to have a vehicle serviced.
- Location of Existing Site- The location of the existing Les Schwab Tire Center is at a gateway between the Bend Central District and Bend's downtown core. The existing site is well suited for a mixed-use development that would achieve the intent of this policy. The applicant has suggested that improving the existing site with a Les Schwab Tire Center will not maximize the potential of this site, will maintain an auto-dependent use in this key area, and will not realize/utilize all of the incentives of the Bend Central District.
- Location of the subject property - While located within the current Bend Central District boundary, the subject property is not situated at a gateway to downtown. Further, it is located along the 3rd Street Corridor; a street that, while it will be enhanced to better accommodate pedestrians, will continue to serve vehicular travel needs of the community.

For these reasons, the applicant argues that the relocation to another site will facilitate the redevelopment of the existing site with a use and type of development consistent with the vision of the Bend Central District. However, this argument would still hold true if the applicant were electing to relocate to a property outside of the Bend Central District. Therefore, the requested Development Code Amendment and Zone Change application for the subject property is not the only avenue to redevelopment of the existing site.

The applicant claims that the maintenance of a tire center in the Bend Central District will reduce vehicle miles traveled due to its proximity to residents and employees within the Bend Central District, but then notes that the location of the subject property does not lend itself currently to this advantage due to its reduce pedestrian and/or safe

bicycle connectivity in the area. In addition, the nature of the proposed use itself is auto-dependent which requires an automobile to be driven to and from the location to be serviced.

Mistake or Inconsistency

BDC 2.7.3220 implements the Bend Central District's intent of allowing existing uses the opportunity to exist, grow, and expand, stating:

B. Existing Uses. Uses and structures that are not in conformance with the provisions in this section but that were lawfully established within the BCD prior to the adoption of this code are considered a permitted use. Expansion or enlargement 25 percent or less of the above referenced uses or structures that are nonresidential will be subject to the provisions of BDC Chapter 4.2, Minimum Development Standards Review, Site Plan Review and Design Review. For expansion or enlargement greater than 25 percent, the conditional use criteria, standards and conditions within BDC Chapter 4.4, Conditional Use Permits, will also apply. Conditions of prior approvals will continue to apply unless modified in conformance with BDC 4.1.1325, Modification of Approval.

The applicant contends that this language, as written, may include a minor miscalculation, flaw, or oversight (a type of mistake) as a method to carry out the intent and vision of the Bend Central District. The applicant argues that the current proposal highlights the potential miscalculation, flaw, or oversight. As documented throughout the submitted narrative, the applicant contends that the current proposal cannot be accommodated by the Code language but it does provide the opportunity for an existing auto-dependent business, with a 3.4 acre footprint, located in a prime location of the BCD, to relocate to a prominent vehicular corridor that has better access and is better suited for the use, while reducing the total area of land available for auto-dependent uses. Furthermore, the applicant states that by relocating the use to a more suitable location, the proposal provides the opportunity for redevelopment of a prime site (the original site) within the Bend Central District and to be able to redevelop utilizing all of the incentives that have been adopted to carry out the vision of the Bend Central District. The applicant argues that the proposal results in a net reduction of roughly 2 acres to the amount land currently available for auto dependent uses in the Bend Central District; improves pedestrian, bicycle, and transit improvement opportunities at the existing site; and lessens the interface between potentially conflicting uses at the existing site. The applicant argues that the proposal cannot be approved under the referenced section, thus a potential oversight (mistake). The applicant has instead of proposing to fix the perceived oversight/mistake at this time, they have requested that the proposal to be individually considered via this application process.

The Planning Commission does not concur with the applicant's perceived "mistake" in the code. The applicability of BDC 2.7.3220 is for expansions of existing uses that were lawfully established within the BCD prior to the adoption of the code. This section would only apply if the applicant elected to expand on the existing site, as that is the location where the existing use was lawfully established. This section does not apply to redevelopment of a separate property. While the Planning Commission acknowledges that the neighborhood surrounding the existing site has changed since 1955, this change in neighborhood does not necessitate that the use be relocated to another site within the Bend Central District that does not currently allow automotive dependent

uses. Furthermore, it was not a mistake to allow expansion of lawfully established existing uses on the sites on which they were originally developed but not on a relocated site.

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

FINDING: As noted below in findings under BDC 4.6.600, the Transportation Planning Rule is satisfied.

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

Criterion #1. The amendment will bring the zone map into conformance with the Comprehensive Plan Map;

FINDING: The underlying zoning of the subject property (CL), which is consistent with the CL land use designation on the Bend Comprehensive Plan Map, would not change with this proposal. The Bend Central District overlay would be removed for the subject property only.

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

FINDING: As noted in previous findings, the concurrent Site Plan Review application would require infrastructure improvements associated with the proposed site improvements on the subject property, consistent with the water and sewer analyses and Transportation Analysis Memo already completed for the proposal.

