

**ORDINANCE NO. NS - 2461**

**AN ORDINANCE AMENDING THE BEND COMPREHENSIVE PLAN MAP AND ZONING MAP TO REDESIGNATE AND REZONE 1.07 ACRES FROM COMMERCIAL GENERAL TO MIXED-USE URBAN**

**Findings:**

- A. On April 26, 2022, an agent of the owner of the property at 325 NW Arizona Ave LLC, submitted a Type III Quasi-judicial application for a Comprehensive Plan Map Amendment and Rezone to redesignate and rezone 1.07 acres of Commercial General (CG) to Mixed-Use Urban (MU) encompassing Tax Lot 171232DC14100. The application (PLCPMA20220312) was deemed complete on September 2, 2022.
- B. On October 4, 2022, Hearings Officer Gregory Frank held a public hearing. On October 31, 2022, the Hearings Officer issued a recommendation that the City Council adopt an Ordinance to modify the Comprehensive Plan Map, with a concurrent zone map amendment, consistent with the applicant's request.
- C. Public notice for the City Council hearing was provided in accordance with the requirements of BDC 4.1.423 to 4.1.425. On December 28, 2022, notice was mailed by the Planning Division to all property owners of record and to the addresses based on the City's current addressing record, for properties within 500 feet of the subject site, as well as the representative for the Old Bend and Southern Crossing Neighborhood Associations. On December 27, 2022, a *Notice of Proposed Development* sign was posted by the applicant along the property frontage, visible from the abutting right of way.
- D. The Bend City Council held a public hearing on January 18, 2023, to consider the Hearings Officer's recommendation.
- E. The Comprehensive Plan Map Amendment and Rezone approved by this Ordinance meets all applicable Development Code criteria, policies of the Bend Comprehensive Plan, and Oregon Statewide Planning Goals.

**THE CITY OF BEND ORDAINS AS FOLLOWS:**

- Section 1.** The Bend Comprehensive Plan Map and Zoning Map is amended to redesignate and rezone 1.07 acres as shown in Exhibit A.
- Section 2.** In addition to the findings set forth above, the City Council adopts and incorporates the findings in Exhibit B.
- Section 3.** If any provision, section, phrase or word of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

First Reading: January 18, 2023

Second reading and adoption by roll call vote: February 1, 2023

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

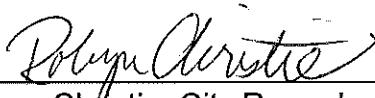
NO: none



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Melanie Kebler, Mayor

Attest:



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Robyn Christie, City Recorder

Approved as to form:

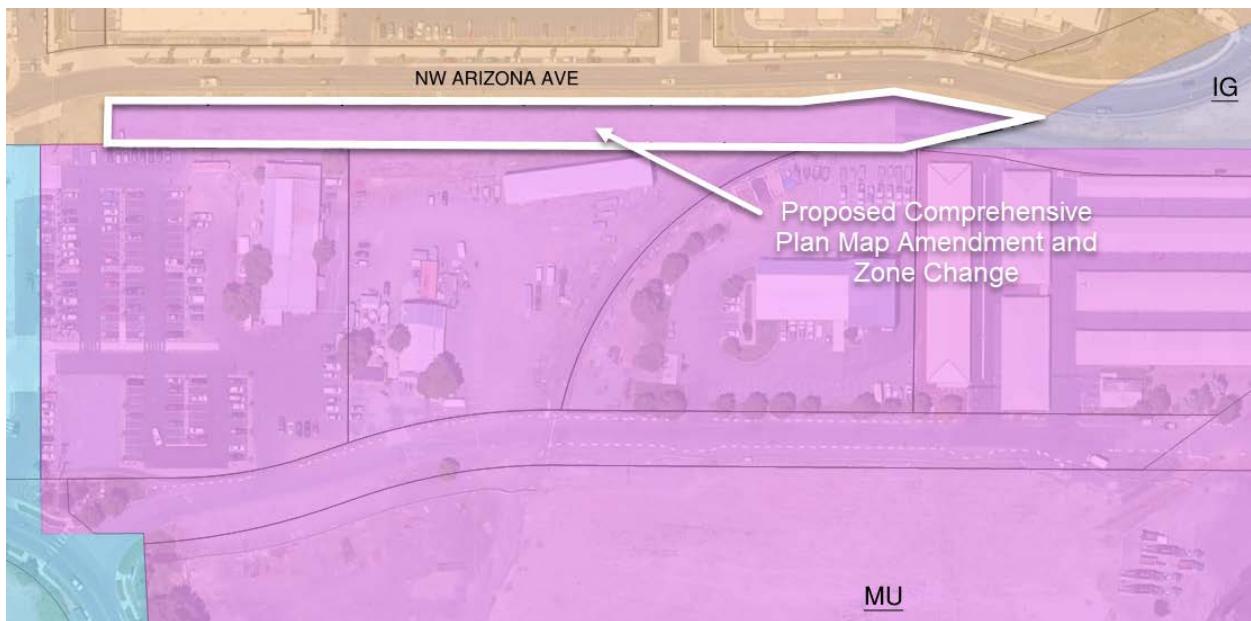


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Mary A. Winters, City Attorney

**EXHIBIT A**

**PLCPMA20220312**



**EXHIBIT B****HEARINGS OFFICER  
RECOMMENDATION**

**PROJECT NUMBER:** PLCPMA20220312

**HEARINGS OFFICER:** Gregory J. Frank

**HEARING DATE,** October 4, 10:00 a.m.

**TIME & LOCATION:** Hybrid hearing (in-person and virtual)  
City Council Chambers, 710 NW Wall Street, Bend, OR 97703  
Virtual public hearing via Zoom

**APPLICANT:/  
OWNER:** 325 NW Arizona Ave LLC  
Greg Broderick  
180 NW Skyliner Summit  
Bend, OR 97703

**CONTACT:** Blackmore Planning and Development Services, LLC  
Greg Blackmore  
19454 Sunshine Way  
Bend, OR 97703

**LOCATION:** 325 NW Arizona Avenue; identified as Tax Lot 14100 on the  
Deschutes County Assessor's Map 17-12-32-DC

**REQUEST:** Type III Comprehensive Plan Map amendment to change the land  
use designation from Commercial General (CG) to Mixed Use  
Urban (MU) with a concurrent zone amendment to match the new  
land use designation.

**STAFF  
REVIEWERS:** Beth LaFleur, AICP, Senior Planner  
Jill Clough, EIT, Engineering Associate

**APPLICABLE STANDARDS, PROCEDURES AND CRITERIA:**

City of Bend Development Code

Chapter 2.2, Commercial Zoning Districts  
Chapter 2.3, Mixed Use Zoning Districts  
Chapter 4.1, Development Review and Procedures  
Chapter 4.6, Land Use District Map and Text Amendments  
Chapter 4.7, Transportation Analysis

