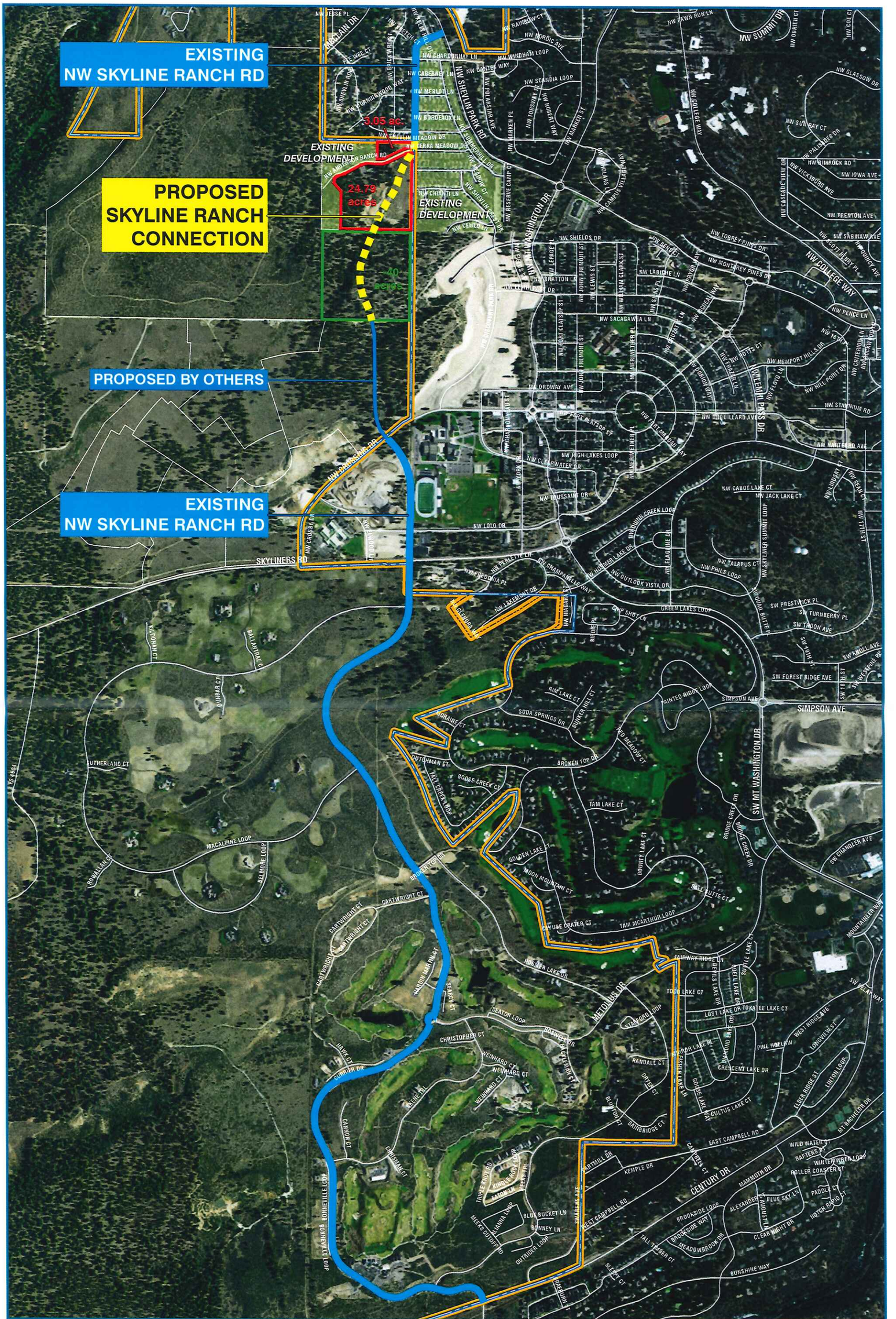
Reasons for including Skyline Ranch Road into the UGB

1. When the proposal was put in front of you for review the number of homes that would be included on the Westside went from 750 to 1,450 for a difference of 700 additional homes. I understand how there would be some resistance to that many homes. I don't know where that number came from as the actual number is closer to 171. That is less than ¼ the amount represented.
2. Skyline Ranch Road is on the TSP and is necessary for transportation including the schools, fire, and police.

3. The property will make the final connection of the important link of Skyline Ranch road. I have attached a map showing the two properties being discussed outlined in red and green. The 28 acre piece I represent, and the 40 acre piece of Matt Day's. You can see the thick blue line depicts Skyline Ranch Road, and how it sweeps around from Shevlin Park Road to Century Drive. I developed Skyline Ranch road to the North of Shevlin Meadows, the School just this year developed it to the North of Skyliner Road, and Tetherow partners further South to Century Drive. You can see that blue line representing Skyline Ranch Road gets interrupted by the dashed yellow line. That dashed yellow line is the missing link of Skyline Ranch road.
4. Bend/LaPine schools support the inclusion of Skyline Ranch Road
5. Bend Fire department would obviously support the connection of roads
6. Including just one developer on the west side is not good for competition, not good for prices, and never works out well.
7. The average square foot price of NWX is $297 vs Shevlin Meadows at $202. Don't get me wrong NWX is a fantastic development, but so is Shevlin Meadows. 45 of the planned 51 lots on the proposed property will be similar to Shevlin Meadows. By just allowing a NWX type property, it only allows the very rich to live on the Westside. Shevlin Meadows allows an entirely different income bracket to own a home and live on Westside. I feel it's really important to have some diversity in our City.

8. This property scores as high as any property on the UGB scoring system and higher than some that are being included in other parts of town.
9. Originally this property was part of the 96 acre master-plan development of Shevlin Meadows and this is the remaining 28 acres.
10. One of the complaints the special interest groups have is they don't want to develop any more land to the West. This property is already bordered on the Westside by rural 5 acre lots. My addition would actually be to the East of the Western border, so it isn't encroaching further to the West.
11. This property was originally zoned surface mine. We depleted the pumice and received a zone change through a public hearing to UAR-10. I can tell you that there aren't any Deer or Elk on the property unless they eat pumice.
12. This property would be the only development that participated in the Westside consortium that has yet to be developed. The developer installed the roundabout at 14th and Newport. It would be unsettling, and ironic that this property would have participated in the roundabout at 14th and Newport 12 years ago, and used all these years to improve traffic congestion, as well as dedicate Skyline Ranch road and not be included in the 20 year plan.
13. This property upsized the lift station to handle the sewage from the property, and that capacity still exists – hence the reason there is no lack of sewer capacity as with other properties to the North and West.
14. I prepared a small video a few weeks ago that gives more visual aides to Skyline Ranch road and its connection. The website address to watch the video is _https://vimeo.com/142736609 I will send all of you an electronic link tomorrow on your email.



Potential Skyline Ranch Road Connection

Parcel of Interest
Neighboring Property
Adjacent Development
Existing Road
Proposed Connection
Proposed by Others
City Limit
UGB

AmeriTitle
www.amerititle.com

05306

Victor Chudowsky, Chair
City of Bend UGB Steering Committee
710 NW Wall Street
Bend, OR 97701

November 12, 2015

RE: Steering Committee Action

Dear Chair Chudowsky and Members of the UGB Steering Committee:

For the past 15 months, 60 citizen volunteers devoted a tremendous amount of time, energy, and thought towards a community driven effort to update Bend's UGB. Modeled after the SIAG process, this was an innovative way to include public input in the critical UGB expansion process. Our process culminated in a 4-hour session that resulted in a 10-3-1 vote approving a recommendation of Scenario 2.3, with some specific amendments intended to reduce the overall number of units in the west and increase the intensity of development in the east.

Our recommendation was based on months of fact gathering and carefully analyzing alternatives to arrive at a balanced boundary expansion that fully considered a mix of uses in the expansion areas and the shortcomings of the areas omitted. Although there were a diverse set of interests, and tough decisions to be made, the TAC reached a recommendation supported by a substantial majority through exhaustive study and respectful compromise. We left our last meeting feeling that we had developed a solid recommendation, built to withstand the inevitable challenges from various parties dissatisfied with the results. Thus, you can understand our disappointment that the USC proceeded to reject our recommendation mere hours later.

Given that there was insufficient time between our two meetings to revise the maps and proposed density calculations based on the recommendation, it did not appear that the USC fully understood the nuances and intent of the TAC's recommendation. For these reasons, I ask that you reconsider our recommendation of Scenario 2.3, or at least be open to having staff make the changes to the map that were encompassed in our recommendation and giving them the careful consideration that we did.

Going forward, please be mindful of how you treat the TAC recommendations. Giving short shrift to the Boundary TAC's carefully considered recommendations undermines the integrity of the entire citizen-driven process on which the city has spent millions of dollars in order to build a defensible UGB expansion proposal. The message it sends to staff, the consultant team, and the 60 volunteers on the three TACs who worked very hard to craft both a process and a recommendation that could stand up to rigorous scrutiny is: "your work is unimportant." But this work is important and too much effort was put into our recommendation to be summarily dismissed.

Our community needs to finalize the UGB expansion in a defensible way. The evidence shows that we have an inadequate land supply. This contributes to the affordable housing crisis and hampers economic development. Our community cannot afford more delay. We need to work together and this public process is critical to the success of the UGB and the other challenges facing our community. Thank you for your consideration.

Sincerely,

Sharon R. Smith

Sharon R. Smith

cc: Brian Rankin; UGB Steering Committee members

Damian Syrnyk

From: David Olsen <davido@hhpr.com>
Sent: Sunday, November 15, 2015 1:42 PM
To: Damian Syrnyk
Subject: UGB Expansion Decisions of October 22, 2015

Follow Up Flag: Follow up
Flag Status: Flagged

Victor Chudowsky, Chair
City of Bend UGB Steering Committee
710 NW Wall Street
Bend, Oregon 97703

RE: **UGB Expansion Alternatives – October 22, 2015 Public Meeting**

Steering Committee Members:

As a local resident and a land development professional, I have been following the UGB discussions over the last ten-plus years with considerable interest. For the record, I don't have a current Client or business interest in the discussion at this time, but I do have a personal bias and a historic perspective and working understanding of development practices as they relate to the Bend area and more specifically to development on the west side of Bend. It is the west side area that has captured my interest the most and it is the west side area which this letter is oriented toward, for both professional and personal reasons. For what it's worth, I live within one-half mile of the Westside Area properties, so the UGB expansion is literally in my backyard.

Over the last decade, I had the good fortune to have worked with several west side land owners and developments such as Three Pines PUD, Three Pines Ridge, Shevlin Ridge, The Pines, Westside Meadows and Anderson Ranch – all projects which are served by the northerly extension of Skyline Ranch Road. Skyline Ranch Road has been identified on the City's TSP for as long as I can remember and it has been the subject of the City's Approval Condtions for each of the identified projects and several more in the area. The construction of over one-half mile of the roadway was a Condition of Approval for Shevlin Ridge, Westside Meadows and the Shevlin Meadows subdivisions, respectively. To the south, the Bend LaPine School District recently completed a $1m improvement of Skyline Ranch Road to its intersection with NW Crossing Drive, leaving approximately one-half mile of 'un-constructed' roadway between the two roadway segments.

With all the demonstrated energies committed to this TSP-identified roadway over the previous decade, I respectfully question how the UGB Steering Committee could have possibly left the land areas identified as the 'Westside Area', out of the recommended land areas endorsed at the October 22, 2015 meeting. The completion of the missing roadway segment cannot be accomplished without thoughtful decision making and the inclusion of the 'Westside Area' properties. Obviously there are many issues that need to be considered in the decision making process. With all due respect, I believe the following items should be reconsidered by the Steering Committee before a final decision is made regarding the UGB expansion:

- **Follow the Adopted TSP and General Plan:** In terms of location, zoning and transportation planning, both documents support the inclusion of the subject 'Westside Area' properties in the UGB Expansion discussion, and the construction of Skyline Ranch Road as a critical component. Both documents have also been cited in numerous land use decisions over the previous two decades. To ignore these City adopted long-range planning documents at this time, seems not only un-fair to previous development, but mis-guided for the future.

- **Bike / Ped / Vehicle Connectivity:** Westside commutes will be improved considerably by the completion of Skyline Ranch Road. There is a considerable amount of traffic count information for Bend's westside which relates specifically to the NW Crossing residential area and school facility traffic which heavily utilizes Mt Washington Drive. The addition of a second north-south roadway (Skyline Ranch Road) will greatly reduce the number of Mt Washington Drive daily and peak-hour vehicle trips from Awbrey Butte and the Shevlin Road area while also enhancing the north – south connection to Century Drive.
- **Safety and Emergency Services:** With the recent addition of two additional schools adjacent to Summit HS and Miller Elementary on Bend's westside, an additional roadway will provide a much needed alternative emergency route for access - should one be needed. The current concentration of COCC, Summit HS, Miller and High Lakes – all served by only one major roadway in the area (Mt Washington Drive) is not a good example of long range planning or emergency preparation. Weather we like it or not, the risk of wildfire (or other catastrophe), anywhere in town, cannot be taken too lightly.

As a consulting professional and a resident of the area, I urge you to take a second look at all the properties currently being considered for inclusion in the UGB Expansion discussion. Please fact-check the information provided, ask questions and make the best decision you can make for both the near and future expansion of Bend.
Thank you for your efforts.

David Olsen, RLA | Development Manager

HARPER HOUF PETERSON RIGHELLIS INC.
ENGINEERS :: PLANNERS :: LANDSCAPE ARCHITECTS :: SURVEYORS
250 NW Franklin Avenue Suite 404 | Bend, Oregon | 97703
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HHPR.com

November 23, 2015

Mr. Victor Chudowsky, Chair
City of Bend UGB Steering Committee
710 NW Wall St.
Bend, OR 97701

Re: Response to Letter from Kirk Scheuler

Dear Chair Chudowsky and Members of the UGB Steering Committee:

I am a member of the UGB Boundary Technical Advisory Committee ("TAC") and am writing to respond to a November 6 letter to you from Kirk Scheuler (a member of the Residential Lands TAC) calling for adoption of: 1) the additional west side lands proposed in Scenario 2.3; 2) the 750 residential unit total proposed in Scenario 2.1; and 3) changing the housing mix of the 750 units to as follows:

single-family detached: from 240 to 548 units
single-family attached: from 143 to 53 units
multi-family: from 368 to 150 units
with shifting housing density to the northeast
and apparently getting rid of the 2.1 employment land allocations on the west side

One rationale given in the letter for the shift to more single-family detached housing on the west and the shift in density to the northeast is that building multi-family units on the west side will not create affordable housing because housing is simply too expensive on the west side.

While I agree with the obvious fact that most of the west side residential development is not going to be affordable and that the advantage of more residential development being on the east side is the greater affordability, I still believe that a significant amount of multi-family housing is appropriate on the new west side lands near the existing schools.

Very early on, the Boundary TAC gave a preference to properties being included in the UGB expansion if they had larger acreages and were near schools. Because the Miller property benefited from these preferences, it would be good to see housing closer to the schools be affordable and that families with children could actually afford to live there, so their children could indeed conveniently get to school. Also, while "inclusionary zoning" (requiring developers to include actual affordable housing in their developments) is apparently currently illegal in Oregon, there is nothing to prevent a responsible developer from providing for such affordable development, particularly if in the remainder of the large parcel of land substantial revenues from development are expected.

Finally, while the idea of different zones of development, with a tapering to lesser development approaching a forest is obviously a good idea (given the fire danger and impacts on wildlife

habitat), the level of suggested buildout (this UGB process plus the next one) on the Miller property (nearly 1,000 houses) and the Rio Lobo property to the north (1,100 houses) is far too intensive for this sensitive area.

It would have been nice to have had this discussion of appropriate zones of housing density on the west side, though, and I would have been supportive of changing the housing mix more in line with Mr. Scheuler's suggestion to achieve a meaningful tapering. Hopefully, that discussion will at least occur before any more lands are proposed to be brought in on the west side.

Very truly yours,

s/ Paul Dewey

PAUL DEWEY
1539 NW Vicksburg Ave.
Bend, OR 97703

cc: Brian Rankin
USC Members
Boundary TAC Members

November 23, 2015

Mr. Victor Chudowsky, Chair
City of Bend UGB Steering Committee
710 NW Wall St.
Bend, OR 97701

Re: Response to Letter from Sharon Smith

Dear Chair Chudowsky and Members of the UGB Steering Committee:

I am a member of the Boundary Technical Advisory Committee ("TAC") and am writing to respond to a November 12 letter from Sharon Smith (also on the Boundary TAC) to the UGB Steering Committee ("USC") asserting that the USC did not fully understand and gave "short shrift" to and "summarily dismissed" the Boundary TAC recommendations on October 22. I was actually present at the USC meeting and respectfully disagree with her description and conclusion that your review meant that you feel the TAC's "work is unimportant."

While the USC is the decision-maker here, not any TACs, its members have always been respectful and appreciative of the TACs, staff and the consultants. It is also not correct that the USC summarily dismissed TAC recommendations. In fact, after stating that Scenario 2.1 should remain the preferred alternative, the USC made several amendments to it, consistent with what the TAC recommended, including to bring in more land in the northeast associated with the "perfect rectangle," to shift more industrial zoning to the DSL land, to change zoning in the O.B. Riley Road/Hwy 20 area, to drop a small parcel on the east side, etc.

I also must disagree with Ms. Smith's description of the TAC's recommendation of Scenario 2.3 as "based on months of fact gathering and carefully analyzing alternatives" and that 2.3 was a recommendation made "through exhaustive study." The careful analysis of alternatives and exhaustive study were of the three scenarios, 1.1, 2.1 and 3.1. Scenarios 2.2 and 2.3 were presented to the TAC only on October 22 and had not been subject to the same level of analysis as the three main scenarios. In fact, some of us on the Boundary TAC got critical information on the new scenarios only about 24 hours before the TAC meeting.

Also, the 10-3-1 vote did not indicate, as suggested by Ms. Smith, that there was overwhelming support of 2.3. At least two of the 10 positive votes had earlier voted for 2.1 and were just voting to move the issue to the USC or to support the possibility of amendments being made to 2.3.

Furthermore, I have great concern about what the Boundary TAC did with regard to the integrity of the larger public process. Prior to the Boundary TAC meeting, the City had engaged in exhaustive public outreach, giving information on and asking the public to comment and vote on Scenarios 1.1, 2.1 and 3.1. Scenarios 2.2 and 2.3 included fundamental changes from those three scenarios; they were not "tweaks," as some describe them. It was entirely appropriate for the

USC to return the focus to the fully vetted and public-supported 2.1, and then make true tweaks to it.

Very truly yours,

s/ Paul Dewey

PAUL DEWEY
1539 NW Vicksburg Ave.
Bend, OR 97703

cc: Brian Rankin
USC Members
Boundary TAC Members

November 23, 2015

Mr. Victor Chudowsky, Chair
City of Bend UGB Steering Committee
710 NW Wall St.
Bend, OR 97701

Re: Response to Letter from Dale Van Valkenburg

Dear Chair Chudowsky and Members of the UGB Steering Committee:

I am a member of the UGB Boundary Technical Advisory Committee ("TAC") and am responding to the letter from Brooks Resources Corporation of November 11, written to the Committee by Dale Van Valkenburg (also a member of the Boundary TAC).

As I explained in my accompanying letter responding to a letter from Sharon Smith, I don't believe criticism of the USC for voting for Scenario 2.1 is appropriate, as if it was a "rush to judgment." It was certainly less of a rush to judgment for the USC to vote for the fully-analyzed and publicly-vetted and supported Scenario 2.1 rather than the unanalyzed 2.3 that the Boundary TAC itself had had so little time to review.

As for there having been a compromise at the TAC to decrease the number of west side residential units originally in Scenario 2.3, no range or amount of decrease was even mentioned. It is hardly appropriate to criticize the USC as being in a "rush to judgment" where the TAC was throwing out a last minute, half-baked approach that, again, had not been analyzed or presented to the public.

The suggestion that the USC did not consider bringing in land for the proposed Skyline Ranch Road collector is also not correct. That issue was extensively discussed by the USC, both pro and con. As explained at that meeting, this section of the proposed road has not been considered necessary for this UGB expansion. It is also telling that in the past year of Boundary TAC meetings the road has scarcely, if ever, been mentioned as an issue. To my knowledge, in none of the Boundary TAC discussions of what criteria should be used to prioritize lands for inclusion (such as large lots, proximity to schools, etc.) have lands for a particular road segment been proposed. It is arising now only because some landowners along the proposed route want their land included in the UGB so that they can do residential development.

There is also no support given (at least not given to the TAC over the past year) for the assertion that this stretch of road is needed for the three schools. There are few developments to the north which would need access to the schools and there has been no showing that these neighborhoods' use of Mt. Washington Drive is a problem.

Calling existing construction of a segment of the road by the school district as being "a million dollar road to nowhere and a waste of public money" is simply not appropriate. As Mr. Van

Valkenburg well knows, it is entirely normal that a road be built in segments as land is developed. There are any number of road segments in the City's Transportation System Plan that are not being included in this UGB expansion.

Thank you for your consideration.

Very truly yours,

s/ Paul Dewey

PAUL DEWEY
1539 NW Vicksburg Ave.
Bend, OR 97703

cc: Brian Rankin
USC Members
Boundary TAC Members

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Education Center
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Bend, Oregon 97701-2699

December 1, 2015

Victor Chudowsky, Chair
City of Bend UGB Steering Committee
710 NW Wall Street
Bend, OR 97701

RE: UGB expansion

Dear Chair Chudowsky and Members of the UGB Steering Committee:

The School District staff has been working with City staff in a collaborative way to plan for and build school facilities to meet our growing student population. As many of you know, the District develops a Sites and Facilities Plan to meet our 20 year projected facility needs. We update this Plan every 5 years using a community and staff advisory committee. We used our Plan to locate the new Pacific Crest Middle School adjacent to Miller Elementary and Summit High School. In our planning, we look at impacts to transportation and our assumptions are based on the City's Transportation System Plan (TSP).

When we built Pacific Crest, we had several discussions with staff regarding whether it would be necessary to construct the segment of Skyline Ranch Road. In the discussions, the road was described as an important link in the City's TSP. Our cost to construct that portion of the road was significant. We understand that the current draft UGB expansion map does not include property that would provide a critical segment of the future completion of Skyline Ranch Road. We ask that you consider an expansion that will allow the completion of Skyline Ranch Road. Once complete, we believe this road will improve the circulation throughout the attendance area for our west side campus. It will relieve the pressure of funneling school traffic through the Mount Washington/Skyliners Road roundabout. It will facilitate transportation from Shevlin Road to Century Drive, providing an alternative route to Mt. Washington and 14th street. We were initially resistant to building the segment of Skyline Ranch Road between Northwest Crossing Drive and Skyliners Road. But since we have completed this segment, we would like to see the benefits of a complete link as part of the UGB expansion.

Thank you for your consideration.

Sincerely,

Shay Mikalson
Superintendent

Brad Henry
Chief Operations and Financial Officer

cc: Brian Rankin; UGB Steering Committee members

December 1, 2015

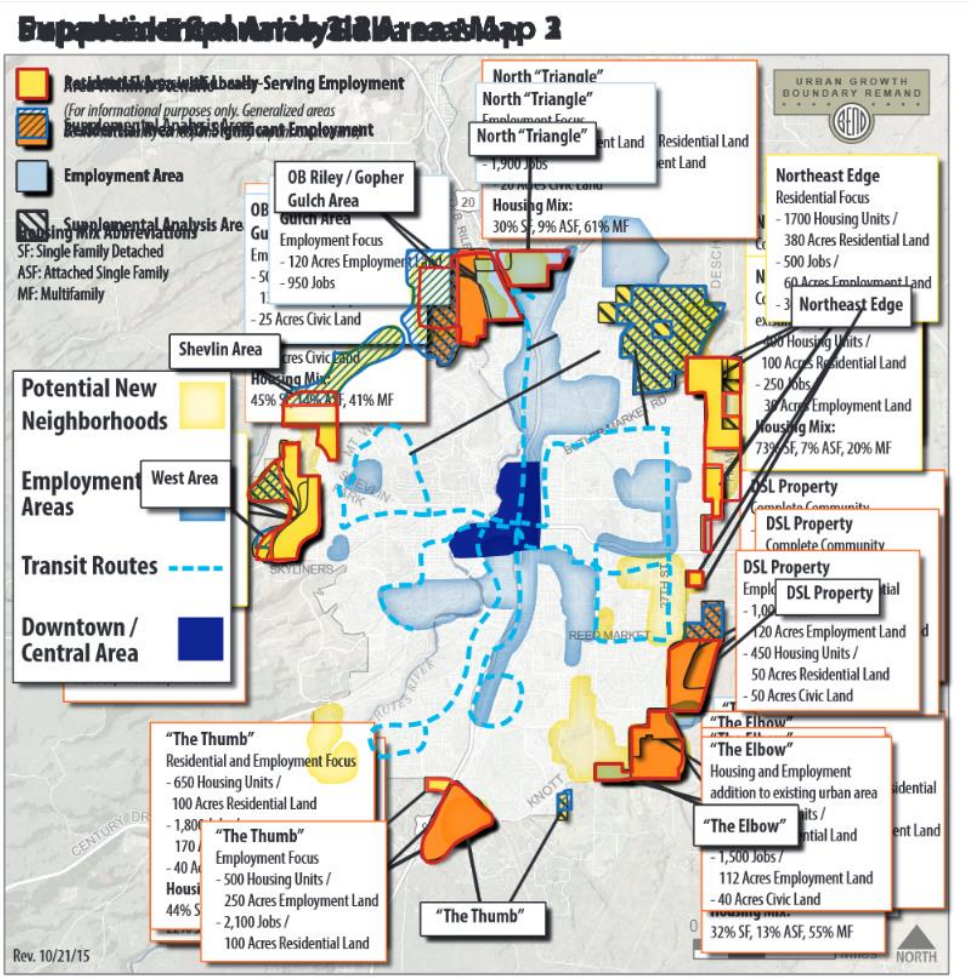
Mr. Victor Chudowsky
Chair, Urban Growth Boundary Steering Committee
City of Bend
710 NW Wall St.
Bend, OR 97703

Feedback on the 10/22/15 Bend UGB Remand Boundary Technical Advisory Committee (TAC) meeting

Dear Chair Chudowsky and members of the UGB Steering Committee:

I, Toby Bayard, am a member of the Boundary TAC, and was in Europe during October. I missed both the 10/8 and 10/22 TAC meetings. Prior to my departure, I submitted detailed instructions to the TAC, stating my strong support for Scenario 2.1, and explaining why I felt it best met the TACôs decision criteria. Then I headed for France.

While overseas, I read all emails sent to the Boundary TAC, and tried to be involved. I missed the 10/8 meeting where an ñassumed decisionò was made to create additional Scenario maps. On 10/10, I checked for minutes for the 10/8 meeting; they were not yet posted. (At the time of this writing, these minutes are still not available.) Thus, I had no way of knowing, while I was in France, that the Boundary TAC would consider two entirely new Scenarios on 10/22. (The lack of 10/8 minutes is not a criticism of staff; they have done / are doing, an outstanding job of managing and coordinating an accelerated, complex process.)



Screen capture of how the three new scenarios looked (and still look) when viewed in my browser

On Wed. 10/21, at 5:20 pm PST, Damian Syrnyk emailed a link to a Boundary TAC website that took the recipient to a document with the maps for Scenarios 2.1, 2.2 and 2.3. These maps were to be discussed and voted on the next morning, less than 24 hours later. The email arrived in my inbox on Thursday, 10/22, at 2:20 am, European time, while I slept. I rose five hours later, clicked on the link and a browser opened, displaying a document, but all three maps were overwritten, one on top of the other, so that they appeared as three identical images, each impossible to read (see above). I assumed that they were the same three Scenario maps that weôd been working on when I left, and didnôt worry about not being able to read them.

I had no way of knowing a vote on two new Scenario maps had taken place until Damian forwarded a message from Ellen Grover, noting her discomfort with the abbreviated process. Because France is nine hours ahead of Oregon, this email arrived in my mailbox long after both the 10/22 Boundary TAC and USC meetings / votes had taken place. Since Iôve returned to Oregon, Iôve caught up on the Boundary TACôs activity. The more Iôve learned, the more concerned I am about how the 10/22 vote is being perceived, i.e., that the USC choose to ñignore the vote of an advisory committeeò and struck out on its own. I disagree with this perception.

- The Boundary TAC is made up of members that include (a) stakeholders (e.g., developers, property owners, representatives of agencies with a financial interest in the Remandôs outcome), (b) citizen participants, (c) those representing organizations that might have a ñpolicy biasò for a particular outcome but who lack a clear financial interest, and (d) two land use attorneys. (With respect to the attorneys, there may be a category overlap). Historically, the groupôs balance has worked well when we have all been given the time and opportunity to participate. At the 10/22 meeting, the balance was skewed, as certain members were missing (see below). The lack of true balance was exacerbated by a compressed schedule.
- The new Scenario 2.2 and 2.3 maps were presented to the TAC less than 24 hours before the 10/22 meeting, during which an advisory decision was being made about which Scenario would be recommended to the USC. The USC meeting also took place on 10/22, but a few hours later, in the afternoon.
- When the output of an advisory committee such as the Boundary TAC is widely perceived as being a ñPreferred Scenarioò recommendation for a policy-making group (i.e., the USCð the ultimate decision makers about how Bend will grow), the stakes seem high. The last-minute introduction of previously unexamined scenarios that canôt be analyzed with the same level of teamwork, objectivity and rigor as previous scenarios, members on both sides might well assert that the process has been violated. But was it?
- I donôt think so. We (the members of all the TACs and the USC) must remember that this UGB Remand process is a very new one for Bend. The remand instructions from the DLCD have ushered in a ñcultural shiftò for our City. The Remand Orderôs bias for a small expansion, with maximum infill, ñmeasuresò that promote vertical mixed growth along transit corridors, and a housing mix more sensitive to ñaffordabilityò is a huge shift in direction for a community that is used to ñmore of the sameò. Yet, we must build the muscle to make this leap if we are to comply with the Remand Order. This requires a true team effort.
- Making this leap will not be easy, particularly in 2016ð an election year, if we approach the exercise as a game with winners and losers. In my opinion, Bend can only win if we all ñcool offò and let the process work, despite the fact that itôs new to all of us. We might be ñfeeling our way alongò, adjusting as we go, but this process is our best chance for success, as Oregonôs Statewide Land Use administrative rules and statues are, in this case, a major player. The State is also part of our team.
- In response to a letter from Sharon Smith to the USC, I have to agree with Paul Deweyôs follow-on correspondence where he disputed her statement that there was ñoverwhelming support of Scenario 2.3ò. Sharon Smith has done a terrific job of helping to facilitate our TAC meetings, but she must also have been aware that Gary Timm, Ellen Grover and I were not at the 10/22 meeting. I believe that we all would have voted for Scenario 2.1.
- Further, much research has been done on how groups make decisions. Like it or not, ñpeer pressureò and a ñdesire for consensusò is a key factor. At least two other members of the Boundary (who originally voted for Scenario 2.1) may have continued to support it if three absent members (one, a land use attorney) had been able to strongly advocate for it. I suggest that, had the groupôs composition been different on 10/22,

the vote might have been 8 to 8 ï a ñtieò. This analysis (which has been confirmed through conversations with some of those involved) suggests that the Boundary TAC is much more ñevenly splitò in terms of which Scenario to support. And, this is probably how members of the larger community feel, too.

- Whether one wants a huge boundary expansion, or a compact expansion, growth to the east or growth to the west, etc., there are going to be ñwinners and losersò, as long as we allow ourselves to think in those terms. One thing we all agree on, though. We want to satisfy the requirements of the Remand Order this time, so that we are not still wading around UGB boundary expansion discussions four years from now. And, that is why we have to rise above the spate of hostility and ill-will that the Boundary TACôs 10/22 Scenario 2.3 vote, and the USCôs reluctance to accept it, have engendered. We are all in this together.

Chair Chudowsky, and USC members, I ask that the Boundary TAC be given a chance to get to ñtrue consensusò before the USCôs 12/14 meeting, and/or that the USC postpone making a firm decision until its Boundary ñadvisory teamò can find a way to ñmeet in the middleò. Iôm distressed that the December meeting of the Boundary TAC was cancelledð without any explanation as to why. True, this is your decision to make, and I understand that we, in the Boundary TAC, are only advisors and not decision or ñpolicyò makers, but in deference to the amount of time we have invested, and to protect how the process will be perceived by the public, I ask that we have a chance to refine the Scenario that we advance to you, and do so with more lead time and participation. I think that this will go a long way toward removing the heat from the debates around who did what, and why; who lost and who won.

In closing, I ask that you not truncate or rush the last stages of this process and negate the fine work and strong processes that were put into place by Brian Rankin, and Joe Gill and his team at the Angelo Planning Group, and the TAC members themselves. And most of all, I ask that you (we all) make every attempt to move away from a ñwin / loseò stance, and remember that we in the midst of a major cultural change for our City, a change which was initiated by the Remand Order. No one likes ñenforced changeò, but in my professional experience, organizations é entities é and probably cities, tooé can greatly benefit from it in the long run.

I thank you, Chair Chudowsky, and the entire USC for considering my comments.

Toby Bayard
20555 Bowery Lane
Bend, OR 97703-8850

JL Ward Co

December 4, 2015

Mr. Victor Chudowsky, Chair
City of Bend UGB Steering Committee
710 NW Wall Street
Bend, Oregon 97701

RE: Efficiency Measures on SE 15th Street

Dear Mr. Chudowsky,

The J L Ward Co has carefully studied the options to master plan and to develop our 240 acres on SE 15th Street using the current City Code and Zoning and compared this to the Efficiency Measures proposed for this property. At the conclusion of the most recent Boundary TAC meeting we were encouraged by the committee members and staff to submit our vision for our property. We want to work with the City to meet its density and land use goals, and we are committed to having a Complete Community, including medium and high density housing and commercial uses in the appropriate quantities. We'd like to take this opportunity to work with the City to achieve our common goals.

The J L Ward Co has developed in Bend since the mid 1960's, and has decades of experience developing high quality projects—we know how to do this work from start to finish. Planning and building a 240 acre project carries significant risk, and is an expensive and complex process that will likely take 10-15 years to complete. It is our intent and desire to create a high quality project with amenities like the NorthWest Crossing neighborhood has—and we feel Bend's southeast quadrant deserves and will benefit from this type of neighborhood. To accomplish this, the economics must work; and to make the economics work the acreages proposed for commercial uses and for medium and high density housing need to be adjusted from the acreages proposed in the Efficiency Measures. For any complete community to be successful it must have the correct proportion of housing units close to the service nodes (Convenience Commercial) and appurtenant General Commercial and Mixed Employment zones.

NorthWest Crossing is a successful project—they've created a Complete Community with a mix of uses that works. Using the NorthWest Crossing mixed use model, the amount of land assigned to various uses in the 15th Street Efficiency Measures would need to be adjusted to be close to the following:

Use/Zone	Acres
Elementary School	15
Park	5
RS	186
RM	10
RH	7
CG/CC/ME	17
Total	240

We've also closely studied the proportional share of RM, RH and commercial zoning the Efficiency Measures propose and we've concluded our 15th Street property has been disproportionately burdened. We recognize the need for these zones throughout the City and in the UGB expansion areas, plus the TAC's have

20505 Murphy Road • Bend, OR 97702 • (541) 382-0491 • Fax (541) 382-5082

expressed their commitment to have Complete Communities throughout the City. We are confident the City will grow in a more sustainable and achievable development pattern when the Efficiency Measures are distributed throughout the City in a more equitable way.

The tables below compare the number of housing units associated with our adjustments and as originally proposed in the Efficiency Measures:

J L Ward Co Proposal

	RS Density Range		RM Density Range		RH Density Range	
Units Per Acre	4	7.3	7.3	21.7	21.7	43
Yield	744	1358	73	217	152	301

Efficiency Measure Proposal

	RS Density Range		RM Density Range		RH Density Range	
Units Per Acre	4	7.3	7.3	21.7	21.7	43
Yield	660	1205	191	566	332	658

At first glance, the number of units may seem large; however, the number of units translates into the following modifications to the Efficiency Measures to our 15th Street Property:

Add 21 acres of RS (8.7% of the 15th Street property);
Remove 16 Acres RM (6.6% of the 15th Street property);
Remove 8 Acres of RH (3.3% of the 15th Street property);
Remove 1 Acre of CC/GC/ME (.42% of the 15th Street property).

As you can see, the changes to the Efficiency Measures we've proposed for our property are minimal. Our proposal is reasonable: these small changes will create the mix of uses that will provide us the opportunity for a successful project; and it will allow other property owners a similar opportunity.