4.6.400 Intent to Rezone.

A. If the City Council determines that the public health and welfare and convenience will best be served by a proposed change of the zone, the City Council may indicate its general approval in principle of the proposed rezoning by the adoption of a "Resolution of Intent to Rezone." This resolution shall include any conditions, stipulations, or limitations, which the City Council may feel necessary to require in the public interest as a prerequisite to final action, including those provisions which the City Council may feel necessary to prevent speculative holding of the property after rezoning. The fulfillment of all conditions, stipulations and limitations contained in said

resolution, on the part of the applicant, shall make such a resolution a binding commitment on the City Council. Such a resolution shall not be used to justify spot zoning, nor to create unauthorized zoning categories by excluding uses otherwise permitted in the proposed zoning.

1. **Content of Site Plan.** Where a site plan is required pursuant to this code, it shall include the location of existing and proposed buildings, structures, accesses, off-street parking, loading spaces and landscaping; topography, existing and proposed; mechanical roof facilities, architectural perspective, layout and all elevations drawn to scale including location, area and design of signs and all landscaping.
2. **Resolution of Intent Binding.** The fulfillment of all conditions, stipulations and limitations contained in the resolution of intent, on the part of the applicant, shall make the resolution binding on the City Council. Upon compliance with the resolution by the applicant, the City Council shall by ordinance effect such reclassification.
3. **Resolution of Intent Void Upon Failure to Comply.** The failure of the applicant to substantially meet any conditions, stipulations or limitations contained in a resolution of intent, including the time limit placed in the resolution, shall render said resolution null and void, unless an extension is granted by the City Commission upon recommendation of the Planning Commission.

To assure that the requested Development Code Text Amendment and Zone Change is specific to the applicant's proposed development under the concurrent Site Plan Review, and not another new automotive dependent use by another owner, the Planning Commission recommends that if approved, the City Council adopt a Resolution of Intent to Rezone, which requires that the conditions of the Site Plan Review be fulfilled prior to the adoption of an ordinance that effectuates the approved changes.

4.6.600 Transportation Planning Rule Compliance.

When a development application includes a proposed Comprehensive Plan amendment or land use district change, or both, the proposal shall be reviewed to determine whether it significantly affects a transportation facility in accordance with Oregon Administrative Rule (OAR) 660-012-0060.

FINDING: The applicant submitted a Traffic Report prepared by Lancaster Engineering. The report includes an assessment of the applicability of the Transportation Planning Rule and the proposal's compliance with the Transportation Planning Rule.

The report calculates the trips generated by the all of the existing uses at 836 average daily trips, including 46 a.m. peak hour trips and 36 p.m. peak hour trips. The anticipated trips for the proposed tire store (ITE code 849) on the subject property are 472 average daily trips, including 31 a.m. peak hour trips and 49 p.m. peak hour trips. The net result of redevelopment of the subject property with a proposed tire store is a

net reduction of average daily trips of 364 trips, including a net reduction of a.m. peak hour trips of 15 trips and a net increase of p.m. peak hour trips of 13 trips.

The report concludes that the proposed Development Code Text Amendment and Zone Change will result in a specific use on a specific site as allowed under BDC 4.6.400 above, and the use does not generate more trips than other uses that are permitted outright in the Bend Central District; therefore the proposal will not significantly affect any existing or planned transportation facility and the proposal is consistent with the Transportation Planning Rule.

The applicable portions of the TPR are quoted in **bold** below, with findings directly following.

660-012-0060, Plan and Land Use Regulation Amendments

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

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

The evidence in the Transportation Facilities Report demonstrates there is no need for any future changes to the functional classification of existing or planned transportation facilities. Accordingly, this section is not triggered.

(b) Change standards implementing a functional classification system; or

The evidence in this Transportation Facilities Report demonstrates there is no need for any future changes to the standards implementing the functional classification system of City of Bend transportation facilities. Accordingly, this section is not triggered.

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

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

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

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

Since the proposed development code text amendment and zone change would not result in a potential net increase in trip generation, then none of the effects listed in (A) through (C) above will be possible. Therefore, there will be no significant effect to a transportation facility. The data contained in the Transportation Facilities Report is sufficient to address the impacts to the transportation system that will result from the removal of the subject property from the Bend Central District (a Special Planned District), as well as include an amendment to the City of Bend Development Code to prohibit "Auto Dependent Retail Sales and Services" uses from the site of the existing Les Schwab Tire Center within the Bend Central District. Transportation Planning Rule 660-012-0060 is satisfied for the proposed permitted land use.

CONCLUSIONS:

The City Council finds that the proposed text amendment and zoning map amendment to remove the subject property from the Bend Central District meets all applicable Development Code criteria, with the following conditions of approval:

1. The applicant must complete all conditions, stipulations and limitations contained within the resolution of intent to rezone prior to adoption of an ordinance effectuating the removal of the site from the Bend Central District.
2. The property removed from the Bend Central District and developed with a new tire sales and service store must meet the design regulations of the Bend Development Code to the extent practicable.
3. All other code requirements of the Bend Central District still apply to the subject property (e.g., setbacks, frontage improvements, architectural standards, etc.).
4. Record a deed restriction on the Franklin Avenue property that restricts Automobile Dependent uses in the future at that site.