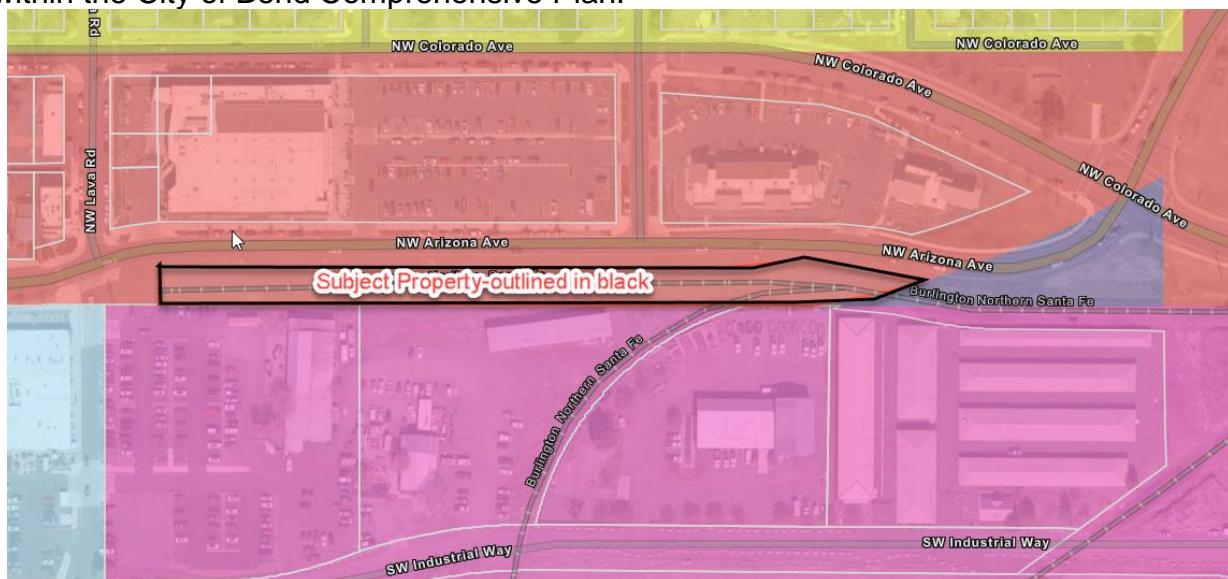
Bend Area Comprehensive Plan

Oregon Administrative Rules

Chapter 660-012-060, Plan and Land Use Regulation Amendments

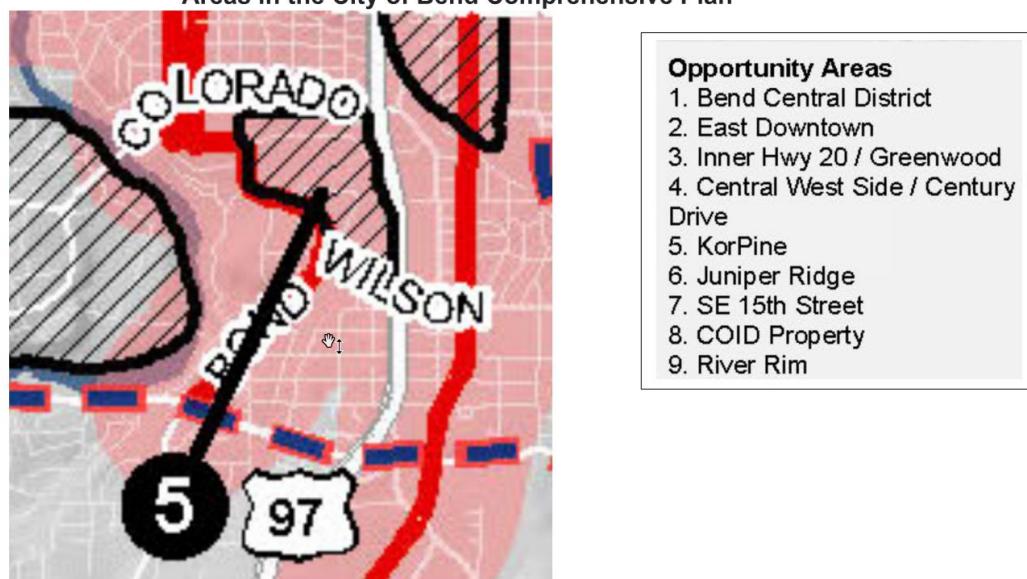
## FINDINGS OF FACT:

- LOCATION:** The property subject to this recommendation is located at 325 NW Arizona Avenue and is further identified as Tax Lot 14100 on the Deschutes County Assessor's Map 17-12-32-DC (the "Subject Property").
- ZONING AND PLAN DESIGNATION:** As shown below, the Subject Property is zoned Commercial General ("CG") and it is designated CG on the City of Bend Comprehensive Plan. The Subject Property is also identified as being in a Transit Corridor and the KorPine "Opportunity Area" in Figure 11-1: Core Area, Transit Corridors, and Opportunity Areas within the City of Bend Comprehensive Plan.



Zoning: yellow=RM, orange=CG, dark blue=IG, light blue=MR, pink=MU

Close Up of Figure 11-1: Core Area, Transit Corridors, and Opportunity Areas in the City of Bend Comprehensive Plan



**3. SITE DESCRIPTION & SURROUNDING USES:** The Subject Property is 1.07-acres in size and basically rectangular in shape, measuring 48 feet in depth and 1,000 feet in length along NW Arizona Avenue. The Subject Property is undeveloped, has very little topographic variation, and does not contain any vegetation. Prior to 2014, the Subject Property was owned by the Burlington Northern Santa Fe Railroad and contained railroad tracks which served Bend's millworks. The Subject Property is now privately owned, and the railroad tracks have been removed. The Subject Property has frontage on NW Arizona Avenue, which is a 2-way couplet with NW Colorado Avenue to the north. NW Arizona Avenue, which provides one-way east-bound traffic flow is classified as a Minor Arterial and has a right-of-way width of 60 feet. NW Colorado Avenue to the north is also classified as a Minor Arterial and provides one-way west-bound traffic flow and also has a right-of-way width of 60 feet. Taken together, the right-of-way width is 120 feet. The NW Arizona Avenue frontage is developed with two east-bound vehicular travel lanes, a bike lane, curb but not sidewalk.

The Subject Property is surrounded by multiple zones and a variety of uses. To the north is CG zoned land, which is developed with Market of Choice (a grocery store), a multi-tenant restaurant and retail building, and a building that is occupied by Family Choice Urgent Care, a medical use. To the west / southwest is Mixed-Use Riverfront ("MR") zoned land that is developed as the Box Factory, a multi-tenant building with office, retail, restaurant and service uses. To the south is Mixed-Use Urban ("MU") zoned land that is sparsely developed with a variety of repurposed industrial buildings that are primarily occupied with food and beverage uses. A sizable mixed-use development was recently approved for the abutting property to the south under site plan approval PLSPR20220228. The property to the southeast is MU zoned land that is developed with a self-storage facility. The area to the east is zoned General Industrial ("IG") and is partially developed with railroad tracks and utilized as right-of-way for vehicular and rail transportation.

**4. PROPOSAL:** Type III Comprehensive Plan Map amendment to change the land use designation from Commercial General (CG) to Mixed Use Urban (MU) with a concurrent zone amendment to match the new land use designation.

**5. PUBLIC NOTICE AND COMMENTS:** 325 NW Arizona Ave LLC, Greg Blackmore (the "Applicant") held a neighborhood public meeting on September 30, 2021. Per BDC 4.1.215.C, applications must be submitted to the City within 180 days of the public meeting. The 180<sup>th</sup> day after September 20, 2022 was March 29, 2022. The land division application was submitted on April 26, 2022; therefore, a new neighborhood public meeting was required. The second neighborhood public meeting was held on June 22, 2022. Approximately 17 people, including the designated representatives of the Southern Crossing and Old Bend Neighborhood Associations, attended the first virtual meeting. Questions were asked regarding the use of residential units as short-term rentals, surrounding parking lots and neighboring streets being used for overflow parking, cut-through traffic, bike parking availability, sustainable building design, affordable housing, and general concerns about increased urbanization of Bend. The questions were primarily geared toward the eventual mixed-use development proposal, which is currently submitted under development application PLSPR20220314. At the second meeting on June 22, 2022, the Public Meeting Documents indicate that parking was brought up as a concern, however

a list of attendees was not provided in the documents and the Verification of Compliance Public Meeting Form indicates that representatives of the Southern Crossing and Old Bend Neighborhood Associations did not attend, as the proposal was substantially the same as what was presented on April 26, 2022.

A notice of the proposed Comprehensive Plan Map amendment was sent to the Department of Land Conservation and Development (“DLCD”) on August 12, 2022. Notice for the public hearing before the Hearings Officer on October 4, 2022 was mailed to all property owners of record and to the addresses based on the City’s current addressing record, for properties within 500 feet of the subject site, as well as the representative for the Old Bend and Southern Crossing Neighborhood Associations on September 12, 2022. A “Notice of Proposed Development” sign was also posted on the site, one facing north and one facing west to on-coming traffic, on September 8, 2022.

Two written comments (emails) were submitted into the record on October 3, 2022. An email from Robert Rudinsky (“Rudinsky”), on behalf of McKenzie River Company Development (owner of nearby retail buildings), expressed concerns about potential negative parking impacts that may result if the Applicant’s requested comprehensive plan and zone change requests are approved. Specifically, Rudinsky indicated that parking for any potential development on the Subject Property, if the application is approved, would be inadequate. An email from Courtney Hofstetter (“Hofstetter”), on behalf of Millsite Management, expressed concerns related to noise and light impacts. Hofstetter testified at the public hearing and expanded upon her noise and lighting concerns. Hofstetter indicated that the occupant at 200 SW Industrial (adjacent to the Subject Property) operates a landscaping and snow removal business 24/7 and makes “industrial noise” and utilizes extensive exterior lighting. Hofstetter suggested that the Millsite Management industrial use may generate “complaints” from residential uses eventually located at the Subject Property.

The Hearings Officer will respond to the Old Bend Neighborhood Association and Rudinsky parking issue and Hofstetter noise and light issues in the Preliminary Findings below.

- 6. LEGAL LOT OF RECORD:** The Subject Property is identified in the submitted quitclaim deed as Parcel I and Parcel II. Both parcels are held in the same ownership. The Subject Property originally was identified as part of a larger property through deeds and other documents recorded in 1902, 1906, 1907, and 1915. In 2015, the applicant applied for a Legal Lot of Determination (PZ15-0252). At that time, it was found that the two separate property descriptions, as described in quitclaim deed 2014-025765, were determined to be a single, legal lot of record and not two independent legal lots of record. Therefore, the Subject Property is a legal lot of record.
- 7. APPLICATION SUBMITTAL:** The application was submitted on April 26, 2022 and deemed complete on July 14, 2022 upon upload of required application materials. Because it includes a Post Acknowledgement Plan Amendment (“PAPA”), it is not subject to the 120-day statutory time limitation for review.
- 8. SUBSEQUENT APPLICATIONS:** The Applicant has submitted an associated Site Plan Review application (PLSPR20220314) for a phased, 3-building, mixed use development on

the Subject Property in anticipation of this Comprehensive Plan Map and zoning amendment request. The feasibility of the mixed-use development is dependent upon the approval of this Comprehensive Plan Map and zone amendment request. The Applicant has submitted a 5-lot subdivision application (PLLD20220311) that is currently in review however the subdivision is not dependent on the approval of this Comprehensive Plan Map and zone amendment request.

## **FINDINGS OF CONFORMANCE WITH APPLICABLE CRITERIA AND PROCEDURES**

### **Preliminary Information and Findings:**

**Comments related to Staff Recommendation:** The Hearings Officer carefully reviewed the Staff Recommendation to the Hearings Officer (“Staff Recommendation”). The Hearings Officer also considered all documents in the written record and testimony offered at the public hearing.