Attached a Conceptual Development Plan (Exhibit A) that graphically represents the areas and the variety of the zones and uses we've proposed.

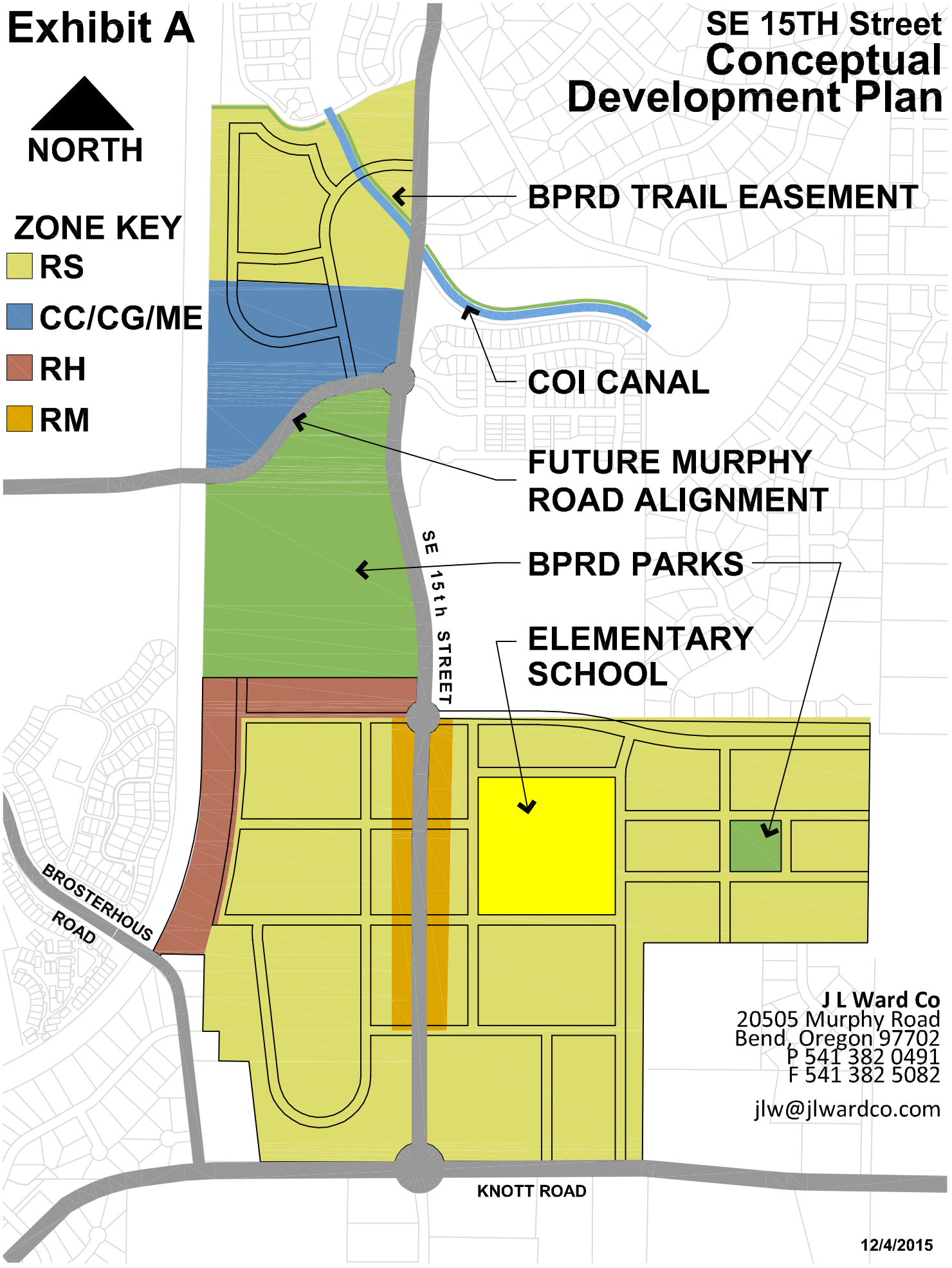
Because this is the largest undeveloped privately owned property within the City, we feel it is critical for us to be able to plan and build this community with the correct proportion and mix of uses that will allow for success. Please let me know when we can begin this mutually beneficial collaborative process to make these minor adjustments to the Efficiency Measures allocations that will lay the foundation for sustainable development patterns as Bend continues to grow.

Sincerely,

Dean Wise

C: Brian Rankin
USC Members
TAC Members

Exhibit A



SE 15TH Street Conceptual Development Plan

J L Ward Co
20505 Murphy Road
Bend, Oregon 97702
P 541 382 0491
F 541 382 5082

jlw@jlwardco.com

12/4/2015

RECEIVED
12/2/2015
CGMP

December 2, 2015

City of Bend
UGB Steering Committee and
Boundary Technical Advisory Committee
c/o Brian Rankin and Damian Syrnyk, City of Bend, Long Range Planning

Re: Urban Growth Boundary Remand

Members of UGB Steering Committee and the Boundary TAC:

I am writing to ask for reconsideration of Scenario 2.1 as it impacts the portion of land in Southeast Bend referred to in these documents as "The Elbow".

I agree with the inclusion of these lands. The issue is application of zoning as it applies to this parcel.

I ask you consider the alternative proposed. Discussion, analysis, recommendation and comments are attached.

Sincerely,

Christen M. Brown

December 1, 2015

UGB Steering Committee and Staff

I am submitting this testimony to address the portion of the UGB Remand known as "THE ELBOW".

The comments are based on the information provided in:

Exhibit A - Boundary TAC Meeting #12 (page 22) October 22, 2015
Exhibit B – Boundary TAC Meeting #11 (Page 77) October 8. 2015
Exhibit C -- Boundary TAC Meeting agenda (Page 5) October 22, 2015
Exhibit D – Chapter 2.2 Bend Development Code Commercial Zoning Districts
Exhibit E – Chapter 2.3 Bend Development Code Mixed-Use Zoning Districts
Exhibit F -- Tax Lot Map of 18 12 15CD

The specific area of interest is the Western portion of the Elbow. The boundaries more particularly described are Knott Road on the South, 15th Street on the West, Future street #224a (at Exhibit B) on the North and Raintree Drive on the East. The total acreage of this area is approximately 70 acres. Our particular parcel is the 11 acre parcel with my wife's existing farm stand located at 20950 Knott Road. JL Ward owns the western 40 acres and I have asked and been advised they will speak to their expectations separately.

"Exhibit A" Pg 22 contains a map of the proposed zoning for the Elbow. Scenario 2.1 shows the entirety of the 70 acres in Commercial zoning and Medium to High Density housing. An "on the ground" picture of this subject parcel is an area four (4) blocks deep North from Knott Road and eight (8) blocks long East along Knott Road from 15th Street. A parcel of this size and zoned commercial begs for development far exceeding the needs of the area even after development and infilling. The Forum center is only 40 acres!

Except for the two small parcels on Raintree Drive, these 70 acres are available to the gravity sewer in existence on 15th street. This availability of sewer as well as all the other utilities on Knott Road means this property could be developed soon. However, this area is at the far Southern end of the sewer and excess demand can become an issue. When the issue of capacity is raised (and it will be), high density housing is not an appropriate use at the "end of the line". High volume uses are better placed at the base instead of the farthest reach.

Per my discussions with your staff, I understand the lines or locations of these zones are not exact. The issue discussed here transcends the ability to gerrymander the locations for the designated zones. The issue is the excess commercial and high density housing zoning and the omission of ME zoning for the Elbow.

Commercial zoning (Exhibit D page 2) specifically addresses the uses expected in the commercial zone. Zoning CB does not apply. Zoning CC is limited to five acres, Zoning CL is supposed to be along highways or "new commercial center" and appears to be the ultimate designation if this map remains unchanged. Zoning CG is for large site commercial and would not be neighborhood friendly. The present map would also allow (CG) large site development.

Based on the current options: If adopted, the expected outcome could reasonably be expected to be CL or CG. This commercial zoning encourages extensive unnecessary adverse impact on the area. The subject properties are largely without terrain change and openly visible. The choice of commercial will also directly impact the agricultural nature of the properties outside the subject area across Knott Road to the South.

The commercial zoning of this magnitude is not appropriate. May I suggest, at most, a small strip only one-half block deep and for a limited distance along Knott Road is a more embraceable approach. A worthy alternative is ME zoning; as it would still allow for smaller scale commercial development, as needed!

This smaller commercial strip provides a buffer between Knott road and the Residential development and is certainly more appropriate. The community and neighborhood could be much better served if the development in this area includes employment opportunities with a working wage. Those opportunities come from development focused on Mixed Employment (ME) zoning. Retail (commercial) jobs are notorious for being at the bottom of the pay scale. Skilled tasks pay better. Mixed employment would encourage those skill jobs and a better potential for working wage employment. We will continue to wring our hands at the inability to provide "affordable" housing with no easy solution. I would suggest you instead consider zoning which encourages better pay and therefore makes housing "more affordable".

Recommendation:

If you have to zone some of the elbow commercial, you must consider a drastic reduction in the scale as outlined. If zoned ME the allowed uses will still allow commercial but restrict to less than 50,000 square foot footprints. This limit on size is a more sensible approach. This rural setting does not need large commercial (retail).

High density housing at the end of the sewer is a poor application of resources and use of capital. ME zoning would encourage working wage job creation without the high sewer demands of high density residential.

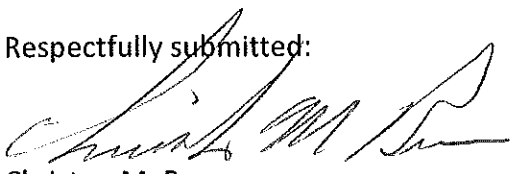
Comments:

I do not speak for the other owners of property in this 70 acre parcel. They will individually make their own comments as they deem appropriate.

We moved onto this property in 1985 and knew it was zoned Urban Area Reserve. We have understood the neighborhood being created and are mystified you consider the proposed zoning for 70 acres of commercial and high density housing a viable use for this land.

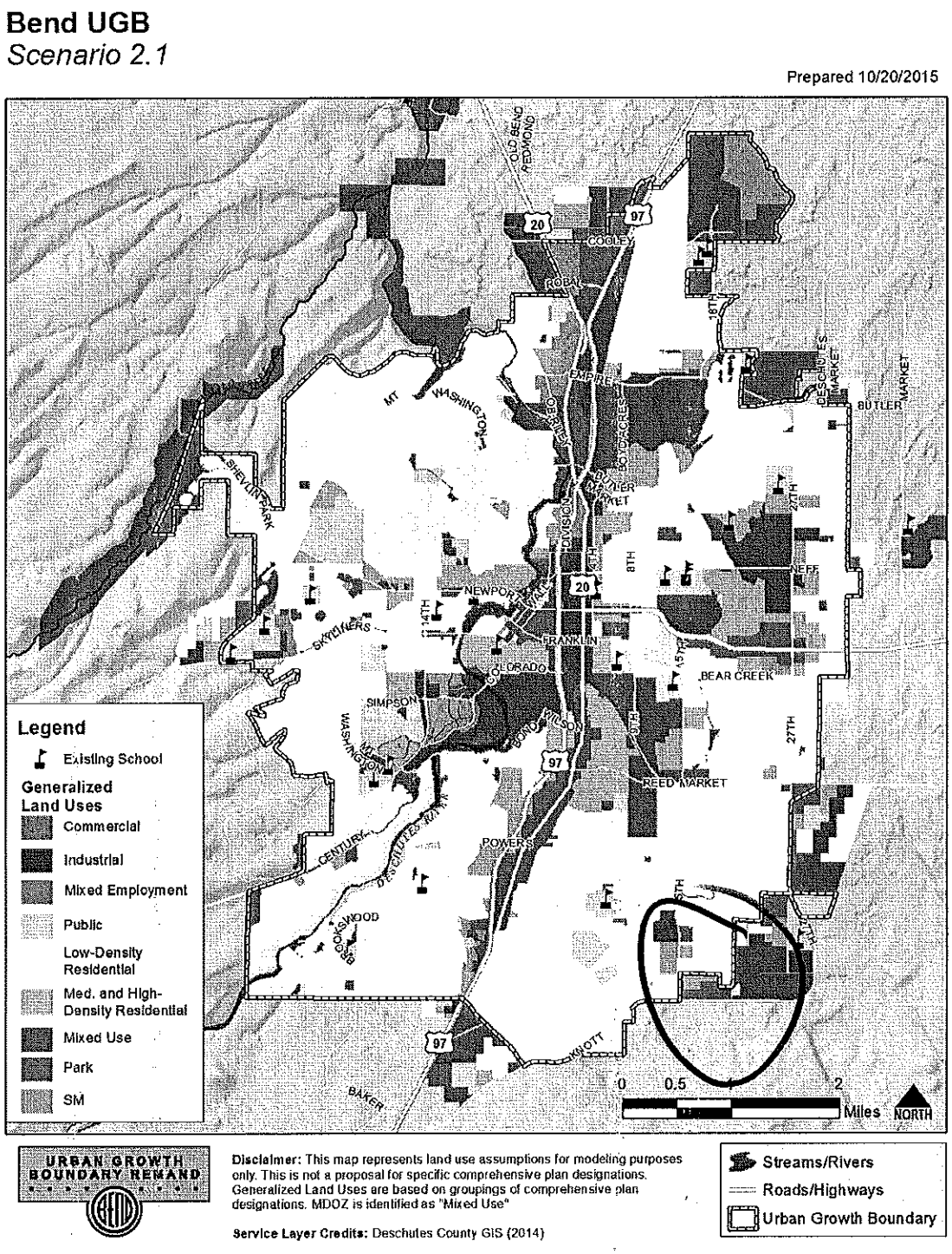
For our parcel: Mixed Employment will do a better job of creating a safe neighborhood with a minimum of disruption to the surrounding residences both inside the proposed city limits and across Knott Road. The present Elbow designations do not include ME zoning. Consider a change from Commercial to Mixed Employment zoning in the Elbow as part of your deliberations.

Respectfully submitted:



Christen M. Brown
20950 Knott Road

Figure 1: Scenario 2.1 Generalized Land Use Map



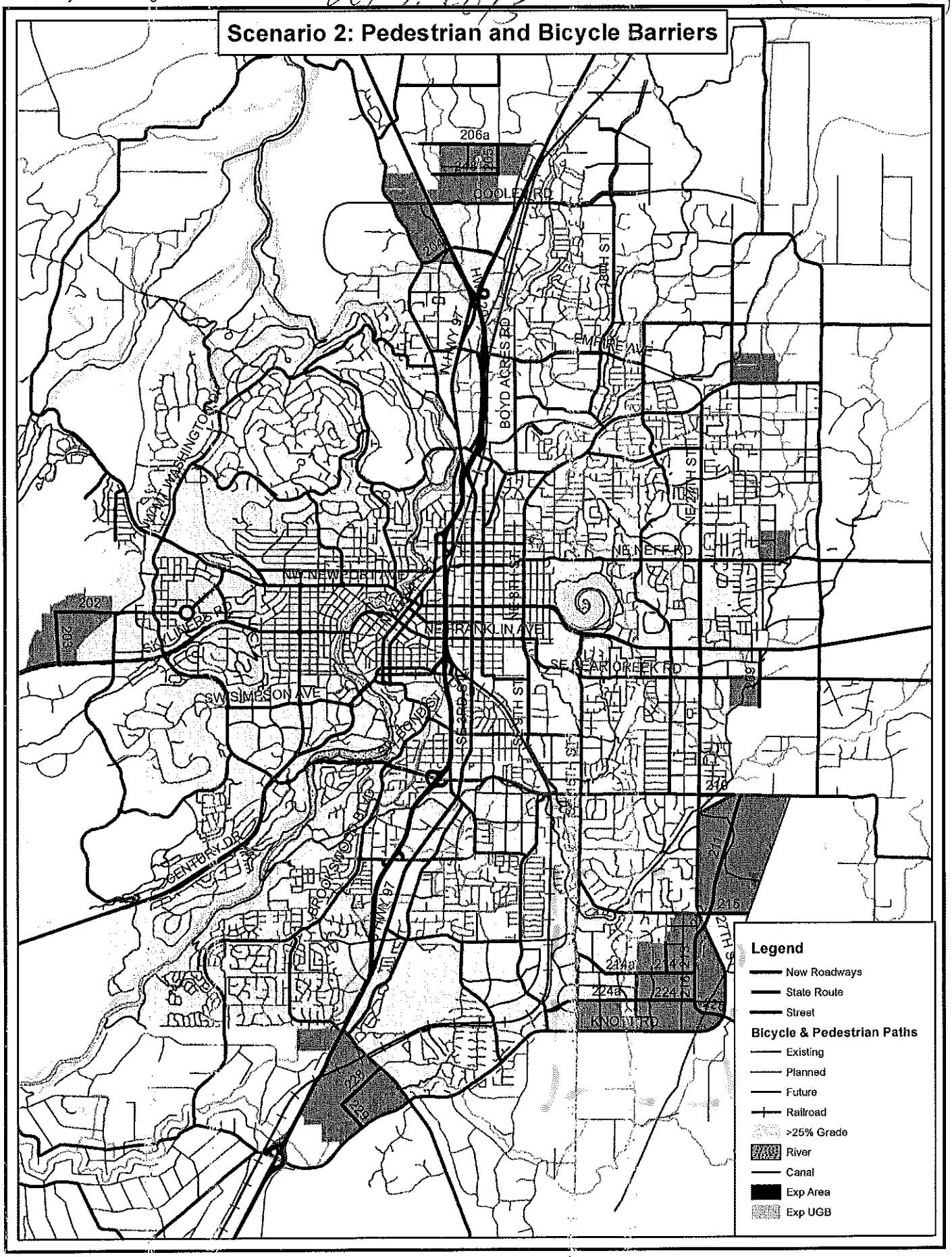


Figure 57

Exh 13

System, the team evaluated the scenarios and the SAAMs against 11 different performance measures. Chris also went into more detail about the results of the evaluations of average trip length and vehicle miles traveled (VMT) and congestion. With respect to congestion, SAAM-1 performed the best and Scenario 3.1 performed the worst of the scenarios.

- Cost Effective Infrastructure – Chris of DKS and Associates and Dave Stangel of MSA and Associates gave the presentation of how the scenarios performed against 11 different performance measures on cost-effective infrastructure. With respect to the cost of transportation improvements, SAAM-3 was the cheapest or least expensive; Scenario 2.1 was the most expensive when considering total scenario transportation costs. The TAC questions and comments on this topic included whether OSU Cascades was included in the analysis, whether the Empire Avenue extension was considered, density increases contemplated in the Central Area, and whether highway improvement costs were included in the cost estimates. Dave Stangel gave a presentation that focused on those performance measures aimed at the sewer collection system. He presented three (3) immediate projects that will address existing issues in the current collection system: the Colorado Lift Station; the North Area Improvements, and; Phase 1 of the Southeast Interceptor. He highlighted what sewer improvements would be needed to serve the scenarios and those needed to serve the SAAMs. Dave also address water system improvements, and how providing water service to any of the scenarios or SAAMs through the city's water system will not be an issue; this performance measure was not a difference maker. With respect to the four performance measures focused on sewer and water, Scenario 1.2 performed the best and SAAM-3 performed the worst. The TAC comments on questions here included the City's coordination with Avion Water Company and their input on costs of providing service to the scenarios and the SAAMs.

- Factor 3 – Comparative Environmental, Social, Economic, and Energy Consequences

  - Quality Natural Environment (Environmental and Energy Consequences) – Karen Swirsky of the Growth Management Department gave the first presentation on this topic, focusing on wildlife and wildfire. The team considered six performance measures, of which two addressed wildfire and wildlife. For wildlife, the analysis considered the location of scenarios and subareas in deer and elk winter range that has been mapped and potential deer and elk winter range. Of the scenarios and SAAMs, SAAM-2 performed best and avoided the potential winter range areas. Regarding wildfire hazard, the team considered risk and hazard to evaluate the scenarios and the SAAMs. She referred to a map that identified different classifications of fire hazard: Extreme, Mosaic High, Managed High, Managed and Well-Managed High, and Well-Managed High. The TAC questions and comments on this topic included to what extent climate change has been incorporated in the analysis, whether the record shows a property by property analysis, the results reflecting additional work performed in the field, and fire history in the short term and the long term. With respect to this last topic, Craig Letz of the consultant team clarified that some mapped data in the record provided an incomplete look at wildfire

Exh 'C'

2.2.200 Zoning District Locations and Characteristics.

Zone District Locations and Characteristics

Zone District	Location and Characteristics
Central Business District (CB)	The Central Business District encompasses the historic downtown and centra business district that has commercial and/or mixed-use development with a storefront character.
Convenience Commercial District (CC)	The Convenience Commercial District is adjacent and connected to the Residential District(s) it is intended to serve. Convenience Commercial uses are larger in scale and area than neighborhood commercial uses and provide for frequent shopping and service needs of nearby residents. The zone is intended to provide locations for a wide range of small and medium sized businesses and services as a convenience to the neighboring residential area New convenience commercial nodes shall develop as commercial centers rather than a commercial strip and be limited in size up to 5 acres.
Limited Commercial District (CL)	The Limited Commercial District provides for a wide range of retail, service, a tourist commercial uses in the community along highways or in new commerc centers.
General Commercial District (CG)	The General Commercial District provides a broad mix of commercial uses th have large site requirements, are oriented to the higher classification roadway and provide services to the entire City and surrounding area.

[Ord. NS-2195, 2013; Ord. NS-2016, 2006]

2.2.300 Permitted and Conditional Uses. Revised 4/15 Revised 10/15

The land uses listed in Table 2.2.300 are allowed in the Commercial Districts, subject to the provisions of this code. Uses that are listed in Table 2.2.300 and land uses that are similar are permitted or conditionally allowed. The land uses identified with a "C" in Table 2.2.300 require Conditional Use Permit approval prior to development, in accordance with BDC Chapter 4.4.

Table 2.2.300 – Permitted and Conditional Uses

Land Use	CB	*CC	CL	CG
Residential				
Existing Residential Use	P	P	P	P
*New residential use as part of a mixed-use development	P	P	P	P
*Temporary housing	C	N	C	C
Commercial				
Retail Sales and Service (non-automobile dependent/oriented)				

Ex D-1

Land Use	CB	*CC	CL	CG
– building footprint less than 50,000 square feet	P	P	P	P
– building footprint greater than 50,000 square feet	P	C	P	P
Retail Sales and Service (*automobile dependent)	N	C	P	P
Retail Sales and Service (*automobile oriented)	C	C	P	P
Restaurants/Food and Beverage Services – with *drive-through	C	C	P	P
Restaurants/Food and Beverage Services – without drive-through	P	P	P	P
Offices and Clinics	P	P	P	P
Production Office	N	N	C	P
Convention Center/Meeting Rooms	C	N	P	P
Lodging (e.g., hotels, motels, *bed and breakfast inns, *short-term rentals, hostels)	P	P	P	P
Hospitals	N	N	P	P
Commercial and Public Parking	P	P	P	P
Commercial Storage – enclosed in building and on an upper story	C	P	P	P
– not enclosed in building	N	N	P	P
– enclosed in building on ground floor (i.e., mini-storage)	N	N	C	P
Entertainment and Recreation – enclosed in building (e.g., theater, fitness facility)	P	P	P	P
– not enclosed (e.g., amusement, outdoor arena)	N	N	C	P
Day Care	P	P	P	P
Redemption Center	N	N	P	P
Trailer Park/Campground	N	N	C	C
Mortuary	N	N	P	P
Wholesale Sales (more than 75% of sales are wholesale)	N	N	P	P
Veterinary Clinic (small animal)	C	P	P	P
*Mixed-use (residential with commercial/civic/industrial) Mixed-use developments shall be subject to the use limitations prescribed for the respective individual uses	P	P	P	P
Public and Institutional				
Government – point of service intended to serve the entire City (e.g., City Hall, main library, main post office, main Department of Motor Vehicles service center)	P	N	P	P

Ex D-2

Chapter 2.3
MIXED-USE ZONING DISTRICTS (ME, MR AND PO) Revised 4/15 Revised 10/15

Sections:

2.3.100 Purpose and Applicability.

2.3.200 Permitted and Conditional Uses. Revised 4/15 Revised 10/15

2.3.300 Development Standards. Revised 10/15

2.3.400 Building Orientation.

2.3.500 Architectural Standards.

2.3.600 Special Development Standards for the MR Zone.

2.3.100 Purpose and Applicability.

A. The Mixed-Use Districts are intended to provide a balanced mix of residential and employment opportunities. These mixed-use areas provide a transition between existing urban environments and both existing and future residential developments. The Mixed-Use Districts support service commercial, employment, and housing needs of a growing community. The Mixed-Use District standards are based on the following principles:

- Ensure efficient use of land and public services.
- Create a mix of housing and employment opportunities.
- Provide transportation options for employees and customers.
- Provide business services close to major employment centers.
- Ensure compatibility of mixed-use developments with the surrounding area and minimize off-site impacts associated with development.

The Mixed-Use Districts: Mixed Employment (ME), Mixed-Use Riverfront (MR), and Professional Office (PO) are identified on the City's official Zoning Map. The districts serve distinctly different purposes as described below.

Zone District	Location and Characteristics
Mixed Employment District (ME)	The Mixed Employment Zone is intended to provide a broad mix of uses that offer a variety of employment opportunities. Where Mixed Employment Districts occur on the edge of the City, their function is more transitional in nature providing service commerc businesses and supporting residential uses in an aesthetic mixed environment. In this instance, when residential units are provided, the units shall be within easy walking distance to the commercial and employment uses.
Mixed-Use Riverfront District (MR)	The Mixed-Use Riverfront District is intended to implement the General Plan policies fo the creative redevelopment of mill site properties adjacent to the Deschutes River. It is intended to allow for a mix of uses that: • Provide a variety of employment opportunities and housing types; • Foster pedestrian and other non-motor vehicle activity; • Ensure functionally coordinated, aesthetically pleasing and cohesive site plannin and design;

Ex E-1

Zone District	Location and Characteristics
	• Ensure compatibility of mixed-use development with the surrounding area and minimize off-site impacts associated with the development; and • Encourage access to, and enjoyment of, the Deschutes River.
Professional Office District (PO)	The Professional Office Zone is intended to provide for professional offices in locations near arterial or collector streets and to provide a transition of uses between residential areas and other more intensive zones. Through design standards, the Professional Office Zone is intended to create a mix of high density residential housing, office and service commercial developments that are pedestrian-oriented and provide a positive contribution to the streetscape.

B. Applicability. The standards of this chapter apply to all development in the Mixed-Use Zoning Districts. [Ord. NS-2195, 2013; Ord. NS-2016, 2006]

2.3.200 Permitted and Conditional Uses. Revised 4/15 Revised 10/15

A. Permitted and Conditional Uses. The land uses listed in Table 2.3.200 are allowed in the Mixed-Use Districts, subject to the provisions of this chapter. Only land uses that are listed in Table 2.3.200 and land uses that are approved as "similar" to those in Table 2.3.200 may be permitted or conditionally allowed. The land uses identified with a "C" in Table 2.3.200 require Conditional Use Permit approval prior to development, in accordance with BDC Chapter 4.4.

B. Exceptions. Existing uses and buildings lawfully established under previously effective land use regulations are allowed to continue subject to BDC Chapter 5.2.

Table 2.3.200

Permitted and Conditional Uses

Land Use	ME	MR	PO
Residential			
Single-Family Dwelling as a primary use	C	P	C
Single-Family Dwelling as a secondary use	P	P	P
Multifamily Residential* as a primary use	C	P	C
Multifamily Residential* as a secondary use	P	P	P
Temporary Housing* as a secondary use	P	N	P/C
Commercial			
Retail Sales and Service • not to exceed 50,000 sq. ft. ground floor	P	P	N
• not to exceed 75,000 sq. ft. ground floor for ME zoned property five acres or greater	P	N	N
Retail Sales and Service (auto dependent*)	P	N	N
Retail Sales and Service (auto oriented*)	P	N	N

Ex E-2

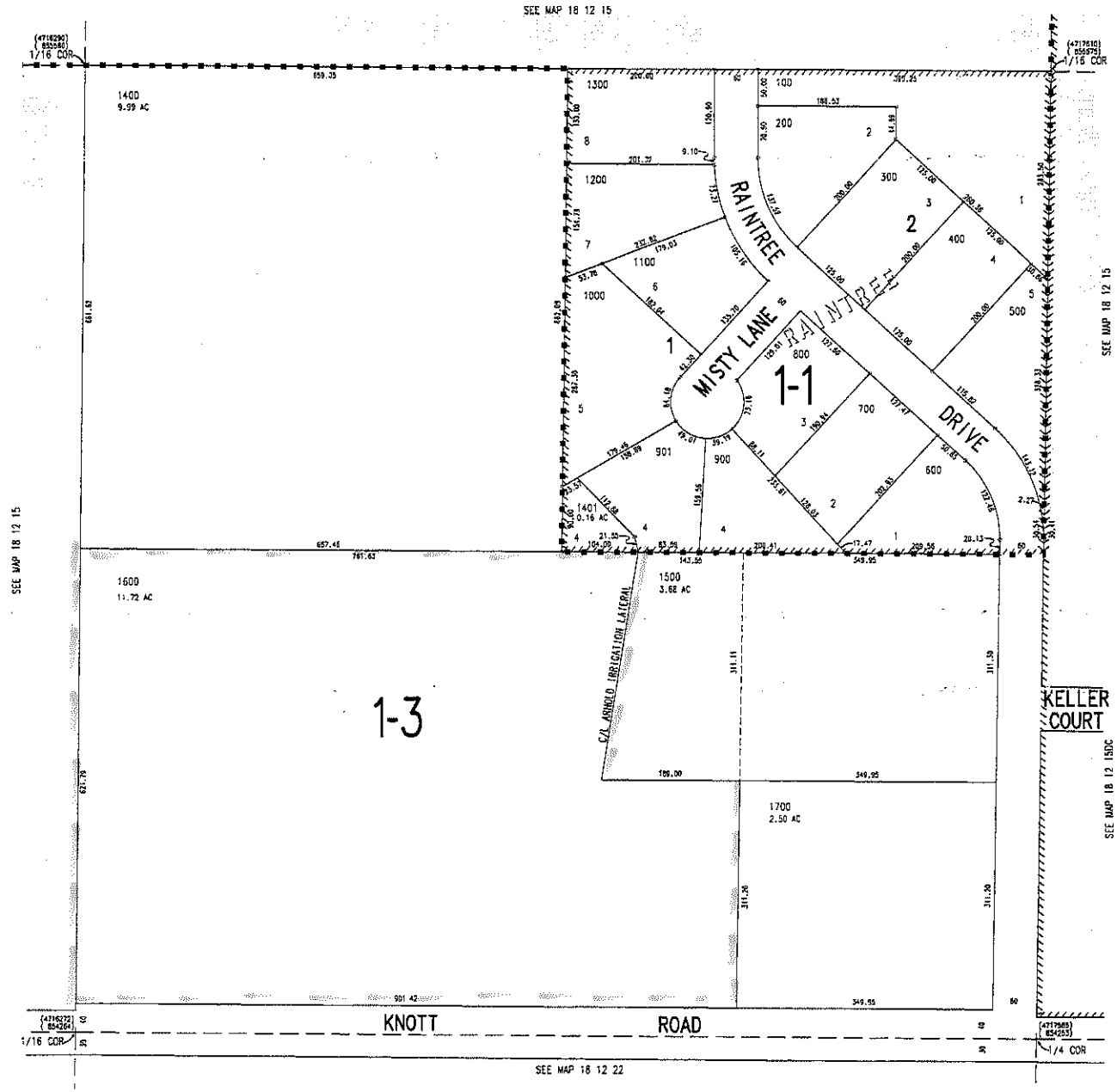
THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY.

REVISED: 09/16/2005

SE1/4 SW1/4 SEC. 15 T.18S. R.12E. W.M.
DESCHUTES COUNTY

1" = 100'

18 12 15CD



18 12 15CD

Exhibit E
05334

OXFORD
Hotel Group
BEND, OREGON

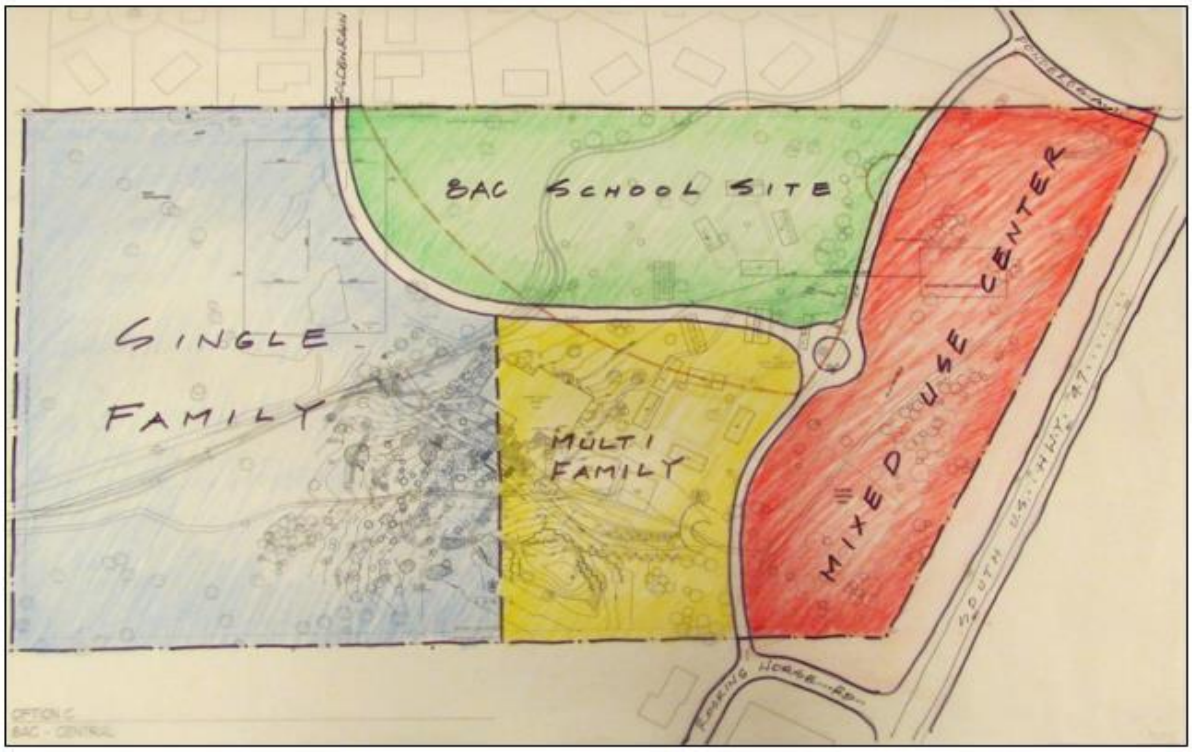
November 29, 2015

UGB Steering Committee
UGB Expansion sub-committee
City Council UGB Liaisons
City Staff

Dear Committee Members:

Thank you for your diligence in the UGB process. We have been following this project for many years and look forward to its conclusion as you do too. At the last meeting we were disappointed that the Steering Committee chose to remove our property from the study map. This is troubling for many reasons and we ask you to reconsider by examining a few key points that were not fully discussed:

1. The proposed removal removes **the only parcel south of the UGB and west of Highway 97**. The many citizens in this particular area of Bend are likely to make shorter drives if services are available. They are not likely to cross the Highway to get to the future Ward site. The Ward site will serve different portions of the community to the east. Even if they could, the presence of a median will require out of direction travel for citizens on the west side of the highway**. Our property is proposed for mixed-use, including a school site, multi-family housing, employment, and commercial services** as the record shows. See attached maps. We plan to provide services for nearby residents and the **many homes already surrounding the property**. Please refer to the vicinity map as attached.



Proposed layout of Baney site showing mixed-uses, school, housing, and employment node

2. We were confused by the consultant's statements that the metrics used to evaluate our site included a VMT that is measured to center of Bend. The consultant then stated that our site would produce long trips to the center of Bend. (Why this was not also stated for the Ward site is perplexing) Nonetheless, citizens near our property are unlikely to make long trips if services are available close by. Thus, our site has the best chance of serving the developed area just west of the highway and reducing vehicle trips to the center of Bend. The best neighborhood designs typically have services and schools nearby. Our property will provide those features.

3. Our property, when developed, will supply needed sewer improvements to the existing City residents that only have access to septic now. Recent conversations with the city sewer department indicate that the City is many years away from providing this essential service. With development of our site, sewer main improvements will occur and provide the backbone of needed system improvements. This data is in the record as submitted by our engineer, Tim Weishaupt, PE. Yet, the City's consultant only mentioned that there were sewer issues in a few areas but did not mention how our property provides a huge benefit by fixing existing sewer problems.

