

RESOLUTION NO. 3366

A RESOLUTION APPROVING A MULTIPLE-UNIT PROPERTY TAX EXEMPTION FOR TIMBER YARDS PHASE A LOCATED AT 175 SW INDUSTRIAL WAY

Findings:

- A. The Bend City Council adopted 12.35.010 to 12.35.050 of the Bend Municipal Code (BMC), implementing the Multiple-Unit Property Tax Exemption (MUPTE) program as allowed under ORS 307.600 to 307.637.
- B. MUPTE enables the City Council to grant up to a 10-year property tax exemption to qualified multi-unit housing projects to encourage higher density housing and redevelopment in the City's core and transit-oriented areas as defined in BMC 12.35.015.
- C. Pursuant to ORS 307.606(1) and BMC 12.35.030.F., the tax exemption is only for the City's ad valorem taxes, but if the combined rates of taxation of the City and of all taxing districts whose governing boards agree to the tax exemption policy of MUPTE for the project equal 51 percent or more of the total combined rate of taxation on the property granted the exemption, the exemption is for the property taxes of all taxing districts.
- D. To qualify for MUPTE, a project must include three or more dwelling units, provide public benefits as provided in BMC 12.35.025, be at least two stories in height (or if on a lot larger than 10,000 square feet, be at least three stories in height), and be located in an eligible area.
- E. The tax exemption under MUPTE applies to residential improvements only, however, the exemption may also apply to parking constructed as part of the multiple-unit housing project, and commercial improvements required as part of the design or public benefits of a project.
- F. In December 2023, the City received an application for MUPTE for a project on a portion of tax lot 181205A000500, located at 175 SW Industrial Way in Bend, Oregon, identified as Lot 1 and Phase 1 in the approved Timber Yards Phased Tentative Subdivision, decision number PLLD20230464 issued by the City of Bend (the "Parcel"), along with open space on a portion of adjacent land identified as Tract A in the same tentative subdivision. The Parcel is owned by KW-Kelton-Bend Owner LLC. The proposed development is a new 6-story mixed use building with residential housing units, and a wrapped parking structure, approved under City of Bend Site Plan number PLSPR20230465 (the "Project"). The Project is located in the Core Area Tax Increment Finance District, which is an area eligible for MUPTE, and proposes approximately 246 new dwelling units.

- G. BMC Chapter 12.35 requires certain elements (referred to as "public benefits") be included in a project to qualify for MUPTE. The Project will provide the following MUPTE- eligible public benefits: open space, enhanced landscaping, and a wrapped parking structure.
- H. The City retained an independent professional financial consultant to review the Project's financial pro-forma. This consultant determined that the Project would not be feasible but for the tax exemption.
- I. As provided in the Staff Report and Recommendation, attached as Exhibit A to this Resolution, Staff found that the applicant submitted all required materials, and the applicant complies with the program requirements. Staff therefore recommend the application be approved and the exemption granted.
- J. On January 9, 2024, the Bend-La Pine School District (Administrative School District No. 1) approved a resolution agreeing to the policy of providing tax exemptions for multiple-unit housing as provided in ORS 307.600 to 307.63 and Bend Code Chapter 12.10, within the Core Area Tax Increment Finance Area, as it may be amended, through June 30, 2025. The Project is within the Core Area Tax Increment Finance Area and Council is considering this application before June 30, 2025.
- K. The Bend La-Pine School District represents 40.5 percent of the 2024 combined tax levy and the City of Bend represents 21.6 percent of the 2024 combined tax levy. Approval of the multiple-unit property tax exemption from both the Bend La-Pine School District and City of Bend exceeds 51 percent of total combined rate of taxation for the Property.
- L. Therefore, the MUPTE Program criteria defined in BMC 12.35.0010 to 12.35.050 and accompanying City policies have been met and the Project should be granted the MUPTE for the tax levy of all taxing jurisdictions, subject to the conditions in this Resolution.