The Hearings Officer finds that the Staff Recommendation represents a thorough and legally correct analysis of the relevant policies and approval criteria. Therefore, the Hearings Officer finds it appropriate utilize the Staff Recommendation as the Hearings Officer’s findings excepting for minor modifications to reflect the submission of documents and testimony following the issuance of the Staff Recommendation.

### **Noise, Lighting and Parking Concerns:**

The record contains documents and testimony that raised three specific issues; noise, lighting and parking. The Hearings Officer reviewed the relevant policies and approval criteria and makes the following findings.

The Hearings Officer finds that Hoffstetter, on behalf of Millsite Management, raised “noise” and “lighting” issues. The Hearings Officer notes that Hoffstetter did not reference one or more specific or particular approval criterion, goal or policy that would allow the Hearings Officer to deny or condition an approval of the application in this case related to “noise” or “lighting” concerns. The Hearings Officer finds, that both “noise” and “lighting” issues may be appropriately raised during a Subject Property site plan review process.

The Old Bend Neighborhood Association and Rudinsky expressed concerns about potential neighborhood parking impacts if the application in this case were to be approved. The Hearings Officer finds that neither the Old Bend Neighborhood Association or Rudinsky cited one or more relevant approval criterion, goal or policy that would allow the Hearings Officer to deny or condition an approval of the application in this case.

The Hearings Officer does take note that the Hearings Officer's findings for Statewide Planning Goal 9 (Economic Development) includes a reference to Ordinance NS-2271 which expresses the City's intent that both the CG and MU zones allow for more densely designed development and reduced parking requirements. The Hearings Officer findings for Statewide Planning Goal 10 (Housing) acknowledges that the proposed MU zone allows for "lesser parking requirements" than does the CG zone. The Hearings Officer addressed, in findings for Future Plan Updates (Comprehensive Plan Preface), parking requirements in the CG and MU zones. The Hearings Officer, in the findings for Comprehensive Plan Policy 1-7, found that "lesser parking requirements" would encourage compact urban development. The Hearings Officer's findings for Comprehensive Plan Policy 6-24 indicated that parking considerations were appropriately discussed as part of a site plan review process. The Hearings Officer findings for Comprehensive Plan Policy 6-26 stated that "lesser parking requirements" of the proposed map designations would encourage mixed uses at the Subject Property. The Hearings Officer, in findings for Comprehensive Plan Policy 11-1 and Policy 11-10, referenced the KorPine Opportunity Area and Transit Corridor to support "lesser parking requirements" of the proposed map designations at the Subject Property.

The Hearings Officer finds the appropriate time for the Old Bend Neighborhood Association and Rudinsky to raise "parking" issues is during a site plan review and/or subdivision process. The Hearings Officer concludes the findings referenced in the preceding paragraph adequately address the Old Bend Neighborhood Association and Rudinsky "parking" concerns raised in this case.

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

### **4.6.300 Quasi-Judicial Amendments.**

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

**FINDING:** The application includes an amendment to the Comprehensive Plan Map and a corresponding zone change affecting a single property and the application of existing policy to a specific factual setting. Therefore, the application requires a Type III review procedure, using the standards of approval in Subsection B (Criteria for Quasi-Judicial Comprehensive Plan Map Amendments) and Subsection C (Criteria for Quasi-Judicial Zone Changes).

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

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

**FINDINGS:** The applicable Statewide Planning Goals are addressed below. This criterion is met.

## **GOAL 1, CITIZEN INVOLVEMENT**

The City of Bend has an established citizen involvement program. The application will be processed according to Chapter 4.1 of the BDC, which involves public notification and a public hearing. Documentation for the required neighborhood meeting, held on June 22, 2022, is included as a submittal item within the CityView the application (PLCPMA20220312). Since this is a Type III application, additional public notification and a public hearing as required by the BDC will provide further opportunity for public involvement. Therefore, Goal 1 is satisfied.

## **GOAL 2, LAND USE PLANNING**

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

## **GOALS 3 and 4, AGRICULTURAL AND FOREST LAND**

Goals 3, and 4 are not applicable because the property is not designated agricultural land or forest land.

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

The Subject Property is vacant and has been identified in the City’s Comprehensive Plan as appropriate for employment/commercial development . There are no known historic or natural resource areas that would be adversely impacted by the Comprehensive Plan Map Amendment and Zone Change, nor are there any special overlay zones on the Subject Property that implement Goal 5. Goal 5 is satisfied.

## **GOAL 6, AIR, WATER AND LAND RESOURCES QUALITY**

The Subject Property has been identified in the City’s Comprehensive Plan as appropriate for employment/commercial development. Furthermore, the Bend Development Code has established standards, requirements, and procedures for reviewing applications involving natural resources, including the Waterway Overlay Zone (“WOZ”) and Areas of Special Interest (“ASI”). The Subject Property is not located within the WOZ and does not contain an ASI. Future land use applications on the Subject Property will be reviewed in accordance with the Bend Development Code standards. Therefore, Goal 6 is satisfied.

## **GOAL 7, NATURAL HAZARDS**

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

## **GOAL 8, RECREATION NEEDS**

The Subject Property has been identified in the City's Comprehensive Plan as appropriate for employment/commercial development. Potential projects at the Subject Property do not involve the siting of recreational facilities or destination resorts. Nevertheless, the Subject Property is located approximately a half mile or less from Miller's Landing Park, which is a Bend Park & Recreation District ("BPRD") facility. BPRD provided a coordination letter, dated April 28, 2022, which indicates that the districted does not have any planned trails within the Subject Property. The Subject Property is not identified as a Goal 8 resource. Goal 8 is satisfied.

## **GOAL 9, ECONOMIC DEVELOPMENT**

This Goal is intended "To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens." The Subject Property has been identified in the City's Comprehensive Plan as appropriate for employment/commercial development. The CG and MU zones are both economic commercial development zones, however the MU zone allows for a more densely designed form of development, utilizing reduced setbacks, increased height limit, less landscaping, and reduced parking requirements.

As stated on page 5-45 of the Exhibit A – Findings for Ordinance NS-2271, when referring to the then-new Mixed Use Zones (including MU):

*"They also allow for an urban style of development with no minimum landscaping requirement (aside from parking lot and setback landscaping); reduced minimum parking standards for the MU zone (similar to the CBD rather than the standard for the rest of the city – see next section for details); no minimum front setback and a 10' maximum front setback."*

The MU zone allows for more dense and more efficient urban style development, and therefore allows a more robust realization of the economic potential of the Subject Property. Additional steps for development of the Subject Property include an associated subdivision (PLLD20220311) and associated Site Plan Review (PLSPR20220314). The proposal and associated steps will ultimately result in more efficient development occurring on the unusually narrow site which will provide economic opportunities to the City in conformance with this goal. The amendment will support the continued growth and diversity of Bend's economy. Therefore, Goal 9 is satisfied.

## **GOAL 10, HOUSING**

This Goal is intended to “Provide for the Housing Needs of the Citizens of the State”. Goal 10 ensures that steps are taken, including inventories and plans, to encourage the availability of needed housing units at price ranges and levels that are commensurate with the financial capabilities of Oregon households. Through the most recent UGB planning efforts, the City was required to document how a 20-year supply of housing can and will be provided in Bend. To ensure an adequate supply of residential lands, the City completed multi-tiered assessments, including the Buildable Lands Inventory (“BLI”), the Housing Needs Analysis (“HNA”) and the Urbanization Study (“US”). While both the CG and MU zones allow for residential development either outright (MU), or as part of a mixed-use development (CG), none of these reports considered the CG or MU zones as providing needed housing under Goal 10. Based on this analysis, the proposal will not affect residential lands considered under this goal.

However, from a functional standpoint, the MU Zone allows for residential uses outright and the MU zone allows for taller buildings, lesser landscaping requirements, lesser setback standards, lesser parking requirements, and as such, allows for development on a larger portion of the property. The associated Site Plan provided in the accompanying application specifies 16 units of residential housing as part of this plan, helping with the fulfillment of this Goal.

As stated on pages 8-5 and 8-6 of Exhibit A – Findings of Ordinance NS-2271:

*“The Council finds that areas in close proximity to transit, employment, and retail areas that have the most opportunity to increase residential development are currently designated for commercial or industrial uses. Because of this, the City is proposing a set of land use re- designations in key “Opportunity Areas” identified through the UGB project and other planning studies (e.g. the Central Westside Plan and the Bend Central District Plan) (see Figure 8-1 for a map of the opportunity areas). Many of these are changes from commercial or industrial designations to mixed use designations that allow for and encourage residential development and more compact form. Specifically, new mixed use designations and/or zones are proposed in concert with the 2016 UGB expansion for: ...*

- KorPine opportunity site (implemented using the new Mixed Use - Urban plan designation and zone developed for the UGB project); ...*

*The Council finds that, by enabling and encouraging mixed use, more residential development will be possible in close proximity to transit, employment, and shopping within Bend’s core. In addition, a minimum residential density is proposed for residential development in commercial and mixed use zones within 660 feet of transit so that the land is used efficiently and developed at transit-supportive densities. The new mixed use zones also reduce parking standards and allow for taller buildings and more urban development patterns that effectively increase allowed density for new commercial office and retail developments.”*

The MU zone increases the potential for residential development on the Subject Property and in the City and does it more efficiently than the CG zone; therefore it does not impact any of

the specific lands that have been designated to comply Goal 10. The proposal addresses the intent of Goal 10, because it will provide the potential for a greater number and variety of housing possibilities in the City, which the Applicant plans to capitalize on (as detailed in the associated Site Plan application). Therefore, Goal 10 is satisfied.