4. **The UGB sub-committee did not recommend removal of our property** and so we ask that that this also be taken into consideration. Inclusion of our property allows the area to the south and west of the highway to have similar opportunities as other properties do on other sides of the UGB. This southern area should not be left out from any inclusion.

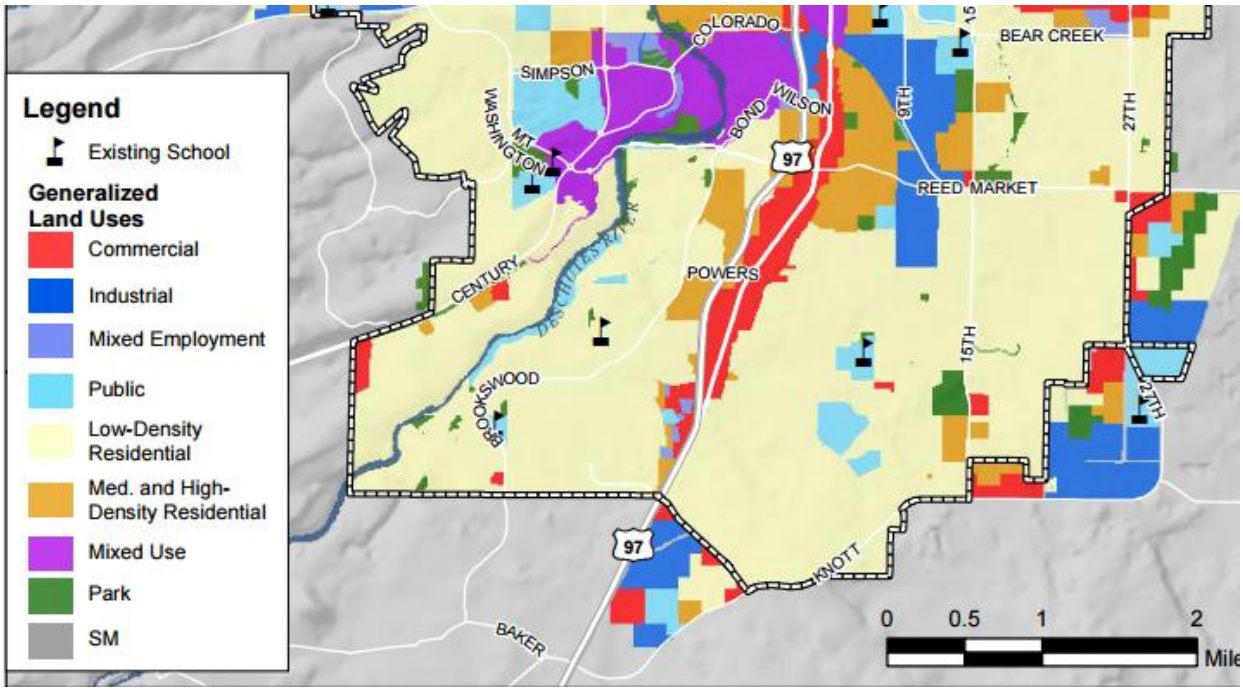
In closing, with the recent action to remove our property from the map, **the UGB expansion would not include <u>any</u> property south of the City and west of the highway.** Nor, would the UGB expansion include properties to the south that would help make existing City properties more complete neighborhoods with services, schools, and multi-family housing.

We respectfully ask that the Steering Committee reconsider our property for inclusion for the reasons stated above. If you have any questions please feel free to call me to discuss this further.

Sincerely,

Curt Baney, President
Baney Corporation
Tel.: 541-382-2188 Email: curtb@oxfordsuites.com

Attachments



Note in this latest revision map how there is no property south of the UGB and west of the Highway included in the UGB expansion proposal.

The Red outline shows where the Baney property is located in relation to the Highway and those fully developed properties surrounding the property on the north, south, and west.

HURLEY | RE
ATTORNEYS AT LAW | P.C.

747 SW Mill View Way, Bend, OR 97702
541-317-5505 ▪ Fax: 541-317-5507 ▪ www.hurley-re.com

December 8, 2015

Brian Rankin
City of Bend Principal Planner
710 NW Wall Street
Bend, OR 97701

via First Class Mail & Email to brankin@ci.bend.or.us

RE: Urban Growth Boundary Expansion – Residential Zoning for Tax Lots 100 & 1700
Township 18 South, Range 12 East, Section 15

Dear Brian,

Our offices represent the Robert M. Schumacher and Sandy L. Schumacher Revocable Living Trust, by Sandy L. Schumacher, Trustee, owner of 64.56 total acres on two adjoining tax lots ("Subject Property," described above) in southeast Bend, which is likely to be included in the City of Bend's next Urban Growth Boundary Expansion.

The most recent scenario being considered is Expansion Scenario 2.1A, attached for reference. It shows our client's property is included in "The Elbow" area in southeast Bend. These lots both adjoin residential lands which are already developed. In Scenario 2.1A, industrial development would be allowed directly next to these homes. Industrial development is not compatible with residential neighborhoods. Industrial operations start early in the morning or may even operate through the night. Industrial uses are also often very noisy. Such uses would not be compatible with family neighborhoods, where people sleep during industrial operation hours.

Furthermore, industrial uses generate heavy truck and trailer traffic for goods coming in and going out. The noise of these heavy vehicles is disruptive, and also potentially dangerous for small children walking and biking in the adjoining neighborhood.

Finally, industrial uses generate smoke and fumes that are not anticipated in residential neighborhoods, and do not belong there. These neighborhoods were established with a reasonable expectation of compatible adjoining development. Industrial development does not mesh well with these residential neighborhoods, and should not be promoted next to them by City action.

According to Scenario 2.1A, tax lot 100 and most of tax lot 1700 are marked to be zoned for industrial use once included in the UGB, with the remainder of 1700 to be zoned for public use. While we understand the need to make space for jobs in this area of Bend, it is neither in the best interest of my client nor the City to zone the Subject Property for industrial use. My client believes that their property may be more properly suited for a medium-density residential zoning designation, compatible with the

zoning designations of the adjoining properties – Residential Standard Density (RS) and Residential Low Density (RL).

In the alternative, my client's property would also be better suited to a commercial zoning designation in terms of keeping compatibility with current and future surrounding uses. Adjoining residential land would be better complimented by commercial adjacency than direct transition into industrial land, and there is very little commercial development in southeast Bend.

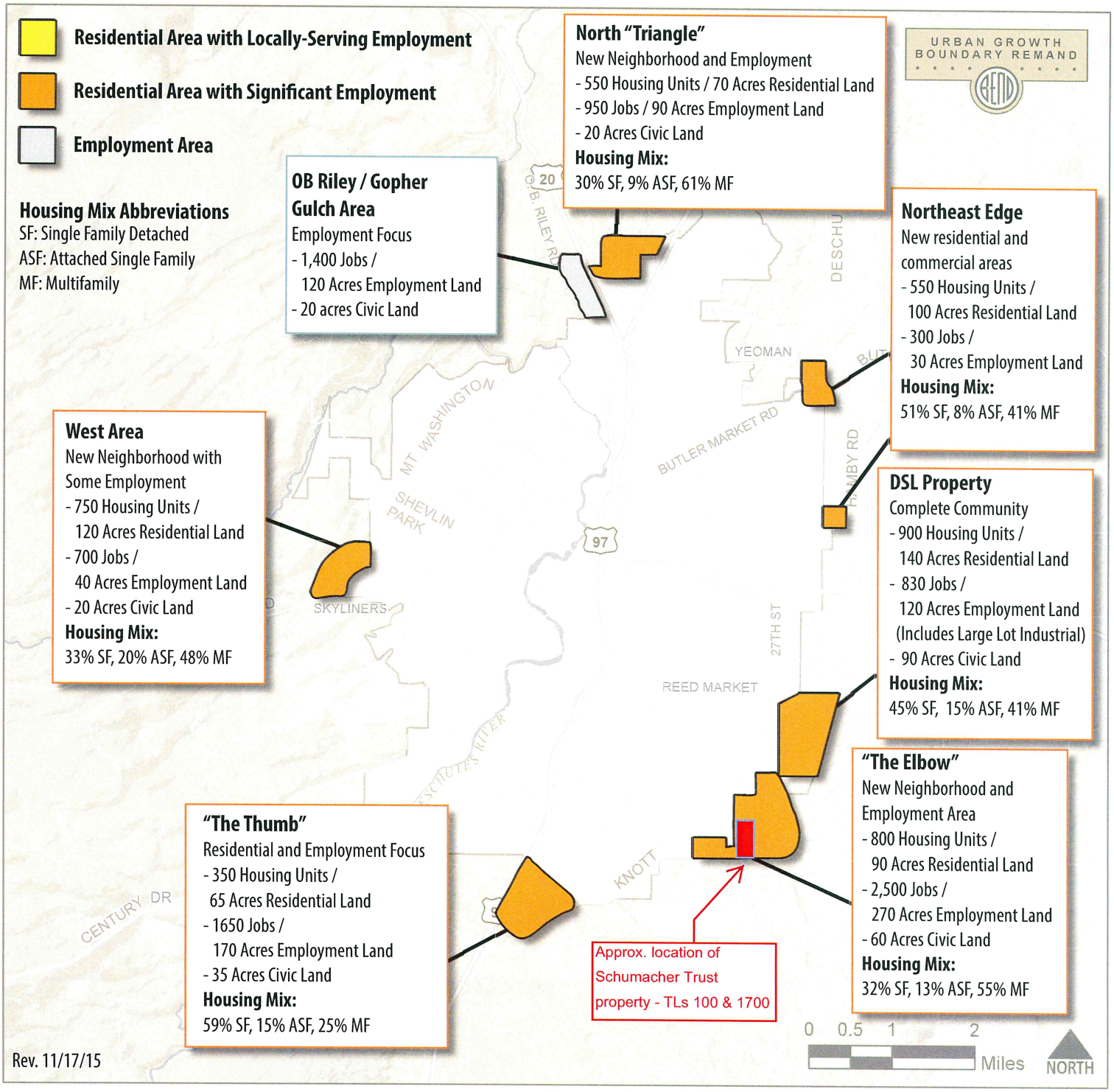
We understand the City's desire to reduce trips and length of same. However, it's likely that quality of life of Bend's residents depends more on a peaceful home than a short commute.

Thank you for considering our concerns on behalf of the Schumacher Trust.

Sincerely,

Elizabeth A. Dickson
EAD/mls
Enclosures as noted
Cc: Client

Expansion Scenario 2.1A

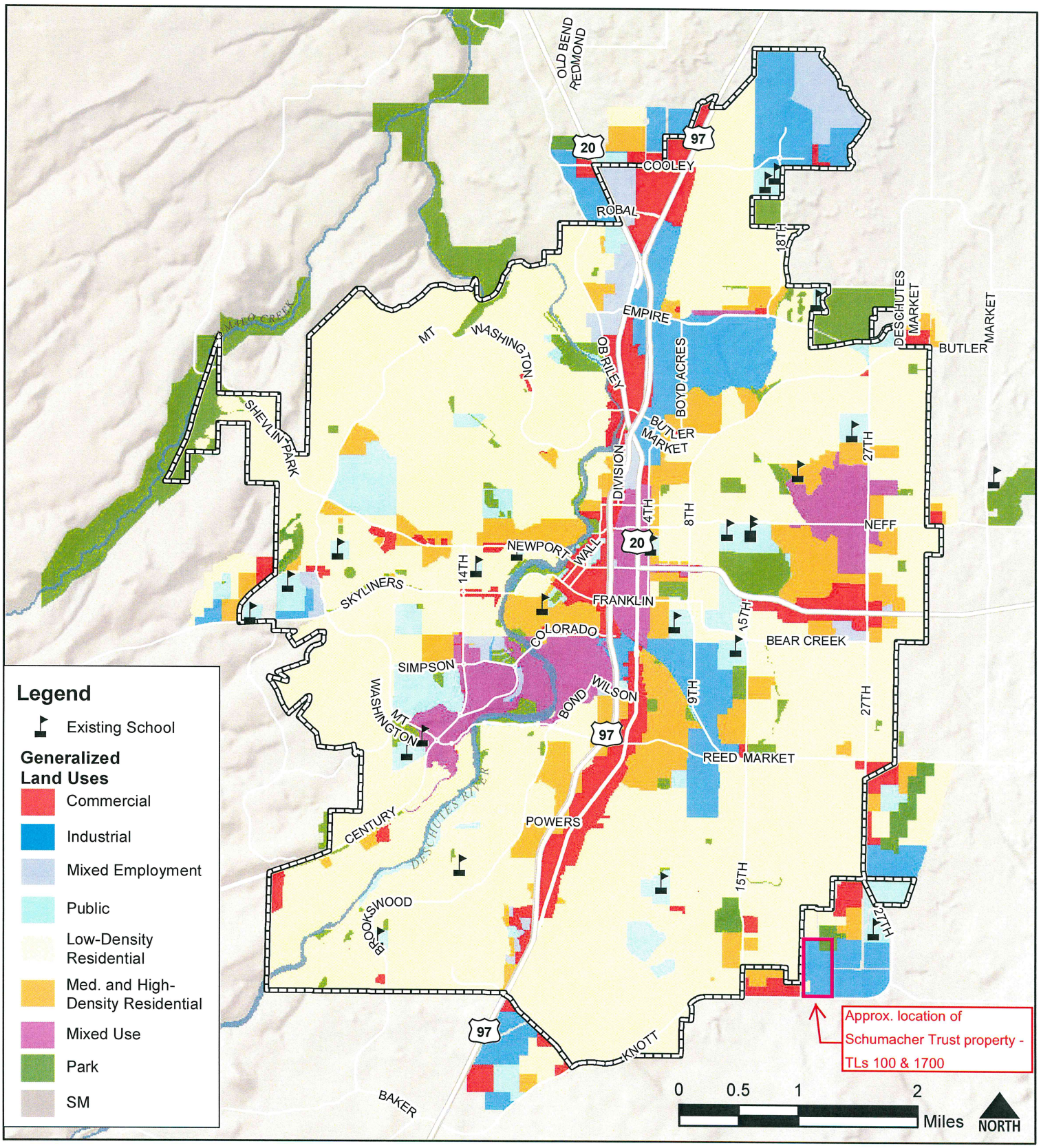


Bend UGB

Draft USC Direction on Revisions to Scenario 2.1

"Scenario 2.1A"

Prepared 11/18/2015



Legend

- Existing School

Generalized Land Uses

- Commercial
- Industrial
- Mixed Employment
- Public
- Low-Density Residential
- Med. and High-Density Residential
- Mixed Use
- Park
- SM

URBAN GROWTH BOUNDARY REMAND

Disclaimer: This map represents land use assumptions for modeling purposes only. This is not a proposal for specific comprehensive plan designations. Generalized Land Uses are based on groupings of comprehensive plan designations. MDOZ is identified as "Mixed Use"

Service Layer Credits: Deschutes County GIS (2014)

- Streams/Rivers
- Roads/Highways
- Urban Growth Boundary

December 8, 2015

TO: Victor Chudowsky, Chair of the Bend Urban Growth Boundary—UGB—Expansion Steering Committee
Bend UGB Remand Boundary Expansion Technical Advisory Committee

SUBJECT: Concerns regarding westside growth and, fire, traffic congestion and affordable housing

My name is Barb Rumer and I live at 1592 NW Remarkable Drive, Bend, 97703. I have lived in Bend since 2004. My late husband, Jim Eisenhard, was the Planning Director for the city of Medford for ovr 20 years. His enthusiasm for, and knowledge of land use planning trends and best practices have continued to shape my own views after his death.

The purpose of my correspondence is to offer feedback on the direction that Bend's UGB expansion has taken in recent months. From its outset, Bend chose to respond to the State's UGB Remand Order with an open public process that encouraged feedback at every turn. It hired Portland-based Angelo Planning Group to facilitate the process, set up public information meetings, and created opportunities for citizen feedback by using "MetroQuest", an on-line public-involvement tool. Bend also created an inclusive UGB Steering Committee (USC) to make a final decision on the expansion map to be adopted by its City Council. Its decision-making was guided by three technical advisory committees (TACs) charged with analyzing the need for land, direction of growth, type of land uses, and the State rules that govern the expansion of a UGB. The Residential and Employment TACs provided input to the "Boundary TAC", whose work is ongoing.

The process appeared to be working well until October, when the Boundary TAC met on 10/8, to determine the process for forwarding its "preliminary preferred Scenario" to the USC. Both the Boundary TAC and the USC were meeting on the same day, 10/22 (Boundary in the a.m, USC in the p.m.). Using a public process and guided by evaluation criteria and overlay maps, the Boundary TAC had narrowed down three scenario maps to a finalist (Scenario 2.1). Scenario 2.1 was discussed at the 10/8 meeting where facilitator polled TAC members, seeking feedback on 2.1. At some point after the 10/8 meeting, City planning made an independent decision to create two entirely new Scenario maps, 2.2 and 2.3 (based, they say, on "group feedback"). It is unclear who guided their creation, but they differed from the three previous Scenarios that the public had voted on using the well-accepted "MetroQuest" online survey / feedback tool. (This process was, in part, how Scenario 2.1was originally selected.) On 10/21, the night before the Boundary TAC's 10/22 meeting, City Planning staff emailed Scenarios 2.2 and 2.3 to its members. This was less than 24 hours before the TAC was to vote on the Scenario to forward to the USC the following day. The new maps were not presented to the public at large, nor could they be analyzed with the same level of precision, due to the abbreviated time frame. Nevertheless, the Boundary TAC, which tilted heavily to the "development side" due to the excused absence of several "smart growth" members, voted 10-3 to send Scenario 2.3 to the USC. The USC voted 9-3 to reject Scenario 2.3 and instead, accept the original Scenario 2.1, subject to modifications.

Scenario 2.3 made changes to Scenario 2.1. It nearly doubled the number of homes to be built on the westside, by including two new parcels of land (80 acres total). On the plus side, it included land in northeast Bend (the "Perfect Rectangle") that is comprised of multiple smaller lots owned by different property owners). It moved industrial land from north of the City to its southeast side (the Department of State Lands' Section 11) and removed some land in the southeast ("The Thumb).

I'm most concerned by the murky commandeering of an otherwise open and above-board public process by … no one is sure. The decision to create new Scenario maps was made without the knowledge of the full Boundary TAC. I'm also concerned, for four reasons, about an increase in the number of residences on the northwest side from 750 to 1,400. First, there is a real and increased risk of wildfire when development abuts a national forest. Second, westside residents have been complaining about traffic congestion ever since NW Crossing Phase II began (maybe before). Third, the price of westside land precludes the construction of housing suitable for first-time buyers, hourly-wage workers, or even "average citizens". It is costly to develop and homes tend to be sold as part of a "gated community". Bend has enough of that; we need affordable housing. Lastly, while there are plenty of schools on the northwest side, families with school aged kids don't tend to live near them. This exacerbates the traffic problems as school children are being driven (or driving) to school as opposed to walking or biking.)

Thank you for your attention to, and consideration of, my views on this topic.

Barb Rumer

December 7, 2015

TO: Victor Chudowsky; Chair—Bend UGB Steering Committee (USC)
Bend's Boundary Technical Advisory Committee (Boundary TAC)

SUBJECT: Bend's UGB Expansion / Comments on west side growth

Dear Chair Chudowsky and Boundary TAC members:

My name is Barb Pettersen. I live 2607 N.W. Polarstar, in Bend's Valhalla Heights. My husband and I have lived here for over 15 years and watched Bend's west side grow … and grow … and keep on growing to the point where it no longer has the same character that existed when we moved here. It is becoming increasingly difficult to live on the west side.

I'm very grateful to those who lend their time and talent to the community, and I understand that you are all either elected officials, volunteers, or both. I recognize that your efforts are often overlooked and that you receive many more complaints and criticisms than you do compliments and gracious comments. I will try to be constructive in my own feedback, because I am sincere when I commend you for your service.

My feedback concerns growth of Bend's UGB to the west. I find it hard to justify the addition of even 750 new homes to the area between Skyliners Road and Shevlin Park (which I believe is the number currently under consideration by the USC). This area's present density and the congestion that occurs on Mt. Washington Drive and Newport/Shevlin (particularly during the hours that parents are driving children to school) is tough on us who live over here and has gotten much worse this past year. I've since heard a rumor (related to me at Mt. Bachelor's Nordic Lodge) that the Boundary TAC voted for a new UGB growth map that would increase this number to 1,400 new homes. This number shocks me, and it shocked the person who repeated it to me. I hope that it is not true as we will be inundated if that occurs. If (or should I say 'when") there is another fire in the Deschutes National Forest, as there was in June 2014 (the fast-moving Two Bulls fire), it's very likely that homes will burn. There is a serious problem with dead and dying pine trees along Century Drive, in the Skyline Forest, by Shevlin Park, etc. This fuel load is frightening. The last thing that any of us want is for Bend to receive national news coverage as the result of a destructive fire.

I don't think that Bend's east side has nearly the fire danger, or congestion problems that we have here and adding more houses will not help solve Bend's affordable housing crisis, either. Affordable west side housing is a thing of the past. The cost of land here precludes its construction.

Please, when you vote on where to expand Bend's UGB, remember that the real need for more housing, (affordable housing) is to the east of Bend's current boundary. Those with large parcels on the west side have already realized sizeable profits from previous land sales. Likewise, small acreage property owners on Bend's east side want to be included in the expanded UGB. It will greatly increase their land values. This time around, I would like to see these residents, many of whom have lived here for decades, have an opportunity to put their land to more efficient use, so that they can move on to the next stage of their lives and we, as a community, can solve our affordable housing crisis.

Sincerely,

Barbara Pettersen
2607 N.W. Polarstar
Bend, Oregon 97703

Damian Syrnyk

From: Victor Chudowsky
Sent: Thursday, December 10, 2015 7:15 AM
To: Damian Syrnyk; Brian Rankin
Subject: Fw: "Scenario 2.3" of proposed UGB expansion

Can you put this in the record - thx

From: Chris Herrick <christine.herrick49@gmail.com>
Sent: Wednesday, December 09, 2015 4:09 PM
To: Victor Chudowsky
Cc: Brian Rankin; Casey Roats; Doug Knight; Nathan Boddie; Jim Clinton; Barbara Campbell; Sally Russell; Leeds Tyler; Rook Erin; debone Tony
Subject: "Scenario 2.3" of proposed UGB expansion

Mr. Victor Chudowsky
Chair; Bend Urban Growth Boundary Steering Committee

Chair Chudowsky:

My name is Chris Herrick. My husband, John Coltman, and I have owned property in Northwest Crossing since 2007. When we first purchased here, we were eager to live in what was being promoted as a “complete community”, a walkable neighborhood with modestly-sized homes having access to local shops, restaurants, schools and parks. From that standpoint, we are not entirely disappointed, with one exception: we’d hoped for a local grocery store. To date, there isn’t one within walking distance.

What we are not happy about is the tremendous development that has taken place around us. What first seemed like a neighborhood has now become an island in a traffic nightmare, with congestion on Mt. Washington Drive, Shevlin Park Road, Skyliners Road, and virtually all the westside’s core “east-west” arterials (e.g., Galveston, Newport, Portland). We are also disturbed about the lack of public process that enabled the selection of land on which Oregon State University’s Cascades Campus is now being built. While we have not joined the Truth in Site group in their efforts to delay or halt the campus’ construction, we share many of their concerns.

Traffic gridlock is a major concern not just because of the livability issues it raises, but also because of the extreme fire danger in this part of Bend. In June of 2014, early in the fire season, the Two Bulls fire, which came very near developed areas on the westside, caused many nearby residents to be placed on Level 1, 2 or 3 evacuation alerts. Those on Level 3 did evacuate but many on Levels 1 or 2 did not. Luckily the winds were with us. There was no need for us all to try to get out at once on already congested roads. I emphasize ‘luck’, as it saved this area. Luck can, and does run out. It is frightening to contemplate the potential interplay of a fast-moving wildfire and the need to

rapidly evacuate all the expanding west side neighborhoods and schools that are in the already-built urban/forest interface.

We are not directly involved in the City's Urban Growth Boundary (UGB) expansion process but are watching from the sidelines with great interest, especially as any west side expansion would likely impact the traffic congestion/wildfire evacuation risk issues. As former Portlanders, too, we are supporters of urban density and "smart growth." During trips to the Tucson area, for example, we have observed with horror the impact on landscape and livability when urban growth is not strictly controlled.

Until now, we have been pleased with what we have learned about the City of Bend's UGB expansion process, both from the Bulletin and from a friend who is a volunteer participant on a committee guiding the process. Particularly gratifying to us was that expansion Scenario 2.1, seeking relatively modest but dense growth in dwelling units on the west side, appeared well on its way to becoming the approved expansion scenario, having been published in the Bulletin, shown on the City's website, voted on by citizens via Bend's MetroQuest survey and otherwise vetted by the public and the various City advisory groups guiding the expansion process. However, recently we were told that the big west side landowning and development interests (particularly Brooks/West Bend, Miller, Day and Swisher) attempted to subvert or co-opt the public process by privately inducing City planners to invent and present a new "Scenario 2.3" that ups the number of dwelling units in the expanded UGB from 750 to 1400. Scenario 2.3 would include parcels of two previously excluded landowners (Day and Swisher), with a Brooks representative agreeing to drop back down to 750 if all commercial uses were removed from the expansion parcels. We were further told that this new Scenario 2.3, which had not been vetted through the advisory group process, was presented in great haste to the steering committee, giving the advisory group less than 24 hours notice and at a meeting when a number of advisory group members who were likely to vote against it were absent. This type of attempted last minute influence by moneyed stakeholders -- assuming it actually occurred as has been described to me -- is precisely the type of event that, if publicly revealed, gives government a bad reputation.

Fortunately, as clearly reflected in the otherwise muddled story published by Tyler Leeds of the Bulletin on October 23, a majority (Knight, Boddie, Clinton and Campbell, with Russell absent) of the steering committee of which you are chair voted to stick with the approved Scenario 2.1, with Councilor Boddie giving as a reason that the new proposed Scenario 2.3 would shift additional housing to the City's western flank. You, Councilor Roats and Commissioner DeBone were outvoted, so we gather that Scenario 2.1 survived a close call but stands for the moment as the direction the City intends to take on expansion of the UGB. Kudos to Boddie, Knight, Clinton and Campbell, whom I am thanking for their support of the transparent advisory group and public input process via courtesy copies of this letter.

Since you are the steering committee chair and were an active participant in these events, I bring them to your attention to let you know that we who own homes in areas adjoining areas proposed for expansion and thus have a vested interested in the UGB expansion outcome are paying close attention. That attention will be reflected, at minimum, in our future votes. Some of us have great concern that Bend's development no longer continue to be managed from behind the scenes by

the moneyed westside landowners/developers in their own interest and that it instead be directed by average citizens who have the City's long term best interest at heart. In particular, many of us do not believe any UGB expansion should facilitate building more houses for rich people in the short term. The urgent need for housing in this town is for affordable housing, which due to current land values can most efficiently and abundantly be constructed on the east side of town. Whenever we learn of apparent private influence by the west side landowner/developer entities favoring more houses for the wealthy on the west side, public representatives like yourself who have sided with those interests will be challenged. There is change in the air and newer Bend citizens are pushing back against the "good old boy" interests that previously controlled Bend development. Please keep this in mind as you make the policy that determines how our city grows.

Sincerely,

Chris Herrick

christine.herrick49@gmail.com

2281 NW High Lakes Loop
Bend, OR 97703

cc: Brian Rankin, City of Bend Community Development; Commissioner Tony DeBone, Deschutes County; Councilor Casey Roats, City of Bend; Councilor Doug Knight, City of Bend; Councilor Nathan Boddie, City of Bend; Mayor Jim Clinton, City of Bend; Councilor Barb Campbell, City of Bend; Councilor Sally Russell, City of Bend; Reporter Tyler Leeds, Bulletin newspaper; Editor Erin Rook, Source Weekly

To: UGB Steering Committee

From: Bill Galaway, Chairman, Southeast Bend Neighborhood Association

Copy: Brian Rankin, Joe Dills

Subject: UGB Expansion Plans for the Thumb

As Chairman of the Southeast Bend Neighborhood Association, it is my responsibility to look out for the interests of those who live in our neighborhoods. In my opinion, the current proposal for UGB expansion into the Thumb does not satisfy the needs and interest of our neighborhoods.

We have 2 primary concerns.

1. Traffic in and out of the Thumb.
2. The amount of Industrial property proposed for the Thumb.

1. Traffic in and out of the Thumb.

The current proposal calls for expanding into approximately 2/3 of the land in the Thumb, and not extending to the overpass on Knott/Baker. The proposal calls for adding 350 residences and 1,650 jobs into this area. This will add at least 2,000 vehicles entering the Thumb on a daily basis. This proposal suggests no road improvements are required in support of the expansion.

Access to the Thumb is difficult. From the North and West, the only way in is on Parrell Road from Murphy. This stretch of Parrell has about 20 houses with driveways that directly access the road, in addition to 5 existing neighborhood accesses. In no way should Parrell be used as primary access to this area from the North and West.

From the East, access to the Thumb is via Knott Road. Knott Road already has heavy traffic as it is being used as the primary trucking traffic heading east to south. With the UGB expansion primarily along the east side of Bend, this road will have increased traffic. This road has to be improved.

We propose that the UGB expansion in the Thumb include all the property to the Baker/Knott overpass. Entrances to the Thumb would be designed to influence drivers to use Highway 97 to the Baker/Knott interchange and thereby eliminate Parrell Road as a primary feeder street into the area. Knot Road heading northeast will still have to be improved in support of all the expansion on the East side. In addition, we should work with ODOT to reduce the speed limit along Highway 97 and add back the left turn onto China Hat Road heading south.

2. The amount of Industrial property proposed for the Thumb.

The Southeast neighborhoods are remarkably devoid of any amenities. We have only one restaurant, we have zero parks and schools, no shopping, and very few businesses. We have a number of neighborhoods, and 3 golf courses within close proximity of the neighborhoods. Other than the golf, we have to drive a long distance to any amenity.

One of the goals of the UGB expansion was to create self-sustaining neighborhoods similar to the model in Northwest Crossing. A mixed use development in the Thumb would add restaurants, shops, and employment opportunities to the Southeast neighborhoods, most of which are in very close proximity to the Thumb.

The current map for the Thumb shows ~50% of the property designated for Industrial use. This is contrary to the goal of having self-sustained developments in support of the residences within the Southeast Neighborhoods. We expect to see at least 80% of the Thumb be designated for mixed use residential/commercial. If some level of Industrial is required, it could be located in the southern tip of the Thumb, right by the Knott/Baker overpass.

In summary, the Southeast Bend Neighborhood Association recommends that the entire Thumb be included in the UGB expansion, and that at least 80% of the Thumb be designated as mixed use residential/commercial in order to provide the southeast neighborhoods the amenities that the rest of the neighborhoods in Bend enjoy.

Thank you.

Damian Syrnyk

From: Vordenberg <vordenbe@yahoo.com>
Sent: Thursday, December 10, 2015 9:40 PM
To: Damian Syrnyk
Cc: Vordenberg Lloyd or Sue
Subject: UGB Testimony

Follow Up Flag: FollowUp
Flag Status: Flagged

Please forward the following testimony to the Bend UGB Steering Committee Chair, Victor Chudowsky and also to the UGB Boundary Technical Advisory Committee. I very much appreciate your assistance.
Sue Vordenberg

Mr. Victor Chudowsky
Chairman
Bend Urban Growth Boundary Steering Committee
710 NW Wall St.
Bend, OR 97701

Dear Mr Chudowsky,

I have followed the UGB planning process with great interest as reported in the Bulletin. I also have followed reports about affordable housing needs and traffic issues, both important factors in UGB planning. The original Scenario 2.1 was the preferred, well vetted and publicized plan, although the Bulletin did report in articles on 10/9 and 10/23 that it was subject to modifications. I recently have become aware of what those modifications include pertaining to Bend's west side. It seems to me that both the housing and traffic issues were ignored in the modified scenario that will nearly double the number of allowable dwelling units added in west Bend over the original Scenario 2.1. This must not happen.

As a resident in The Reserve at Broken Top, I am intimately familiar with traffic issues in the area. One east/west roadway--Skyliner Road, and one north/south roadway--Mt. Washington Drive, serve a vast expanse of already exploding growth. With three schools in the immediate area plus expansion of residential, commercial and light industry development in NWX, people trying to merge into traffic from nearby neighborhoods any time of day, but particularly around the lunch hour and before and after school, do so at their peril. Accelerated development in Tetherow already has had a traffic impact, and traffic generated by the new OSU campus when it opens will exacerbate the situation even more. But you must already know this. So why would the proposed modified UGB Scenario 2.3 add 1400 allowable dwelling units accessed only by already burdened roadways? I thought the original Scenario 2.1 adding 750 future allowable homes was misguided, but 1400 is imprudent if not reckless. And this is just under normal circumstances.

Fire danger compounds the issue. Reports I've read that wild fires can occur on any side of Bend ignore the prevailing wind patterns off the Cascades and the added danger those wind patterns have on the increasingly

dense west side urban-forest interface. The limited number of roads, especially if schools have to be evacuated, will be completely inadequate if anything near 1400 homes are added to those already existing, being built, or in the approval process on the west side of Mt. Washington Drive. Can you imagine the chaos of fire-fighting equipment and manpower moving against massive evacuation traffic on the two arterial roads in the area? This is a recipe for disastrous gridlock.

How some of the otherwise intelligent members of the groups engaged in UGB planning can justify minimizing the importance of these issues boggles my mind, and raises for me and the many others I've spoken with, the question of special interests apparently receiving undue consideration over community interests, especially safety.

Then there is the matter of the inadequacy of reasonably priced housing in Bend. I know you know the statistics. I know you know that the housing crisis, even before the arrival of 5000 OSU students needing inexpensive housing, is not going to be addressed by developments on expensive west side land. You have to know that, and so do others involved in UGB planning. So why, other than because of pressure from special interests, would additional, inevitably high-priced housing be put into the plan?

Citing complex and competing interests throughout Bend in the proposed modified UGB scenario--Scenario 2.3, does not come close to addressing why the west side modifications are being put forward, given the traffic, housing, and safety issues involved. Nor does it explain how the west side modifications could be allowed to gain purchase over the months-long planning process at what can only be viewed as the last minute.

I am not alone in my concerns, but it takes a bit of effort for busy people to get the information they need to understand how their everyday lives will be affected by the amount and type of future development allowed in a specific quadrant of the city. Those who have the time and insight may lack the conviction that writing to you will make a difference. I, myself, am not sure that I will be heard, or my views considered, but I *am* sure that if I do nothing, those "better connected" to Bend's decision-makers will prevail.

Chair Chudowsky, I hope you and the UGB Steering Committee will carefully consider my comments when voting on an expansion Scenario to adopt and forward to the State of Oregon. Those of us who vote will be watching with interest to see what comes next.

Sincerely,

Sue Vordenberg

2671 Niagara Court
Bend, OR 97703

Sent from my iPad

SCHWABE, WILLIAMSON & WYATT®
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TIA M. LEWIS
Direct Line: 541-749-4048
E-Mail: tlewis@schwabe.com

December 11, 2015

Brian Rankin
Planning Manager / Growth Management
City of Bend
710 NW Wall Street
Bend, OR 97701

Re: UGB - Boundary & Growth Scenario Maps, Goal 14 Factors
Evidence for Inclusion of Coats UAR Property
Our File No.: 125457-188345

Dear Brian:

Our office represents the Joyce Coats Revocable Trust, Eric and Robin Coats, Shevlin Sand & Gravel and CCCC, LLC.

Please present the enclosed materials to the Boundary TAC and the USC and include them in the record for the UGB remand. This evidence addresses the Goal 14 factors and provides suggested findings for the land shown on the maps attached as Exhibit A and Exhibit B demonstrating why it meets all Goal 14 factors and why it should be included in the UGB. Specifically, the property (including 33 acres owned by the school district) comprises approximately 449 acres and is identified with the tax map and lot numbers shown on Exhibit C.

Goal 14 Factors

I. Background: History and Ownership of the Coat's Property

The Coats family owns approximately 700 acres in the Urban Reserve on the west side of Bend. The family has held this property since for over 40 years and well before it was designated Urban Area Reserve (UAR) in 1976. For tax and business purposes, the property is held in several different record owners' names but all acreage shown on the Overall Property Setting Map and the Conceptual Master Plan map, except the 34 acres owned by the school district, is controlled by Eric and Robin Coats (Exhibit C).