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

Section 1. The application for the multiple-unit property tax exemption for a development on a portion of tax lot 181205A000500, located at 175 SW Industrial Way in Bend, Oregon, identified as Lot 1 in the approved Timber Yards Phased Tentative Subdivision, decision number PLLD20230464 issued by the City of Bend, as such tax lot may be consolidated or adjusted when final subdivision plats are recorded, is approved for the ad valorem for all taxing districts for residential improvements and residential parking constructed under City of Bend Site Plan approval number PLSPR20230465 (the "Exempt Improvements"), subject to the following conditions:

- a) Applicant must provide proof of a deed restriction that prohibits the use of hotels, motels, and short-term vacation rentals on the site for the period of the exemption.
- b) Applicant must provide a public access easement satisfactory to the City on the proposed open space area, under which the property owner is responsible for maintenance. The open space area in the adjacent Tract A must be built as approved in the site plan before the exemption is issued.
- c) Applicant must demonstrate compliance with Enhanced Landscaping requirements as verified by staff.
- d) Applicant must submit a water budget to City staff for approval prior to exemption certification. The City will monitor water use throughout the 10-year exemption period. The site can't exceed 20% above the water budget for the site during the exemption period.
- e) City to verify construction of wrapped parking as proposed in approved site plan and building permits before exemption is issued.

Section 2. The tax exemption granted by this Resolution begins July 1 of the year following issuance of a Certificate of Occupancy for the Project, unless the exemption is earlier terminated in accordance with the provisions of BMC 12.35.035. The exemption approved by this Resolution is for the residential buildings and any parking that is constructed with the Project and designated for the residential units. Prior to certification under Section 5 and following construction of the Project, City staff will calculate the portion of the Property that is eligible for the exemption, in consultation with the Deschutes County Assessor's office and the applicant, as appropriate.

Section 4. City staff are directed to file with the county assessor and send to the applicant at the applicant's last known address a copy of the resolution approving the application on or before April 1, 2024, and to certify the Exempt Improvements as exempt to the County assessor following issuance of Certificate of Occupancy and verification of compliance with all requirements of this Resolution and the BMC Chapter 12.35.

Section 5. If construction of the Project has not been completed and the Exempt Improvements have not received a Certificate of Occupancy on or before January 1, 2031, this approval shall be void unless extended by Resolution of Council at the property owner's request and upon demonstration that the failure to complete the Project was due to circumstances beyond the control of the owner, and that the owner has been acting and could reasonably be expected to act in good faith and with due diligence, pursuant to BMC 12.35.040. Such extension may not exceed 12 additional consecutive months.

Section 6. In addition to the findings set forth above, the City Council adopts and incorporates the Staff Report and Recommendation, attached as Exhibit A, as its findings.

Section 7. This Resolution takes effect immediately upon passage.

Adopted by the Bend City Council on March 20, 2024.

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

NO: Councilor Riley



Melanie Kebler, Mayor

ATTEST:



Robyn Christie, City Recorder

APPROVED AS TO FORM:



Mary A. Winters, City Attorney

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



**COMMUNITY
DEVELOPMENT**

PROJECT NUMBER: PRTX202307350

COUNCIL DECISION: March 20, 2024

**APPLICANT/
OWNER:** Kennedy Wilson
151 S El Camino Dr
Beverly Hills, CA 90212

OWNER: KW Kelton-Bend Owner LLC

**APPLICANT'S
REPRESENTATIVE:** Joey Shear, AKS Engineering & Forestry
2777 NW Lolo Drive, Suite 150
Bend, OR 97703

LOCATION: 175 SW Industrial Way (Tax Lot 181205A000500)
Located east of SW Bond Street, west of US 97, and south of
Industrial Way

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

STAFF REVIEWER: Allison Platt, Economic Development

RECOMMENDATION: Approval

DATE: February 1, 2024 (revised February 27, 2024)