## **GOAL 11, PUBLIC FACILITIES AND SERVICES**

This Goal is intended to “To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.” The Subject Property has been identified in the City’s Comprehensive Plan as appropriate for employment/commercial development. The Bend Development Code (“BDC”) contains provisions that ensure an orderly and efficient arrangement of public facilities will be provided to serve permitted uses. City sewer and water service are available to the subject property. The Utility Availability Memos submitted with the application, dated July 2, 2021 and updated June 14, 2022 (PRSWA202103012), include additional details on the current water and sewer infrastructure available to serve the property. Additionally, the Subject Property has frontage on NW Arizona Avenue. The City-issued Traffic Analysis Memo, dated December 29, 2021 and updated on July 7, 2022, (PRTFR202105699) includes a review of the Applicant’s Transportation Facilities Report (“TFR”). The anticipated mitigation identified in the Traffic Analysis Memo related to constructing frontage improvements on NW Arizona Avenue will be addressed with the active subdivision application and associated Site Plan Review application. The existing transportation facilities are discussed in subsequent sections, and compliance with the Transportation Planning Rule is demonstrated below.

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

## **GOAL 12, TRANSPORTATION**

This Goal is intended “To provide and encourage a safe, convenient and economic transportation system.” Goal 12 is implemented through the Transportation Planning Rule (“TPR”), OAR 660 Division 12. Compliance with the TPR is addressed elsewhere in this recommendation.

## **GOAL 13, ENERGY CONSERVATION**

This Goal is intended “To conserve energy.” The proposed amendment will allow greater development potential due to an allowable larger development footprint and height and density in an area where goods and services are available to employees, customers and residents of mixed use developments. The Subject Property is within walking and biking distance and transit service to businesses, schools, and amenities, thereby reducing vehicle trip distances and a reduction in vehicle miles traveled, thus potentially conserving energy. Therefore, this goal is satisfied.

## **GOAL 14, URBANIZATION**

This Goal is intended "To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities." The Subject Property area is currently within the Bend Urban Growth Boundary and designated for urban development, therefore this Goal is met.

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

**FINDINGS:** The Applicant and the City have identified the Comprehensive Plan policies that are applicable to the application. Consistency with these policies are described in findings below.

## **PREFACE**

### **FUTURE PLAN UPDATES**

***Changes proposed by individuals or other agencies.*** A proposal by an individual, corporation, or public agency to change to the Plan text, land use map, other exhibits, or policies shall be considered as determined by the procedures ordinance. A person or agency proposing a change has the burden to demonstrate a public need and benefit for the change.

**FINDING:** The proposed Comprehensive Plan Map Amendment and Zone Amendment is proposed by an individual, the Applicant. The Applicant has consulted with the City of Bend Planning Department in the design of the project, the preparation of this application, and the identification of the relevant Comprehensive Plan Policies. As detailed throughout the burden of proof narrative, the Subject Property is located within the KorPine Opportunity Area, which (per the Comprehensive Plan) has the intent of becoming a vibrant urban mixed-use district. The MU zoning district is described in BDC 2.3.100 as:

*"The Mixed-Use Urban Zone is intended to provide opportunities for vibrant mixed-use centers and districts in areas with high-quality connectivity to and within the area. It is intended to allow for a denser level of development of a variety of commercial and residential uses than in surrounding areas and with an emphasis on retail and entertainment uses at the street level. It is intended to provide for development that is supportive of transit by encouraging a pedestrian-friendly environment."*

The MU Zoning District is the City established district that can most effectively implement the intent of the KorPine Opportunity Area. Given the narrow (48 foot) width of the Subject Property, development in the CG Zone is extremely challenging (if at all possible). The CG zone has 10 foot setbacks, 15% landscaping, and additional parking requirements that do not apply to the MU Zone. The lesser requirements, allow for more compact urban development, which make development of the property possible. Additionally, development of the Subject Property (specifically the NW Sisemore Street right-of-way dedication and connection) is an integral connection for the KorPine Opportunity Area transportation system. With the recently approved Killian project to the west, the NW Sisemore Street connection will be the only

north/south public street connection in this area, serving the rest of the KorPine Opportunity Area. Furthermore, the TSP identifies NW Sisemore Street as a planned collector.



Ultimately development of the Subject Property (with the associated NW Sisemore Street right-of-way dedication and connection) is necessary for the rest of the KorPine opportunity area to be developed with a north/south collector street (as planned in the TSP). Given the narrow nature of the Subject Property, development of the site under the CG development standards is exceptionally problematic. The City also has a documented need for housing and development of its commercial lands (as detailed in the Comprehensive Plan and its supporting documents). With MU zoning designation, the Subject Property can develop in a manner that will contribute to the intent of the KorPine opportunity area (a vibrant urban mixed use district), with commercial and residential components. Furthermore, with development, the NW Sisemore right-of-way can be dedicated and extended through the Subject Property, which will provide a TSP planned collector street and critical bike, pedestrian, and vehicular connections. As described below (in this section), the proposed Comprehensive Plan Map and Zoning Map Amendments conform to all relevant Comprehensive Plan policies.

## CHAPTER 1, PLAN MANAGEMENT AND CITIZEN INVOLVEMENT

### **POLICIES**

#### **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:** The Subject Property is situated in an area of Bend that is generally developed, experiencing development, and/or being redeveloped. While water and sewer mains do not directly abut the Subject Property, the general area is served by water, sewer and transportation systems that have been designed in conformance with the City's Public Facilities Plans. With the active subdivision application and the associated site plan development application, the Applicant proposes that sewer and water mains will be extended from the NW Arizona Avenue / NW Lava Road intersection, which the City of Bend Water/Sewer Analysis documents indicate is feasible. The Applicant's subdivision application requires the construction of the abutting portion of Sisemore Street and the abutting property to the south will extend NW Sisemore Street to Industrial Way. All public facilities will be

extended to and through the Subject Property, as directed by the BDC and City Standards. Transportation, water and sewer facilities are (or will be with the Applicant's active subdivision application) located within the rights-of-ways abutting the Subject Property, in conformance with the adopted Public Facilities Plans. Furthermore the abutting rights-of-way are (or will be) improved to City Standards (including the extension of NW Sisemore Street) and development of the Subject Property will be required to occur in conformance with the adopted Development Code. Therefore the proposal is consistent with this policy.

**1-7 The City will encourage compact development and the integration of land uses within the Urban Growth Boundary to reduce trips, vehicle miles traveled, and facilitate non automobile travel.**

**FINDING:** In Exhibit A – Findings of Ordinance NS-2271, when adopting and implementing the MU Zone, the City made the following findings (section 8-5):

*"The Council finds that areas in close proximity to transit, employment, and retail areas that have the most opportunity to increase residential development are currently designated for commercial or industrial uses. Because of this, the City is proposing a set of land use re-designations in key "Opportunity Areas" identified through the UGB project and other planning studies (e.g. the Central Westside Plan and the Bend Central District Plan) (see Figure 8-1 for a map of the opportunity areas). Many of these are changes from commercial or industrial designations to mixed use designations that allow for and encourage residential development and more compact form. Specifically, new mixed use designations and/or zones are proposed in concert with the 2016 UGB expansion for:*

- KorPine opportunity site (implemented using the new Mixed Use - Urban plan designation and zone developed for the UGB project)."*

These findings establish that MU zoning in appropriate areas contributes to compact development. The Kor Pine opportunity site, abutting the Subject Property to the south, was specifically identified. In regard to integration of land uses within the Urban Growth Boundary to reduce trips, vehicle miles traveled, and facilitate non-automobile travel, on page 8-11, the same findings establish:

*"The Council finds that achieving the standards will reduce reliance on automobiles as follows:*

*• An increase in activity density in the Central Core, Core Opportunity Areas, and Key Transit Corridors will put more households and more jobs in areas that are walkable, bikeable, and accessible by transit, facilitating use of alternate modes and reduced reliance on automobiles. It will also help provide the level of activity density needed to make transit operate more efficiently and help support additional businesses that are focused toward foot traffic rather than vehicle traffic..."*

*• Increasing the percentage of households and employees with access to transit means that more people have the choice to take transit to work, to school, or to key destinations such as downtown and institutions such as schools and hospitals..."*

The Comprehensive Plan Map Amendment and Zone Change Application is being submitted to facilitate a mixed-use development on the Subject Property, which is located within an Opportunity Area and along a Transit Corridor. A mixed use development, which takes advantage of the additional height allowed in the MU zone, as well as parking, landscaping, and setback allowances of the MU Zone, in this area will satisfy the goal of more compact development to reduce vehicle trips. As described above, allowing the proposed map amendments facilitates compact and integrated development, which is consistent with this policy.

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

**FINDING:** The proposed project on the Subject Property is an infill development because it involves the development of a vacant property located in an area that is mainly developed or in the process of being developed. Further, as shown on Figure 11-1, the Subject Property is located both within the KorPine Opportunity Area and identified as being within a “Transit Corridor” in the Comprehensive Plan. NW Arizona Avenue to the north provides the northern edge of the KorPine Opportunity Area and a clear and reasonable line of demarcation to separate the MU zone from CG zoned properties to the north. Allowing for mixed use development, consistent with the surrounding area, within the Opportunity Area and within the Transit Corridor will allow for efficient and compatible development options. The Plan Amendment and Zone Change will encourage infill and redevelopment of the Subject Property consistent with this policy. The policy is met.