The Coats family seeks to have approximately 416 acres of its land together with the 34 acres owned by the School District to be included in the UGB for urban development including a variety of residential densities, employment and mixed use lands, and public schools, all within walking distance and near recreational amenities as shown on the Conceptual Master Plan map, Exhibit B. As discussed more fully below, this property is suitable for inclusion into the UGB and vital to the City of Bend for park, trail, transportation and sewer connections on the west side of Bend.

II. Goal 14, Urbanization: Analysis

GOAL 14: URBANIZATION
OAR 660-015-0000(14)
(Effective April 28, 2006)

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

FINDING: As demonstrated below, transitioning the Coats Property from rural to urban uses can be done efficiently and will support the City's anticipated population growth of about 38,500 people and 22,891 jobs by the year 2028, by creating livable and walkable communities that are close to urban and recreational amenities.[1]

Orderly and efficient transition:

The Coat's Property abuts the existing urban growth boundary along its eastern boundary and its southern boundaries. Mostly residential development at urban standards, the abutting lands inside the City limits are primarily developed with single family dwellings in platted subdivisions. On the west side, the Coat's Property shares a boundary with Bend Parks and Recreation District's (BPRD) Shevlin Park and Tumalo Creek. West of the park and Tumalo Creek are platted residential subdivisions in the Rural Residential zone (RR-10). Along the northern boundary is the Deschutes River and across the river is the recently acquired Riley Ranch Nature Preserve, also owned by BPRD.[2] Extending the UGB to the Coat's western boundary along Shevlin Park and Tumalo Creek is a natural logical boundary for expanding the City limits.

[1] Population Source: Bend Housing Needs Analysis, Bend's Growth to 2028, Draft Document: August 14, 2015, pp. 1 and 70.

[2] Within the northern portion of the 700-acre property, is an active sand and gravel mining operation consisting of approximately 200 acres that is zoned Surface Mine. This mining portion of the property is not being considered for inclusion in the Urban Growth Boundary (UGB).

Transportation Connectivity and Public Utility and Services:

Transitioning the City limits from urban to rural to expand and include the Coat's Property will efficiently incorporate existing and planned transportation systems both within and outside the City limits.

The City's own street layouts and planned transportation systems include street extensions within the Coat's Property, as well as existing roads within the City limits that are stubbed to the edge of the Coats Property for future urbanization of their land. Currently, no fewer than eight urban public roads are stubbed to the boundary of the Coat's Property, these include:

Street	Subdivision/Urban Development
• Chiloquin Drive	(Renaissance at Shevlin Park)
• Mehama Drive	(Renaissance at Shevlin Park)
• Imbler Drive	(Renaissance at Shevlin Park)
• Shevlin Bluffs Road	(Shevlin Estates)
• Skyline Ranch Road	(Westside Meadows)
• Polarstar Avenue	(Shevlin Court)
• Nordic Avenue	(Valhalla Heights)
• Regency Street	(Awbrey Ridge)

In addition, the City of Bend's, "Bend Urban Area Roadway System Plan" dated April 2014 shows two proposed Major Collector roads traversing through the Coat's Property (Exhibit D). The extension of Skyline Ranch Road northerly from Shevlin Park Road and the east-west Collector Road, crossing Coats Lands from Putnam Road to Buck Drive that connects to Johnson Market Road. This important transportation link provides substantial connectivity to existing City areas east of the Coats lands, provides important secondary access for lands west of the Coats property, and affords the opportunity for alternate routes that can relieve pressure on the existing City arterial and collector road network through west Bend and the downtown core area.

The Putnam Road extension is also an important transportation link for City and Deschutes County residents providing additional connectivity to areas east of the Coats lands, providing important secondary access for lands west of Coats, and again affording the opportunity for alternate routes that can relieve pressure on the existing City arterial and collector road network through west Bend and the downtown core area.

Each of these road connections also include substantial utility infrastructure, domestic water and fire protection water supply infrastructure, sanitary sewers, power, natural gas, and/or communications utilities, and emergency response and evacuation needs that provide for an orderly and efficient extension of the City's infrastructure systems.

Schools:

Schools play an important role in creating livable and vibrant communities. The Bend-La Pine School District has planned a middle school within the Coat's Property in the southern portion of the property. In addition, discussions have been ongoing with the Coat's to add an elementary school in near the middle school as well. Siting the schools within the Coat's Property demonstrates the School District's confidence that the property can accommodate its need for schools and future population growth in concert and in proximity with the proposed Conceptual Master Plan to add mixed housing, parks and trails, and neighborhood commercial center within walking distance.

Parks and Outdoor Recreation:

The Coat's Property provides multiple opportunities for connections to recreation and nature that include: Shevlin Park and Tumalo Creek that abut the Coat's Property to the West; Deschutes River and the newly acquired Riley Ranch Nature Preserve, a 184-acre park located to the north. The Park District has worked closely with the Coat's family in identifying lands on their property for acquisition and management by the Park District that would connect and ultimately create a vast and important trail network for park patrons and City residents. Exhibit B shows the existing and proposed trail network and acquisition by the Park District.

Large Land Area:

The 449-acre Coat's Property is under single ownership (except for the School District property) with minimal development resulting in opportunities for cohesive planning and management of the property. Development of the property has the potential to provide the City of Bend with housing and employment opportunities, schools, and a connecting park system all within walking distance of one another.

Conclusion:

The purpose of Goal 14 is 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 Coat's Property does just that: expansion of the UGB into the Coat's land provides for an orderly transition from the fringes of urban reserve to City densities. The transition is an efficient transition from rural to urban land use in that streets and infrastructure are already in place and stubbed to their boundaries, the Park District is eagerly awaiting for trail system connections and park land acquisitions, the Bend-La Pine School District is cooperatively working with the Coat's Family on planning a middle school and elementary school all within walking distance of potential residential and employment opportunities.

Out of all the lands the City has been considering for inclusion in the UGB, the Coat's Property is the gem; providing the closest interpretation in balancing the location factors of Goal 14 and, should be given priority over other lands being considered.

Urban Growth Boundaries

Urban growth boundaries shall be established and maintained by cities, counties and regional governments to provide land for urban development needs and to identify and separate urban and urbanizable land from rural land. Establishment and change of urban growth boundaries shall be a cooperative process among cities, counties and, where applicable, regional governments.

An urban growth boundary and amendments to the boundary shall be adopted by all cities within the boundary and by the county or counties within which the boundary is located, consistent with intergovernmental agreements, except for the Metro regional urban growth boundary established pursuant to ORS chapter 268, which shall be adopted or amended by the Metropolitan Service District.

Land Need

Establishment and change of urban growth boundaries shall be based on the following:

(1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and

The City's long range population is expected to grow by about 38, 500 between 2008 and 2028 for a total population of 115,063.[3] The demographics of this growth include an addition of:[4]

Baby Boomers, people over the age of 65 years old, are projected to grow by more than 37,000 people in Deschutes County and about half of this growth will be in Bend.

Millennials are expected to grow by about 14,000 people in Deschutes County and about half of this growth will be in Bend.

Hispanic and Latino population is expected to continue to grow in Bend (no number given for their growth).

As the City's population continues to grow and the demographic trends change, housing and employment opportunities will need to respond to those changes as well. The City in its Bend Housing Needs Analysis, page 78, estimates that an additional 16,681 dwelling units between 2008 and 2028 - with 13, 769 of these dwelling units needed between 2014 and 2028 - to accommodate the population growth. In addition, the Housing Need Analysis, page 70, estimates that between 2008 and 2028, the City will add 22,891 jobs mostly in office and service sectors. The City has evaluated the buildable lands inventory to accommodate the housing and

[3] Source: Bend Housing Needs Analysis, Bend's Growth to 2018 (draft document dated August 14, 2015), page 1.
[4] Ibid.

employment needs within the UGB and determined additional lands will be needed outside the UGB to accommodate the future population growth. The City has narrowed the amount of land to be included in the City's urban growth boundary to about 1670 acres.[5] The complex lengthy process of identifying which areas to be brought in to the UGB is reflected on the current chosen scenario map, Scenario 2.1A map (Exhibit E).[6]

The Coat's family disagrees with the City's conclusions on the amount and locations of acreage to come in the City's UGB in terms of order of priority lands and lands to meet the employment and housing needs as discussed below:

Order of Priority Lands:

LCDC's Remand, November 3, 2010 order concluded on page 134 that "the county UAR lands are exceptions lands under ORS 197.298 . . . ." These UAR lands include the Coat's Property. The Coat's Property has been designated UAR since 1976.

Further, on page 17 of the City's Bend Urban Growth Boundary Expansion Scenarios Evaluation Report, dated October 1. 2015, the City states, "Unlike the 2009 proposal, ***only priority exception lands are being considered***" (emphasis added).

While LCDC lumped the UAR lands with all the rest of the exception lands, such as RR-10 and MUA-10 lands, the City's General Plan[7] distinguishes the UAR lands from other exception lands by separately identifying them as lands needed for the long term, growth and expansion of the Bend urban area as stated below:[8]

> *Urban Reserve Boundary*
>
> *Some communities, like Bend, also have an Urban Reserve Boundary line beyond the Urban Growth Boundary. Between the UGB and the Urban Reserve Boundary are additional lands that are needed for the long term — 30-50 year — growth and expansion of the Bend urban area. Figure 1 on page 1-5 shows the Urban Reserve Boundary. When the General Plan was "acknowledged" by the state in 1981, the Urban Reserve area was recognized as an "exception area" to long-term farm or forest uses under statewide planning Goals 3 and 4, and therefore available for urban development.* ***Lands in this Urban Reserve area are considered first for any expansion of the Urban Growth Boundary***. (Emphasis added.)
>
> *The Urban Reserve area covers several thousand acres along the western and northern sides of the Urban Growth Boundary, and smaller areas along the east and southeast edges of the UGB. In total, the Urban Reserve area covers approximately 6,860 acres or*

[5] This number reflects the acreage shown on the Expansion Scenario 2.1A (dated 11/17/2015).
[6] Ibid.
[7] We are aware that the City is in the process of amending the General Plan and will be renaming the document the Bend Comprehensive Plan after its adoption in 2016 (reference footnote 2 on page 4 of the Draft Urbanization Report dated 12/1/2015).
[8] Source: Bend Area General Plan, Chapter 1, page 1-4.

about 10.7 square miles. It is a mixture of vacant lands, areas with surface mining operations, residential areas, and public open space lands. A discussion of the residential uses that can be developed in the Urban Reserve area is provided in Chapter 5, Housing and Residential Lands.

Further, the City's zoning Characteristics found on Table 2.1.100 of the Bend Development Code describe the Urban Area Reserve District (UAR) as "a holding zone for urban development." Neither the City's General Plan or Zoning Code describe any other exception lands to be included in a discussion for the City's long term goals; as stated above in the General Plan, "*Lands in this Urban Reserve area are considered first for any expansion of the Urban Growth Boundary.*"

Since LCDC determined in the remand that all the UAR lands area exception areas for purposes of ORS 197.298, then there are no "first priority lands" as that term is described in ORS 197.298(a). Therefore, the next priority of lands to be considered is identified in subsection (b) of ORS 197.298:

(b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of land needed, second priority is land adjacent to an urban growth boundary that is identified in an acknowledged comprehensive plan as an exception area or nonresource land. Second priority may include resource land that is completely surrounded by exception areas unless such resource land is high-value farmland as described in ORS 215.710.

In reviewing the preferred Scenario 2.1A, there is a mixture of UAR-10 lands and MUA-10, and RR-10 lands. About 12% of these lands are not in the Urban Area Reserve, but exception lands, including MUA-10 and RR-10. One of these properties, the DSL land, publically owned by the State of Oregon and consisting of 350 acres, had a miraculous plan amendment and zone change approved by the Board of County Commissioners during the pendency of the present remand process that changed the zoning from EFU to MUA-10 (Deschutes County file number PA-11-7/ZC-11-2). That property now accounts for about 21% (350 acres/16705 acres[9]) of the total acres under consideration for inclusion in the UGB.

According to the Bend Area General Plan, the Urban Reserve area covers approximately 6,860 acres.[10] The total amount of land the City is proposing to include in its UGB is 1,670 acres. About 12%, of those lands, however, are outside the Urban Reserve Area. The City by its own rules should consider the Urban Reserve areas first for any expansion of the Urban Growth

[9] The total 1,670 acres is derived from adding all the acreages found on Scenario 2.1A dated 11/17/15.
[10] Bend Area General Plan, Chapter 1: Plan Management and Citizen Involvement, adopted November 1998.

Boundary. It's hard to believe the City had to reach outside the 6,860 acres of Urban Reserve lands to find lands suitable to accommodate future growth.

Further, the City is taking an overly limited view on the amount of land and what properties to bring in the UGB. When reviewing Scenario 2.1A as a whole, the City is creating a monochromatic landscape that lacks variety. It may be more expensive to construct infrastructure and homes on steeper topography or where deer mingle with the residents, but what would Bend be, for example, if we did not have the desirable residential community of Awbrey Butte? Or the award-winning Northwest Crossing on the West side that is less than 2 miles to public forest lands where risk of forest fire is of concern. Bend is a desirable place to live in part, because of the proximity to recreational amenities of our public mountains, rivers, and forests that the West side provides easy access to. The Coat's Property is part of the West side and shares these desirable attributes for building a great and diverse community close to recreational opportunities and downtown Bend.

> ***(2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection (2).***
>
> ***In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need.***
>
> ***Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.***

Each of these needs is addressed below.

> **Demonstrated need for [or any combination of the need categories in this subsection (2)]:**
>
> **Housing:**

The City of Bend anticipates the population to grow by 38,500 people between 2008 and 2028.[11] To accommodate this growth, the City's expects to add 16,681 new housing units between 2008 and 2028 with 13,769 of these units to be added between 2014 and 2028[12] for a housing mix in the 2016-2028 timeframe to include 55% single-family detached, 10% single-family attached, and 35% multi-family housing types.[13] The demographics of the added growth will largely

[11] Ibid., page 1.
[12] Ibid., page 23.
[13] "City of Bend, Urban Growth Boundary Steering Committee Meeting Notes," dated March 19, 2015, page 2, USC Meeting 4.

occur in aging baby boomers (about half of 37,000 people over the age of 65 in Deschutes County), Millennials (about half of 14,000 people in Deschutes County), and an unknown number of Hispanic and Latino population.[14] Each of these demographic types will bring to the forefront specific housing needs where "the most pressing need is to increase the range (both in size and in pricing) of housing products in walkable neighborhoods."[15] The draft Housing Analysis concludes on page 75:

> ***Bend's average development density will change with a shift in the type of housing developed in Bend over the 2014-2028 period.*** *The conclusion of the housing needs analysis is that Bend will have increased demand for a wider range of housing types, especially more affordable housing types. These housing types include: small lot single-family detached, smaller single-family detached units such as cottages, townhouses (aka rowhouses), duplexes, tri-plexes and quad-plexes, garden apartments, and urban apartments and condominiums. Development of these housing types will generally be at higher densities than Bend's historical densities. These housing types will be developed primarily in the RS and RM zones, with some denser multifamily housing in the RH zone.*[16]

The Coat's Property is uniquely situated to meet the diverse housing needs expected to trend over time. As shown on Exhibit B, the proposed layout shows a mixture of schools, housing at various densities, commercial uses, employment opportunities and recreational amenities. The conceptual design leaves open the opportunity to address more specific housing needs, whether it be smaller lots with smaller homes, cluster, or cottage housing, townhomes, or multifamily developments; the opportunities for catering to specific housing needs are possible with the Coat's Property – not so with other properties under consideration that are earmarked for particular housing types. The draft Housing Analysis in its "Summary of key findings about how demographic trends may affect housing choice" includes:[17]

> • **Location of housing will be increasingly important.** The location of housing is becoming increasingly important, with increased demand for housing in walkable neighborhoods near retail and other amenities. Where they can afford it, the Millennials generally prefer housing in walkable areas with retail and other amenities nearby, rather than housing in more suburban areas or in outlying cities.

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[14] The December 2015 Housing Chapter, Chapter 6, of the draft City of Bend Comprehensive Plan, page 6-5 also mentions an influx of 5000 four-year university students creating a need for affordable student housing off campus.
[15] Ibid., page 47.
[16] Ibid., page 75.
[17] Ibid., page 49.

Some Baby Boomers who are downsizing are also choosing to live in similar walkable areas.

• **Design of housing and neighborhoods is important.** Well-designed multi-family and compact single-family located in a desirable neighborhood can provide opportunities for a wider range of housing options. Consumers are more likely to make the tradeoff of a smaller lot and home size when neighborhood parks, schools, and retail amenities are within walking distance. Therefore, there will be steady demand for multi-family and small-lot or attached single family housing in close-in locations proximate to Bend's downtown amenities and jobs.

The Coat's Conceptual Master Plan offers walkable neighborhoods near parks and schools, commercial and retail amenities all within about 3 miles from downtown Bend, which fits in well with the City's Project Goal of:

> ***Housing Options and Affordability***
>
> *Bend residents have access to a variety of high quality housing options, including housing affordable to people with a range of incomes and housing suitable to seniors, females, people with special needs, and others. Housing design is innovative and energy efficient.*

The City's UGB Expansion Scenarios Evaluation Report (dated October 1, 2015) dismisses the Coat's Property, in part, because land costs and housing prices are higher on the west side.[18] This cost burden, however, could be shared through creative community master planned zoning and incentives for affordable housing developments which are listed policies in the Housing Chapter of the draft City of Bend Comprehensive Plan (dated December 2015).

What is interesting, is the City's reports ignore that the demand for housing continues to be on the west side, for example, one of the few areas that continued building homes during the recession was at NW Crossing, which suggests despite the higher cost of land and housing, residents desire to live on the west side.[19] The preferred Expansion Scenario 2.1A shows the

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[18] UGB Expansion Scenarios Evaluation Report, October 1, 2015, pages 34 and 45.

[19] The Bend Housing Needs Analysis dated August 14, 2015, page 69 states relative to regional and local growth and Bend's existing mix of housing (a result of a range of historical factors):

> Between 1990 and 2013, about 85% of Deschutes County's population growth was from positive net migration (in-migration exceeded out migration) from other parts of Oregon or from outside of Oregon. Interviews with real estate professionals suggest **Bend attracts in-migrants who have sufficient capital and income to afford higher-cost housing in Bend.** In addition, Bend is

only land to be added to the West side is the "West Area," which would add 120 acres of residential land to accommodate 750 housing units with a mix of 33% single-family detached, 20% attached single family, and 48% multifamily. Limiting the UGB expansion on the west side to this one area where the design is likely to be an extension of NW Crossing's complete community[20] is just going to drive the demand and ultimately the costs of residential housing up on the west side over time. Allocating additional land to the west side will level the playing field and drive the demand down by opening up more opportunities to meet the housing mix needs where demand for living is highest on the west side.

The Evaluation Report also erroneously interprets as a disadvantage the Coat's Property as having "Few or no parcels under 20 acres and contiguous to the existing UGB."[21] The entire 700-acre property is under the control of Eric and Robin Coats and taken together as a whole, the property is contiguous to the existing UGB. The Coat's Property is held in several different record owners' names for tax and business purposes. Even though the actual tax lots are large in size, because the property is under one ownership, the ability to tailor the lot sizes to meet the housing need is possible.

Employment opportunities:

According to the City's draft Bend Economic Opportunities Analysis, dated November 2015, Bend is expected to grow by 22,891 employees over the period of 2008-2028 with 21,943 new employees to be added between the years of 2013-2028 as stated below:

> *Bend forecasts that employment will grow by 22,891 employees (about 61%) over the 20 year period between 2008 and 2028, at an average annual growth rate of 2.4%. Employment in Bend increased by 948 between 2008 and 2013; thus, the City forecasts 21,943 new employees between 2013 and 2028. Based on site requirements of target employers, Bend will need 726 sites less than five acres and 32 sites greater than five acres to accommodate new employment forecast for the 2013-2028 period.*
>
> *In 2014, Bend had 1,162 vacant acres of vacant employment land. About one-quarter of Bend's vacant employment land is in sites smaller than 5 acres, 28% is on sites 5 to 50 acres, and 36% is in three sites larger than 50 acres.*

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attracting Millennials, many of whom prefer to live in an area with easy access to outdoor recreation. [Emphasis added]

[20] Letter to Boundary Alternative TAC from Charley Miller, Co-Manager of the Miller Tree Farm, LLC, dated October 21, 2015.
[21] Ibid., page 45.

> *The EOA concludes that Bend has a deficit of 366 sites smaller than five acres and 17 sites between 5 and 50 acres. It also concludes that 25% of Bend's total employment land supply meets the Goal 9 definition of short*-term supply.

As shown on the Conceptual Master Plan for the Coat's Property (Exhibit B), the thrust of the Coat's plan is to develop a master planned community that includes a variety of housing types, schools, parks and trails, and a neighborhood center area where the residents can walk or bike to work along with businesses that support and complement the residential and recreational character of the area. Proposed zoning for the neighborhood center includes a mix of residential (RM), commercial (CL) and mixed employment (ME). The neighborhood center could offer, for example, professional services, commercial uses such as retail shops and restaurants, and a healthcare satellite from one of the larger medical facilities in the area.

According to the draft Bend Economic Opportunity Analysis page 42, General Retail and Office Uses require the following site characteristics:

1. **Site size**. Sites for general retail and office firms range in size from 0.1 to 10 acres.

2. **Land ownership**. Sites with two or fewer owners are necessary to reduce the cost and uncertainty of land assembly.

3. **Automotive access**. Retail and office buildings should be located on arterial or collector streets. The ideal site would have direct access to an arterial or collector.

4. **Topography**. General retail and office sites should be relatively flat, with slopes of not more than 15%.

5. **Access to services.** City services should be directly accessible to the site, including sanitary sewer, and municipal water.

6. **Surrounding land uses**. General retail and office buildings are directly compatible with other commercial uses, mixed uses, and residential uses. Bend's Development Code and other policies address issues of compatibility between uses, such as requirements for building setbacks, screening, fencing, visual buffering, and landscaping.

Because of the single ownership of the Coat's Property, the site size to accommodate retail and office uses could be adjusted to meet the needs of any retail or office site. In addition, the property abuts Shevlin Park Road, an arterial street, which would provide direct access to the proposed neighborhood center. City services, such as water and sewer, are also available for

connection. Finally, with the planned community, the retail and office buildings are meant to be compatible with the surrounding residential and recreational uses.

The Coat's Property is able to contribute to meeting the future employment needs of the City through providing supportive employment opportunities within their master planned community as well as the surrounding residential areas outside of the Coat's Property. In addition, the City is considering adding Mixed Use Zones and revising standards for residential uses as part of the mixed use in Commercial zones that if approved, could be incorporated into the Coat's master planned community.[22]

Livability:

The Bend Area General Plan, Chapter 5, page 10, supports "neighborhood livability" through:

- *policies designed to increase personal mobility and maintain safety;*
- *more flexible standards to incorporate natural features and open space into new housing developments;*
- *providing for small stores and commercial centers to serve neighborhoods.*

Further, the City's Project Goals (dated September 4, 2014) strive for a livable community for Bend and include:

- A Quality Natural Environment
- Balanced Transportation System
- Great Neighborhoods
- Strong Active Downtown
- Strong Diverse Economy
- Connections to Recreation and Nature
- Housing Options and Affordability

[22] See Table 5-1 on page 5-4 of the draft City of Bend Comprehensive Plan dated August 2015.

- Cost Effective Infrastructure

The December 2015 Housing Chapter, Chapter 6 of the draft City of Bend Comprehensive Plan, page 6-6 describes "Neighborhood Livability" as:

- Safe and convenient for travel by foot, car, and bike
- Natural features, parks, open space
- Small-scale shops and places to eat and drink in the neighborhood or nearby
- Quality housing that provides diverse housing types and flexibility that meets market demand
- Comfortable integration and transitions between housing types an commercial uses.

No single area under consideration in the UGB expansion will meet each of these livable standards, but taken as a whole, each of the properties will contribute to achieving the City's livability goals. The Coat's Property is strong in the following areas:

- Providing a balanced quality natural environment through the ability to manage the entire property that includes developing parks and trail systems and protecting wildlife resources.
- Creating a "Great Neighborhood" that is well-designed, safe, and walkable, and includes local schools and parks as well as a small neighborhood center with local shops, a mix of housing types and community gathering places as shown on the Conceptual Master Plan (Exhibit B).
- Providing multiple connections to Recreation and Nature through the Bend Parks and Recreation District's acquisition and management of portions of the Coat's Property connecting trails along Tumalo Creek and the Deschutes River and on the east side near Awbrey Butte.
- The ability to master plan communities for mixed housing types and densities for residents with a range of incomes and housing needs creating a variety of high quality housing types with the potential for innovative and energy efficient designs.

The Coat's Property will also contribute to a balanced transportation system through the extension of existing roadways within and adjacent to the property that also encourages through master planning, multimodal transportation, including a walkable community close to schools, parks, homes, and businesses. The property can also contribute to providing a range of diverse jobs through the commercial sector of the property and connect to existing infrastructure. In addition, the property has the ability to serve, not just its community, but also reach out to the nearby surrounding communities to the south and those areas west of Tumalo Creek along Johnson Road. The Coat's Property is a major player in contributing to the livability of Bend.

Schools:

The Memorandum to the Urban Growth Boundary and Growth Scenarios Technical Advisory Committee from Fregonese Associates, Inc. regarding "Scenario Evaluation: Environ Tomorrow Technical Memorandum," dated October 2, 2015, regarding performance measures for housing units within walking distance of schools states on page 3 under "Purpose":

> *Schools are an important ingredient of a complete community. Having schools within walking distance supports great neighborhoods because schools are an important destination for many households, and they often provide recreational amenities (e.g. playgrounds and ball fields) that are accessible to the public during non-school hours. (Ability to walk also decreases reliance on the automobile; however, this is captured by other performance measures.)*

The Bend-La Pine School District owns approximately 34 acres of land adjacent to the Coat's Property on its southwest corner along Shevlin Park Road. The District has identified in its 2012 Site and Facilities Update the need for a new middle school to be located at the "Shevlin Site" (Exhibit F) as stated below:

> *Having established the need for additional middle school capacity in the Bend area, the committee reviewed estimates of middle school enrollment for 2017-18 based on proxy attendance areas associated with two possible middle school locations. Due to the actual and anticipated enrollment growth patterns for middle school students, the committee felt the western location located on Shevlin Park Road better distributed capacity than the previously identified southern location on Murphy Road. The committee considered a variety of other factors including sewer development concerns, traffic constraints, socioeconomic*

balance, and prior attendance boundary adjustments to equalize enrollment. In balance, the committee found the Shevlin site better served the anticipated middle school enrollment patterns for the near term, and the Murphy site was considered to be appropriate for subsequent middle school development.

The City's GIS map dated March 5, 2015 and titled, "Exception Land Proximity to Schools," shows the Coat's Property is greater than .5 miles presumably to the nearest existing school, which would be High Lakes Elementary School. The map, however, fails to take into account the School District's own plan supported by demonstrated need to build a new Middle School for the Bend urban area community on their property located along Shevlin Park Road and within the Coat's Property. Failure to include the School District's plan for future schools on the property paints a false picture that does not represent the School District's plan or vision.

The District and the Coat's family have also been in discussions to add an elementary school alongside of the Middle School. The Coat's Property is well-positioned to support these schools with road infrastructure, utility needs, limited commercial uses, parks, and residential development within walking distance to the schools. These attributes of the Coat's Property fit in with the City's Project Goals, dated September 4, 2014, for "Great Neighborhoods," which states:

Great Neighborhoods

Bend has a variety of great neighborhoods that promote a sense of community and are well- designed, safe, walkable, and include local schools and parks. Small neighborhood centers provide local shops, a mix of housing types, and community gathering places. The character of historic neighborhoods is protected and infill development is compatible.

Attached as Exhibit G, is a letter addressed to Brian Rankin of the City of Bend from Brad Henry, Chief Operations and Financial officer of the Bend-La Pine Schools (dated October 20, 2105). The District is requesting that the "Shevlin Area" shown on Expansion Scenario 3.1 be brought in the UGB. The District property is "planned for a school to meet growth projections in the northwest area of Bend" and the District is "unable to locate an alternative suitable site that meets the location and size requirements for a school. Other sites, further south, would likely be too close to existing schools." The letter concludes that "(h)aving the school district parcel and some additional residential land will complete the street grid system, provide buffers to existing development and enhance a walkable school neighborhood."

Parks or open space:

The Coat's family own approximately 700 acres, including an active surface mine. One of the advantages of owning such a large piece of property is the value of being able to plan on a large scale, which is what the Bend Park and Recreation District (BPRD) desires to do with the portion of the Coat's Property primarily located along Tumalo Creek (an extension of the existing Shevlin Park) and along the Deschutes River to connect existing and proposed trail systems, including the recently acquired Riley Ranch Nature Preserve (see Exhibit H for support from the Executive Director, Don Horton, and the Planning Manager, Steve Jorgensen of the Park District[23]).

As shown on Exhibit A, the Bend Parks and Recreation District has identified trails, park land, and an access easement over the Coat's Property. The proposed trails and park land within the Coat's Property provides an integral networking system linking existing trail systems within the City and County to a larger regional trail and park system, including trail connections and park land along Tumalo Creek to Shevlin Park and up to Tumalo State Park and linking a trail system east of Deschutes River with a bridge connection to the recently acquired Riley Ranch Nature Preserve parkland.

Some commenters have questioned why bring the Coat's Property into the City's UGB if the park need can be satisfied outside the UGB? According to the Bend Metro Park and Recreation District's Parks, Recreation, and Green Spaces Comprehensive Plan, February 2012 Update, the Primary Service Area of the District includes:

> *The primary service area of the District is defined as the area within the political boundaries encompassing those who pay District taxes. To a lesser degree, the District also serves those living outside the primary service area and tourists who use parks and facilities. These patrons can participate in programs on a space available basis, at a higher fee than residents, where fees apply. However, the District does not make planning decisions based upon the needs of out-of-District residents.*
>
> *The District boundary is slightly larger than the City of Bend, however approximately 98% of its population is currently within the Bend Urban Growth Boundary (UGB). The 2004 DCCPF estimates the population of the Bend UGB, based on data from the 2000 Census, at 65,210 residents as of July 1, 2004. The methodology employed in this Chapter uses the estimated 2004 UGB population as the starting point; adds the small portion of District population remaining outside Bend UGB subsequent to the July 1, 2003, annexation; uses the DCCPF growth rates for future projections; and applies a blended growth rate to areas*

[23] Significantly missing from the summary of Don Horton's testimony reflected in the October 8, 2015, Boundary and Growth Scenario TAC committee meeting notes is his comments about the importance of bringing a piece like the Shevlin Area/Coat's Property into the UGB to provide trail and park connections.

within and outside of the Bend UGB to arrive at a July 2004 District population estimate of 66,746 residents.

Because 98% of the District's population currently resides within the Bend UGB, it makes sense to have the property under the City's planning jurisdiction and not the County and, therefore, should be included in the City's UGB expansion plan.

Further, we are aware of the Hearings Officer's denial of the Riley Ranch Nature Preserve located in Deschutes County northeast of the Coat's Property (Deschutes County file numbers 247-15-00033-CU, 247-15-000334-SP), where the proposal included a new bridge across the Deschutes River to connect the park with the Deschutes River Trial on to property owned by the Coat's Family.[24] The Hearings Officer found, in part, that the bridge did not meet the minimum applicable setbacks in the zones and as a result, denied the application. The Hearings Officer noted, however, that other bridges spanning the Deschutes River have been approved as stated on pages 11 and 12 of the decision as stated below:

> The Hearings Officer is aware that other bridges spanning the Deschutes River have been approved by the City of Bend and the former BUAPC. The record includes copies of two decisions approving bridges: the foot bridge crossing the Deschutes River south of the Bill Healy Memorial Bridge (File No. 05-17); and the foot bridge crossing the river near the First Street Rapids (File No. PZ-12-0220). Both bridges were reviewed under the Bend Development Code. In both cases, the bridges were held not to be subject to the minimum 100-foot setback from the river based on a finding that they were not "buildings." However, the definitions of "building" and "structure" in the Bend Development Code differ significantly from those in Title 19. Chapter 1.2 of the Development Code defines "building" as "a structure which is designated and suitable for the habitation or shelter of human beings or animals or the shelter or storage of property." The code definition of "structure" is identical to the definition in Title 19 except for the addition of the following sentence:
>
> > **"Building" and "structure" are not interchangeable terms. A building is one type of structure that shelters humans, animals and the like.**[6]

///

[24] The Deschutes County Planning Commission approved the Riley Ranch Preserve applications on November 16, 2015 and the proposal is currently before the Land Use Board of Appeals for review.

> In other words, unlike Title 19, the Bend Development Code distinguishes between "buildings" and "structures" in applying minimum yards and setbacks only to the former. Therefore, the Hearings Officer finds these bridge approvals are distinguishable from the circumstances presented here.
>
> For the foregoing reasons, the Hearings Officer finds from the text and context of Section 19.12.050 that the proposed bridge is subject to the minimum yards and setbacks therein. Therefore, because the bridge cannot satisfy those setbacks, I find I cannot recommend that the DCPD approve the bridge. Nevertheless, because the proposed bridge is only one element of the regional park, and is proposed to be built in a later phase of park development following the cessation of adjacent mining on SM Site 308 (projected to occur in five years), I find it is appropriate for me to review the rest of the proposed park without the bridge for compliance with the applicable standards and criteria.[7]
>
> [6] These definitions, found in Chapter 1.2 of the current Bend Development Code, have been the same since before the 2005 foot bridge decision was issued.
>
> [7] The Hearings Officer believes it may be feasible for the applicant to obtain a setback variance for the bridge under the variance criteria in Chapter 19.108. The applicant also may be able to resolve the setback issue through a lot line adjustment of the property line between the subject property and the adjacent SM Site 308.

The importance of raising the Hearings Officer's decision regarding the bridge is to demonstrate the challenges the Park District faces with proposals such as this in County's jurisdiction versus in the City's jurisdiction. Had the Coat's Property been in the City of Bend, the Park District may have avoided the permit denial, at least in terms of the bridge and that portion located on the Coat's Property, because the bridge may have met the City's Bend Development Code, similar to the bridges south of Bill Healy Memorial Bridge and the bridge near the First Street Rapids. Bringing the Coat's Property into the City allows the City to have better management of this key piece of property for park's purposes, and gives certainty to the Park District to formulate designs that fit within the City's Development code that support its vision, "*To be a leader in building a community connected to nature, active lifestyles and one another.*"

In addition, Bend Park and Recreation District's planned and proposed trails and park land on the Coat's Property fit well with the City's Project Goals, dated September 4, 2014, for "Connections to Recreation and Nature" as stated below:

> *Bend continues to enhance its network of parks, trails, greenbelts, recreational facilities, and scenic views inside and outside the city.*

In determining need, local government may specify characteristics necessary for land to be suitable for an identified need such as:

Parcel size:

The City's GIS map dated January 2, 2015 and titled, "Priority Exception Land Parcel Size" shows the majority of the Coat's Property to be greater than 20 acres with some smaller-sized parcels. While this information may be accurate at a tax lot level, the Coats family actually owns approximately 700 acres in the Urban Reserve and the property is held in several different record owners' names for tax and business purposes. All acreage shown on Exhibits A and B (except the 34 acres owned by the school district) is controlled by Eric and Robin Coats. The Coats family has held this UAR designated property as urban reserve to be included in the UGB since its UAR designation in 1976.

Advantages of having a large land area such as the Coat's Property and under a single ownership are numerous, some of which include: working with a single landowner to achieve common goals such as master planning neighborhoods and communities, providing public facilities, such as schools, connecting roads and utilities, adding parks and trails, and preservation of natural resources and open spaces. The large size of the Coat's Property offers an enormous opportunity to give to the Community of Bend a vision for a quality place to live, work, and play.

Topography:

Topography of the Coat's Property varies with gently rolling terrain, disturbed mining areas, and steep slopes mainly along the canyon walls of Tumalo Creek and Deschutes River. Figure 1 of the draft Bend Buildable Lands Inventory (dated August 14, 2015), shows Physical Constraints, including areas with 25% or greater slopes and areas within the FEMA 100-year floodplain that are assumed to be not "buildable" for purposes of the inventory and filtered out for consideration. Portions of the Coat's Property have steep slopes; it's a 700 acre property that is bordered in part, by Tumalo Creek and Deschutes River. The steep slopes are predominantly located in the northern part of the property along the Deschutes River as well as Tumalo Creek, and the 100-year flood plain is within the Deschutes River. The southern portion of the property, however, is predominantly free of steep slopes (with the exception of a sloped area near the southeast) and has no 100-year floodplain.