PROJECT & SITE OVERVIEW

The Timber Yards Parcel A project is a proposed six-story mixed-use building to be located on the northwest corner of the approved Timber Yards Master Plan area located east of SW Bond Street, west of US 97, and south of Industrial Way. The location of the proposed project is in the Mixed-Use Urban (MU) Zone inside the Core Tax Increment Finance (TIF) Area. The project proposes 246 residential units, 15,973 square feet of commercial space (47% of the ground floor, excluding parking) for future retail and/or restaurant, and 13,343 square feet (11% of site area) of contiguous dedicated open space. The project will include 254 structured vehicle parking spaces provided in a wrapped parking structure. As required by the building code, 40% of these spaces (102 spaces) will be provided as "EV ready". As required by the development code, the project will include 246 secured residential bike parking spaces and 8 additional spaces for retail customers and employees. In addition, the project will include professionally

designed landscaping that emphasizes native, pollinator-friendly and water wise species and design.

Public Benefits

The project plans to incorporate the following three public benefits to meet the requirements of the MUPTE program:

Priority Public Benefit:

- Open Space: Plan to dedicate 13,343 sq. Ft (11% of site area) as contiguous open space in a public access easement.

Additional Public Benefits:

- Enhanced Landscaping: The project will include professionally designed landscaping that emphasizes native, pollinator friendly and water wise species and design.
- Wrapped Parking Structure: 254 structured vehicle parking spaces provided in a wrapped parking structure in which retail and/or residential uses will be included on the street level for any frontages on roads with a higher classification than an alley.

The developer plans to provide several other public benefits, beyond the requirements for MUPTE, including:

- 15,973 square feet of commercial space (48.7% of ground floor space)
- The open space area included in Tract A further south of this application will include a mobility hub per the Timber Yards Master Plan requirements which will provide additional public benefit with enhanced access to transit and micromobility services to the site.

The owner received tentative land division approval (PLLD20230464) and for site plan review approval (PLSPR20230465) on January 16, 2024.