**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:** As related to this application, the BDC requires that the review of the Comprehensive Plan Map Amendment and Zone Change include public hearings before both a hearings officer and City Council (prescribed in the BDC 4.1.400 Type III review process). Following the established Type III Quasi-Judicial review procedures will ensure consistency with this policy.

## **CHAPTER 6: ECONOMY**

**Table 6-1. Employment and Mixed-Use Plan Districts**

Mixed-Use Urban (MU)	The Mixed-Use Urban designation provides opportunities for vibrant mixed-use centers and districts with a mix of commercial, residential, and/or public and institutional uses. Suitable for areas generally within or adjacent to the central core of the city with high-quality connectivity to and within the area.
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**FINDING:** While not a policy, this zone/designation description details the intent of the MU Zone. To the north and to the west, the corridor is established with extra-wide sidewalks and a variety of commercial uses, thus well connected and supportive of transit in a pedestrian-

friendly environment. While the properties to the south are not currently well connected and supportive of transit, they have only relatively recently been rezoned from General Industrial to Mixed-Use Urban. Upon development and redevelopment, it is expected that these properties will be required to be well-connected and supportive of transit as well, as detailed within recent development approval PLSPR20220228. The City has initiated some transportation framework planning for the area:



*Transportation System Plan features: Road Classification, Primary Transit Corridors, Primary Project Corridors, Low Stress Network*

The Subject Property is well located and situated for MU development and the proposal will contribute the desired characteristics of the MU Zone.

## General Policies

- 6-3 Investment in transportation, water, sewer, fiber, and other utility infrastructure should be prioritized to serve economic lands.**
- 6-4 Infrastructure will be planned, designed, and constructed to support continued economic growth and orderly development.**

**FINDING:** Public infrastructure currently abuts or is in close proximity to the Subject Property. Investments in the surrounding infrastructure will fill in with development, including right-of-way dedication, water and sewer main extension, and street and sidewalk improvements. Furthermore, amending the Comprehensive Plan Map and Zoning Map will allow for the extension of the MU Zone, to the northern edge of the block. An MU Zone extension in this area allows for efficient development of the land by using rights of way, transit routes and defined Transit Corridors as lines of demarcation for differing zones. The proposal allows for the logical, orderly, and efficient arrangement of economic lands, extending to the edge of an

Arterial classified roadway. Extending the MU zone will establish a consistent land use designation through the KorPine Opportunity Area. As designed, the proposal is consistent with these policies.

**6-8 The City will recognize the statements of the City's overall economic development objectives and desirable types of employment contained in the 2016 Economic Opportunities Analysis (EOA).**

**FINDING:** The EOA includes the following statement:

*"The city is required to identify particular types of desirable employment to develop during the planning period as part of the general economic objective. The following list reflects desirable employment uses identified in the "2030 Vision" as well as employment types Bend is well positioned to continue to grow into the future:...*

*6. Mixed-use development – these uses should be located along key corridors and in designated centers, or as buffering uses."*

As depicted on Figure 11-1 of the City of Bend Comprehensive Plan, the Subject Property is identified as being within the KorPine Opportunity Area and also with in a Transit Corridor. Pursuant to Figure 11-1 and this policy, the Subject Property would be best suited with a designation that can accommodate the most dense and efficient mixed-uses, which the proposed MU designation promotes. This policy is met.

**6-10 The City will seek opportunities to designate or allow additional sites for employment use and increase the use of existing employment land within the existing urban growth boundary prior to expanding the UGB.**

**FINDING:** This policy emphasizes in-fill and redevelopment within the UGB. The current proposal provides an opportunity to designate the property MU, which will maximize the density of the land's use and provide for additional employment opportunities within the UGB (without decreasing needed residential lands). The Subject Property is within an Opportunity Area and abutted by a Minor Arterial classified roadway to the north (NW Arizona Avenue), which naturally separates it from the CG Zone to the north. Changing the Plan designation and Zone is therefore consistent with this policy. This policy is met.

**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:** The proposed Comprehensive Plan Map Amendment and Zone Change provides an owner-initiated opportunity to modify a Comprehensive Plan designation and Zone to respond to a specific opportunity for the development of a unique site in Bend. The Subject Property is well located on improved streets, provides a link to other redevelopment land, and pursuant to this policy, the City may modify the Comprehensive Plan designation and Zone. The immediate area has been undergoing redevelopment in recent years and the property to the south recently received development approval for a new mixed-use development. This

application is accompanied by an active subdivision application and an associated Site Plan application; the overall development package specifically shows how redevelopment and revitalization will occur. This policy is met.

## **MIXED USE DEVELOPMENT**

**6-24 Mixed-use development may be regulated through one or more plan designations and zoning districts to encourage the development of a mix of employment, or a mix of employment and residential uses.**

**FINDING:** Changing the Comprehensive Plan designation and Zone to MU will allow for an efficient and aesthetically pleasing mixed-use development on the Subject Property, as documented within the associated Site Plan application (PLSPR20220314). The Site Plan Review application materials include ground floor commercial with upper floor residential uses. Commercial uses are expected to be varied; likely walkable retail in light of the location's proximity to similar uses. Housing is planned and described in the associated Site Plan application. The residential component will be located above the ground floor commercial uses and will be 2-story, urban loft-style with emphasized exposure to both the streetscape and southern exposure. This design, made efficiently possible with MU zoning, will provide a variety of employment and housing types to the area. Furthermore, development of the Subject Property will provide on-site and off-site pedestrian connections, which will connect to the north and to the west, where the NW Arizona Avenue corridor is established with extra-wide sidewalks and a variety of commercial uses. The design also extends street and pedestrian improvements on NW Sisemore Street to the south. The Subject Property and its future development will be well connected and supportive of transit (fostering pedestrian and other non-motor vehicle access within and to the Subject Property). While the properties to the south are not currently well connected and supportive of transit, the abutting property has been approved for a large mixed-use development (PLSPR20210228) and the larger Korpine property south of Industrial Way is preparing a master plan application for submittal to the City in the near future. Upon development and redevelopment, it is anticipated that these properties will be well-connected and supportive of transit. Future development on the Subject Property will connect to the abutting streets and to the area to the south, thereby fostering pedestrian and other non-motor vehicle access throughout the area. The Subject Property is well situated for MU development and the proposal will contribute to development that will foster pedestrian and other non-motor vehicle access within, to, and around the Subject Property. Regarding compatibility, aside from the public right-of-way to the east, all properties immediately south of NW Arizona Avenue and the Subject Property are zoned MU. The proposed designation and zone (MU) are the same as the abutting properties, thereby ensuing compatibility of the abutting uses. Elements of site planning, access, parking areas, and building designs will be reviewed with the associated Site Plan Review application. As detailed above, the proposal is consistent with this policy.

**6-26 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.**

**FINDING:** The Subject Property is located within an Opportunity Area and within a mapped Transit Corridor (Figure 11-1 of the Comprehensive Plan), thus this policy encourages vertical

mixed-use development on the Subject Property. While the current CG designation and zone do allow for vertical mixed use, the proposed MU Zone better suits the site because MU provides lesser setbacks, lesser parking standards, and lesser landscaping requirements, along with a greater height allowance. Therefore, a Comprehensive Plan Map Amendment and Zone Change to MU will be an initial step that will result in development that is even more consistent with this policy than the current CG zone and designation.

## CHAPTER 7: TRANSPORTATION SYSTEMS

### Goals

- ...
- Transit: increase transit participation.
- Increase the number of people who walk, ride a bike, and/or take transit.
- Ensure that people of all income levels and abilities have access to the transportation options that best meet their needs.
- Minimize the impacts of the system on air and water quality and noise.
- Reduce carbon emissions from transportation.
- ...

**FINDING:** By providing more residential, commercial and employment opportunities in an Opportunity Area and within a Transit Corridor, the proposal will contribute to the goals of this chapter, listed above.

## 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.**

**FINDING:** These policies are implemented via the approval criteria of Chapter 4.2 for Site Plan Review and 4.3 for Land Divisions. The Applicant has prepared both an associated Subdivision application and an associated Site Plan application with this submittal, and the submittal is supported by a Sewer Analysis that has been prepared by the City of Bend. As detailed in the submittal materials and the Sewer Analysis, the planned development can extend a sewer main within NW Arizona Avenue from its intersection with NW Lava Road and connect to the City sewer main via gravity conveyance in accordance with City Standards.

The adopted Development Code requirements implement these policies, and development review will ensure compliance with approval standards and criteria; therefore, the overall proposal 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.**
- 8-18 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 water service area of the City of Bend and these policies are implemented via the approval criteria of BDC Chapter 4.2 for Site Plan Review and BDC Chapter 4.3 for Land Divisions. The Applicant has prepared both a Subdivision and a Site Plan Review application in association with this submittal, and the submittal is supported by a Water Analysis that has been prepared by the City of Bend. As detailed in the application materials and the Water Analysis, the planned development, as described within the Subdivision and Site Plan Review applications, will extend a water main within NW Arizona Avenue from its intersection with NW Lava Road and connect to the City water main in accordance with City Standards.

The adopted Development Code requirements implement these policies, and development review will ensure compliance with approval standards and criteria; therefore, the overall proposal is consistent with these policies.