The Coat's Property has ample land to plan and avoid development along steep slopes or within the 100-year floodplain. As shown on the Conceptual Master Plan, Exhibit B, the southern portion of the Coat's Property is where the majority of the proposed development would occur, including schools, housing, and mixed use commercial areas. In addition, the areas along Tumalo Creek and the Deschutes River are slated for acquisition or management by the Bend Parks and Recreation District; thereby providing a buffer and transition between the steep slopes and 100-year floodplain along the Deschutes River and Tumalo Creek.

Proximity:

The City's GIS map dated January 20, 2015, and titled, "Taxlot Distance from UGB," shows the Coat's Property as having tax lots that are contiguous to the UGB, that are within .25 miles, and that are within 1 mile of the UGB. Consisting of 700 acres of land, the results of this map make sense, that some parts of the property abut the UGB and some tax lots are further away from the UGB.

Boundary Location

The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:

(1) Efficient accommodation of identified land needs;

Parcel Size:

The City's GIS map dated January 2, 2015 and titled, "Priority Exception Land Parcel Size" shows the majority of the Coat's Property to be greater than 20 acres with some smaller-sized parcels. While this information may be accurate at a tax lot level, the Coats family actually owns approximately 700 acres in the Urban Reserve and the property is held in several different record owners' names for tax and business purposes. All acreage shown on Exhibits A and B maps (except the 34 acres owned by the school district) is controlled by Eric and Robin Coats. The Coats family has held this UAR designated property as urban reserve to be included in the UGB since its UAR designation in 1976.

Advantages of having a large land area such as the Coat's Property and under a single ownership are numerous, some of which include: working with a single landowner to achieve common goals such as master planning neighborhoods and communities, providing public facilities, such as schools, connecting roads and utilities, adding parks and trails, and preservation of natural resources and open spaces. The large size of the Coat's Property offers an enormous opportunity to give to the Community of Bend a vision for a quality place to live, work, and play.

Improvement to Land Value Ratio:

The majority of the Coats property has no structures and has been partially mined for aggregate, sand and gravel over the past 50+ years. However, it is not now nor has it ever been a listed or protected Goal 5 resource so residential development surrounds the property to the south and east. The Factor 1 Map for Improvement to Land Value Ratio shows Tax Lot 300 on Assessor's

Map 17-11-25 with a higher improvement than land value. However, this improvement value is based on the structures and improvements associated with the Ready Mix Plant located on Tax Lot 300. Despite a high assessed value, these improvements have a remaining useful life of approximately 3 years. The material used for the ready mix will be mined out of the larger pit to the north in less than 18 months. At that time, the operators will abandon the Ready Mix Plant site on Tax Lot 300 and move the scales and any remaining operations to the pit site to the north. This property is planned to be ready for redevelopment by the end of 2018.

Distance from UGB:

The City's GIS map dated January 20, 2015, and titled, "Taxlot Distance from UGB," shows the Coat's Property as having tax lots that are contiguous to the UGB, that are within .25 miles, and that are within 1 mile of the UGB. Consisting of 700 acres of land, the results of this map make sense, that some parts of the property abut the UGB and some tax lots are further away from the UGB.

Steep Slopes:

The GIS map, dated March 6, 2015, and titled "Steep Slopes" shows the Coat's Property as having slopes over 25%. In addition, Figure 1 of the draft Bend Buildable Lands Inventory (dated August 14, 2015), shows Physical Constraints, including areas with 25% or greater slopes and areas within the FEMA 100-year floodplain that are assumed to be not "buildable" for purposes of the inventory and filtered out for further consideration.

We agree that portions of the Coat's Property have steep slopes; it's a 700 acre property that is bordered in part, by Tumalo Creek and Deschutes River. The steep slopes are predominantly located in the northern part of the property along the Deschutes River as well as Tumalo Creek. The southern portion of the property, however, is predominantly free of steep slopes (with the exception of a sloped area near the southeast).

The Coat's Property has ample land to plan and avoid development along steep slopes. As shown on the Conceptual Master Plan, Exhibit B, the southern portion of the Coat's Property is where the majority of the proposed development would occur, including schools, housing, and mixed use commercial areas. In addition, the areas along Tumalo Creek and the Deschutes River are slated for acquisition or management by the Bend Parks and Recreation District; thereby providing a buffer and transition between the steep slopes and 100-year floodplain along the Deschutes River and Tumalo Creek.

Subdivisions with Known CC&Rs:

The Coat's Property has no subdivision development and therefore, no CC&Rs.

(2) Orderly and economic provision of public facilities and services;

Updated sewer, water, and transportation findings will be provided in a separate memo for consideration and inclusion into the UGB record.

Transportation:

The City's GIS maps dated March 5, 2015, and titled, "Physical Barriers to Connectivity" and "Connectivity to Complete Roadway Grid" show the Coat's Property as having "Significant Barriers" and "Poor Connectivity" respectively. We have requested from City staff a copy of the source data that went into creating these maps (the bottom of each map states, "Service Layer Credits: DKS, Deschutes County GIS (2014)"). On page 37, of the City's March 13, 2015 Memorandum to the Bend UGB Steering Committee, the Factor 2 maps "categorize exception lands in the 2-miles study area based on a mix of GIS and other data, and professional judgment by engineers on the project team." Further, on page 38, regarding the System Connectivity Map:

> Of the three transportation maps, the project team and the TAC found this one the most challenging. This map is intended to convey a general impression of which exception areas can readily provide route choices and adequate system hierarchy, resulting in balanced flows and travel choices for all modes. The map in this packet reflects TAC input to change the ranking of a few areas (primarily in the NE quadrant). The TAC recommended approval of this map at Meeting 6, with the clarification that the rankings on this map have been generalized from "parcel level" data to an "area" basis.

Page 37 says the "Transportation – Barriers Map" used GIS files and "shows streams and rivers, railroads, major highways and steep slopes. Overall, the most significant barriers are the Deschutes River, significant slopes (typically near the Deschutes River and Tumalo Creek) and the railroad."

Without having the opportunity of reviewing or knowing the resource data (and assuming the data can be quantified when it includes "professional judgement by engineers on the project

team" and "TAC input to change the ranking of a few areas") it makes it difficult to comment on the results. And the results in this case are particularly harsh to the Coat's Property.

The City of Bend's, "Bend Urban Area Roadway System Plan" dated April 2014 (Exhibit D) shows two proposed Major Collector roads traversing through the Coat's Property. The extension of Skyline Ranch Road northerly from Shevlin Park Road and the east-west Collector Road, crossing Coats Lands from Putnam Road to Buck Drive that connects to Johnson Market Road.

The Skyline Ranch Road connection will offer an alternative route for northerly and easterly bound traffic in west Bend and will relieve pressure and impacts on the existing City arterial and collector road network through west Bend, and the downtown core area. Skyline Ranch Road will extend northerly through the Coats lands, cross an existing bridge at Tumalo Creek, and connect to Tumalo Park Road. The important transportation link would provide substantial additional connectivity to existing City areas east of the Coats lands, provide important secondary access for lands west of Coats, and afford the opportunity for alternate routes that can relive pressure on the existing City arterial and collector road network through west Bend, and the downtown core area.

The Putnam Road extension is an important transportation link that would provide substantial additional connectivity to existing City areas east of the Coats lands, provide important secondary access for lands west of Coats, and again afford the opportunity for alternate routes that can relive pressure on the existing City arterial and collector road network through west Bend, and the downtown core area.

In addition to the Skyline Ranch Road and Putnam Road Collector extensions, no fewer than 8 urban public roads have been constructed (stubbed) to the boundary of the Coat's Property, in anticipation of the urbanization of the Coats lands. Each of these road connections include substantial utility infrastructure normally associated with urbanization; domestic water and fire protection water supply infrastructure, sanitary sewers, power, natural gas, and/or communications utilities. The 8 existing road and utility connections are shown on Exhibit B and are listed below along with the subdivision or local urban development within which that infrastructure was extended to the Coats land:

- Chiloquin Drive (Renaissance at Shevlin Park)
- Mehama Drive (Renaissance at Shevlin Park)
- Imbler Drive (Renaissance at Shevlin Park)
- Shevlin Bluffs Rd. (Shevlin Estates)
- Skyline Ranch Rd. (Westside Meadows)

- Polarstar Avenue (Shevlin Court)
- Nordic Avenue (Valhalla Heights)
- Regency Street (Awbrey Ridge)

Given all of the above, the TAC maps suggestion of poor connectivity and significant physical barriers to connectivity relative to the urbanization of the Coats lands, and relative to comparative evaluation of potential expansion lands, are inexplicable, and highly inaccurate.

Note that both of these TAC maps bewilderingly include lands west of Tumalo Creek, outside the current UAR, in their presentation of poor connectivity, same as Coats lands, even though all of the Coats lands are east of the creek, and thus have the numerous available transportation connections noted above, without impact of the creek whatsoever. It is completely illogical and erroneous to characterize the Coats lands same as lands west of the creek, when the entire current Bend urban area, and any areas being considered for UGB expansion are east of the creek. This is true particularly given that no other lands were treated similarly (association with lands west of the creek, even though other potential expansion lands could have been similarly categorized).

In addition note specifically that both of the subject TAC maps include the following statement, "Barrier (or connectivity) rankings based on geographic area and not by individual parcel". Thus the inexplicable inclusion of the lands west of Tumalo Creek on these maps, and then their "geographic area" association with Coats lands, leads to these gross inaccuracies relative to the Coats lands.

Urbanization of the Coats lands will allow for the orderly extension of these long-planned stubbed public roads, the completion of several transportation links and grid connections, that will allow for the dispersion of traffic to reduce impacts on the City primary transportation routes, and thus preserve capacity on those primary routes.

Not only are these planned Collector roads important for the City's overall transportation system connections, but these roads provide vital emergency response and evacuation needs for fire or other natural hazards on the west side of Bend.

Water:

The GIS map dated March 12, 2015 and titled, "Water Analysis: Bend & Avion Service Areas" shows the Coat's Property having a "Good" Exception Land Ranking, which is the best of the ranking system.

Wastewater:

The GIS map dated March 5, 2015 and titled, "Preliminary Analysis of Potential UGB Expansion Wastewater Basins" shows the Coat's Property as having a "Poor" ranking for the potential UGB Expansion Basins. By basing the results of this map using a "geographic area and not by individual parcel" as the map states at the bottom, the Coat's Property becomes part of a much larger land area that may not necessarily reflect the conditions at the Coat's Property. We have requested from City staff the source data that created this map so we could have a chance to review it and its severe "poor" ranking results.

Based on our engineering studies, the "Preliminary Analysis of Potential UGB Expansion Wastewater Basins" map appears to be highly inaccurate with respect to sanitary sewer service potential and feasibility to the Coats lands. The Map does not reflect the significant opportunities for efficient gravity service to the existing collection system for the majority of the Coats lands. On this TAC Map -Preliminary Analysis, the Coats lands are inexplicably included with huge portions of land west of Tumalo Creek and Johnson Road even though all such lands are currently outside the UAR. This "Preliminary Analysis" then is heavily reliant on conceptual sewer solutions that are unrealistic and unnecessary to serve the Coats Lands, (a NW interceptor, regional pump station across river, etc.), concepts that are related to serving lands west of Tumalo Creek and the UAR. This Map and Preliminary Analysis overlooks many other more practical and efficient sewer solutions to the Coats lands. There is no justification or evidence base in the record or the TAC processes, to warrant the "poor" categorization for sewer service to the Coats lands as indicated on this TAC map, nor that supports the implication that Coats lands must be served by such unrealistic infrastructure that would be needed to serve lands west of Tumalo Creek and the UAR.

Our studies show that the majority of the subject Coats lands to be considered for UGB suitability and inclusion could be gravity served by standard gravity sewer extensions from the existing City sewer collection system adjacent the subject Coats property. A significant portion can readily gravity sewer to the existing collection system that drains to the City Awbrey Glen Sewage Pump Station. Other portions of the Coats lands can gravity sewer to other City Collection system mains already stubbed to the Coats property. The Awbrey Glen Pump station and its related pressure sewer were originally planned for far greater sewage flows than currently reach the station, as the original planned service area largely developed at far lower densities than originally planned. Thus there is opportunity to get better utilization and efficiencies of the previous City sewer infrastructure investment by serving the Coats lands. Currently that infrastructure has been significantly under-utilized.

The City Sewer Collection System Master Plan, December 2014, including the Collection System Public Facility Plan, verifies there are no current capacity issues at the Awbrey Glen Pump station, nor none anticipated in the Master Plan planning horizon. Additionally the Master Plan indicates the City is already planning a significant upgrade to the Awbrey Glen pump station discharge sewer (the Valhalla Sewer Relocation and Odor Control project), to better serve the current UGB and address periodic odor issues in the existing sewer. The project is identified as project ID12 in Table 1B of the Sewer Collection System Public Facility Plan, and is

identified to be pursued immediately (Year 1 of the plan execution at $1.6M). The project plans a new gravity sewer to replace a portion of the existing pressure sewer. Inclusion of Coats lands in the UGB, will help the City and public realize efficiencies and added value for this project investment that is already planned and budgeted for the current UGB service. Given the significant costs and ever increasing rates the City customers are to bear to implement the City Sewer Master Plan, it's important that the City maximize the value of each and every project investment. The addition of Coats lands will help ensure that the full value of that investment is realized for the public.

Given these clear and profound shortcomings, we strongly encourage the TAC and UGB Steering Committee to disregard the "Preliminary Analysis of Potential UGB Expansion Wastewater Basins" map, in the relative consideration of UGB inclusion lands with respect to sewer service to the Coats's Property.

Stormwater:

Based on the GIS maps "Surficial Geology," dated March 12, 2015; Drinking Water Protection Areas (DWPA)," dated March 6 2015; and "Exception Land Distance from Drinking Water Protection Areas (DWPS)," dated January 20, 2015, the Coat's Property is better situated than several of the other properties under consideration in the best performer Scenario 2.1.

Based on the GIS maps "Surficial Geology," dated March 12, 2015; Drinking Water Protection Areas (DWPA)," dated March 6 2015; and "Exception Land Distance from Drinking Water Protection Areas (DWPS)," dated January 20, 2015, the Coat's Property is better situated than several of the other properties under consideration in the best performer Scenario 2.1.

Schools:

The Bend-La Pine School District owns approximately 34 acres of land adjacent to the Coat's Property on its southwest corner along Shevlin Park Road. The District has identified in its 2012 Site and Facilities Update the need for a new middle school to be located at the "Shevlin Site" (Exhibit F) as stated below:

> *Having established the need for additional middle school capacity in the Bend area, the committee reviewed estimates of middle school enrollment for 2017-18 based on proxy attendance areas associated with two possible middle school locations. Due to the actual and anticipated enrollment growth patterns for middle school students, the committee felt the western location located on Shevlin Park Road better distributed capacity than the previously identified southern location on Murphy Road. The committee considered a variety of other factors*

including sewer development concerns, traffic constraints, socioeconomic balance, and prior attendance boundary adjustments to equalize enrollment. In balance, the committee found the Shevlin site better served the anticipated middle school enrollment patterns for the near term, and the Murphy site was considered to be appropriate for subsequent middle school development.

The City's GIS map dated March 5, 2015 and titled, "Exception Land Proximity to Schools," shows the Coat's Property is greater than .5 miles presumably to the nearest existing school, which would be High Lakes Elementary School. The map, however, fails to take into account the School District's own plan supported by demonstrated need to build a new Middle School for the Bend urban area community on their property located along Shevlin Park Road and within the Coat's Property. Creating a map that excludes the School District's' future planned schools presents an inaccurate picture of the District's own expansion plan. The District, in its October 20, 2015 letter to the City from the Chief Operations and Financial Officer of the School District, Brand Henry, has specifically requested of the City to include the Shevlin Area in the UGB (Exhibit G).

The District and the Coat's family have also been in discussions to add an elementary school alongside of the Middle School. The Coat's Property is well-positioned to support these schools with road infrastructure, utility needs, limited commercial uses, and residential development within walking distance to the schools. The Coat's Property fits in with the City's Project Goals, dated September 4, 2014, for "Great Neighborhoods," which states:

Great Neighborhoods

Bend has a variety of great neighborhoods that promote a sense of community and are well- designed, safe, walkable, and include local schools and parks. Small neighborhood centers provide local shops, a mix of housing types, and community gathering places. The character of historic neighborhoods is protected and infill development is compatible.

(3) Comparative environmental, energy, economic and social consequences; and

Riparian Corridors

The GIS map titled, "Riparian Areas – 100' buffer form [sic] Deschutes River & Tumalo Creek" (prepared on March 6, 2015) shows the mid- to northwestern portion of the Coat's Property

falling within the 100-foot buffer from Tumalo Creek. In addition, a portion of the Coat's Property along the eastern border falls within the 100-foot buffer from Deschutes River. Page 91 of DLCD's November 3, 2010 Remand and Partial Acknowledgment Order, states the "significant riparian area will fall within the canyon walls."

The 700-acre size of the Coat's land allows for overall management of the riparian corridor along Tumalo Creek and the Deschutes River. As shown on Exhibit A the Bend Parks & Recreation District has planned trails, park land and easements on Coat's land located along Tumalo Creek and Deschutes River. Acquisition by the Park District allows management of these lands along Tumalo Creek and Deschutes River affording protection to the riparian corridors from urban impact.

Protection of the riparian corridors within the Coat's Property can be facilitated through the establishment of standards developed by the City, including setbacks and retention of vegetation within the corridor.[25] Steep canyons also limit access to the riparian corridors of the Deschutes River and Tumalo Creek providing further protection to this resource.

The City in its UGB Expansion Scenarios Evaluation Report, dated October 1, 2015, lists as a disadvantage of the Shevlin Area (see page 45 and 46 of the):

> *Northwestern edge is adjacent to Tumalo Creek (but the Bend Metropolitan Parks & Recreation District has ownership of the property within roughly 500ft [sic] of the river.*

The City has not identified how much setback from Tumalo Creek is necessary to protect the riparian areas along the sides of the creek. The City seems to close its eyes to the fact that the Coat's own 700 acres of contiguous land that boarders both Tumalo Creek and Deschutes River,

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[25] The City also states on Page 14 of the APG Scenario Evaluation – Land Use Analysis Technical Memorandum, dated October 2, 2015, regarding linear distance of riparian areas adjacent to development:

> *Purpose*
>
> *Discussions during early phases of the UGB project have identified that Goal 5 protection of the Deschutes River and Tumalo Creek areas will require a fine-grained and site-specific evaluation of appropriate buffer distances. For this evaluation, we examined the linear feet along the Deschutes River and Tumalo Creek in the Shevlin Area and the Gopher Gulch Area. Some of the this land is in Bend Parks & Recreation ownership, and some assumes a "clustered" development time that includes open space buffers, but these do not guarantee Goal 5 resource protection and are still measured for this performance measure.*

the Park District already has ownership of land along Tumalo Creek and wants to acquire the Coat's land along Tumalo Creek, if brought into the City, the City's building code can offer even greater setback protection working with the owner. How much land does the City need in order to be satisfied that the riparian area along the sides of the creek will be protected from urban impact? Comments from ODFW on the Riley Ranch Nature Preserve application dated July 21, 2105 recommends maintaining "all trails at least 200' away from Deschutes River and Tumalo Creek" (Exhibit I). Blanketing the Shevlin Area with this riparian disadvantage offers no foresight into possibilities of working with the owner, the park district, and the City to create a balanced approach to protecting the resource.

Exception Land & Big Game Winter Ranges (ODFW) and Proximity to Winter Range:

APG Scenario Evaluation – Land Use Analysis Technical Memorandum page 13 contains a GIS map dated March 6, 2015 titled, "Exception Land & Big Game Winter Ranges." The map identifies the Coat's Property as elk and deer winter ranges and identifies the majority of the Coat's Property as "Potential" elk habitat. The map shows a large oval that covers not only the Coat's Property, but north of Deschutes River, east of the UGB in the City limits, and south of Shevlin Park Road in the City limits.

The sources listed at the bottom for the Exception Land & Big Game Winter Ranges map state: "*Service Layer Credits: Oregon Department of Fish and Wildlife (2011-2012).* According to the APG Scenario Evaluation, page 12, the Methodology used to evaluate the acres of development that *may* impact wildlife areas identified by ODFW includes:

> ODFW "areas of potential concern" identified are loose ovals where elk/deer tend to rest. For the purposes of this evaluation they were not treated as geographically accurate features, but rather indicative of a general area within topographic boundaries. Where these areas overlap with an expansion subarea, they are assumed to encompass the entire subarea unless a topographic boundary is present.

The problem with the City using a broad brush stroke to demonstrate a "general area" is the harsh results the map has on the Coat's Property. The City is using these results to identify the Coat's Property as having an "important weakness" in their evaluation and selection process of a

preferred UGB expansion scenario; which is a concern to the Coat's family as highlighted below.[26]

The LCDC remand order did not require the City to address wildlife habitat outside of the riparian corridors;[27] however, the City is using this information to screen out potential properties from further consideration into the UGB. According to the March 13, 2015 to the Urban Growth Boundary Steering Committee from the Angelo Planning Group Team regarding "Employment/Residential TAC and Boundary TAC Recommendations" page 39:

> *Staff met with the ODFW Deschutes District Wildlife Biologist (Corey Heath) and Corey participated in the TAC discussion of wildlife habitat at Meeting 7. ODFW places the highest value on the bit [sic] game habitat that is currently within the Deschutes County Wildlife Overlay Zone. Of the areas identified as big game habitat on the 2009 ODFW map that are not within the Wildlife Overlay Zone, Corey identified three areas of exception land within the 2-mile study area that **may** provide important cover for elk and deer. These areas are roughly identified with ovals on the informational map of Big Game Winter Ranges. [Emphasis added.]*

Corey Heath, the wildlife biologist at ODFW, states that the three areas of exception land within the 2-mile study area "***may***" (emphasis added) provide important cover for elk and deer; which according to the GIS "Exception Land & Big Game Winter Ranges" not only includes the majority of the Coat's Property, but also a big swath of land located east of the Coat's Property and in the City limits, north of Deschutes River, and south of Shevlin Park Road in the City limits. Based on this evidence that the majority of the 700-acre Coat's Property "***may***" provide important cover for elk and deer, the City in its September 23, 2015, Executive Summary finds in part, that the Coat's Property in Scenario 3.1 contains an "important weakness."

We contacted City staff as well as District biologist Corey Heath at ODFW to obtain copies of the source documents that created these maps. Mr. Heath explained that the current elk population migrated from southwest Bend/Elk Meadow area a few years ago to the open spaces of the Coat's Property, Awbrey Glen golf course, and west in the Johnson Road area. In determining the location of the elk and deer, Mr. Heath does not recall being on the Coat's Property. He said ODFW has flown over the Coat's Property and has seen the elk and deer. In addition, the herd of elk has caused damage on the Awbrey Glen golf course and the deer and elk

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[26] Bend Urban Growth Boundary Expansion Scenarios Evaluation Report, Executive Summary. September 23, 2015, Page 4.

[27] City of Bend Memorandum dated March 13, 2015 to the Urban Growth Boundary Steering Committee from the Angelo Planning Group Team regarding "Employment/Residential TAC and Boundary TAC Recommendations" page 39.

droppings are evidence of the existence of the animals. He does not know how much time the elk are spending on the Coats Property.

First, the Coat's Property consists of 700 acres; much of which is either presently being mined or has past mining activity altering the topography, vegetation, and landscape. The northern portion of the property is an active aggregate, sand and gravel mine and the southern portion has structures and improvements associated with the Ready Mix Plant with scales and truck operations. Further, mining activities, such as blasting, mining, and occasionally crushing the resource, as well as transporting the resources via trucks, decimate the topography as well as any vegetation cover.

In addition to the past and present mining on the property, the City of Bend has long-identified an extension to Skyline Ranch Road, a proposed Major Collector running in a north-south direction, through the Coat's Property.[28] The City also proposes another collector road in the north part on the Coat's Property connecting Buck Drive with Putnam Road. The Bend Parks and Recreation District proposes trails, easements, and land acquisitions on the property for the benefit of the Bend Community to enjoy. Finally, the School District has plans not only to build a Middle School on the property, but also an Elementary School on the property.

The majority of the Awbrey Glen Golf course is located in the City limits with some of the greens abutting the Coat's Property. The course does not abut the entire 700-acre Coat's Property. ODFW has not conducted its own site visit and habitat cover assessment on the Coat's Property so the basis for the City's findings that this property may provide important cover habitat for elk and deer is not based on clear supportive evidence. For the City to screen out the Coat's Property for consideration into the UGB because parts of the 700-acre property "may" provide cover habitat for elk and deer is unfounded and unreasonable.

The applicant has hired a wildlife biologist to conduct a deer and elk habitat assessment on the southern 150-acre portion of the property. The results of this assessment will be submitted in a supplemental filing for consideration and inclusion into the UGB record.

Development of the Coat's Property can incorporate wildlife mitigation plans based on site specific analysis of existing big game elk and deer winter range habitat of the property and include mitigation strategies to limit potential impact on the big game wildlife that not only include the Coat's Property, but the other areas that are impacted by the broad oval brushstroke of the Exception Land & Big Game Winter Ranges. The Bend Parks and Recreation District, for example, says it is "open to working with ODFW and discussing seasonal closures as needed" in the Riley Ranch Nature Preserve park.[29] In addition, the recent approval of the Miller The Tree Farm residential development by the Deschutes County Board of County Commissioners (Deschutes County file numbers 247-14-000244-CU, 247-000245-TP) consisting of a cluster

[28] Deschutes County on its April 25, 2012 "Bend Area Map" also identifies the extension of Skyline Ranch Road through the property.

[29] Deschutes County Hearings Officer's Decision on Riley Ranch Nature Preserve dated October 15, 2015, page 49 (County file numbers 247-15-00033-CU, 247-15-000334-SP).

planned unit development in the UAR and RR-10 zone is another example of balancing development within a wildlife elk and deer range habitat.

The benefit of having one owner for the approximate 700 acres creates an opportunity for the City and ODFW to work together with the landowner in creating a deer and elk winter range management plan that has the potential to encompass the whole property. Managing the property as a whole, rather than piecemeal, has a lot of advantages for protecting elk and deer habitat.

Federal/State Scenic Waterways

As shown on GIS Map Federal/State Scenic Waterways, a portion of the Coat's Property along the Deschutes River is within the Federal/State Scenic Waterways. The Coat's family is working closely with the Bend Park and Recreation District in acquiring and/or managing the lands along this portion of Deschutes River. With Park District management of these lands, scenic waterways will be protected from urban development. Also, protection of the view shed can be afforded through existing Federal, State, and Bend City regulations.

Mineral & Aggregate Resources

The majority of the Coat's Property is zoned Surface Mining Zone (SM) and has been partially mined for the past 50+ years. Even though the property is zoned SM, it is not on Deschutes County inventory of significant natural resources sites and, therefore, is not subject to Goal 5 review or protection. As a result, residential development surrounds the property to the south and east. A portion of the property, approximately 200 acres, is an active sand and gravel mining operation and operating under DOGAMI permit, Permit # 09-0018. A portion of the active surface mine is being actively mined (approximately 120 acres), a portion is used in conjunction with mining (approximately 40 acres), and a portion has remaining resource left to mine (approximately 40 acres).

Future plans for the mining site include removing the Ready Mix Plant site on Tax Lot 300 and moving the scales and remaining operations to the pit site to the north. There is approximately 5-7 years' worth of resource left on the 200 acre area that can be economically mined, after which time the property will be reclaimed and available for subsequent use. The remaining 500 acres owned by the Coats family does not have sufficient resource worthy of extraction or is too close to urban uses to mine and is in position for redevelopment by the end of 2018.

The GIS map titled, "Exception Land Proximity to Surface Mining Impact Areas" shows the northern half of the Coat's Property to be within or partially within an impact area assumedly because the property is zoned Surface Mine. However, once the surface mine extraction and operations cease, the property will be reclaimed and no longer be an impact area.

Fire Risk:

LCDC's 2010 Remand decision concludes on page 93 with regards to whether the City is required to address Wildfire Risk in evaluating alternative UGB expansion areas:

> *The Commission concludes that under these circumstances, neither Goals 2 nor 7 requires the City to address wildfire risk. This conclusion does not imply that the City should not explain in its findings how it has addressed wildfire risk. It is entirely appropriate and permissible for the City to consider relative risk of wildfire in alternate UGB expansion candidate areas in considering the (ESEE) consequences of the alternatives under locational factor 3 of Goal 14.*

From the City's investigation into wildfire risks associated with the UGB expansion, the May 18, 2015 Memo to the UGB Boundary TAC from Craig Letz, Wildfire Consultant and City Staff, the conclusion is that "*wildfire risk is high all around the City. The only areas outside of Bend that are not high risk of wildfire are irrigated fields (e.g. pasture) or rocky areas (e.g. surface mines, pressure ridges).*"

In terms of the Coat's Property, the property ranks 4 out of 6 in the Fire Risk Ratings and 4 out of 6 in the Greater Bend CWPP Boundary subareas on the City's GIS maps, ("Composite Wildfire Risk Ratings" and "Greater Bend CWPP Boundary Subareas" both maps dated March 6, 2015).[30] The surface mining area on the Coat's Property is not at high risk of wildfire according to the May 18, 2015 memo from Letz.

The City's Memorandum to the Urban Growth Boundary and Growth Scenarios Technical Advisory Committee from Karen Swirsky, City of Bend Growth Management regarding "Scenario Evaluation: Wildfire Hazard Technical Memorandum" dated October 1, 2015 concluded:

> *Based on the wildfire **risk** as determined by the CWPP, and **hazards** as evaluated in the field, there are only subtle differences between the six proposed Scenarios/SAAMs. There are no areas under consideration for inclusion into the UGB that have a low fire risk or hazard due [sic] the Central Oregon's climate and the prevalent vegetation types. All areas under consideration have a high or extreme fire risk and hazards.*

[30] As noted on the Factor 3 Maps, Stage 2 Maps for Factor 3 of Goal 14: ESEE Consequences, page 101, the GIS maps "Fire Risk – CWPP Boundary Subareas" and "Composite Wildfire Risk Ratings" state these maps are "not for use in Stage 2." Nevertheless, since the City chose to incorporate them and use them in their analysis in this section, we have addressed them.

> *With the exception of portions of the Shevlin subarea, property vegetation management and imposition of mitigation measures, such as the fire protective building codes shown in the attached memorandum: Potential Wildfire Mitigation Approach could minimize risk in all areas under consideration. Shevlin is the exception due to the combination of topography and adjacent vegetation. However, fire hazard to development in that area could be minimized with aggressive management, careful land use planning, and implementation of fire protective measures.*

The evaluation tools used in the wildfire evaluation used published maps and an on-the-ground survey of lands under consideration for inclusion into the UGB by a group of wildfire experts that included fire official from the City of Bend, Deschutes county, Oregon Department of Forestry, and US Forest Service. However, the report is not clear as to where the group of wildfire experts conducted the on-the-ground survey on the Coat's Property.

In addressing the concern of the City that the Coat's Property may be a fire hazard and, therefore, presents a disadvantage to inclusion into the UGB[31], the Coat's Family hired an expert to conduct a "Forest Fire Fuels and Health Evaluation" on the southern portion of the property where the majority of the development is proposed as shown on the Conceptual Master Plan. John Jackson of Singletree Enterprises who specializes in consulting services for application to wildland fire, forest resources management and community preparedness planning, evaluated hazardous vegetation management and appropriate stand stocking level management as "(t)hese two parameters are often used to judge overall resilience of a forested areas to high intensity, stand replacement wildfire." The report concludes (see Exhibit J for report):

> With the exception of three specific areas (described in more detail below) the above-listed portion of the Coats property can best be described as meeting optimum standards for fire resilience and forest health: stand thinned to appropriate stocking levels with brush and other "ladder fuels" appropriately treated.[i]
>
> [1] Ecology and Management of Eastern Oregon Forests-A comprehensive Manual for Forest Managers. Oregon State University Extension Service, pages 52-3.

The three exceptions are various areas in the study area that Mr. Jackson recommends mowing of brush or thinning of a timber stand. He also describes the School District property located adjacent to the Coat's Property on tax lot 17-11-23, tax lot 600 as being an area of "higher fire fuels risk" and recommends "appropriate forest management, such as done on the adjacent Coats

[31] Op cit., UGB Expansion Scenarios Evaluation Report, page 45.

property . . .." Based on Consultant's John Jackson's findings much of the property he evaluated met "optimum standards for fire resilience and forest health;" a few areas were in need of mowing and timber stand thinning, which is nothing the Coat's family cannot attend to and which the City concurs with in its findings as well, ". . . fire hazard to development in that area [Shevlin] could be minimized with aggressive management, careful land use planning, and implementation of fire protective measures."

In addition, any future development of the Coat's Property can include on-site mitigation measures, including specific site design, building and landscaping materials, and incorporating Firewise mitigation tools. Further, the Coat's Property risk of wildfire is reduced by the natural fire break of Tumalo Creek, Shevlin Park, the Bend Parks and Recreation District interest in acquiring and maintaining properties along Tumalo Creek and Deschutes River, and existing residential development to the west and north, some of which is farmland and irrigated fields to the north, which according to the Letz May 18, 2015 memo are not at high risk of wildfire.

Taking a broader look of the Coat's Property, in terms of wildfire management and protection for the community of Bend, the Property plays a critical role in moving traffic north to south, and east to west with the planned extension of Skyline Ranch Road, a Major Collector, that runs northerly from Shevlin Park Road through the Coats Property, crossing an existing bridge at Tumalo Creek and connecting to Tumalo Park Road as well as the planned Collector that links Putnam Road to Buck Drive, an east-west corridor. These traffic corridors if connected, could provide critical transportation links for the entire Bend community and serve as emergency response and evacuation routes for both north-south and east-west directions. In addition, the Coat's Property is ideally suited to extend existing infrastructure, such as water main and fire hydrant connections, that would aid in the protection from wildfire (see Exhibit K for existing fire hydrant locations).

In outlying forest area, the Greater Bend Community Wildfire Protection Plan (August 29, 2011) identifies programs in the Wildland Urban Interface that offer partnerships with private forestland owners that encourage fuels management as part of an overall plan for management of the forest resource. Further, the USFS' West Bend Vegetation Management Project (December 2013) is a massive project affecting over 25,000 acres of forest land located west of Bend with the purpose of the project to "maintain and restore forest health; reduce the threat of large-scale wildfire effects to people, property, and important ecosystem components including habitat for interior forest wildlife species; contribute wood products to the local regional economy; and to reintroduce fire in fire-dependent ecosystems." Part of the project has begun with the primary goal of protecting Bend's Watershed by the removal of dead trees and creating a fire break intended to halt wildfires from moving towards the watershed.

Balancing on-site fire mitigation tools as well as off-site wildfire protection plans, in addition to adding traffic corridors that will aid in emergency response and evacuation will aide in mitigating the potential for fire hazard on the Coat's Property.

100-year Floodplains

The March 6, 2015 GIS map titled, "100-year Floodplain," shows a portion of the Coat's Property located along Deschutes River in the Floodplain. The floodplain portion of the property, however, is located in the river canyon. Acquisition of the portion of the Coat's Property along the river rim by the Bend Parks and Recreation District for future park and trail access will provide a setback from the floodplain areas.

Proximity to Elementary Schools & Parks

Schools: The March 5, 2015 GIS map titled, "Exception Land Proximity to Schools" shows the Coat's Property greater than .5 miles from the nearest school. However, while the map shows the school district property on the map, it fails to include the School District's plan for a middle school to be located on this property.

Parks: The majority of the Coat's Property is contiguous to, or near an existing Park: Shevlin Park abuts the Coat's Property along its western boundary; Tumalo State Park abuts the Coat's Property to the north; and the recently acquired BPRD Riley Ranch Nature Preserve is located east across the Deschutes River from the Coat's Property. Further, the BPRD has expressed interest in acquiring or managing portions of Coat's property along Tumalo Creek to the west and north, and along the Deschutes River rim on the west portion. In addition, the Park District has identified a planned trail east to west in the mid-portion of the Coat's Property that connects with other planned trail systems outside of the Coat's Property and in the City limits.

Greenprint Overall Priorities

The GIS Map dated March 10, 2015, and titled, "Greenprint: Overall Priorities" shows "Overall Conservation Priorities." The map shows Coat's Property as having a mix of high, second, and third highest number of Goals Overlap. The highest and second highest goal overlaps are understandably along the Deschutes River and Tumalo Creek. As shown on the Coat's Conceptual Master Plan, Exhibit B, there is no development along these river corridors. In fact, the plan shows trails, park land, and road easements along the rim of the Coat's Property.