VICINITY MAP

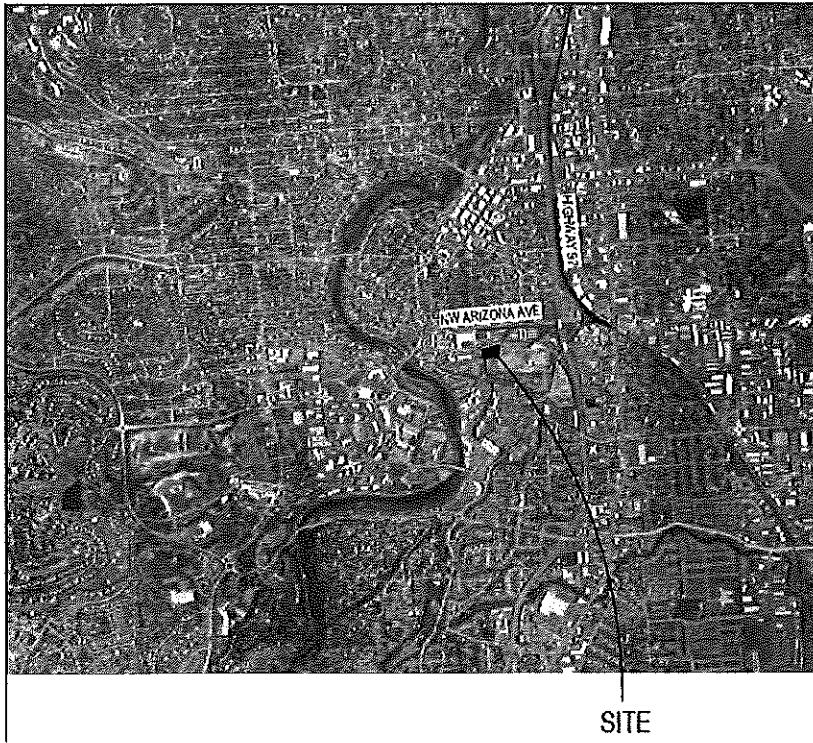


Figure 1: Site Location