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

- 8-24 Due to the lack of a defined drainage pattern for most of the urban area, development shall, to the extent practicable, contain and treat storm drainage on-site. In instances where containing storm drainage on-site would not be safe or practicable, the developer shall enter into a formal and recorded arrangement with the City or a private party to adequately address the storm drainage off site such as a regional control.**
- 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.**
- 8-31 All developments shall evaluate the potential of a land parcel to detain excess stormwater runoff and require incorporation of appropriate controls, for example through the use of detention facilities to address quantity, flow, and quality concerns.**
- 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:** The Subject Property's existing condition is raw land with disturbed soil from removal of the railroad tracks. It has no runoff, erosion, or sediment controls. Development of the site in accordance with City policies will result in a significant improvement. These policies are implemented via the approval criteria of Chapter 4.2 for Site Plan Review. The Applicant has prepared and submitted a Site Plan that is being reviewed concurrent with this submittal. As detailed in the Site Plan Review application, the Applicant has described how the development can accommodate storm water in accordance with City Standards.

**8-40 The City shall work to reduce transportation-related sources of water pollution, particularly in stormwater pollution. Any means and actions that result in a reduction in vehicle-miles-traveled would benefit congestion and reduce both air and water pollution.**

**FINDING:** The MU zone is specifically formulated to reduce automotive vehicle travel. As noted above, in Exhibit A – Findings of Ordinance NS-2271, when adopting and implementing the MU Zone, the City made the following findings related to integration of land uses within the Urban Growth Boundary to reduce trips, vehicle miles traveled, and facilitate non-automobile travel, in section 8-11, the same findings establish:

*“The Council finds that achieving the standards will reduce reliance on automobiles as follows:*

- An increase in activity density in the Central Core, Core Opportunity Areas, and Key Transit Corridors will put more households and more jobs in areas that are walkable, bikeable, and accessible by transit, facilitating use of alternate modes and reduced reliance on automobiles. It will also help provide the level of activity density needed to make transit operate more efficiently and help support additional businesses that are focused toward foot traffic rather than vehicle traffic...*
- Increasing the percentage of households and employees with access to transit means that more people have the choice to take transit to work, to school, or to key destinations such as downtown and institutions such as schools and hospitals...*
- Achieving a more even balance of jobs and housing in the Central Core and Core Opportunity Areas will mean that more people live in employment-rich*

*areas, and that there are more opportunities to live and work within the Central Core.”*

The Comprehensive Plan Map Amendment and Zone Change Application is being submitted to facilitate a mixed-use development on the Subject Property, which is located within the KorPine Opportunity Area and within a Transit Corridor. A mixed-use development that takes advantage of the height, parking, landscaping, and setback allowances of the MU Zone in this area will contribute to the fulfillment of this section’s goals, in that a more compact development pattern, and a mix of commercial and residential uses within buildings, may reduce vehicle-miles-traveled. Given that the proposal is a means that will result in a reduction in VMT, it is consistent with this policy.

## **CHAPTER 11: GROWTH MANAGEMENT**

### **General Growth Management Policies**

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

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

**FINDING:** In Exhibit A – Findings of Ordinance NS-2271, when adopting and implementing the MU Zone, the City made the following findings (section 8-5):

*“The Council finds that areas in close proximity to transit, employment, and retail areas that have the most opportunity to increase residential development are currently designated for commercial or industrial uses. Because of this, the City is proposing a set of land use re- designations in key “Opportunity Areas” identified through the UGB project and other planning studies (e.g. the Central Westside Plan and the Bend Central District Plan) (see Figure 8-1 for a map of the opportunity areas). Many of these are changes from commercial or industrial designations to mixed use designations that allow for and encourage residential development and more compact form. Specifically, new mixed use designations and/or zones are proposed in concert with the 2016 UGB expansion for:*

- KorPine opportunity site (implemented using the new Mixed Use - Urban plan designation and zone developed for the UGB project);”*

These findings establish that the MU Zone, applied in appropriate areas, contributes to compact development in fulfillment of this policy. In regards to integration of land uses within the Urban Growth Boundary to reduce trips, vehicle miles traveled, and facilitate non-automobile travel, on section 8-11, the same findings establish:

The Council finds that achieving the standards will reduce reliance on automobiles as follows:

- “An increase in activity density in the Central Core, Core Opportunity Areas, and Key Transit Corridors will put more households and more jobs in areas that are*

*walkable, bikeable, and accessible by transit, facilitating use of alternate modes and reduced reliance on automobiles. It will also help provide the level of activity density needed to make transit operate more efficiently and help support additional businesses that are focused toward foot traffic rather than vehicle traffic...*

- Increasing the percentage of households and employees with access to transit means that more people have the choice to take transit to work, to school, or to key destinations such as downtown and institutions such as schools and hospitals..”.*

The Comprehensive Plan Map Amendment and Zone Change Application is being submitted to facilitate a mixed-use development on the Subject Property, which is located within the KorPine Opportunity Area and within a Transit Corridor. A mixed-use development which takes advantage of the height, parking, landscaping, and setback allowances of the MU Zone, in this area will provide the opportunity for development which reduces vehicle-miles-traveled. contribute to the elements of this section. As described above, allowing the proposed map amendments will facilitate compact and integrated development, which is consistent with this policy.

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

**FINDING:** The Subject Property is situated along the northern edge of the KorPine Opportunity Area and located within a Transit Corridor (as identified by Comprehensive Plan Figure 11-1); therefore, this policy encourages infill and redevelopment of the subject property. The proposed Comprehensive Plan Map Amendment and Zone Change will allow for more efficient use of the land by applying the reduced setbacks of the MU zone, thereby encouraging the development of this very narrow property (as proposed in the associated Subdivision and Site Plan Review applications) consistent with this policy.

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

**FINDING:** The Subject Property is within an Opportunity Area as noted above, and within a Transit Corridor, thus this policy establishes that it is planned to have appropriate types of pedestrian, biking, and transit scale amenities to ensure safety, access, and mobility. While the Conceptual Plans highlights these elements, they are design standards, which are reviewed with the subdivision and Site Plan Review applications.

**11-10 The City shall continue to explore mixed use zoning as one of the land use patterns that will promote fewer vehicle trips and shorter trip lengths.**

**FINDING:** The City has adopted the MU zone into its planning program as a land use designation that will promote fewer vehicle trips and shorter trip lengths, as noted in section 8-6 of Exhibit A – Findings of Ordinance NS- 2271:

*"The Council finds that, by enabling and encouraging mixed use, more residential development will be possible in close proximity to transit, employment, and shopping within Bend's core. In addition, a minimum residential density is proposed for residential development in commercial and mixed-use zones within 660 feet of transit so that the land is used efficiently and developed at transit- supportive densities. The new mixed-use zones also reduce parking standards and allow for taller buildings and more urban development patterns that effectively increase allowed density for new commercial office and retail developments."*

The proposal will add 1.07 acres of land to the MU Zone, in an area that is well located and suited for the MU Zone and designation.

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

**FINDING:** The proposal is innovative in that it will turn a former rail spur into a mixed-use development along a prominent and newly improved transportation corridor. To fully maximize the residential and employment potential of the Subject Property, a Comprehensive Plan Map Amendment and Zone Change is being requested. This policy is met.

**Policies for Centers and Corridors**

**(See related policies in Chapter 6, Economy.)**

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

**11-24 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.**

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

**FINDING:** As detailed on Figure 11-1: Core Area, Transit Corridors, and Opportunity Areas, the Subject Property is situated within the KorPine Opportunity Area and located within a Transit Corridor. To the west and to the north, the area is developed with extra-wide sidewalks, which are safe and provide convenient access and connections for all modes of transportation. These policies established that the City shall encourage development, particularly mixed-use development, when located in transit-rich locations. The proposed Comprehensive Plan Map Amendment and Zone Change will allow for an efficient mixed-use development on the property, which is consistent with these policies. This policy is met.

**Policies for Residential Areas and Neighborhoods**

**(See related policies in Chapter 5, Housing.)**

**11-32 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 Comprehensive Plan Map Amendment and Zone Change provides an owner-initiated opportunity to improve and modernize a Comprehensive Plan designation and Zone to respond to a specific opportunity for revitalization and redevelopment of a site in Bend. Pursuant to this policy, the City may modify the Comprehensive Plan designation and Zone. This proposed project is accompanied by an associated Site Plan Review application that shows how redevelopment and revitalization will occur, if approved. This policy is met.

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

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

**FINDING:** The Subject Property is located in an area of Bend that is newly developed/redeveloped with upgraded public infrastructure, services, and transportation networks. A transportation system abuts the Subject Property to the north and water and sewer mains are located at the NW Arizona Avenue / NW Lava Road intersection, which could be extended to serve the Subject Property, optimizing recent infrastructure upgrades. The associated Subdivision application will extend NW Sisemore Street to the south effectively traversing across the Subject Property. Site Plan Review approval for the abutting property to the south requires the dedication and improvement of NW Sisemore Street from the south property line of the Subject Property to Industrial Way. This extension of NW Sisemore Street between NW Arizona Avenue and Industrial Way will improve the transportation network in the vicinity.