Summary of Comparative Environmental, Energy, Economic, and Social Consequences

Environmental Consequences

The Coat's Property is a large 700-acre property that includes riparian areas in the Deschutes River and Tumalo Creek canyons, federal and state scenic waterways, and deer and elk habitat. In addition, the property has an active surface mine whose activities, such as blasting, crushing, transporting, have altered the topography, vegetation, and landscape overtime. Full protection and a blanket restriction on development of the disturbed property need not occur to afford protection of the natural resources on the property. Site-specific evaluations on the natural resources on the property will provide information that the City currently lacks but is basing its decisions on, in part, to exclude the Coat's Property from consideration to be included in the UGB. Deer and elk habitat could be managed under a plan that also addresses and balances the fire protection risks; and riparian and scenic waterways could be protected through zoning and acquisition of the river rim areas by the Park District.

Energy Consequences

Expanding the UGB will increase the energy consumption as the purpose of the expansion is to provide additional acreage for development purposes which by its nature requires energy to be accomplished. Any areas under consideration by the City will increase energy consumption. The City has determined that expansion of the UGB is necessary to meet the demands of an increase in population. The Coat's Property is located adjacent to the City limits and affords orderly connections to existing street and other utilities that are adjacent to their property which in turn, will reduce costs of connecting these facilities.

Economic Consequences

Development of the Coat's Property will provide jobs related to construction, establishment of schools, and creating a neighborhood commercial area. Concern has been expressed about the fire risk in this area and as shown on the John Jackson report can be mitigated through proper management of the land and incorporation of on-site mitigation measures in the planning and design of the property. Prohibiting development of the property will result in not realizing these economic benefits to the City. With mindful planning and balance of the economic benefits and the environment, the need to prohibit urban development on this already disturbed property will not be necessary.

Social Consequences

Adding schools and parks within a master planned development creates a vibrant community with positive social consequences. Because of the ability to master plan the

Coat's Property, addressing affordable housing issues can be incorporated into the overall design. Adjacent to many natural resources, positive social effects can be had by easily getting outdoors and enjoying the natural environment. Energy consumption would increase, but that is the same with all the properties considered to be brought into the City. In addition, the property has planned City streets that would benefit the community and provide alternate emergency access points.

(4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

Nearby Farm Land and Farm Activities: From the Coat's Property, nearby farm land zoned EFU is located north of the Coat's Property. Exhibit L shows the EFU-zoned lands located north of the Coats property. Portions of these EFU zoned lands, however, are properties not dedicated to farm uses and activities, including State-owned park land and privately-owned parcels that have received nonfarm partition and/or dwelling approvals. Across from Tumalo Creek and north of the Coat's Property are EFU zoned parcels that are partially irrigated. Between these farm properties are lands zoned Surface Mining as well as State-owned park land. In addition, steep canyon walls and Tumalo Creek intervene between the Coat's property and these farm lands to the north. Compatibility of the Coat's property with the nearby farm land is high considering distance, intervening topography, and nonfarm uses. In addition, other properties under consideration located north of the Coat's Property, OB Riley/Gopher Gulch Area, and those in the southeast areas, The Elbow and DSL lands, include lands adjacent to or within .25 miles of EFU-zoned lands. Based on this information, the Coat's Property is highly compatible with nearby agricultural lands.

Nearby Forest Land and Forest Activities: The nearest forest lands outside the UGB to the Coat's Property are located west of the property, none of which are contiguous to their Property. Exhibit M shows the Coat's Property and nearby zoning. As shown on this map, forest zoned lands are buffered from the Coat's Property by intervening public lands (Shevlin Park owned by Bend Metro Parks & Recreation and zoned OS&C and PF), and a large swath of subdivision lands zoned RR-10 to the west. Further, the Park District's interest in acquiring the area along Tumalo Creek will add intervening open space and distance between the Coat's Property and forest lands. Directly south of the Coat's Property is Shevlin Park Road and residential subdivision land within the City limits zoned RS. Further, Tumalo Creek and its steep topography also create a buffer between the forest lands to the west and the Coat's Property. Distance and intervening uses, including residential, park, and Shevlin Park Road, buffer the forest-zoned activities from the Coat's Property thereby, ensuring compatibility with nearby forest-zoned activities.

Conclusion:

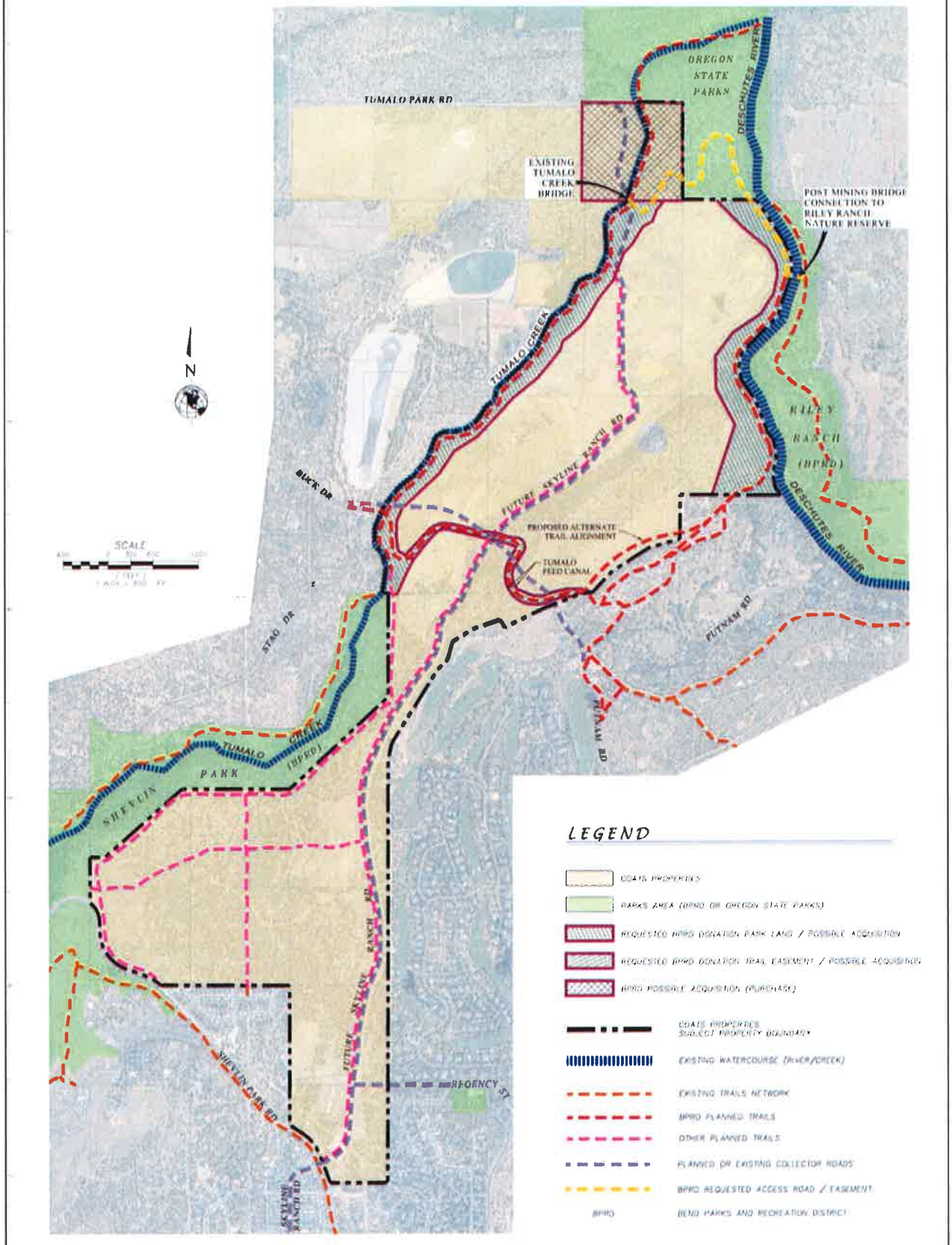
For all the reasons set forth here, the Coat's Property, or some portion of the Coat's Property, should be included in the present UGB expansion. It is important for our community, meets all Goal 14 factors, and its inclusion is supported by the School District, the Park District, and provides important transportation connections.

Thank you for the opportunity to submit evidence supporting inclusion of this property in the UGB.

Sincerely,

Tia M. Lewis

TML:ls



EX-B

COATS PROPERTIES

OVERALL PROPERTY SETTING MAP

BEND/DESCHUTES OREGON

SCALE: 1" = 600'

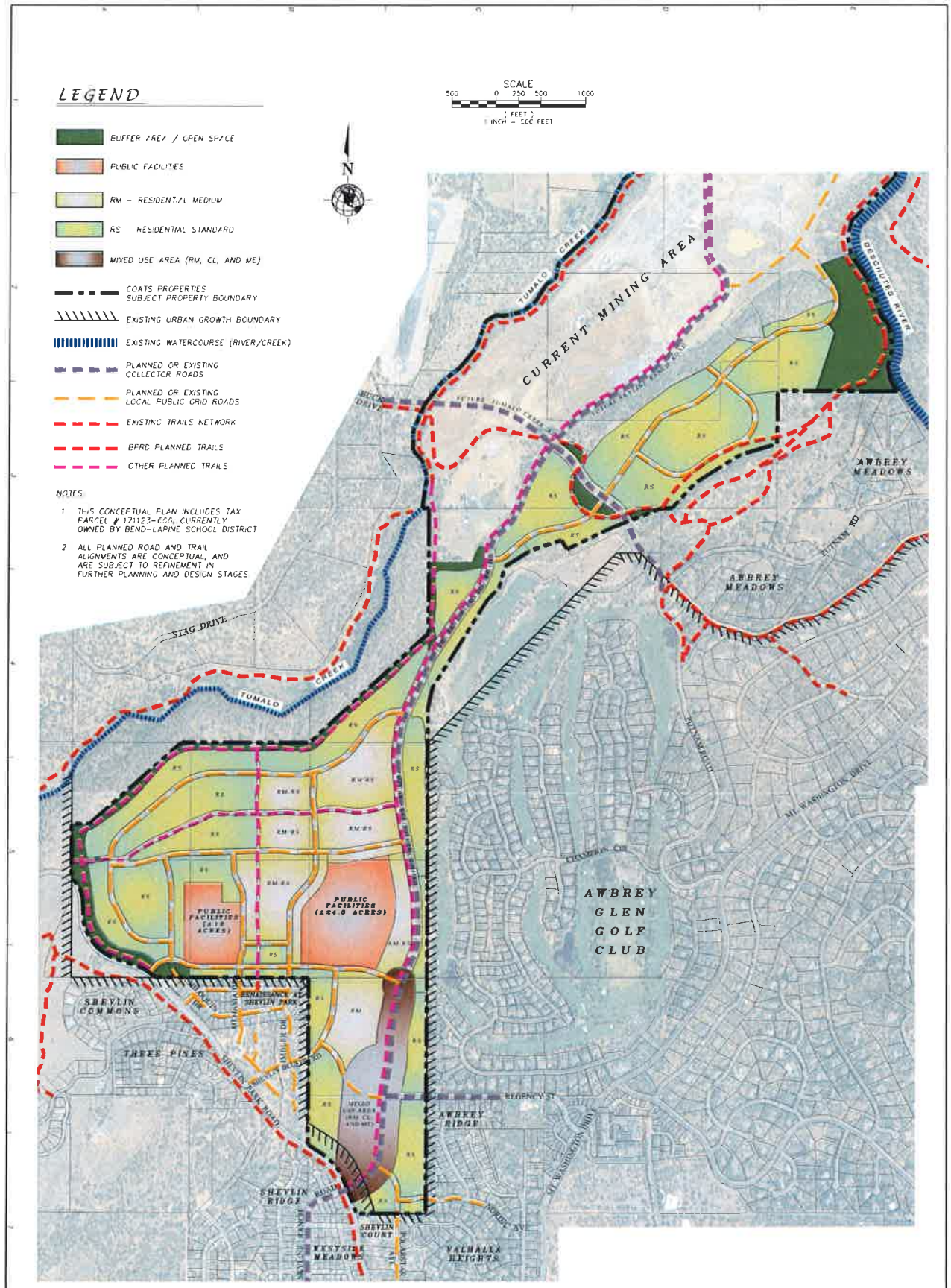
PROJECT NO: COAT001

DRAWING FILE NAME:

D'Agostino Parker, LLC

Exhibit A
Page 1 of 1

05391



EX-A

DESIGNED BY: KD/AE CHECKED BY: KD
DRAWN BY: AE/CB APPROVED BY: KD
LAST EDIT: 06/09/15 PLOT DATE: 06/10/2015

DATE	BY	REV.	REVISION	CK'D/APP'R

REGISTERED PROFESSIONAL ENGINEER
OREGON
JULY 29, 1994
KEITH E. DAGGETT
EXPIRES: 6/30/16

COATS PROPERTIES

CONCEPTUAL MASTER PLAN

BEND/DESCHUTES OREGON

SCALE:	PROJECT NO.	DRAWING FILE NAME:
1" = 500'	COAT001	

D'Agostino Parker, LLC

Exhibit B
Page 1 of 1

05392

EXHIBIT C

Map / Taxlot	Account	Owner Name	Acreage
1711240000100	117406	CCCC LLC	35.47
1711240000700	117415	CCCC LLC	40.00
1711240000600	117416	CCCC LLC	40.00
1711250000300	117427	CCCC LLC	28.55
1711250000200	117428	CCCC LLC	40.00
1711230000500	131969	CCCC LLC	40.00
1711240000403	209812	CCCC LLC	18.63
1711230000502	268801	CCCC LLC	25.00
1711230000503	268802	CCCC LLC	40.00
1711130000500	112750	ERMK LLC	55.44
1711130000100	106885	ERMK LLC	15.82
1712180000100	109018	ERMK LLC	35.78
1711230000600	150925	School Dist #1	33.73

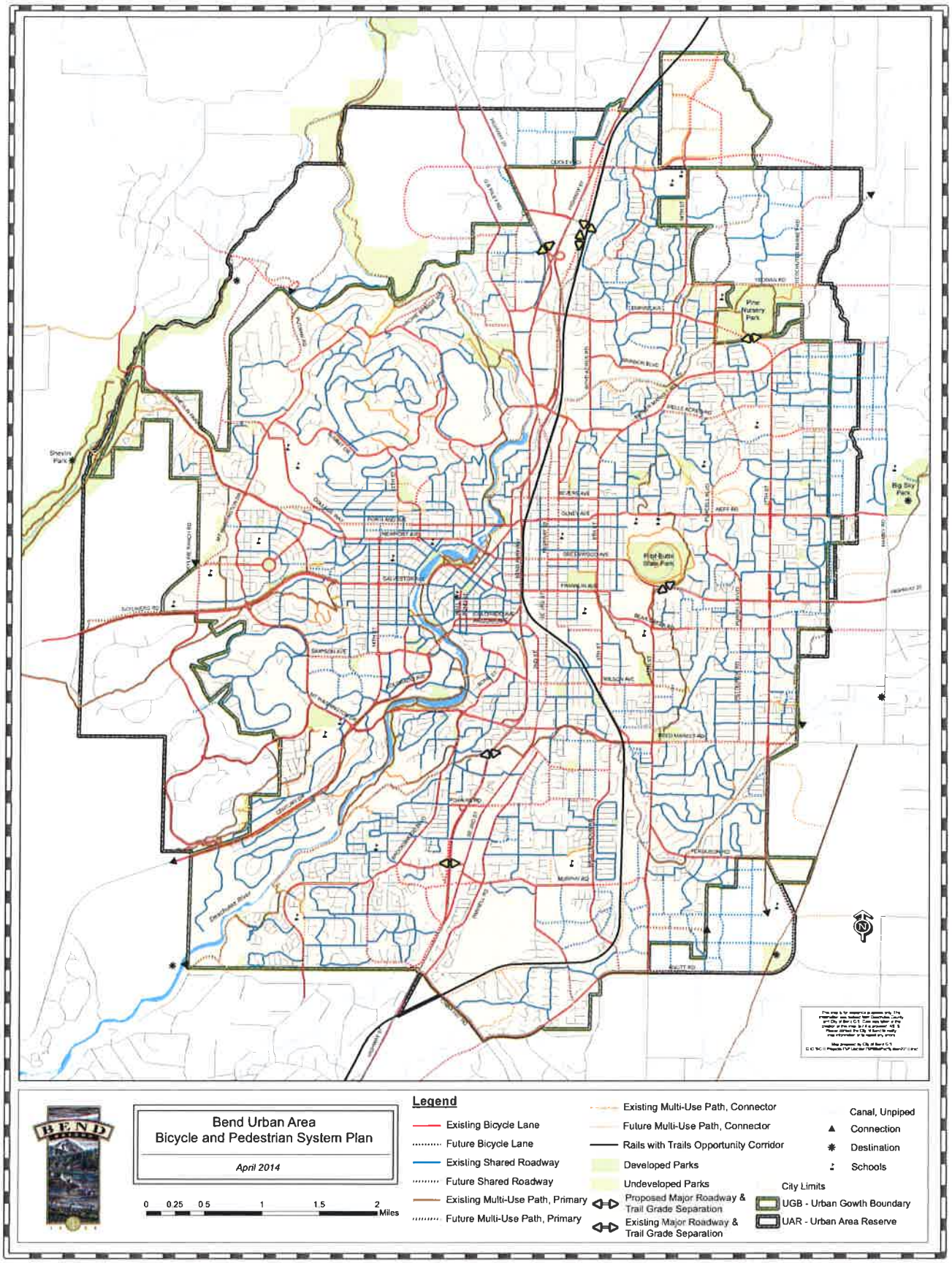
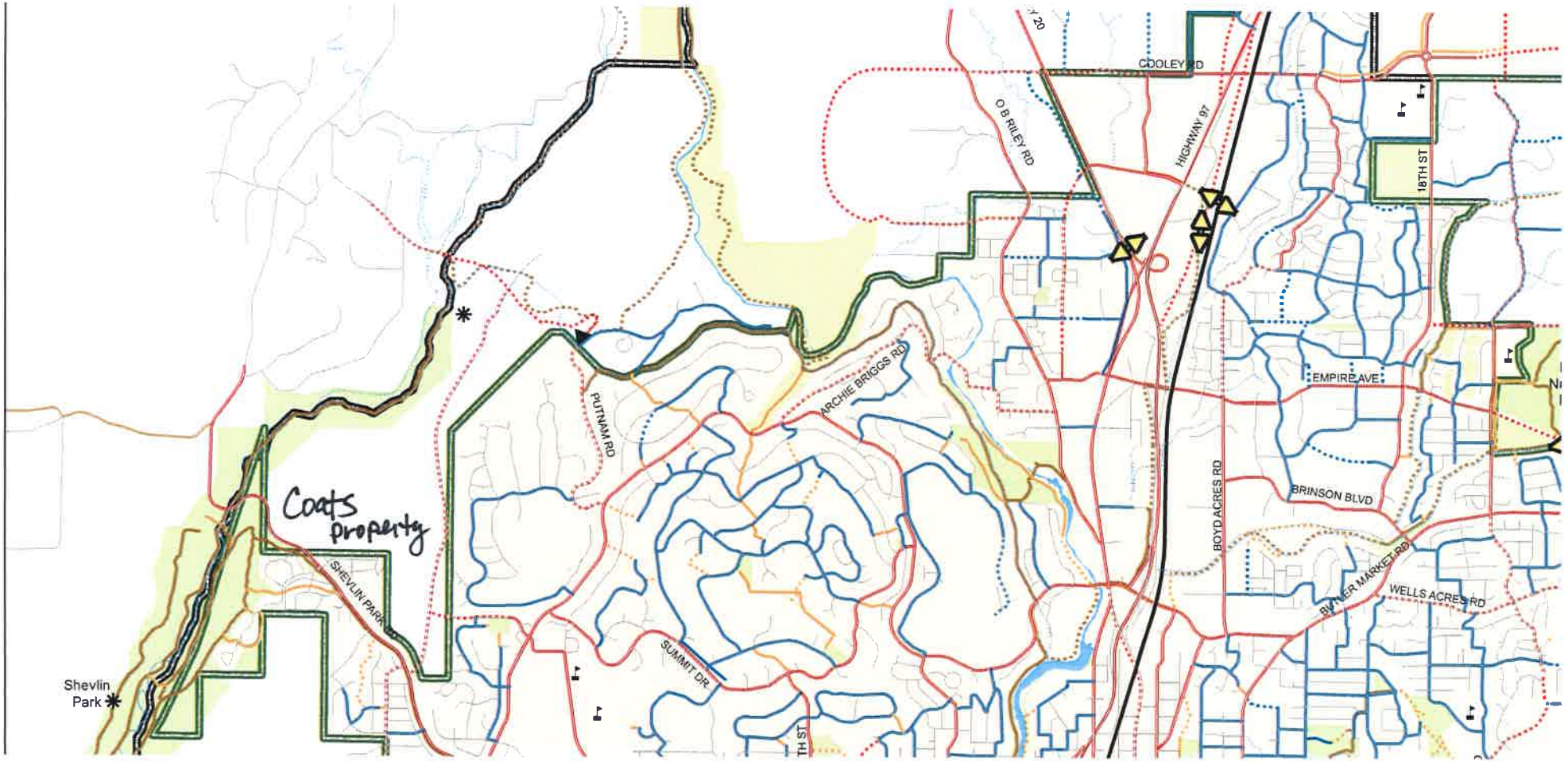


Exhibit D
Page 1 of 2



Source: Bend Urban Area Bicycle and Pedestrian System Plan (April 2014)

Exhibit D
Page 2 of 2
05395

Expansion Scenario 2.1A

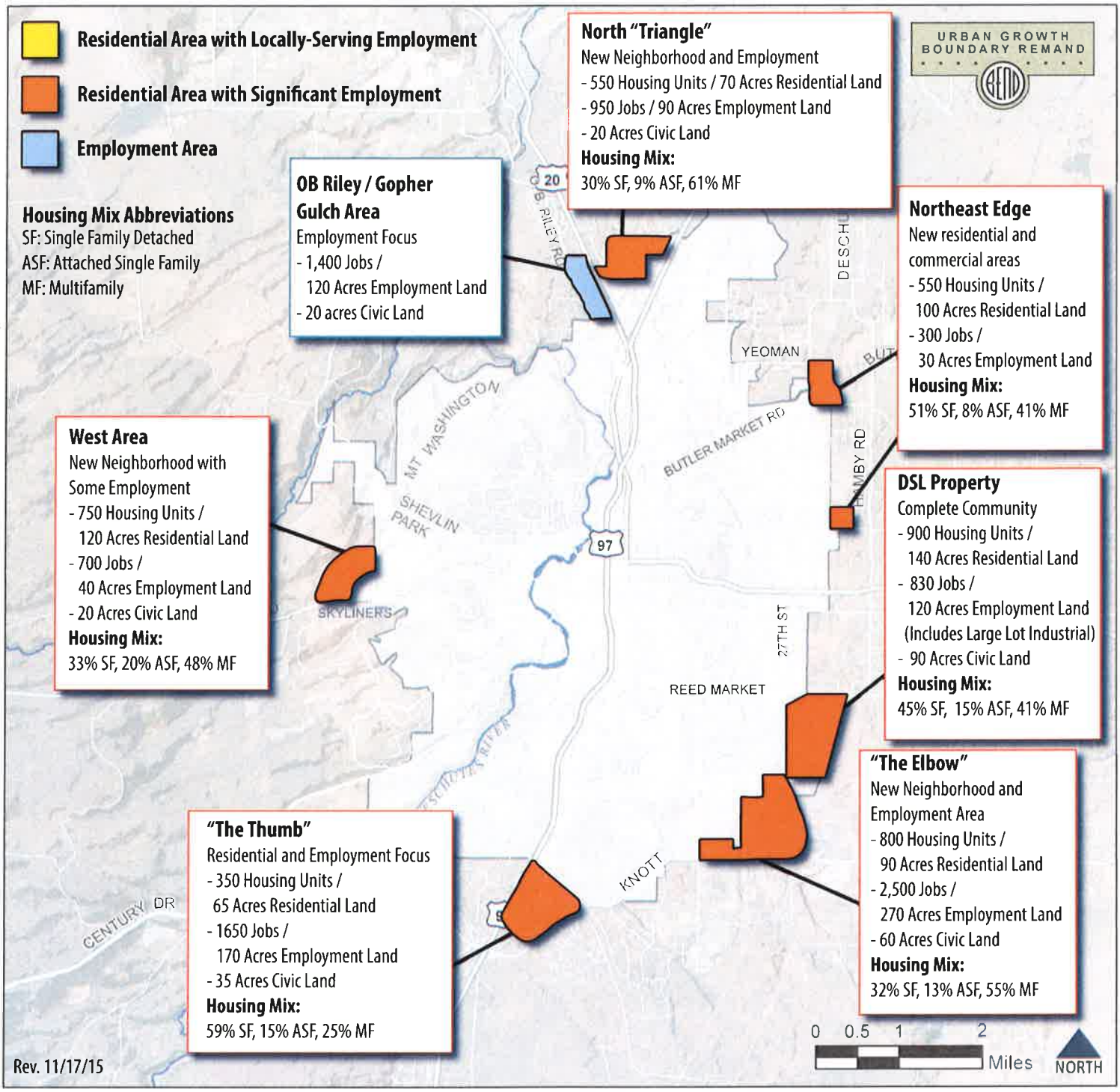


Exhibit E
Page 1 of 1

05396

Source: Bend La Pine School website, "Sites + Facilities," 2012 Update

Sites and Facilities 2012 Update

In the spring of 2012, the Superintendent requested the most recent Sites and Facilities Committee be invited to review and update the recommendations contained in the *"Bend-La Pine Schools 2010 School Facility Plan"*.

Enrollment Update

In preparation for the update, the Population Research Center at Portland State University (PRC) was asked to update its 2009 *"Bend-La Pine School District Population and Enrollment Forecasts 2010-2011 to 2030-2031"*. In addition to updating enrollment figures, the original 2010 population forecasts were replaced with 2010 census data and recent birth data were incorporated in the forecast model. Lastly, we are using actual 12-13 enrollment counts as a base.

In summary, forecast shows net in-migration will mitigate a reduction in Kindergarten and 1st grade students entering mid-decade, and full day kindergarten starting in 2015-16 will tend to increase enrollment. However, PRC expects slower elementary enrollment growth in the last half of this decade as a result of the birth decline. The updated forecast anticipates enrollment in Bend-La Pine Schools of 19,264 students by 2020 and enrollment of 23,116 students by 2030.

Capacity Analysis

These updated enrollment data were incorporated into an updated capacity *"Analysis for Bend-La Pine School District: 2009 to 2030"*. The data shows that the need for an additional 300 seats of elementary capacity remains unchanged from the *2010 School Facility Plan*. The forecast shows this need in Bend no later than the fall of 2016. With Pine Ridge, William E Miller, Bear Creek and High Lakes essentially at capacity in 2012-13, it makes sense that the additional 300 seats be located to relieve the pressure on these schools.

In addition, the need for middle and high school capacity has been advanced in time. The committee noted that sufficient school capacity in south county (La Pine and Sunriver) is available for the foreseeable future. The committee requested and received additional refinement analyses for middle and high school capacity needs in the Bend urban area.

Based on the refined analyses, the need for a new high school was unchanged and remained in the 2020-21 school year. However, the timing of need for a new middle school in the Bend area advanced to at least 2017-18, well within the development period covered by this plan update. In fact, the committee considered several demographic and logistical factors, which may move the need for middle school capacity up to 2016-17.

Having established the need for additional middle school capacity in the Bend area, the committee reviewed estimates of middle school enrollment for 2017-18 based on proxy attendance areas associated with two possible middle school locations. Due to the actual and anticipated enrollment growth patterns for middle school students, the committee felt the western location located on Shevlin Park Road better distributed capacity than the previously identified southern location on Murphy Road. The

committee considered a variety of other factors including sewer development concerns, traffic constraints, socioeconomic balance, and prior attendance boundary adjustments to equalize enrollment. In balance, the committee found the Shevlin site better served the anticipated middle school enrollment patterns for the near term, and the Murphy site was considered to be appropriate for subsequent middle school development.

Projects for Existing Facilities

At the time of the Superintendent's request, the recommended projects list for existing facilities compiled by the 2010 Sites and Facilities Committee was two years old. Facilities Development staff conducted another survey of all the existing facilities using the same review procedure utilized in 2009. This survey realized an additional 40 projects to be considered along with the original 183 recommended projects. Including an allowance for a new middle school and a new elementary school, the revised project list totaled $128,726,753.

A sub-committee was responsible for evaluating the new list of potential projects, prioritizing and scrutinizing the old projects and the new projects along with the possibility of adding the two new schools. During the course of meeting once a week over several months, the TAC Committee determined that a new middle school and elementary school was required. The Existing Facilities Committee finalized their review based on this information and provided a recommendation of a final list of priority projects in the amount of $97,927,080, which included 138 projects, a new middle school, and a new elementary school (Appendix A).

Debt Structure

The committee expressed strong interest in maintaining a debt structure that allows for a steady property tax rate. The recent economic downturn has delayed the need for capital construction, so the stable tax rate has dropped to around $1.60 per thousand dollars of taxable assessed value in 2012-13.

The committee reviewed a variety of capital construction grouping options to structure bond debt to meet capacity and other facility needs over time while maintaining a stable property tax rate. The recommended bond amount of approximately $98,000,000 will maintain the rate at around $1.60 per thousand dollars of taxable value. The committee recommends a May 2013 election request to meet the needs identified for the next five years. In addition, debt capacity would be available to support an additional capital construction request as soon as May of 2018.

Recommendation

The Sites and Facilities committee is pleased to recommend the attached list of priority projects (Appendix A) in the amount of $97,927,080, which includes 138 projects, a new middle school, and a new elementary school, be placed on the May 2013 ballot as a bond levy request for capital construction.

PROPOSED PROJECTS
2013 MAP

The 2012 Sites and Facilities Committee is recommending a bond levy that would finance 140 projects, including two new schools.

This project would extend the life of existing buildings, many of which are more than 30 years old, provide funds for renovations and expansions of existing buildings, and build neighborhood schools in high growth areas.

BEND LAPINE Schools

MAINTENANCE PRESERVATION

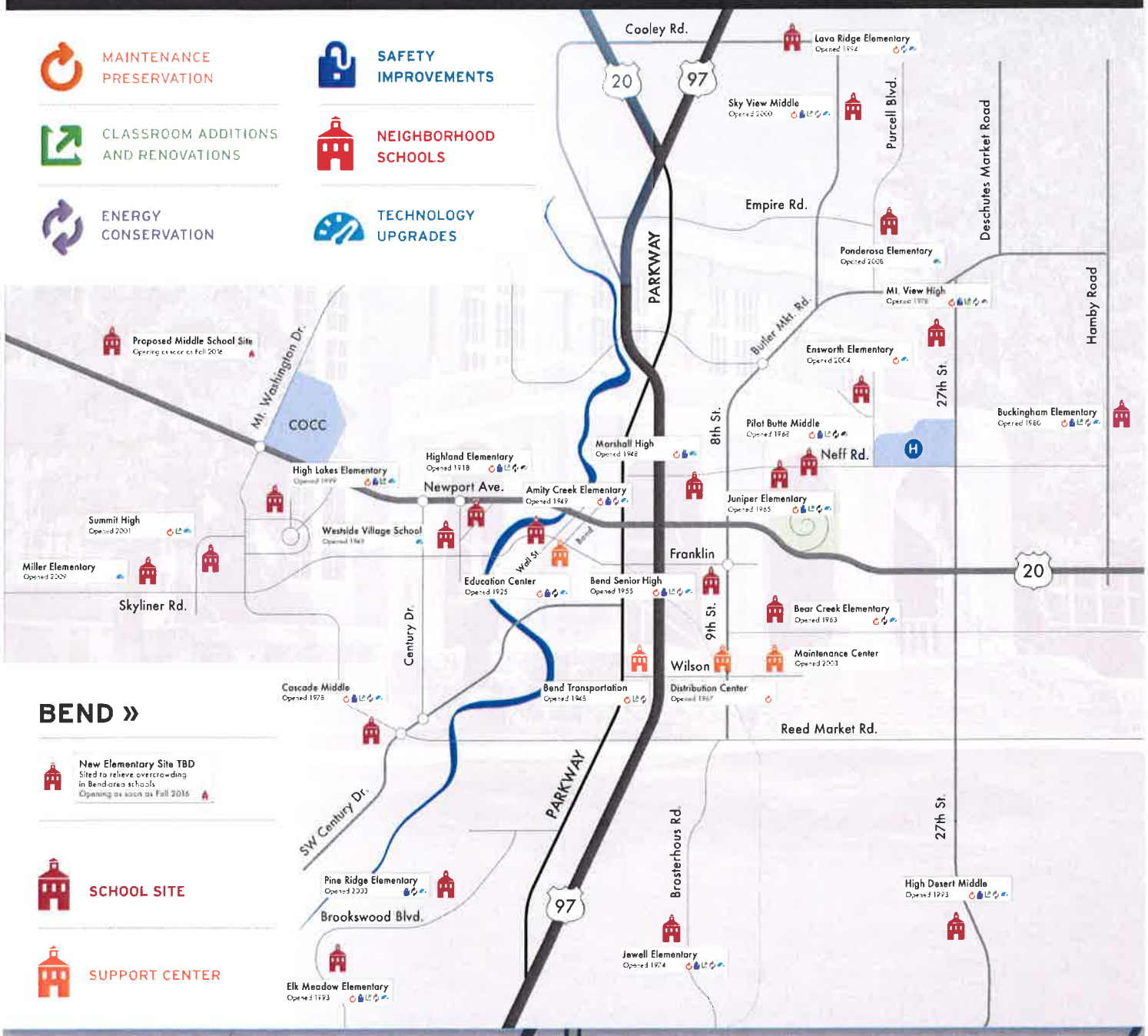
SAFETY IMPROVEMENTS

CLASSROOM ADDITIONS AND RENOVATIONS

NEIGHBORHOOD SCHOOLS

ENERGY CONSERVATION

TECHNOLOGY UPGRADES

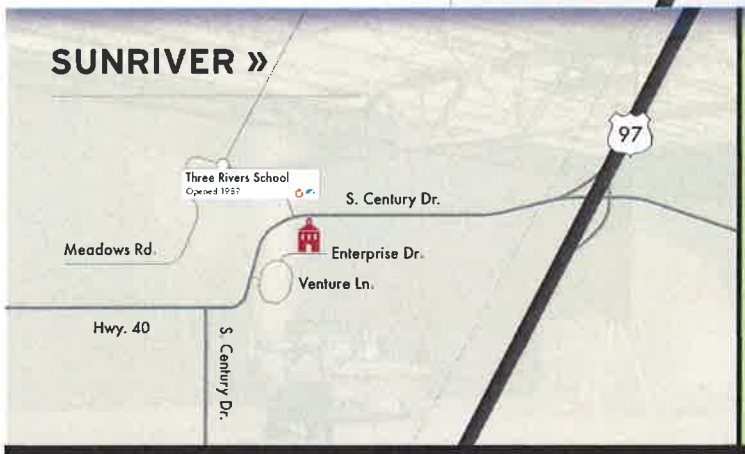


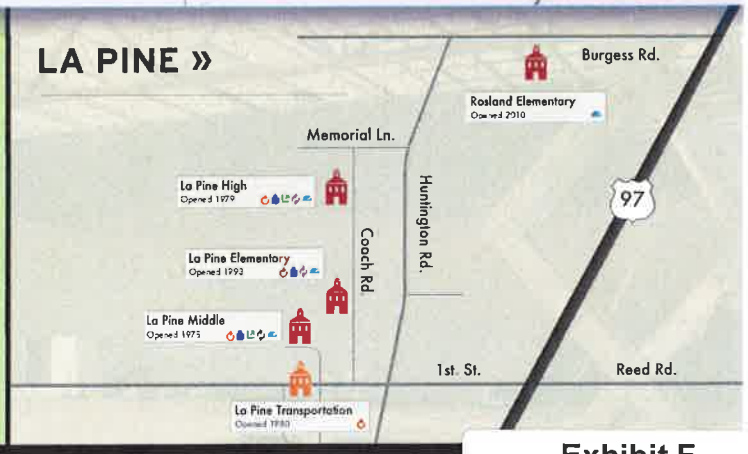
BEND »

New Elementary Site TBD
Sited to relieve overcrowding in Bend-area schools
Opening as soon as Fall 2016

SCHOOL SITE

SUPPORT CENTER





Est 1883
BEND LAPINE
Schools
EDUCATING THRIVING CITIZENS

OFFICE OF THE SUPERINTENDENT
Education Center
520 N.W. Wall Street
Bend, Oregon 97701-2699

October 20, 2015

Brian Rankin
City of Bend
710 NW Wall Street
Bend, OR 97701

Mr. Rankin,

Bend-La Pine Schools owns property adjacent to Shevlin Park road (tax map #1711230000600), in the area identified in the UGB Expansion Scenario 3.1 as "Shevlin Area." The property is planned for a school to meet growth projections in the northwest area of Bend. We are currently over capacity in some schools and anticipate that we will need another school in this area as the land in the west side continues to develop. We have been unable to locate an alternative suitable site that meets the location and size requirements for a school. Other sites, further south, would likely be too close to existing schools.