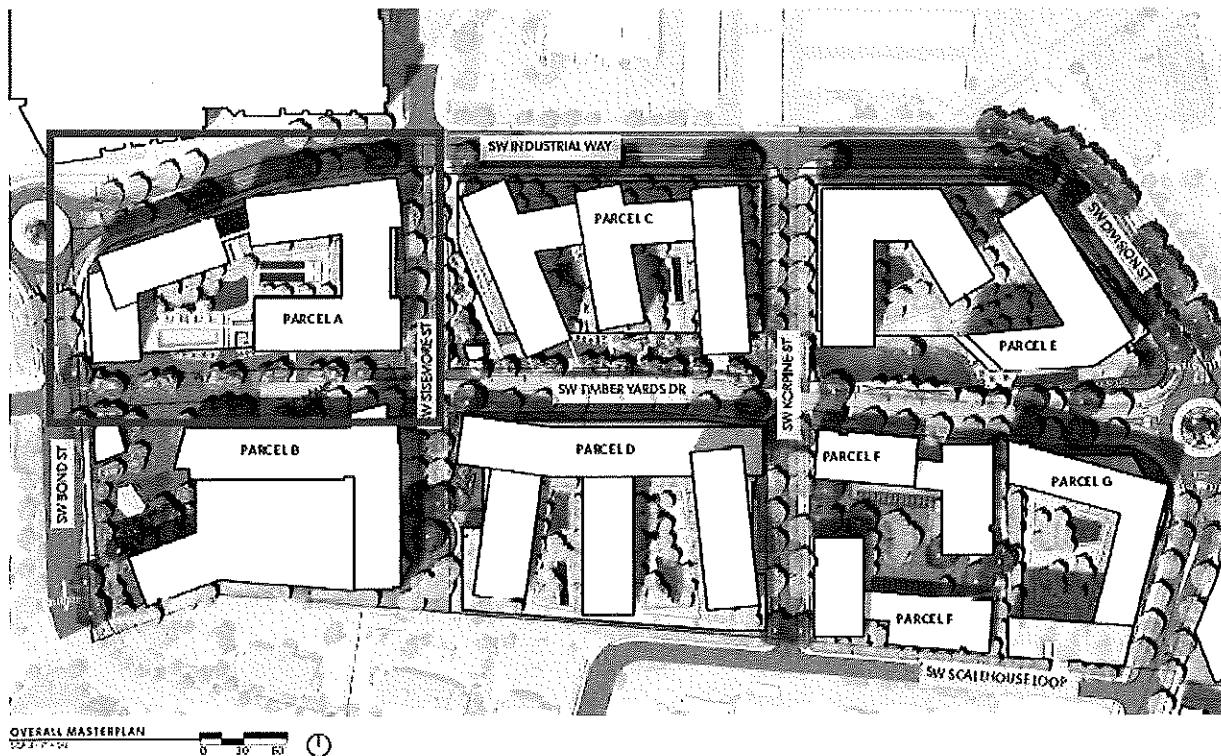
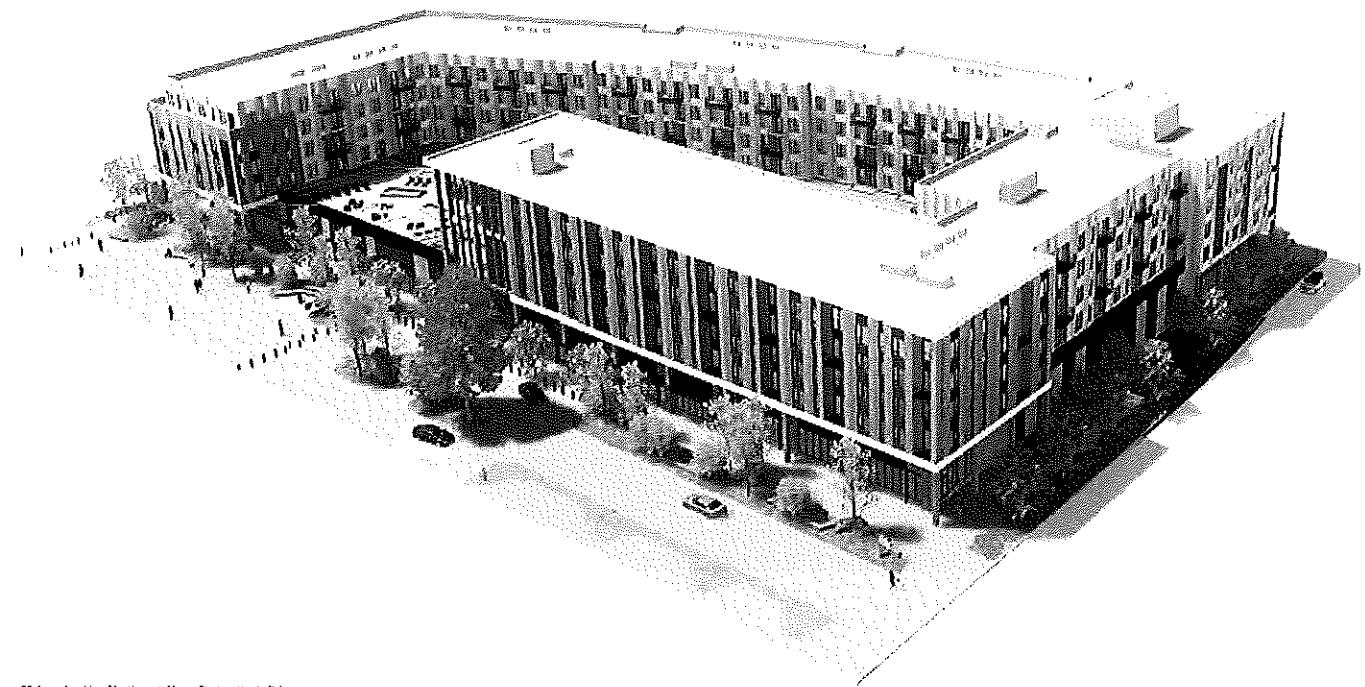