The Development Code establishes “development” as the appropriate time to extend facilities. Site Plan Review approval criterion BDC 4.2.500.D.7 establishes that “[a]ll required public facilities have adequate capacity, as determined by the City, to serve the proposed use;...” and the Land Division criterion BDC 4.3.300.E.4 establishes that “[a]ll 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 with development, public facilities must be extended in accordance with City Standards. The current proposal is accompanied by an active subdivision application and an associated Site Plan Review application and supported by analyses of the water, sewer, and transportation systems. Subdivision and Site Plan standards and approval criteria, likely impacts to public facilities, and public facility needs are reviewed with the Subdivision and Site Plan applications. With the noted development applications, the Applicant will be extending public facilities to serve the property and constructing streets and street frontages to public improvement standards in accordance with the adopted Development Code Standards.

Regarding services (schools, parks, fire and police), the Subject 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 boundary.

Schools: The existing CG Zone allows for a mixed-use development and the MU Zone will allow for a slightly denser mixed-use development. The difference in the number of dwellings and potential additional students will be negligible. The Applicant has coordinated with the Bend La-Pine School District, which has provided a letter documenting that with the School District has capacity to accommodate the potential additional students that might be generated from development on the Subject Property, with the MU Zoning.

Parks: The Subject Property is located within the Bend Park and Recreation District (“BPRD”) boundaries. BPRD has a Comprehensive Plan to ensure park capacity is provided throughout the District service area. The Applicant has coordinated with BPRD, which has advised that the area is adequately served with parks and that residential development will be required to pay all applicable Park System Development Charges (SDC). The BPRD letter has been submitted with the application submittal materials. . With the payment of any required SDCs, park facilities and services will be adequate to accommodate the change from CG to MU.

Fire and Police Protection: The Subject Property is located within the City of Bend, which is served by City Police and Fire Departments. Changing the small 1.07-acre area from CG to MU will not significantly impact Fire and Police Service needs.

The combination of the built facilities, public facilities plans, and the Development Code requirements for development (Site Plan and Land Division applications) ensures that adequate public facilities are currently provided or will be provided concurrent with development in conformance with this approval criterion. Therefore, this criterion is met.

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

**FINDING:** The Applicant argues that there has been a change in the neighborhood, a mistake in the zoning designation, and an inconsistency in the zoning pattern, which justify the Comprehensive Plan Map and Zoning Map Amendment. Each of the Applicant’s “arguments” is discussed below.

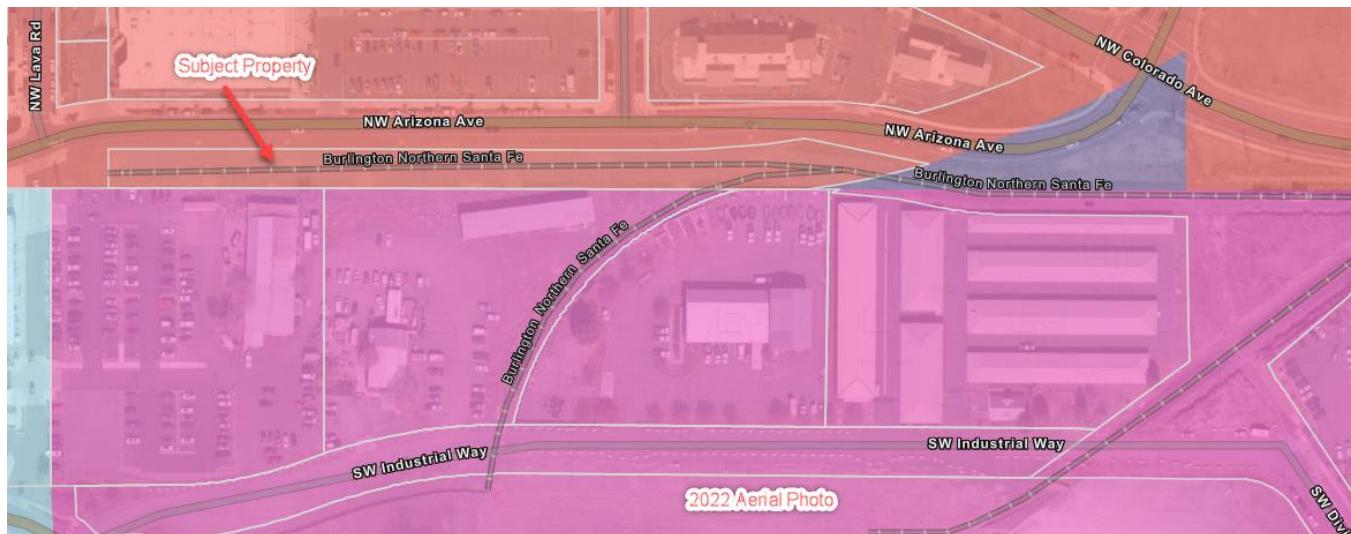
Change

The Subject Property was previously owned by the Burlington Northern Sante Fe Railroad Company and was improved with a railroad spur. The spur was historically used to accommodate industrial development in the area, particularly service to and from the mills. Industrial development in the area has significantly diminished and there was no longer a need for this spur. In 2014 the rail tracks were removed and in 2016, BNSF sold the Subject Property to the Applicant. With the most recent City of Bend UGB Expansion, the City adopted a new Mixed-Use Urban Zone, and the Subject Property has been identified as an Opportunity Area and a Transit Corridor, where development and redevelopment was encouraged.

Furthermore, the 2016 UGB and Comprehensive Plan Update changed the designation and zoning of all of the Industrial zoned land in the KorPine Opportunity Area to Mixed-Use Urban. With the recent changes all of the property to the south of the Subject Property is zoned Mixed-Use Urban and planned to accommodate a mixture of residential and commercial uses, in a vibrant, pedestrian friendly, transit supportive setting. The Comprehensive Plan designation and zoning of the surrounding area has changed.

#### Mistake

The Applicant believes that an “oversight” is a type a mistake. The Applicant argues that a mistake (oversight) was made, when the Subject Property was not designated and zoned MU with the rest of the KorPine Opportunity Area south of Arizona Avenue. The narrow strip of property was (and often still is) identified on maps with a railroad track label. Railroads are often considered right-of-way and when the railroad was immediately abutting the NW Arizona Avenue right-of-way, it may have been assumed that Subject Property was, and would continue to be a railroad right-of-way, and thus not developable, so not considered in the 2016 Comprehensive Plan Update and UGB Expansion and rezoning of properties to MU. Though the railroad tracks were removed in 2014, rail tracks continued to be indicated in aerial photos, even in 2022 aerial photos.



If aerial photos were utilized to determine development viability, it is likely that the Subject Property was assumed to be not developable and so not necessary to include in the group of properties identified as though that should be rezoned to MU. This is likely the reason why the right-of-way area to the east of the Subject Property is still zoned General Industrial. The Subject Property was conveyed to a private owner in 2016 and the tracks have been removed. Not changing the designation and zone with the rest of the KorPine Opportunity Area at that time was an oversight, or more generally a mistake.

#### Inconsistency

Figure 11-1 of the Comprehensive Plan identifies the Subject Property as being within the KorPine Opportunity Area, and the Findings of NS-2271 established that the KorPine Opportunity Site would be implemented by using the new Mixed-Use Urban designation and

Zone (sections 5-46, 8-5, and 8-21). Figure 11-1 of the Comprehensive Plan along with the text of the Findings are inconsistent with the current Comprehensive Plan designation and zone.

While only one of these items, a change, mistake or an inconsistency is required, as detailed above, there has been a change in the neighborhood, a mistake, and an inconsistency in the Comprehensive Plan; therefore the proposal conforms to this approval criteria.

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

**4.6.600 TRANSPORTATION PLANNING RULE COMPLIANCE**

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

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

**OAR 660-012-0060**

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

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

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

- (B) *Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*
- (C) *Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

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

- (a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.*
- (b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.*
- (c) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.*
- (d) Providing other measures as a condition of development or through a development agreement or similar funding method, including, but not limited to, transportation system management measures or minor transportation improvements. Local governments shall, as part of the amendment, specify when measures or improvements provided pursuant to this subsection will be provided.*
- (e) Providing improvements that would benefit modes other than the significantly affected mode, improvements to facilities other than the significantly affected facility, or improvements at other locations, if:*
  - (A) The provider of the significantly affected facility provides a written statement that the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards;*
  - (B) The providers of facilities being improved at other locations provide written statements of approval; and*
  - (C) The local jurisdictions where facilities are being improved provide written statements of approval.*

**FINDING:** The proposed amendment to the City's Comprehensive Plan Map and Zoning Map will not have a "significant effect" on a transportation facility under OAR 660-012-0060(1)

based on the findings in the City's Traffic Analysis Memo (TAM), PRTFR202105699, dated December 29, 2001 and updated July 7, 2022, and the initial Transportation Facilities Report (TFR), dated May 24, 2001, prepared by Joe Bessman, PE, Transight Consulting and the TFR update, dated April 18, 2022, also prepared by Joe Bessman, PE, Transight Consulting.