We request that the area identified in Scenario 3.1 as "Shevlin Area" be brought in to the UGB. Having the school district parcel and some additional residential land will complete the street grid system, provide buffers to existing development and enhance a walkable school neighborhood.

Thank you for your consideration.

Sincerely,

Brad Henry
Chief Operations and Financial Officer
Bend-La Pine Schools

Exhibit G
Page 1 of 1

Source of Comment	Summary of Comment	Project Team Response
Steve Jorgensen, representing BMPRD, oral testimony on 6/9/15	Steve presented oral testimony and commented that the TAC should look for opportunities for trail connections. He specifically referenced the 1995 Trails Plan that identified potential trails on the Coats' property that were very important from the District's perspective. He also noted that the district requests that the park-owned site in "the Elbow" be included in the UGB so it can be traded for other lands that are better suited or needed for a park.	The park-owned site in "the Elbow" is included in Scenario 2.1, and for modeling purposes it is assumed to have non-park uses. Portions of the Coats property are included in Scenario 3.1, with the full concept plan area extending to the creek and river included in the Supplemental Analysis Area.
Tim Elliott, representing Anderson Ranch, oral testimony on 6/9/15	Commented on the Goal 14 analysis. Land priority issue a primary issue on remand. Consider the first priority lands first.	Roughly 15 acres of Anderson Ranch (in the West Area) is included in Scenario 1.1, and the full site (roughly 28 acres) is included in Scenario 3.1.

strongest for Scenarios 1.2 and 2.1. Natural Environment was a topic priority of the respondents and cost-effective infrastructure was a priority chosen most often by the respondents.

Becky Hewitt of APG then summarized the team recommendations. Of the six scenarios and SAAMs, Scenario 2.1 performed the best and was in the top tier on several criteria. She summarized the key weaknesses of the other alternatives with each of the other scenarios and SAAMs having at least one key weakness. She also summarized the team recommendations for potential refinements to the subareas in Scenario 2.1.

4. Public Comment.

After a short break, the TAC reconvened to accept public comments.

1. Lori Murphy – an attorney with Miller Nash, representing Sage Wind Farms; Rick Lane submitted materials. She directed the TAC to written testimony submitted to them regarding a tract of multiple properties identified as "Butler Market Village." The tract is 240 acres in size and referred to in the letter as the Perfect Rectangle. All property included in the tract is zoned MUA10 or UAR10 – all exception lands.

2. Myles Conway – an attorney representing property owner Rio Lobo. This property was not included in Scenario 2.1; some in Scenario 3.1. The property surrounded by UGB. The property scored very well on infrastructure analysis and is well managed for wildfire risk. There is a benefit to include to manage for wildfire. Skyline Ranch Road extension. All concerns in Scenario 3.1 don't have anything to do with this property. – Take an independent look at this property. It should be included.

3. Ed Elkins – owner of 412 acres in Gopher Gulch Ranch. Haven't irrigated for about 15 years. DSL – secondary level of exception lands. Gopher Gulch is first priority land. Development costs will be lower. A master plan from 2005 – sewer costs taken into account. Fire issues – none; asphalt, parks. Planned for different types of housing. Swalley water not an issue.

4. Tia Lewis – attorney representing Coats' property in Shevlin Area. Maps – 1. Conceptual master plan of 443 acres. Most important west side property. Surrounded on three sides by residential development. Served by six urban residential streets. Significant parks and trail connections. Should be managed by city and part of the park district. Have their own Goal 14 findings with evidence to support. Look at this separately from subarea – scores highly; sewer modeling by Awbrey and existing services with gravity. Important for transportation connections. Does not require all traffic to feed into west side and downtown. Wildfire – two water courses and surface mine abuts property.

5. Don Horton – representing Bend Metro Parks and Rec District. Thank you to all the volunteers. Arduous task. One, amount of effort and time – only a small amount land coming in. Encourage you to bring in more than what you're bringing in. Find properties that make the most sense – livable, walkable communities. Get as much land as you can.

Exhibit H
Page 2 of 3

Source: City of Bend, Boundary & Growth Scenarios Technical Advisory Committee, Meeting Notes, Dated October 8, 2015.

6. Greg Blackmore – representing Brownrigg Family – 61 acre property – highlight items in your packet. Letter dated October 1 and conceptual master plan. This property is a gateway property. Northwest quadrant – north of Cooley, between OB Riley and Highway 20. Don't designate as large lot industrial; include mix of commercial and residential uses.

7. Tim Elliott – attorney representing Anderson Ranch holding company – Scenario 1.2 – top of the giraffes' neck. 27 acres. Not all of this property is included in Scenario 1.2. Sewer infrastructure – this area scored well. Owners have paid for sewer capacity. Schools are close. In Westside subarea. Will provide connectivity.

8. Matt Harrell – here on behalf of Gopher Gulch Ranch. Property offers opportunity for complete community. Settling on less acreage a disservice to the community.

5. TAC Roundtable

Following public comments, Joe asked started a roundtable discussion, asking each TAC member for their initial thoughts and observations. See flip chart notes attached to the end of this meeting summary.

1. Charley Miller – Subarea opportunities – to evaluate; 2.1 – with proposed modifications- what does 2.1 look like.

2. Dale Van Valkenburg – 2.1 is heavy in the southeast – wants to talk about difference makers

3. Tom Kemper – similar thoughts on 2.1 – process for evaluating and tweaking 2.1

4. Gary Timm – what is the refined scenario 2.1 look like? Northeast east area could stand some more complete communities

5. John Russell – pass

6. Steve Hultberg – difficult to differentiate one property from another in subareas; how would properties in one scenario do in another scenario. Need to understand how this works. Not just in west side. Need to address how a property passes/fails with other properties in a group.

7. Paul Dewey – alternatives – do you revisit Central Area Plan – increase number of units that could be built there? Would this affect cost of expansion? Miller Nash proposal – larger block of 240 acres in the northeast

8. Robin Vora – summary of things that are cost prohibitive; unrealistic by 2028. Still trouble supporting west side development – Goal 14 factors. Other tracts on east side that seem to have fewer conflicts. Wants to see 200 acres that have fewer Goal 14 conflicts that are not included in scenario 2.1.

Oregon
Kate Brown, Governor

Department of Fish and Wildlife
Deschutes Watershed District
East Region
61374 Parrell Road
Bend, Oregon 97702
(541) 388-6363
FAX (541) 388-6281

July 21, 2015

Anthony Raguine, Senior Planner
Deschutes County Planning Division
P.O. Box 6005
Bend, OR 97708

RE: File Numbers 247-15-000333-CU/334-SP, Establishment of Riley Ranch Nature Reserve

The Bend Parks and Recreation Department (BPRD) is proposing to develop approximately 184 acres at the addresses of 63599 O.B. Riley Road and 19975 Glen Vista Road in Bend as the Riley Ranch Nature Reserve. The park will include open space, boardwalks, three parking areas, gathering areas, restrooms, overlooks, river access areas, environmental education and programming, road improvements, and a bridge across the Deschutes River.

The Oregon Department of Fish & Wildlife (ODFW) supports public enjoyment of the State's natural resources especially those opportunities that allow increased understanding of wildlife and their habitats. This property sits along the Deschutes River and supports a diversity of vegetation types and landscape features that, although close to Bend's urban growth boundary, have remained relatively free from human encroachment. Thus, the proposed park offers a unique opportunity for BPRD to balance land stewardship with public enjoyment of the outdoors. Along with this opportunity comes the challenge of avoiding the disturbance to wildlife that results from the public's overuse of natural areas.

Upon reviewing the Riley Ranch Management Plan (Plan), ODFW has identified several proposed policy decisions that will help to reduce disturbance to wildlife on the property: a no dogs policy, a no bicycles policy, and limited development in the riparian corridor. There is a growing body of research showing that domestic dogs can be a source of stress and disease for wildlife (Miller et al. 2001, Lenth et al. 2008, Salb et al. 2008). Excluding dogs from the Riley Ranch property will help to preserve the safety and health of its wildlife, and as a result, will increase the public's wildlife viewing opportunities. Excluding bicycles will have similar benefits. In addition to causing stress to wildlife, bicycles commonly cause increased degradation of wildlife habitat through erosion and widening of trails (Naylor et al. 2009, Vandeman 2014). Due to its size and topography, this property offers relatively little opportunity for biking compared to other areas around Bend. Finally, limiting development to areas away from the riparian corridor will help to reduce wildlife habitat degradation in an area used by a high diversity of species.

In addition to the proposed policies discussed above, ODFW has the following recommendations for the property's development:

- Reduce trail density. The Plan categorizes low density trails as less than 10 linear miles per square mile. Seek opportunities to reduce this density target to 2.5 linear miles per square mile. When possible, use existing trails for public access. This will minimize fragmentation of wildlife habitat and wildlife avoidance of the property.
- Install wildlife friendly (wooden rail) fencing or other barriers where needed along the riverbank to discourage additional social trails to the Deschutes River and Tumalo Creek.
- Explicitly sign river access points along trails and on maps to further discourage establishment of unwanted river access points.
- Maintain all trails at least 200' away from the Deschutes River and Tumalo Creek.
- Remove no riparian vegetation to accommodate structures (e.g. bridge)
- Prioritize education and public outreach regarding wildlife and the sensitive habitats on the property to encourage responsible use.
- Consider closures or reduction in public use of the property on a seasonal basis. During the late winter and early spring wildlife are typically under the most physiological stress. Appropriately timed reductions in human presence will enhance wildlife use of the property.
- In order to achieve the goals of the Plan and to maintain the Riley Ranch as a true Nature Reserve it will be critical to have an employee on site consistently during high public use periods. Finding funding to support this position should be one of the first priorities in the development of the property.

Thank you for the opportunity to comment. If you have questions or want information that ODFW can provide, please contact me.

Sincerely,

Sara Gregory
Wildlife Habitat Biologist
Deschutes Watershed District
sara.c.gregory@state.or.us
541-633-1113

References:

1. Miller, Scott G., Richard L. Knight, and Clinton K. Miller. "Wildlife responses to pedestrians and dogs." Wildlife Society Bulletin (2001): 124-132.
2. Lenth, Benjamin E., Richard L. Knight, and Mark E. Brennan. "The effects of dogs on wildlife communities." Natural Areas Journal 28, no. 3 (2008): 218-227.
3. Naylor, Leslie M., Michael J. Wisdom, and Robert G. Anthony. "Behavioral responses of North American elk to recreational activity." The Journal of Wildlife Management 73, no. 3 (2009): 328-338.
4. Salb, Amanda L., Herman W. Barkema, Brett T. Elkin, RC Andrew Thompson, Douglas P. Whiteside, Sandra R. Black, J. P. Dubey, and Susan J. Kutz. "Dogs as sources and sentinels of parasites in humans and wildlife, northern Canada." Emerging infectious diseases 14, no. 1 (2008): 60.
5. Vandeman, Michael J. "The Impacts of Mountain Biking on Wildlife and People--A Review of the Literature." In Society for Conservation Biology meeting, Columbia University, New York, NY. 2004.

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ENTERPRISES, LLC

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john@singletreeconsulting.com • www.singletreeconsulting.com

November 24, 2015

Tia Lewis

Schwabe, Williamson & Wyatt

360 SW Bond St, Suite 400

Bend, OR 97702

Dear Ms. Lewis,

Enclosed please find a hard copy of the Forest Fire-Fuels and Health Evaluation for the specified Coats tax lots that we discussed.

I plan to complete the revised forest management plan for the entire ownership over the next few months.

Please contact for needed information or clarification.

Best regards,

John Jackson

Enclosure

Exhibit J
Page 1 of 7

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November 24, 2015

Forest Fire Fuels and Health Evaluation

Landowner: Eric and Robin Coats/Shevlin Sand & Gravel

Subject Tax Lots:

171125 TL200	40ac
171125 TL300	34ac
171123 TL503	40ac
171123 TL502	20ac
171123 TL500	40ac
171124 TL600	40ac
171124 TL700	40ac
171124 TL403	19ac

Summary

At the request of the landowner the above listed area was evaluated for hazardous vegetation treatment and appropriate stand stocking level management. These two parameters are often used to judge overall resilience of dry-site pine forested areas to high intensity, stand replacement wildfire. With the exception of three specific areas (described in more detail below) the above-listed portion of the Coats property can best be described as meeting optimum standards for fire resilience and forest health: stand thinned to appropriate stocking levels with brush and other "ladder fuels" appropriately treated.[1]

Singletree Enterprises provides a variety of consulting services for application to wildland fire, forest resources management and community preparedness planning. John Jackson retired from the Oregon Department of Forestry as a Unit Forester after 28 years of progressive fire management and natural resource related assignments. At the time of his retirement, he was qualified as an Incident Commander (ICT2), Operations Section Chief (OSC1) and Agency Representative. Previous qualifications included Fire Behavior Analyst and Safety Officer and a variety of operations-related positions. John graduated from Oregon State University with B.S. degrees in Biological Science ('69) and Zoology ('70).

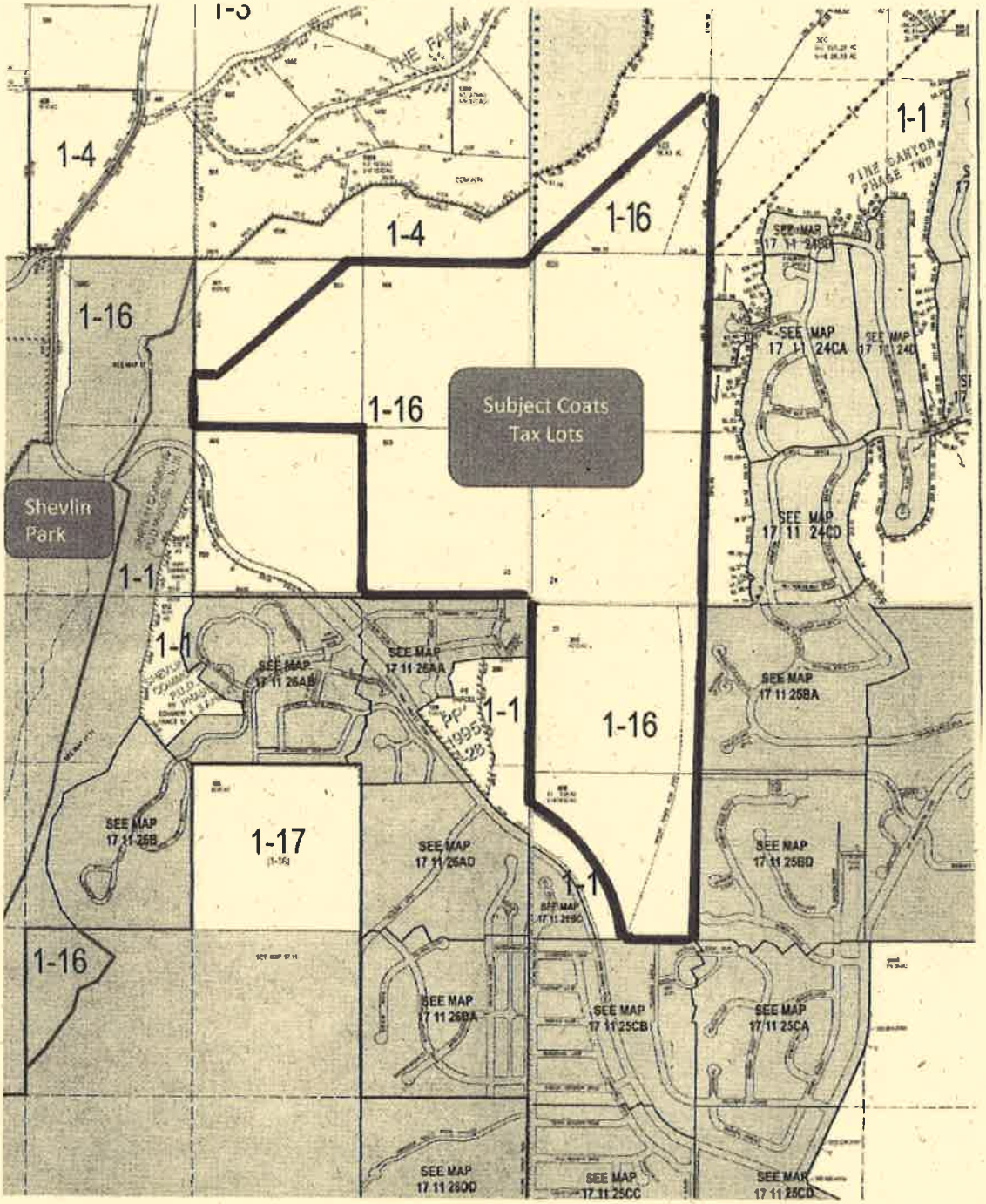


FIGURE 1: Composite Tax Lot Map-Shows subject Coats tax lots and surrounding residential land-use.

Background

The above listed parcels were reviewed with the landowner on October 28 with a follow-up visit on November 4, 2015. Random plot prism measurements were taken to determine general basal area and stand densities present. Condition of brush, ladder fuels and other forest floor fuels were visually evaluated. These data were requested to provide input for consideration of the area for inclusion within the urban growth boundary (UGB).

Observations and Recommendations

- An extensive perimeter fuels treatment and timber stand thinning has occurred adjacent to areas of existing residential development along the east boundary of tax lots 200,700 and 600. A similar perimeter fuel break is present along the west boundary of TL200 and on the south edge of TL 503. This treatment includes tree stand density management, pruning of limbs 15-20 feet above ground level for approximately 200 ft. back from adjoining subdivisions and clean-up of ground fuel concentrations. Widely scattered brush species are present. Please refer to Figure 2, a representative photo of the treatment completed adjacent to residential development.

- Other than the exceptions listed below, the overall forest stand has thinned to optimize growth and forest health consistent with the standards provided in the above-referenced OSU Extension guidelines. These recommended standards are based on size of residual trees present, site class and basal area per acre.

- There are three (3) exceptions to the completed general treatment regime above:

  1. There is an 8 to 10 acre un-mowed brush field area on the west edge of TL 502. This brush field is a portion of the Awbrey-Hall Fire (1990) footprint, with no significant pine reproduction present. Mowing would provide additional protection from ignitions coming out of the Shevlin Park area such as the fire that occurred there this last summer.

  2. There is approximately 40-50 acres of untreated area on the east side of the powerline r/w road, generally located in portions of tax lots 500, 503, 600 and 700. A timber stand improvement thinning with slash treatment similar to that applied on the remainder of the parcel is recommended.

  3. Tax Lot 300 adjoins Shevlin Park Road on the south and has a combination of conditions. A fuel break (tree thinning and ladder fuel removal) similar to that described above along boundaries with subdivisions was originally established along the boundary with Shevlin Park Road. Brush regrowth has occurred to the extent that it would benefit from re-mowing. A treated buffer similar to that described above has been established the TL's east edge adjacent to the subdivision. Additional vegetation treatment has been deferred, in part in favor

of visual and sound buffering between the residential area and the activities of the sand and gravel operation.

Additional fire fuels mitigation treatment is recommended for this area with a prescription that generally retains the visual buffer benefit while mitigating the fire-ladder fuel condition present.

- There is another area with higher fire fuels risk on the adjoining School District parcel, TL 600. This parcel is bound by Shevlin Park Road on its southwest side. No apparent forest management work has occurred on this parcel, at least based on visual review from the adjoining Coats tax lot. Higher intensity fire behavior should be expected in untreated areas such as this due to much heavier fuel loading present including brush, overstocked tree density conditions and ground debris accumulation. Appropriate forest management, such as that completed on the adjacent Coats property, is recommended to reduce the risk of high intensity fire from a road-side related ignition. Please refer to Figure 3 that shows the treated Coats property in the foreground, the property boundary fence and the untreated school district property in the background.

Summary: Observations and Impressions

- While the visual impression from Shevlin Park Road may suggest otherwise, overall the greatest percentage of the ground in these tax lots has been appropriately treated to maximize forest health and minimize risk of high intensity wildfire.

- Additional recommended treatments along Shevlin Park Road and adjacent to adjoining residential development on the east side of tax lot 200 would enhance resilience to fire rates of spread and intensity. This could be accomplished while retaining the majority of the visual and sound buffering between the residential area of development and the ongoing industrial activities on the Coats property.

- The adjoining untreated school district parcel (171123 TL 600) presents the greatest ignition/fire fuels risk to the Coats property.

- This portion of the Coats property is surrounded by residential development and public recreation activities (Shevlin Park) on all sides except to the northeast where their ownership continues. While the Coats family has done a good job in managing the forest fuels on the property, ultimately the overall risk to the surrounding residential areas may best be mitigated by inclusion within the UGB for development. With development comes better access, fire hydrants and further reduction in flammable vegetation. The reality is that this parcel is already a part of the wildland urban interface (WUI) by virtue of the surrounding residential development. A "Fire-wise" development strategy could become part of the solution to the WUI fire issue rather than part of the problem.

Figure 2-Illustrates type of tree density management and ground fuel treatment completed on Coats property adjacent to areas of residential development.

Figure 3 –Shows treated area (Coats) in foreground and untreated school district (TL600) parcel behind property boundary fence.

[i] Ecology and Management of Eastern Oregon Forests-A comprehensive Manual for Forest Managers. Oregon State University Extension Service, pages 52-3.

Coats Property

Fire Hydrant Locations

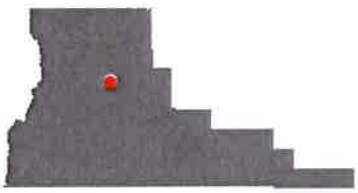
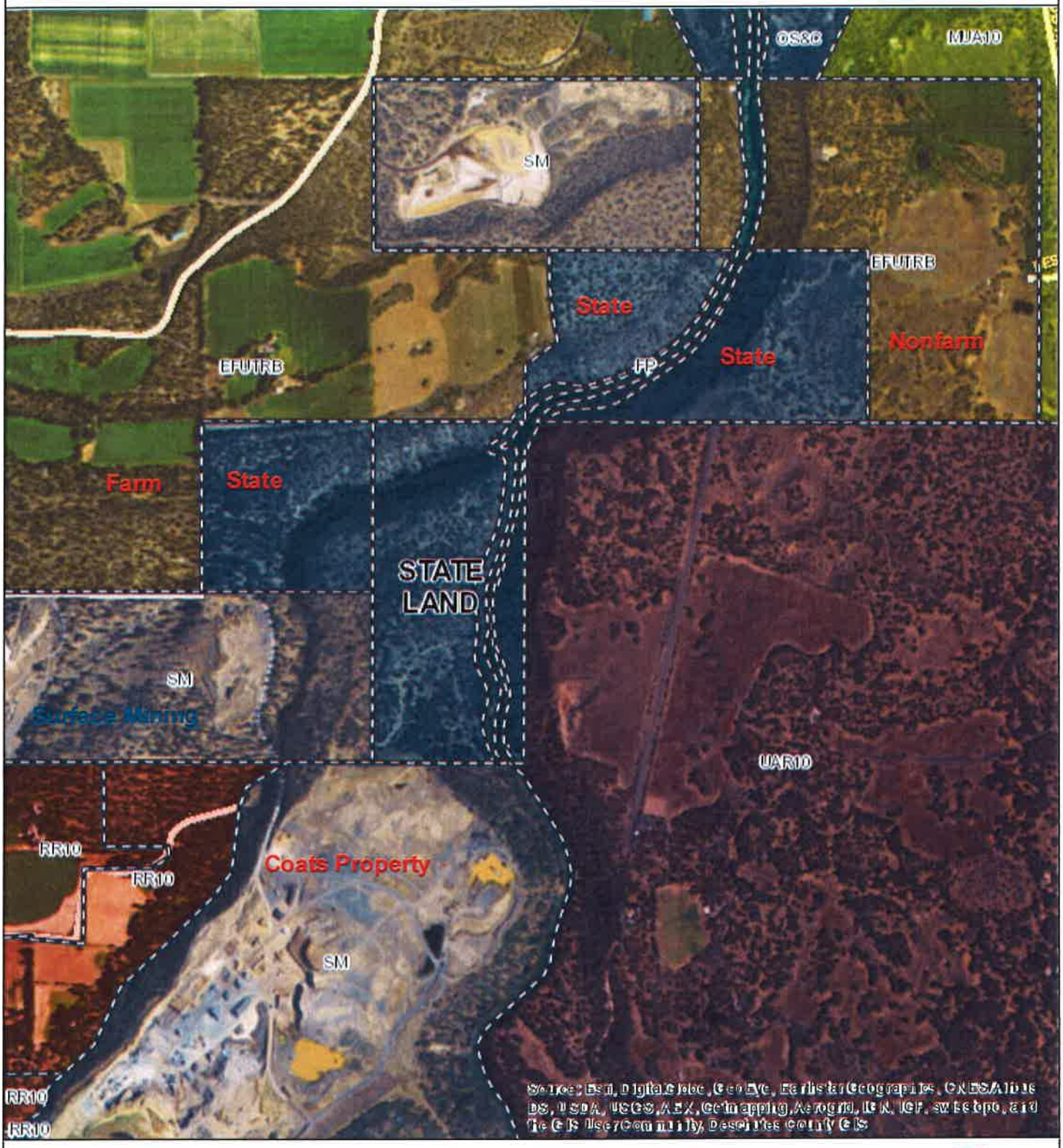


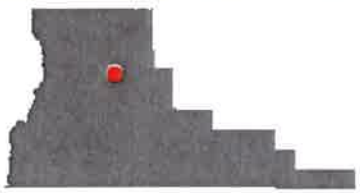
Exhibit K
Page 1 of 1

05414

Coats Property

EFU Lands





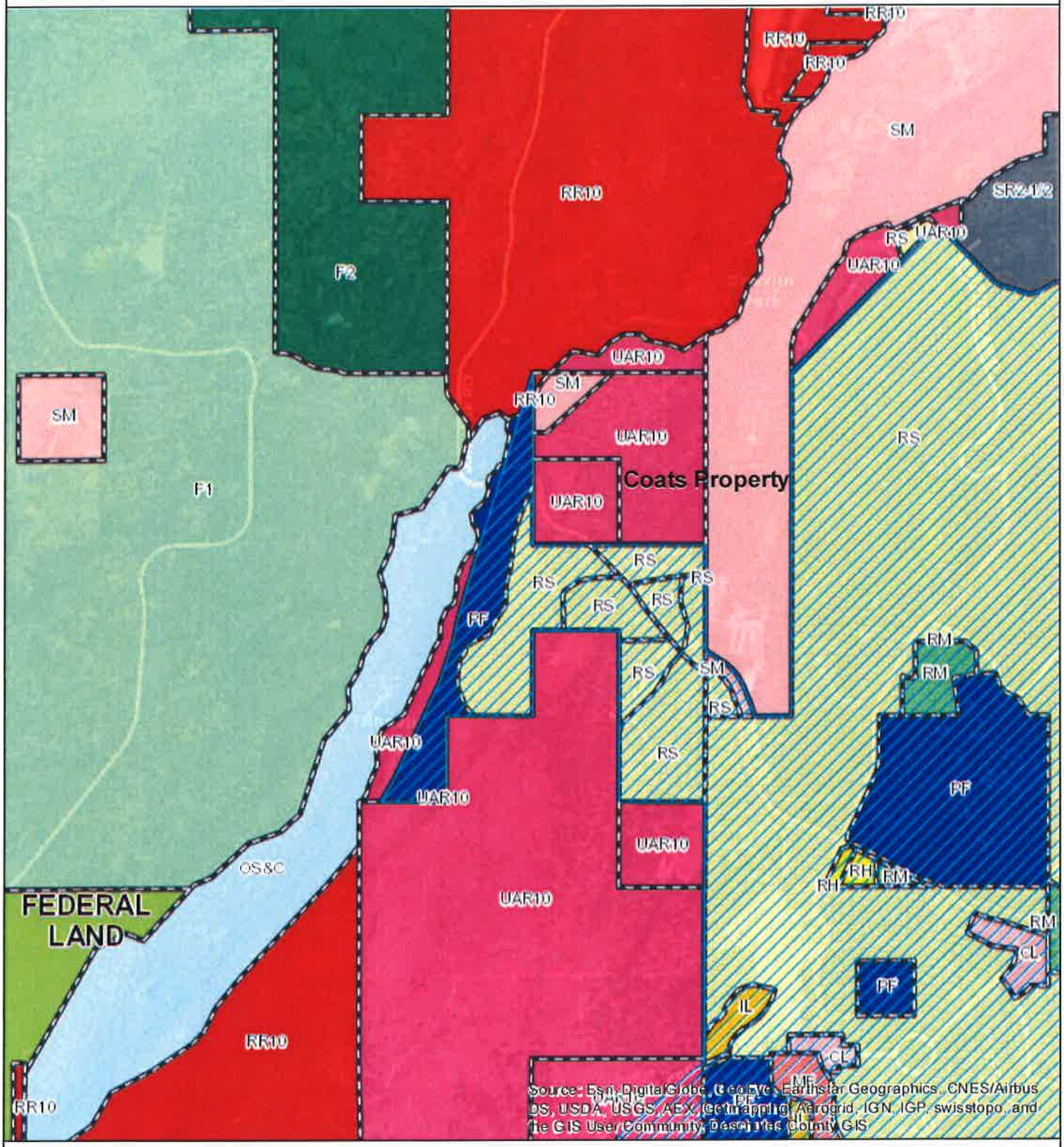
DESCHUTES COUNTY

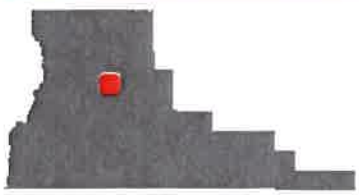
Exhibit L
Page 1 of 1

05415

Coats Property

Forest Lands





DESCHUTES COUNTY

Exhibit M
Page 1 of 1

05416

December 13, 2015

Victor Chudowsky, Chair of Bend's Urban Growth Boundary Steering Committee (USC)
Bend's UGB Boundary Growth and Scenarios Technical Advisory Committee (Boundary TAC)
(Submitted for email distribution by Damian Syrnyk, Sr. Urban Planner, City of Bend)

Chair Chudowsky and Boundary TAC members:

Our names are Leslie Koc and Tom O'Brien and we live at 2071 NW Glassow Drive, Bend 97703.

I, Leslie Koc, have been following with particular interest the rapid advances that Bend has made in determining how and where it will grow. I applied to be on the Boundary TAC, but others apparently had better urban planning qualifications and I was not chosen. A hiking friend, Toby Bayard, was appointed to the Boundary TAC and has been keeping me informed about its progress.

To its credit, Bend chose to approach the State's UGB Remand Order with an open public process that offers a number of opportunities for citizen feedback. The City has hosted public meetings and invested in an online public involvement tool, MetroQuest, that was used to seek (and receive) a surprisingly large volume of citizen feedback. Bend also hired the Portland-based Angelo Planning Group to facilitate the process.

The City elected to create a diverse and inclusive USC that include its City councilors, members of the Planning Commission, Deschutes County Commissioners, and the Director of Community Planning for Deschutes County. The USC will make the final decision on the expansion map to be adopted by Bend's City Council and forward it to the State of Oregon's Department of Land Conservation and Development for acknowledgement. Additionally, Bend elected to put into place three (3) member-diverse TACs. In January 2016, the Boundary TAC will present a final recommended Scenario to the USC for the City's adoption.

At a June 24, 2015 joint meeting, the Boundary TAC and USC approved three UGB Expansion Scenarios for further evaluation (Scenarios 1.2, 2.1 and 3.1). These were evaluated based on their "efficient accommodation of identified land needs", "orderly and efficient provision of public facilities and services", "comparative environmental, social, economic and energy consequences" and "compatibility of proposed urban uses with nearby agricultural activities occurring on farm and forest land outside the UGB".

Based on the body of work captured in a Boundary TAC evaluation report, Scenario 2.1 performed the best of the alternatives overall, regardless of whether and to what degree weighting was applied to distinguish between the more and less important performance measures. Scenario 2.1 was in the "top tier" relative to other alternatives on nearly all community outcomes. Thus, the Boundary TAC elected to go forward and "refine it", after which it would be handed up to the USC for final approval and adoption by the city of Bend.

We and some of our friends used the MetroQuest tool Bend introduced at the end of June, so that citizens could weigh in on the three scenarios. I believe that Scenario 2.1 was chosen by the majority of those who used the tool.

I want to commend the USC for voting to pursue further analysis of the well-vetted Scenario 2.1, despite the fact that the Boundary TAC presented you with an alternative Scenario, 2.3. We were not entirely happy with Scenario 2.1 (our concern centered on the amount of additional dwelling units that were being proposed for Bend's northwest side, and we wanted to see more affordable housing added to the east side), but the process that led up to the selection of Scenario 2.1 seemed to have worked and compromises were part of the process.

We've searched for a better description of Scenario 2.3, but were unable to find anything online. Toby Bayard described it briefly to us, but her travels caused her to miss both the October 8th and October 22nd Boundary TAC meetings. She was unable to find meeting minutes that explained what took place.

We hope that the USC continues to further analyze Scenario 2.1. We like the idea of adding a block of land (I believe that is called the "Perfect Rectangle", located in Bend's northeast quadrant and jointly created through the efforts of a number of small parcel owners.) We would prefer that more dwelling units be built there (perhaps some could be moved from the 750 number now slated for addition to Bend's west side"). We also support the removal of land down in Bend's southeast quadrant, "The Thumb". "The Thumb" was described in an article published in the Bend Bulletin on July 29 of this year (Making Sense of UGB Jargon as Bend Expands UGB). In our opinion, the more compact the growth area remains, the more efficiently Bend will be in providing public services (particularly road and sewer).

To summarize, we are happy that the USC is supporting the work of the Boundary TAC and that it chose not to embrace a Scenario that was not analyzed with the same level of rigor as were Scenarios 1.2, 2.1 and 3.1. We hope that the USC continues to support the process originally put into place, and you continue to move with reasonable speed and efficiency so that the long-awaited expansion of Bend's UGB will become a reality.

Sincerely,

Leslie Koc and Tom O'Brien
2071 NW Glassow Drive
Bend, OR 97703

Damian Syrnyk

From: Robin Vora <robinvora1@gmail.com>
Sent: Sunday, December 13, 2015 8:34 PM
To: CouncilAll; Tony.DeBone@deschutes.org; Bill Wagner; Rex Wolf; Brian Rankin; Damian Syrnyk; Joe Dills; Mike Riley
Cc: Al Tozer
Subject: Request for my replacement on UGB Boundary TAC

To: Bend Urban Growth Boundary (UGB) Steering Committee

I will be retiring and traveling to SE Asia January to mid-March and so will miss the UGB Boundary TAC meetings Jan. 13 and Feb. 3. It is important to maintain a balance of perspective on that committee that I believe is already skewed towards less affordable west-side development. For this reason I request that Al Tozer (Tozer Design, 724 NW Federal, Bend, OR 97701) replace me on the committee, either temporarily while I am out of town, or permanently.

Al has extensive experience in Bend and with city planning, and I suspect many of you know him well. I think he would be a great asset to the committee.

I also urge the UGB Steering Committee to stick with your decision to favor only minor tweaks of Scenario 2.1 and not be swayed by special interests. I urge you to place a priority on affordability, mixed-use development over traditional suburban sprawl, minimizing expansion into areas more prone to wildfire, and protecting natural resources including mule deer habitat.

Thank you for your time and consideration.
Robin Vora
1679 NE Daphne Dr
Bend, OR 97701

MILLER NASH GRAHAM & DUNN LLP
ATTORNEYS AT LAW

1567 S.W. Chandler Avenue, Suite 204
Bend, Oregon 97702

541.383.5857
541.383.3968

Lori K. Murphy
lori.murphy@millernash.com
541.749.3305 direct line

December 14, 2015

VIA HAND-DELIVERY

City of Bend
UGB Steering Committee

Subject: The Perfect Rectangle: Sage Wind Farm LLC

Dear Committee Members:

The "Perfect Rectangle" is the 240 acres of property at the northeast edge of Bend city limits, also known as Butler Market Village. Please include this property in Expansion Scenario 2.1A, as part of the preferred scenario to be approved and adopted.

The Perfect Rectangle is part of the city's existing exception area and is first priority for inclusion in the UGB.