Figure 2: Site Location (Parcel A) within approved Master Plan



SF Annex looking Northwest Along Timber Yards Drive

Figure 3: Conceptual project rendering

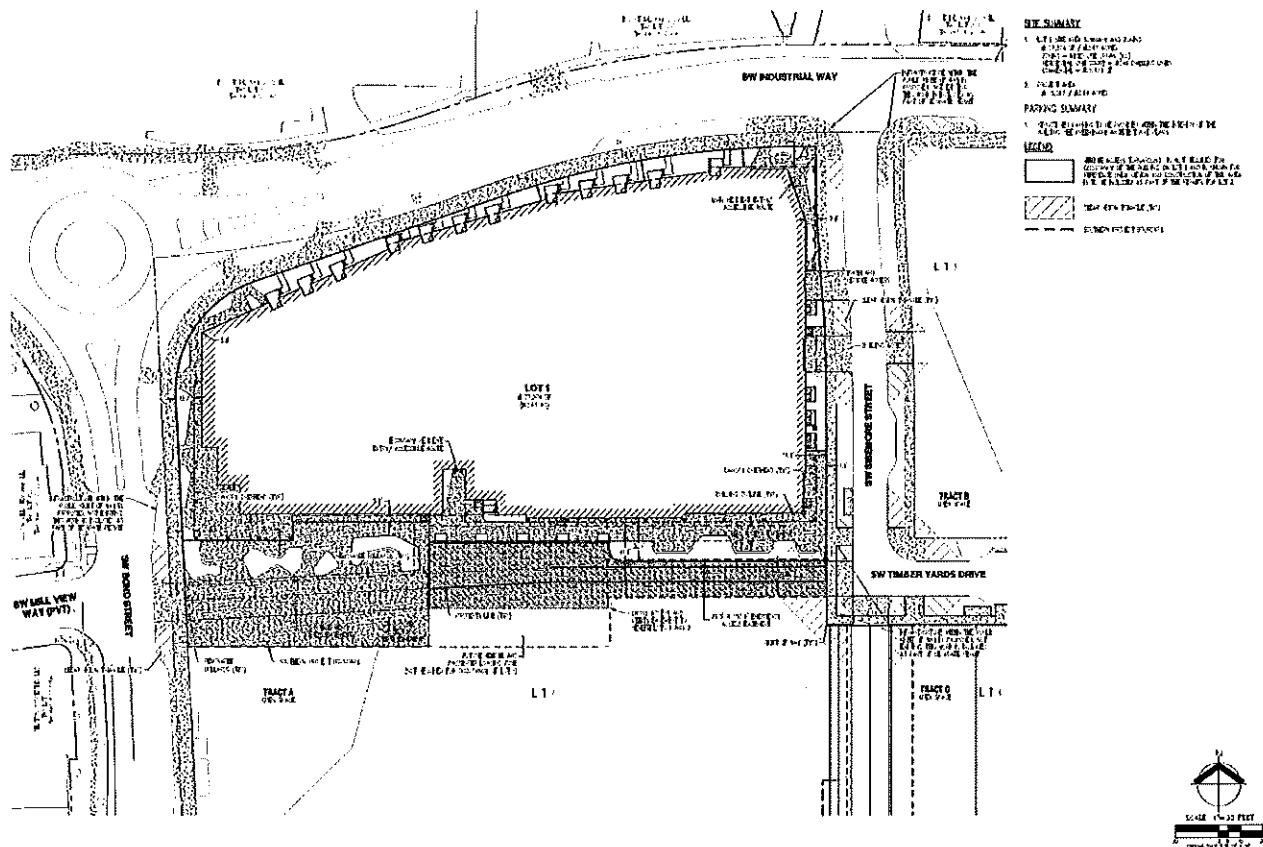


Figure 4: Site Plan

INFRASTRUCTURE NEEDED TO SERVE THE SITE

The project will be required to provide the following mitigations to support development of the Parcel A site as confirmed in a letter from the City of Bend Private Development Engineering Department.

- 1) Construction of water main to service the new uses, looping the existing water system mains within and along the site permitted to achieve fire flow
- 2) Construction of a sewer lift station and sewer force main with all applicable gravity sewer main to service each proposed use.
- 3) A variety of transportation mitigation requirements approved in the Master Plan as described in Bend Development Code Table 2.7.4770.

These mitigation improvements are outlined under the utility analysis PRSWA202206668 and required in the land division approval PLLD20230464.

ELIGIBILITY CRITERIA

APPLICATION OF THE CRITERIA

LOCATION/ELIGIBLE ZONE REQUIREMENTS

The project site is located in the Mixed-Use Urban (MU) Zone inside the Core Tax Increment Finance (TIF) Area which is eligible for the MUPTE program per BMC 12.35.015D.

MULTI-STORY REQUIREMENTS

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

HOTELS, MOTELS, SHORT TERM VACATION RENTALS ON SITE

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

DEMONSTRATION OF FINANCIAL NEED

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

PNW Economics completed a review of the pro formas. A summary of their findings is included as Attachment A. The review confirms that the Timber Yards Parcel A Mixed-Use Project is not financially feasible on its own, noting that the project's income does not justify its operating expenses with a return of investment (ROI) of 5.3% without MUPTE and 5.9% if awarded MUPTE. The financial analysis estimated that the developer's return would be slightly higher than forecasted by the applicant however given that 6% ROI is a rule-of-thumb minimum, the project can be considered financially challenged even with MUPTE.

The financial review did note that the developer's proforma included higher operating expenses on a cost per unit basis compared to other projects, most notably the Jackstraw, but is still in alignment with projects seen in Eugene. Staff asked the applicant to provide more information about the assumptions for their operating costs. Their response was the following:

- Kennedy Wilson has a portfolio of over 25,000 apartments on the West Coast (CA, NV, WA, OR, AZ, ID, UT and MT) which we analyze when budgeting operating expenses for a new development. The expenses provided in the analysis are budgeted based on real-time operating expenses at similar properties (accounting for typology of the buildings, unique geographic and labor constraints, etc). We also engaged the property management company Avenue 5, who is actively managing multiple properties in the Bend market, to validate and provide input on both the operating revenue and expenses.
- The analyst points out that the estimated operating expenses for Timber Yards Parcel A is \$6,214/unit compared to Jackstraw at \$4,908/unit. The difference is primarily attributed to the fact that Jackstraw is a substantially larger project (87 more units) which allows it to spread the fixed operating costs across those additional units which generates substantial economies of scale. One of the largest components of expenses is payroll which really doesn't fluctuate substantively between 250 and 350 units as it takes the same amount of headcount to manage the property (leasing agent, community director, etc) with the exception of maintenance load which scales more linearly with unit count. It's not realistic economically to assume a 250-unit property can operate as efficiently as a 300+ unit property as Table 9 in the analysis analyzes.