The transportation analysis concludes that the planned Comprehensive Plan Map Amendment and Zone Change will not result in any significant impacts because the planned phased mixed-use development as submitted under PLSPR20220314, would generate fewer trips than a similar development under CG zoning. The primary difference in land uses between the MU and CG zones is that CG allows for auto-dependent uses such as convenience market and drive-thru restaurants. These uses significantly increase the net new system trips (per the ITE manual) as well as turning movements at the driveways. Table 4 of the TFR shows the comparison of the more intense allowable uses (from a trip generation perspective) between the two zoning designations:

**Table 4. Allowable Use Table**

Use	Allowed in CG Zone?	Allowed in MU Zone?	ITE Land Use and Trip Rate
Single-Family Townhomes, Multifamily, Micro-Units	Yes	Yes	ITE 221: Multifamily (Low-Rise): 0.44/unit
Retail Sales/Service	Yes	Yes	ITE 820: Shopping Center: 3.81/KSF
Auto-Dependent Retail Sales/Service	Yes	No	ITE 851: Convenience Market 49.11/KSF
Restaurants with Drive-Through	Yes	No	ITE 934: Fast Food with Drive-Thru 32.67/KSF
Restaurants without Drive-Through	Yes	Yes	ITE 933: Fast Food w/o Drive-Thru 28.34/KSF
Offices/Clinics	Yes	Yes	ITE 720: Medical – Dental Office 3.46/KSF
Hotels/Motels	Yes	Yes	ITE 310: Hotel 0.60/Room

The comparative “worst-case” trip generation scenarios are presented in Table 6 below. This table highlights the significance of allowing a convenience market within the larger commercial suite, which significantly increases the net new system trips as well as turning movements at the driveways. Accordingly, even if the plans were adjusted to maximize the higher building height with more residential units the table shows that the auto-dependent convenience store use still generates far more trips. Accordingly, as identified within the use tables BDC 2.2.300 (CG) and BDC 2.2.200 (MU) for the MU and CG zones within the BDC, the designation of Mixed-Use Urban zoning provides a reduction in trip generation potential and therefore does not create a significant effect per the TPR analysis.

Table 6. Trip Generation Estimates (ITE 10<sup>th</sup> Edition)

Land Use	ITE Code	Size	Weekday Daily Trips	Weekday PM Peak Hour Trips		
				Total	In	Out
Existing CG Zoning (21% Reduction in Building Size)						
Multifamily Housing (Mid-Rise) <i>Internal Trips (10%)</i>	221	8 DU's	44 -4	4 -0	2 -0	2 -0
Shopping Center <i>Internal Trips (10%)</i> <i>Pass-by Trips (34%)</i>	820	1,229 sf	46 -5 -14	5 -1 -1	2 -0 -1	3 -1 -0
Multifamily Housing (Mid-Rise) <i>Internal Trips (10%)</i>	221	18 DU's	98 -10	8 -1	5 -1	3 -0
Convenience Market <i>Internal Trips (10%)</i> <i>Pass-by Trips (66%)</i>	820	2,765 sf	2,108 -210 -1,252	136 -14 -81	69 -7 -41	67 -7 -40
High-Turnover (Sit-Down) Restaurant <i>Internal Trips (10%)</i> <i>Pass-by Trips (43%)</i>	932	1,580 sf	177 -18 -68	15 -2 -6	10 -1 -4	5 -1 -2
Food Cart Pod <sup>1</sup> (No Change from MU Zone) <i>Internal Trips (10%)</i> <i>Pass-by Trips (43%)</i>	926	3 Carts	70 -7 -27	7 -1 -3	3 -0 -2	4 -1 -1
Total Proposed Trips <i>Internal Trips</i> <i>Pass-by Trips</i> <b>Estimated Net Trip Impacts</b>			2,543 -254 -1,361 <b>928</b>	175 -19 -91 <b>65</b>	91 -9 -48 <b>34</b>	84 -10 -43 <b>31</b>
Proposed MU Zoning						
Multifamily Housing (Mid-Rise) <i>Internal Trips (10%)</i>	221	10 DU's	54 -5	4 -0	2 -0	2 -0
Shopping Center <i>Internal Trips (10%)</i> <i>Pass-by Trips (34%)</i>	820	1,556 sf	59 -6 -18	6 -1 -1	3 -0 -1	3 -1 -0
Multifamily Housing (Mid-Rise) <i>Internal Trips (10%)</i>	221	22 DU's	120 -12	10 -1	6 -1	4 -0
Shopping Center <i>Internal Trips (10%)</i> <i>Pass-by Trips (34%)</i>	820	3,500 sf	132 -13 -40	13 -1 -4	6 -0 -2	7 -1 -2
High-Turnover (Sit-Down) Restaurant <i>Internal Trips (10%)</i> <i>Pass-by Trips (43%)</i>	932	2,000 sf	224 -22 -87	20 -2 -8	12 -1 -5	8 -1 -3
Food Cart Pod <sup>1</sup> <i>Internal Trips (10%)</i> <i>Pass-by Trips (43%)</i>	926	3 Carts	70 -7 -27	7 -1 -3	3 -0 -2	4 -1 -1
Total Proposed Trips <i>Internal Trips</i> <i>Pass-by Trips</i> <b>Estimated Net Trip Impacts</b>			659 -65 -184 <b>410</b>	60 -6 -16 <b>38</b>	32 -2 -10 <b>20</b>	28 -4 -6 <b>18</b>
Trip Generation Difference (Proposed – Existing)						
Trip Difference (Proposed Zoning – Existing Zoning)			-518	-27	-14	-13

<sup>1</sup>Analysis uses pass-by rate from High-Turnover (Sit-Down) Restaurant

MU zoning provides a reduction in trip generation potential (from 928 estimated trip impacts in the CG zone down to 410 estimated trip impacts in the MU zone) and therefore does not create a significant impact per the TPR. Additionally, the proposed project under the associated Site Plan Review application (PLSPR20220314) does not generate sufficient trips to trigger a Traffic Impact Analysis (“TIA”) for the Site Plan Review stage of development review.

Since there are no anticipated additional impacts, no mitigations or transportation

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improvements are necessary related to the Plan Map Amendment as required under OAR 660-012-0060(2). Additional project specific transportation review will be included as part of a formal Site Plan Review application and the Applicant will comply with all City standards and requirements.

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

- (a) In the absence of the amendment, planned transportation facilities, improvements and services as set forth in section (4) of this rule would not be adequate to achieve consistency with the identified function, capacity or performance standard for that facility by the end of the planning period identified in the adopted TSP;**
- (b) Development resulting from the amendment will, at a minimum, mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development through one or a combination of transportation improvements or measures;**
- (c) The amendment does not involve property located in an interchange area as defined in paragraph (4)(d)(C); and**
- (d) For affected state highways, ODOT provides a written statement that the proposed funding and timing for the identified mitigation improvements or measures are, at a minimum, sufficient to avoid further degradation to the performance of the affected state highway. However, if a local government provides the appropriate ODOT regional office with written notice of a proposed amendment in a manner that provides ODOT reasonable opportunity to submit a written statement into the record of the local government proceeding, and ODOT does not provide a written statement, then the local government may proceed with applying subsections (a) through (c) of this section.**

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

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

- (a) In determining whether an amendment has a significant effect on an existing or planned transportation facility under subsection (1)(c) of this rule, local governments shall rely on existing transportation facilities and services and on the planned transportation facilities, improvements and services set forth in subsections (b) and (c) below.**
- (b) Outside of interstate interchange areas, the following are considered planned facilities, improvements and services:**
  - (A) Transportation facilities, improvements or services that are funded for construction or implementation in the Statewide Transportation Improvement Program or a locally or regionally adopted transportation improvement program or capital improvement plan or program of a**

*transportation service provider.*

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

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

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

*(E) Improvements to regional and local roads, streets or other transportation facilities or services that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when the local government(s) or transportation service provider(s) responsible for the facility, improvement or service provides a written statement that the facility, improvement or service is reasonably likely to be provided by the end of the planning period.*

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

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

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

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

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

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

*(C) Interstate interchange area means:*

*(i) Property within one-quarter mile of the ramp terminal intersection of an existing or planned interchange on an Interstate Highway; or  
(ii) The interchange area as defined in the Interchange Area Management Plan adopted as an amendment to the Oregon Highway Plan.*

*(e) For purposes of this section, a written statement provided pursuant to*

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

**FINDING:** This section of the Transportation Planning Rule requires coordination with affected transportation service providers. All roads serving the Subject Property are under City of Bend jurisdiction. The City of Bend has reviewed the transportation analysis and issued the TAM, with required mitigation, showing that the project will not have a “significant effect” on the affected streets under OAR 660-012-0060(1). The City is not required to coordinate with the Oregon Department of Transportation (ODOT) or Deschutes County (County) because no transportation facility controlled by ODOT or the County will be affected by this Comprehensive Plan Map Amendment and Zone Change application. The City has complied with the provisions of this section in its determination.

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

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

**FINDING:** This application includes a Comprehensive Plan Map Amendment concurrent with a zone change from CG to MU. With the concurrent zone change, the amendment will bring the zone map into conformance with the amended Comprehensive Plan Map. This criterion is met.

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

**FINDING:** A Traffic Analysis Memo and a Utility Availability Memo is provided with the application submittal materials, demonstrating that the Subject Property and affected area is presently provided with, or can provide, adequate public facilities, services, and transportation networks to support the future use. The recommended mitigations are feasible and can be addressed with the future development of the property. This criterion is met.

**CONCLUSIONS:** The Hearings Officer finds that based on the evidence in the record that the Applicant's proposed Comprehensive Plan Map amendment to change the land use designation from Commercial General (CG) to Mixed Use Urban (MU) with a concurrent zone amendment to match the new land use designation meets all relevant approval criteria, goals and policies.

**RECOMMENDATION:** The Hearings Officer adopts the findings of the Staff Report excepting as modified by the Preliminary Findings above, and recommends that the City Council amend the land use designation on the Subject Property from Commercial General (CG) to Mixed Use Urban (MU) with a concurrent zone amendment to match the new land use designation as requested by the Applicant.