The independent financial review conducted a sensitivity analysis, assuming that operating expenses for the project were similar to the Jackstraw on a per unit basis and found that the project proforma performed slightly better (6.2% ROI with MUPTE) but still below the 6% minimum threshold without MUPTE.

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

The site is currently vacant and will not eliminate or displace any housing or commercial uses, therefore no mitigation is necessary to meet the requirements of the MUPTE program.

PUBLIC BENEFIT REQUIREMENTS

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

Priority Public Benefit

The project is pursuing Open Space as a priority public benefit. To satisfy this requirement, a project must dedicate more than 10% of the site area as a publicly accessible open space, park, or plaza with usable amenities. Publicly accessible is defined as land available for public use for the purpose of providing places for recreation, conservation, and other open spaces uses and must be dedicate either to Bend Park and Recreation District (BPRD), or as a public access easement in perpetuity. The applicant must submit a letter from BPRD stating that the applicant has coordinated with BPRD on the proposed open space/park/plaza area and demonstrate how the applicant considered BPRD's comments. The open space, park or plaza

area provided in one continuous area is preferred; non-contiguous areas may be approved if providing sufficient public benefit, as determined by City Council.

The applicant is proposing to dedicate 13,343 square feet of contiguous area as a dedicated plaza/open space. The proposed total project area is 120,917 square feet which includes the 115,057 square foot parcel area per the land division (PLLD20230464) as well as the 13,343 square feet of open space (included in Tract A) that shares a boundary with the parcel that is being constructed as part of the project seeking the exemption. Therefore, 11% of the project area would be dedicated open space per the MUPTE Guidelines calculation. The applicant has provided a draft public access easement for the City to consider for approval in order to accept the Open Space dedication; the draft easement language must be approved by City staff prior to recording, to meet this criterion. In addition, the open space area included in Tract A further south of this application will include a mobility hub per the Timber Yards Master Plan requirements which will provide additional public benefit with enhanced access to transit and micromobility services to this site.

In addition, the applicant submitted a letter from Bend Park and Recreation District dated September 8, 2023, that confirms the applicant met with BPRD staff in July of 2023 and that BPRD staff believe the project as proposed generally aligns with the intent of the MUPTE program, with the following three comments:

- Plaza Size: Consider increasing the area within a public access easement to include the plaza proposed on Parcel B of the Master Plan area to ensure its availability to the public.
- Contiguous: Consider alternative open space configuration to facilitate a contiguous open space area.
- Differentiation of Private and Public Space: Consider different surface treatments/materials to help demarcate the space and ensure the availability of the public plaza for the general public at all times.

The applicant first submitted an open space plan that included two non-contiguous open space areas. The applicant later revised their application (in January of 2024) to include one contiguous open space area. City staff sent the revised materials to BPRD staff on January 9, 2024, for their review.

In a series of email communications dated January 11, 2024, BPRD staff noted their appreciation for the revision of plans to provide contiguous open space consistent with the MUPTE guidelines. The applicant clarified that an additional dedication of the public access easement on the anticipated plaza of Timber Yard's Parcel B was not feasible since it would encumber adjacent land associated with a different project/property/operator. They did state however that the intent of the additional plaza area planned south of Parcel A is intended to be open to the public as well as provide a public benefit in some manner. The applicant further explained that their intent is to create a visual line or pattern in hardscape that demarcates the

private and public realm areas in the planned Open Space but the applicant does not have that level of design developed yet for the site.

The applicant has satisfied the MUPTE Program requirements for this public benefit criteria.

Additional Public Benefits

In addition to the Priority Public Benefit, the applicant is required to provide two additional public benefits. The applicant has identified the following benefits to meet those requirements: 1) Enhanced Landscaping and 2) Wrapped Parking Structure.

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

Wrapped Parking Structure: For above-grade parking structures, the project must provide retail and residential uses on the street level for any frontages on roads with a classification higher than an alley. The applicant provided a site plan, floor plans and elevations that demonstrates the planned parking structure meets this requirement as verified by planning staff.

ESTIMATED EXEMPTION

This project is estimated to receive a total 10-year tax exemption of approximately **\$8,368,000 on residential and parking improvements** based on an estimated building value of \$109,421,937 between 2028 through 2037.

If the project were to not move forward, total tax collection for the 10-year period of the site would be approximately \$282,600.

Since this project is located within the Core Area Tax Increment Finance (TIF) Area, there is no anticipated impact to any taxing district apart from the Bend Urban Renewal Agency's Core Area TIF fund. The project, if approved for the tax exemption is estimated to generate approximately \$20.4 Million in total revenue over the 30-year lifetime of the Core TIF Area. Table 1 demonstrates the tax collection that would take place on the site in year 11, after the the exemption period in both a no build and build scenario of the project. The data shows that in Year 11, total tax collection for the site would increase by 1,061% when the exemption expires. The table demonstrates the tax benefits to the Bend Urban Renewal Agency starting in Year 11 if this project is approved for MUPTE and moves forward.

Table 1. Forecasted tax collection by Taxing District in Year 11 (2038)

District	No Project is Built	Proposed Project is Built
Bend Urban Renewal Agency*	\$48,718	\$517,000

**Since this project is in the Core Area TIF Area, there is no anticipated tax collection by any other district in Year 11. All taxing districts will receive higher property values on this property when the TIF Area expires which is set to take place in 2051.*

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

TAXING DISTRICT REVIEW PROCESS

For the tax exemption to apply to the full taxable amount, approval of the policy of the MUPTE by taxing district agency boards that comprise at least 51% of the combined tax levy is required. On January 9, 2024, the Bend La Pine School District, which comprises approximately 41% of the combined tax levy, passed a resolution supporting the policy of providing property tax exemptions for multiple unit housing projects that qualify for the City of Bend's MUPTE program within the Core Area TIF Area through June 30, 2025. Therefore, the applicant will qualify for the full tax exemption if their project is approved by City Council since this project is located within the Core TIF Area. Since the applicant is planning to utilize the Open Space Public Benefit, City staff confirmed with Bend Park and Recreation District (BPRD) staff that they did not want a presentation from this applicant following the School District's January approval of the policy.

Pursuant to City program guidelines, all of the Taxing District agencies were provided with a minimum 45-day comment period to review the application materials and this staff report beginning on February 1, 2024, through Council's scheduled review of the application on March 20, 2024. District comments will be provided to City Council for their consideration of the application on:

- March 20, 2024: City Council Review and Decision on Application

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

**CONDITIONS TO BE MET IF APPROVED, IN ADVANCE OF EXEMPTION CERTIFICATION
WITH TAX ASSESSOR'S OFFICE:**

1. Applicant must provide proof of a deed restriction satisfactory to the City that prohibits the use of hotels, motels, and short-term vacation rentals on the site for the period of the exemption.
2. Applicant must provide a public access easement satisfactory to the City on the proposed open space area and the open space area must be built as approved in the site plan before the exemption is issued.
3. Applicant must demonstrate compliance with Enhanced Landscaping Requirements to be verified by staff.
4. Applicant must submit a water budget to City staff for approval prior to exemption certification. The City will monitor water use throughout the 10-year exemption period. The site can't exceed 20% above the water budget for the site during the exemption period.
5. City to verify construction of wrapped parking as proposed in approved site plan and building permits before exemption is issued.

ATTACHMENTS

Attachment A: Review of Financial Feasibility, PNW Economics

Attachment B: Application Materials