The Perfect Rectangle provides a 240-acre block, allowing the plan for a complete community. It provides the best location for orderly and efficient growth:

1. **Sewer:** The property is directly served by existing sewerage lines: (1) the city's interceptor crosses through the property; (2) the proposed Hamby Road Sewer Interceptor extends along the eastern Butler Market Road boundary line; and (3) a proposed extension of Yeoman Road could include an extension of the sewerage system. The city's main interceptor is deep enough at this site to serve the subject area by a gravity system, the least costly situation. No costly lift stations will be necessary.

   Attached, please find a map showing the availability of sewer and transportation connectivity.

2. **Transportation**: The property is surrounded by major roads allowing access and connected transportation access in all directions. Butler Market Road/Hamby Road serves as an arterial to the Bend Airport, the Bend Sewer Plant, Prineville, and other points east. Deschutes Market Road serves as an

alternate route to points north such as Redmond and Highway 97, further alleviating congestion in the north part of the city. Most of the roads are currently developed to three lanes.

3. **Site Design**: The property is flat with a dirt base, which affords the property to be efficiently developed. Less expensive construction costs will result in affordable homes and affordable commercial sites.

   Attached, please find a map showing the existence of predominately level, flat land.

4. **Schools, Parks**: The property is within walking distance of Pine Nursery Park and other parks and is within close proximity of all three levels of schools.

5. **Water**: Avion Water confirmed service for the entire Perfect Rectangle. Confirmation of that service was provided to the USC in the last written testimony.

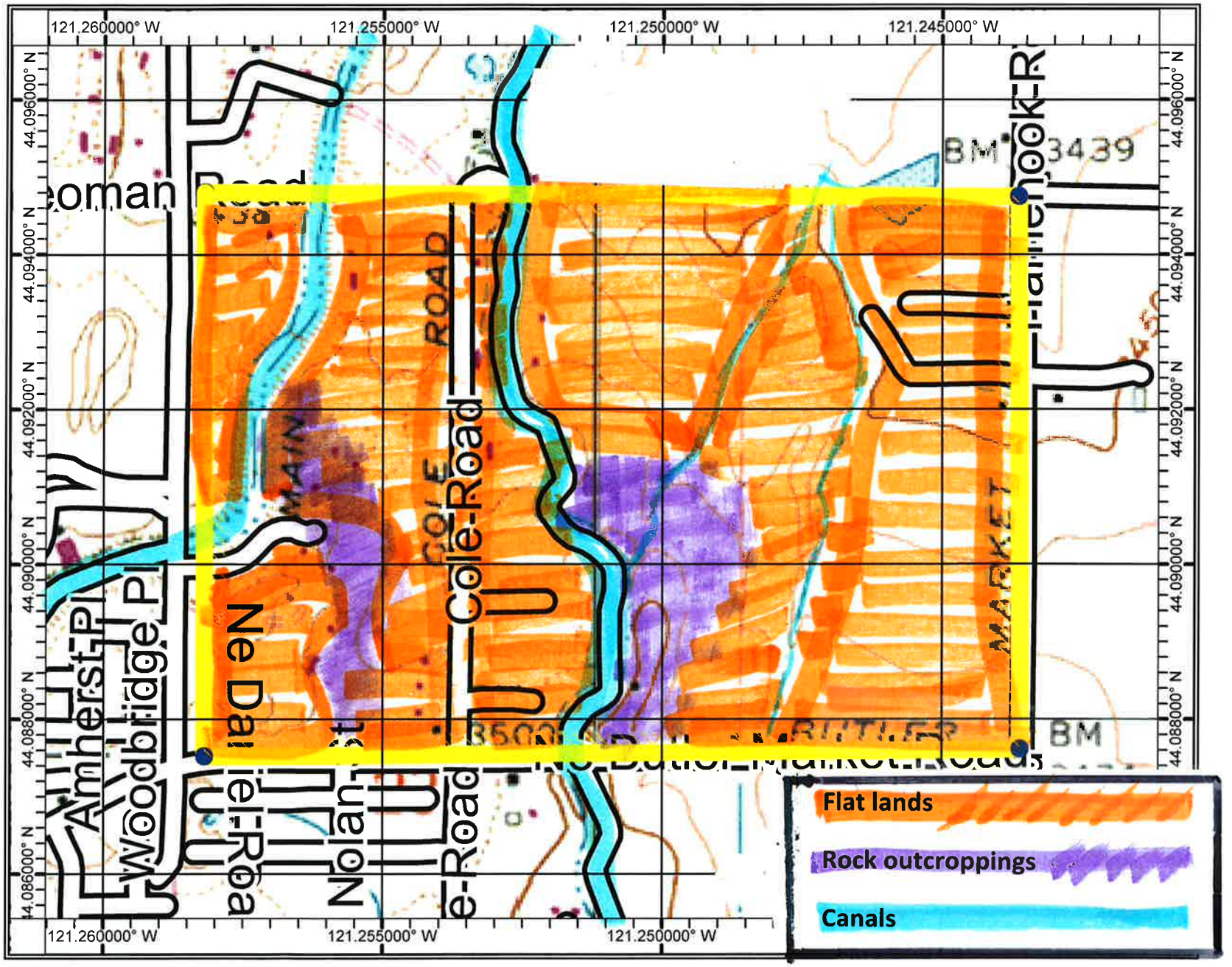
In conclusion, the Perfect Rectangle scores high in all aspects of the urbanization evaluation. It makes the most sense and sound planning to include this property in the UGB due to its location, site makeup, and ability to provide a complete community for planning. We urge you to include the entire 240 acres to the Scenario Map for approval.

Best regards,

Lori K. Murphy

Attachment: Maps

cc: Clients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Connectivity to Deschutes Junction, Redmond, Tumalo, hwy 20 west

City of Bend Sewer Plant

NORTH

SECTION 23 T.17S. R.12E. W.M.
DESCHUTES COUNTY

Map #17-12-23

Yeoman Road

To/from Empire

Proposed extension of Yeoman Road

Proposed extension of sewer system

Butler Market Road

To City of Bend Airport
To City of Bend Sewer Plant
To Prineville

SEE MAP
17 12 23AB
included

Bend Pine Nursery
BPRD Park

Deschutes Market Road

Proposed Hamby Road Sewer Interceptor

Butler Market Road

SEE MAP
17 12 23C

1-17

Butler Market Road

Existing Traffic/Transit Corridor to/from Bend

MAP
2 23CB

SEE MAP
17 12 23DA

To/from Highway 20 east

Existing Road
Proposed Road
Existing Sewer
Proposed Sewer

December 4, 2015
Victor Chudowsky; Chair—Bend UGB Steering
Members of Bend's Boundary Technical Advisory Committee

SUBJECT: Concerns about UGB expansion on Bend's westside

My name is Josh Cook. My wife Susan and I live in Bend's Sunrise Village and are raising our family here.

We have followed the Bend UGB expansion process for some time and have been speaking to friends about its progress. An article in the Bulletin recently stated that in January, 2016 the Bend UGB Steering Committee (USC) will receive a final recommendation from the Boundary Growth and Scenarios Technical Advisory Group (Boundary TAC), one of three such committees formed to advise Bend about how much, and where to grow. According to those I have spoken with, The Boundary TAC is struggling to decide how many acres of land on Bend's west side to bring into the UGB, and how many homes can be built on that land.

I am going to cut to the chase: Susan and I are very opposed to increase growth on Bend's westside, whether it is in the "middle" (close to Century Drive) or in the northwest (between Skyliners Road and Shevlin Park Road). We are particularly concerned about development that occurs close to the Deschutes National Forest.

Our reasons for opposing westside growth are two-fold: Growth to the west will not address Bend's critical need for affordable housing and building hundreds, even thousands of new homes will overwhelms the already overcrowded road infrastructure on the west side.

Today, the Bulletin published an article, "Deschutes County Saw a Drop in Home Ownership, Income". View it here: http://www.bendbulletin.com/business/3764071-151/story.html?referrer=fpblob. It states the obvious. According to numbers released by the U.S. Census Bureau, home ownership and income decreased in Deschutes County between 2010 and 2014 when compared to the previous five-year period, while the percentage of people living in poverty increased. Changes in median household income also decreased. Another Bulletin article, "Bend's Housing Challenge Hits the Middle" makes it even clearer. You don't have to live in poverty, or even be poor, to suffer from Bend's housing crisis. There just isn't enough housing to go around, even if a family is earning a decent income. http://www.bendbulletin.com/localstate/3661297-151/bends-housing-challenge-hits-the-middle.

I'll cite another Bulletin article to make my point: In April 2015, the paper published "East vs. West?, which discussed how life in Bend is dominated by those living west of the Parkway. In it, Victor Chudowsky, UGB Steering Committee Chair is quoted as saying, "After being in office for two years, it is true you start to see the same faces. By a rough guess, I'd say there are about 100 people in Bend who are very engaged and come to the meetings and serve on committees and lobby us for certain reasons. I think to alleviate that we could make more of an effort to reach out to people on the eastside." http://www.bendbulletin.com/localstate/3078773-151/east-vs-west

So true. As a physician working in an emergency room, I see a lot of poverty. There are very few low income or sub-poverty-line citizens who have the time to learn

about, let alone participate in (or have the connections needed to be considered for) policy forums such as the ones you serve on. The poor are not a recognized constituency, and lack the status and voice to advocate for themselves. That means that we (or in this case you, Bend's policy-makers) ought to give them a hand. Being poor isn't a crime or even evidence that someone has made bad choices. It can boil down to bad health or bad luck. And in the case of bad health or bad luck, it is very easy to lose a place to live. But, as the Bulletin's article makes plain, you don't even have to be poor to be faced with the nearly impossible task of finding an affordable place to live if you lose the one you currently own, or are renting.

Adding houses (even condos) on Bend's westside is not going to address the crisis in affordability. Another Bulletin article makes that clear: http://www.bendbulletin.com/localstate/3582696-151/evaluating-possible-bend-ugbexpansions. In this article, "Andrew Parish, a planner from the Angelo Planning Group, noted that Scenario No. 2 would result in relatively cheaper single-family homes being built...based on the fact that the scenario called for more new developments on the city's east side rather than on the west side, where housing costs are higher today." The article continues, "Some advisers questioned both the methodology and importance of measuring housing costs.

I vote to minimize (if possible eliminate) more growth on Bend's westside until we have achieved a better balance between the affordability/availability of housing for Bend's middle and lower income level citizens. I favor growth to the northeast and southeast, particularly if landowners who own parcels in those areas can get together and agree to master plan their land. I think that those looking to buy high-end housing can take care of themselves. Thank you for considering my comments and I wish you all the best in completing this contentious, but very important UGB expansion in a way that reflects the needs of all Bend's citizens.

Sincerely,

Joshua Cook, DO
61092 River Bluff Trail
Bend, OR 97702

Bat Management Plan for the Stevens Road Tract, Bend, Oregon, with emphasis on Townsend's big-eared bats (*Corynorhinus townsendii*)

Prepared by Matt Skeels
of the Oregon High Desert Grotto

December 7th, 2015

Executive Summary

The State of Oregon requires a bat mitigation plan to move forward with planning and development on the Stevens Road Tract (SRT) located near Bend, Oregon. This mitigation plan will fulfill the State of Oregon's requirement for a management plan of the significant bat resources located within the eight caves of the Stevens Road Tract. This requirement was previously outlined during the land transfer from the Bureau of Land Management to the Department of State Lands and originates from the Federal Cave Resources Protection Act of 1988.

Overview

The goal of this plan is to secure and maintain existing bat habitat on site, as well as to accommodate for bat population and habitat changes over time. Emphasis on Townsend's big-eared bat management is the highest priority as they are listed as a sensitive, or a species of concern with the U.S. Fish and Wildlife Service.

Section 1 of this plan outlines specific *Standards and Guidelines* for the SRT. These guidelines will be applied and followed for all eight caves and the encompassing SRT land parcel. These guidelines encompass activities such as overall management of the SRT and the caves as it pertains to bats, bat monitoring, and fire and ecosystem management.

In Section 2, *Cave Classifications* describe specific management strategies for each of the eight caves. Each cave will have its own class and be managed by that classification in conjunction with the general Standards and Guidelines of Section 1. Classifications have been defined according to bat usage, specifically Townsend's big-eared bats.

In Section 3, ancillary management detail has been provided for each cave, as well as procedures on specific activities that will or may be performed on the SRT such as bat monitoring, disturbance mitigation, and restrictive barrier construction. Additional recommendations on SRT cave management and site development have been included in this section.

The appendices include maps, locations, and buffer zones for each cave. Cave history, bat species information, and bat history of the caves has also been described in detail for future management use. Definitions have been provided for key terms in the management plan. In the event a bat gate needs to be constructed, an agency guide by Bat Conservation International has been linked to in the bibliography.

Recommendations

The land of the SRT will require a qualified bat expert to outline periods of bat hibernation and maternity roosting, to determine other mitigating factors (such as disease or disturbance) that may change a cave's management classification. This expert will implement proper bat monitoring. If needed, proper implementation of bat gate construction will be done by a qualified bat gate expert in coordination with a qualified bat expert.

50 foot buffer zones will be created to protect any cave with a maternity or hibernation roost. This buffer zone will prohibit human entry into the cave during roosting periods of the affected caves. Buffer zones will be clearly posted at each affected cave site instructing the general public of the closure. Failure to restrict human activity during these roosting periods can lead to abandonment of the cave site by bat species, particularly Townsend's big-eared bats.

Additional attention will be given to prescribed fire management on the SRT by a qualified expert.

Conclusion

With proper cave and bat management, the bat resources of the eight caves can be maintained and strengthened. Maternity and hibernation roosts of Townsend's big-eared bats supported by cave closures will be the highest priority in this mitigation effort. Properly prescribed fire periods will contribute to that management. Organized cooperation between involved agencies, adjacent landowners, and interested parties will help create an overall development plan for the SRT that benefits the caves and the bat resources found within into the forseeable future.

Contents

Page	
2	Executive Summary
3	Contents
4	Section 1 - Bat Mitigation Plan Standards and Guidelines
7	Section 2 - Cave Classifications
11	Section 3 - Further Management Detail and Recommendations
16	Section 4 - Appendices:
17	- Appendix A: Stevens Road Tract Area Cave Location Map
18	- Appendix B: 50 Foot Buffer Zone Boundary Maps
21	- Appendix C: Cave Site Description and History
25	- Appendix D: Stevens Road Tract Area Cave Maps
34	- Appendix E: Stevens Road Tract Bat Species information
38	- Appendix F: Bat use History in the Horse System with Special Attention to the Stevens Road Tract
43	- Appendix G: Winter Bat Survey Maps
46	- Appendix H: Definitions
47	- Appendix I: Bibliography

Cover page:
Photo of a Townsend's big-eared bat maternity cluster
in a cave of the Horse Lava Tube System.

Section 1:
Bat Mitigation Plan
Standards and Guidelines

Introduction

The Stevens Road Tract (SRT) contains 8 lava tube caves within its boundaries. Standards and guidelines will be outlined for the Stevens Road Tract area as applied to bat use in caves. Each of the 8 caves will also be given a class (see Section 2). These classifications are designed to benefit bats that are known to use the caves (see Appendix F for bat species of the region). Each classification will have further guidelines for managing and monitoring bat use (see Sections 2 and 3).

Goal

The goal of these management guidelines is to identify and protect existing or potential Townsend's big-eared bat habitat in the 8 caves of the Stevens Road Tract. Encouraging stewardship of the caves, proper caving/spelunking etiquette, and educating the public in general about these caves, will lead to clean and healthy caves that directly benefit and encourage bat use.

Standards and Guidelines

The following standards and guidelines will be followed:

Management

M1 - *Class*: Caves in the Stevens Road Tract will be each be given a "class" and be managed according to the specifications in Section 2: Cave Classifications. A qualified bat expert may reclassify any cave based on disturbance, bat usage, or other mitigating factors; see Disturbances subsection in Section 3. If no class exists that fits current needs, a new class may be created by that expert. New classes should resemble current classifications and specify public visitation, closures, monitoring periods, and buffer zones.

M2 - *Monitoring*: Caves within the Stevens Road Tract will be monitored for bat use with emphasis on Townsend's big-eared bat use.

M3 - *Periods*: Hibernation and maternity periods for Townsend's big-eared bats will be defined by a qualified expert as needed. These periods will define closure dates. Periods may vary dependent upon climate, disease, or other factors.

M4 - *Buffer Zones*: Only those caves recognized as a Townsend's big-eared bat hibernaculum or maternity roost will have a 50 foot buffer zone (see Class 2 exception). All buffer zones will be aligned with the cave entrance coinciding with the middle of that cave passage. Buffer zones will be adequately and visibly marked with signs or by other means to inform the public of closures and to restrict entry during those periods.

M5 - *Disturbance*: Disturbance to Townsend's big-eared bat roosts shall be greatly diminished or eliminated when possible. If a qualified expert determines that disturbance to Townsend's big-eared bat roosts requires further mitigation efforts, those disturbances will be monitored for assessment and evaluation. Based on that evaluation, further mitigation strategies may be employed; see Disturbances subsection in Section 3.

M6 - *Cooperation*: City, state, federal, private, other management agencies, and local cave enthusiasts will work cooperatively with adjacent landowners to identify and protect the needs of the caves and bats within the Stevens Road Tract. Educational media is encouraged, especially at cave sites, informing visitors about educational values of the bats and caves as well as on proper etiquette.

M7 - *Miscellaneous*: Mitigation efforts will include other efforts when possible, such as public education and outreach, law enforcement, and visitor use management. Visitor use management should be coordinated with local cave enthusiasts such as a Grotto.

Bat Monitoring

B1 - *Who*: Monitoring will be conducted by a qualified bat expert, such as a bat biologist, who is capable of identifying Townsend's big-eared bats and distinguishing them from other bat species.

B2 - *When*: Monitoring will occur when Townsend's big-eared bat hibernation or maternity colonies are present. Hibernation monitoring should occur once, in the middle of hibernation. Maternity monitoring should occur once, 2 to 3 weeks prior to parturition.

B3 - *Frequency*: Frequency of monitoring will be determined by cave class. If possible, monitoring will occur on, or near, monitoring dates of previous years. All cave monitoring will be executed within the same day to avoid tally duplications.

B4 - *Ancillary monitoring*: Additional monitoring of caves for Townsend's big-eared bats may be done if usage has increased. The need for additional monitoring will be determined by a qualified expert. Additional monitoring will end when no longer necessary.

B5 - *Handling*: A qualified expert will determine if mist-netting, trapping, or direct handling of Townsend's big-eared bats is necessary but should be avoided if possible.

B6 - *Records*: Records of monitoring will be kept detailing species, population counts, roost type, and date of monitoring. Records will inform cave classification is accurate and up to date.

Fire and Ecosystem Management

F1 - *Fire dates*: Prescribed fires or burns within the Stevens Road Tract area should be limited between September 1st and September 30th. This will minimize negative impacts to maternity colonies and hibernacula.

F2 - *Fire perimeters*: Prescribed fires or burning of any kind shall not be permitted in, or within, 250 to 1000 feet of any known maternity or hibernation colony. When winds would carry the smoke away from the colonies, the 250 ft. perimeter will be observed. When winds would carry the smoke toward the colonies, the 1000 ft. perimeter will be observed. Prescribed fires or burns shall be permitted 250 ft. away from any non-maternity or non-hibernation roost and only on days when winds would carry smoke away from the cave/s as long as it does not affect maternity or hibernation colonies of other

nearby caves in the SRT.

F3 - *Ecosystem*: Roosts of Townsend's big-eared bats shall have their ecosystem maintained or improved. The quality of the ecosystem at Stevens Road Tract will be determined by a qualified bat expert and environment changes authorized by that expert.

F4 - *Bat Houses*: Installing artificial bat houses could promote species population growth. A qualified bat expert will determine if they're an asset and the measures needed to make them as successful as possible.

F5 - Gates: A qualified bat expert will determine the necessity, or lack thereof, for installing a bat gate, or any restrictive barrier, inside the cave or outside within 50 feet of the cave entrance. Monitoring will be done for any installed gate/barrier for effectiveness. If the gate has failed to accomplish its intended purpose, it will be removed expeditiously. See Disturbances in Section 3 for further detail.

Section 2:
Cave Classifications

Initial Classes

The following classification list represents the initial classification for each cave at time of publication. These classifications represent a starting point for this mitigation plan. Caves may be reclassified moving forward from publication date. Each cave will be managed according to its class.

Class 1 caves: Stevens, Vulture, Braille, Three Pines, and Williams'
Class 2 caves: Garbage Cave no. 1
Class 3 caves: Davenport, Garbage Cave no. 2
Class 4 caves: no caves had this classification

Class Descriptions and Management Specifics

Classes will be defined with detailed management requirements. For protocols on proper monitoring and other miscellanea mentioned herein, see Section 3.

Class 1: Caves with Little or No Bat Use

Definition of a Class 1 cave
A Class 1 cave is any cave within the Stevens Road Tract that has no known long term bat use. Bat usage in a Class 1 cave has been reported to be nearly or completely nonexistent during the calendar year. Bats are not known to roost throughout the entire non-hibernation period in a Class 1 cave. Non-Townsend's bats may utilize the cave for hibernation or other purposes but are not considered to be species of concern. Male Townsend's bats may temporarily use the cave as a day or night roost, but not more than two consecutive weeks.

Management Objective for a Class 1 cave
The objective for a Class 1 cave is to monitor every other year for winter hibernation and summer maternity use in the event that Townsend's big-eared bats begin using the cave.

Management Guidelines
Any cave designated Class 1 will be treated as a non-sensitive site. No buffer zones are required for a Class 1 cave. Information about a Class 1 cave may be shared with the public. Gating a Class 1 cave is not necessary.

Bat Monitoring
Class 1 caves will be monitored for bat use every other year. In the year a Class 1 cave is monitored, it will be once during prime hibernation periods and once again during prime maternity periods (2-3 weeks prior to parturition).

Public Visitation
The public can visit any Class 1 cave at any time during the calendar year within any regulated hours.

Class 2: Potential Hibernaculum Caves

Definition of a Class 2 cave
A Class 2 cave is any cave within the Stevens Road Tract where the potential is great for future Townsend's big-eared bat hibernacula use and is dependent upon restoration of the cave entrance or interior to a more natural state. Bat usage in a Class 2 cave is identical to a Class 1 cave as bat use has been reported to be nearly or completely nonexistent during the calendar year. Bats are not known to roost throughout the entire non-hibernation period in a Class 2 cave. Non-Townsend's bats may utilize the cave for hibernation or other purposes but are not considered to be species of concern. Male Townsend's bats may temporarily use the cave as a day or night roost, but not more than two consecutive weeks.

Management Objective for a Class 2 cave
The objective for a Class 2 cave is to monitor every other year for winter hibernation and summer maternity use in the event that Townsend's big-eared bats begin using the cave. Special attention will be paid to restoration efforts at the cave entrance or interior should they occur. If restoration efforts do occur, monitoring will change immediately but with no monitoring overlap. Monitoring will then be done according to a four year observation period (see *Bat Monitoring* below).

Management Guidelines
Any cave designated Class 2 will be treated as a non-sensitive site. No buffer zone is initially required for a Class 2 cave. Information about a Class 2 cave may be shared with the public. Gating a Class 2 cave is not necessary. If restoration of the cave entrance or interior occurs, the cave will be closed to access during hibernation and maternity periods and a buffer zone enacted. A four year "observation period" of monitoring will begin. After the four year observation period has elapsed the cave will undergo reclassification. If reclassification results in Class 2 again, the cave will return to pre-observation period status (i.e. monitoring every other year and buffer zones removed).

Bat Monitoring
Class 2 caves will be monitored for bat use every other year. In the year a Class 2 cave is monitored, it will be once during prime hibernation periods and once again during prime maternity periods (2-3 weeks prior to parturition). If a four year observation period is in place, monitoring will then consist of winter hibernation and summer maternity monitoring for four consecutive years.

Public Visitation
The public can visit any Class 2 cave at any time during the calendar year within any regulated hours unless a four year observation period is enacted. If a four year observation period is in place, a 50 foot buffer zone will be enacted during hibernation and maternity periods. The public will be restricted from entering the buffer zone. This buffer zone will be marked with adequate signage informing the public why the cave closure is happening and what they can do to help the bats.

Class 3: Hibernaculum Caves

Definition of a Class 3 cave
A Class 3 cave is any cave within the Stevens Road Tract that currently has Townsend's big-eared bat hibernation or has within the past four years. Bats are not known to roost throughout the entire non-hibernation period in a single Class 3 cave. Non-Townsend's bats may utilize the cave for hibernation or other purposes but are not considered to be species of concern.

Management Objective for a Class 3 cave
The objective for Class 3 caves is to monitor the caves every other year for winter hibernation use by Townsend's big-eared bats. Summer maternity use will also be monitored in the event that Townsend's big-eared bats begin using the cave for that purpose. Human disturbance to the cave environment will be minimized as much as possible in the event that Townsend's big-eared bats begin using the cave more than two consecutive weeks out of the year during non-hibernation periods.

Management Guidelines
Any cave designated as Class 3 will be treated as a sensitive site during hibernation periods. A buffer zone will be enacted during the hibernation period. A buffer zone may also be enacted if Townsend's bat use continues throughout the year, for more than two consecutive weeks at a time. Information about a Class 3 cave may be shared with the public. Gating a Class 3 cave is not recommended except as a last resort.

Bat Monitoring
Class 3 caves will be visited every other year to monitor any bat use. The year that a Class 3 cave is to be monitored for bat use, it will occur once during prime hibernation periods and once again during prime maternity periods (2-3 weeks prior to parturition).

Public Visitation
The public can visit any Class 3 cave during non-hibernation periods within any regulated hours so long as no Townsend's bat use is occurring for more than two consecutive weeks. The public will not enter the cave during the hibernation period. During the hibernation period, a 50 foot buffer zone will be enacted. The public will be restricted from entering the buffer zone. This buffer zone will be marked with adequate signage informing the public why the cave closure is enacted and what they can do to help the hibernating bats.

Class 4: Maternity Caves

Definition of a Class 4 cave
A Class 4 cave is any cave within the Stevens Road Tract that has documented Townsend's big-eared bat maternity use currently or within the past four years. Hibernation may also be occurring by Townsend's big-eared bats or other bats. Non-Townsend's bats may utilize the cave for hibernation or other purposes but are not considered to be species of concern.

Management Objective for a Class 4 cave
The objective for Class 4 caves is to monitor the cave for Townsend's bat use with priority on maternity use. Winter hibernation use will also be monitored in the event that Townsend's big-eared bats use the cave for that purpose. A 50 foot buffer zone will be enacted in an effort to protect the maternity colony inside the Class 4 cave. Gating a Class 4 cave is not recommended except as a last resort.

Management Guidelines
Any cave designated as Class 4 will be treated as a sensitive site and a buffer zone will be enacted during maternity periods. If Townsend's bat hibernation is occurring, a buffer zone will be enacted during that period as well. Information sharing about a Class 4 cave should be limited to parties on a need to know basis.

Bat Monitoring

Class 4 caves will be visited every other year to monitor bat use. The year that a Class 4 cave is to be monitored for bat use, it will occur once during prime hibernation periods and once again during prime maternity periods (2-3 weeks prior to parturition).

Public Visitation

The public may not visit or enter a Class 4 cave starting 2 weeks prior to the onset of the maternity period. If hibernation of Townsend's bats is also occurring, the cave will not be visited or entered during the hibernation period. A buffer zone will be enacted 2 weeks prior to the onset of the maternity period and last until that maternity period ends. A buffer zone will also be enacted again during hibernation periods if hibernation by Townsend's bats is occurring. Adequate signage informing the public of the cave closure is required. The signs will instruct the public on how to help protect the bats.

Section 3:
Further Management Detail and Recommendations

This section will discuss in further detail some of the requirements described in Section 1 and classifications in Section 2. It will also include specific cave information and final recommendations on the Stevens Road Tract and other management strategies for the caves.

Additional Management Protocol

Monitoring

A qualified bat expert should determine the beginning and ending dates for Townsend's bat hibernation and maternity colonies on a yearly basis. Generally for the central Oregon region, hibernation periods will begin around October 1st and end April 30th. Similarly, maternity periods will generally begin around April 15th and end September 30th. Both these periods may vary over time as climate, disease, and other factors change.

With these periods established, a qualified bat expert will set monitoring dates as outlined for each cave by its class. Monitoring procedures may change over time as science and strategies improve. Generally, hibernation monitoring will occur during prime daylight hours, and maternity monitoring will occur during prime evening hours. The methodology of monitoring will not be discussed in detail here, however B6 of the Standards and Guidelines (Section 1) requires that monitoring will, at a minimum, keep track of species type (known or unknown), population count, roost type (if any), and date of monitoring. Synchronized monitoring of caves should be done so that duplication of population counts is not a factor. All other procedures for monitoring will be left to the discretion of the qualified bat expert.

Some bat experts may be unfamiliar with cave interiors. Preferably, when visiting a cave, any person should have adequate gear to be safe and efficient. This includes at least three sources of light, a protective helmet, gloves, knee pads, durable boots, and adequate clothing to remain comfortably warm in the event a protracted stay inside a cave is necessary. In case of emergency, a small first-aid kit should be carried at all times. If possible, another person should accommodate the expert on any visitation to the caves and will allow for training opportunities. All participants monitoring in caves should be aware of potential claustrophobia effects.

Disturbances

In Section 1, the Standards and Guidelines M1 and M5 refer to disturbances in caves. M1 refers to reclassification based on disturbances. A qualified bat expert may reclassify a cave at any time if disturbances are observed. These disturbances should be monitored and evaluated before reclassification occurs if possible.

Structural or ancillary developments to a cave are also disturbances and will be monitored and evaluated by a qualified expert. Any development should have minimal or no impact on bat use. Environmental compliance procedures must be completed prior to installation or relocation of any preexisting development. Developments to a cave must be maintained after completion.

Other disturbances exist and are too many to list. Some examples of disturbances include human visitation into a cave or buffer zone, gate or restrictive barriers, restoration of a cave to its natural state, smoke, domesticated pets, illegal dumping, vandalism, defacement, depositing garbage, change in cave air ventilation, loud noises, vibrations, artificial light, disease, acts of mother nature, and many more. Disturbances must be evaluated for their impact to the cave environment and any bat inhabitants.

Restrictive Barriers (e.g. Bat Gates)

If a disturbance continues and becomes impossible to prevent, constructing a restrictive barrier, such as a bat gate, may be done in or near a cave, so long as it is agreed upon by a qualified bat expert. Any restrictive barrier will be built with the intention that it encourages or maintains use of the cave by Townsend's big-eared bats for hibernation or maternity use. Construction of a restrictive barrier should be considered a last resort and an unfavorable option. Any restrictive barrier that has failed its intended function, either in part or whole, or is restrictive to Townsend's big-eared bat use, shall be fully removed within two years of its completed construction. Proper bat gate management will require annual funding for monitoring and repairs to be successful.

Management Recommendations

Bat Gates

Any bat gate or other restrictive barrier intended to help bats is strongly discouraged from being constructed and should only be implemented as a last option. Bat gates are expensive to install, difficult to maintain, and are not 100% effective. By comparison, all four gated caves of China Hat Road in the nearby Deschutes National Forest have been breached in recent times. Improper installation can lead to undesirable outcomes and lost gate keys can hinder access for monitoring.
Any restrictive barrier can be met with disdain and become targets of public dissatisfaction. Restrictive barriers are also a blight to the natural beauty of the landscape which will have a negative impact on property values. For more information, contact a trained expert, experienced in designing and constructing bat gates in a wide variety of situations such as Jim Kennedy of Bat Conservation International (jim@ka-ug.com). A gating guide has been supplied in the bibliography appendix under Fant, J.

Visibility and Development

Caves are environments that are invisible from the surface. Any development on the Stevens Road Tract should not increase invisibility of cave entrances. It is recommended that development be brought as close to cave entrances and passages without jeopardizing their structural integrity. The caves should be fully integrated into the city setting. Unfortunately, the natural semi-desert landscape for these caves has been forfeited long ago. The desired landscape is where a cave entrance is highly visible to car and pedestrian traffic, greatly illuminated by street lamps, and overlooked by several buildings within very close proximity, but not so close as to further obscure the cave entrance/s. The caves should not "feel" or be thought of as a hidden place to escape to. They should "feel" as if they are right out in the open and visible to all. The best policy for managing the caves and bats is by eliminating undesirable activities which gravitate toward dark and secretive locales. By decreasing or eliminating the conditions that foster them, you will give the caves and the bats the best chance for survival.

The Redmond Caves of Redmond, Oregon represent an opportunity to review a similar set of circumstances that will be increasingly seen at the caves of the Stevens Road Tract. The Redmond Caves are a group of 5 densely clustered lava tubes in a natural park setting within city limits. Most of the caves are not highly visible to car or pedestrian traffic, are not illuminated at night, and are not properly monitored. They remain as invisible landscapes holding desperately to a natural setting that no longer exists.

Cave location secrecy

Cave location secrecy is not recommended for the caves of the Stevens Road Tract. Many cave management and bat management programs exercise cave location secrecy policies to protect caves and their natural resources. Most of these policies are enacted for caves residing in natural ecosystem settings commonly found on federal lands. The caves of the Stevens Road Tract haven't existed in a natural ecosystem for many decades and are completely surrounded by urban and rural development with more planned for the future. Their existence is already well known. The best strategy is teaching proper cave etiquette to the public and by creating stewards out of adjacent landowners and the rest of the community. Working toward a mutual goal outlined in this mitigation plan will benefit everyone.

Stewardship

There is not one entity, whether a government agency, cave enthusiast, bat biologist, or neighboring landowner that can singlehandedly protect the caves of the Stevens Road Tract. It will take cooperation between all parties to steer the caves toward a future that is beneficial to the community as well as the bats calling it home. It is recommended that a local interest group be created with participation of all parties.

Specific Cave Detail

Garbage Cave no. 1
This cave exists in an unnatural state with garbage and other yard debris choking the entrance. In 1970, Ronald Greeley surveyed the cave and found the entrance to be more open and contained less garbage and other debris. It's very likely the entrance was part of a deeper collapse trench that is no longer visible. The cave should be restored as much as possible to this natural state. This may change the interior microclimate of the cave to more favorable conditions for bats. Currently, Garbage Cave no. 1 is the most humid cave on the Stevens Road Tract which is generally unfavorable for Townsend's bat hibernation needs. If the entrance to this cave is restored to a more natural state, the physical conditions within the cave should be reevaluated to see if bats have adopted the cave as a hibernaculum or maternity roost. It is also noted this cave did not receive an archaeological evaluation and should be performed after any natural restoration performed on the cave entrance area.

Garbage Cave no. 2
This cave exists in an unnatural state with garbage and other yard debris choking the entrance. Currently, the cave is known to be a Townsend's bat hibernaculum, though to a lesser degree than nearby Davenport Cave. It is likely the entrance was part of a collapse trench that is no longer visible. The entrance should be restored to a natural state because currently it's a health hazard.
The removal of this garbage will undoubtedly change the interior microclimate of the cave and may become unsuitable for bat hibernation. It is recommended after entrance reconstruction is completed that rocks and boulders are placed in the entrance so as to reconstruct the current entrance configuration (without damaging the cave), while at the same time allowing for an easier accessibility into the

cave for human entry. This cave also did not receive an archaeological evaluation and should be performed during any natural restoration to cave.

Davenport Cave
The entrance configuration to this cave is likely responsible for the suitability of the cave as a hibernaculum for the Townsend's bats documented there. Though the entrance slope appears to be unnatural, it doesn't appear to have any superficial garbage. The entrance configuration of the cave should be maintained as much as possible, though small alterations could be made for easier accessibility.

Three Pines Cave
The entrance configuration to this cave is not natural. Small amounts of garbage and debris can be seen mixed in the sloping entrance. Any garbage removal should be replaced with natural rock and dirt to reconstruct the entrance slope to its current state. It's unlikely a fully restoration can be performed at the entrance or surrounding area. Extensive graffiti defacement would need to be removed from both the exterior and interior. This cave may receive too much light in its interior to be a favorable bat hibernaculum.

Williams' Cave
This cave is in relatively great condition and close to a natural state. Recent acts of graffiti defacement to the exterior entrance would need to be removed. Non-Townsend's bat use has been documented in the cave, but is inconsistent from year to year.

Braille Cave
This cave, as a whole, is in relatively great condition and close to a natural state. No bat use has been recorded. It's likely this cave is unfavorable for bat use due to low ceiling heights. It's also noted this cave did not receive an archaeological evaluation.

Vulture Cave
The entrance to this cave is in relatively great condition and close to a natural state despite recent graffiti and other vandalism to the cave. The interior of the cave needs extensive restoration.
The cave has been heavily pothunted by illegal artifact hunters and was also studied by an archaeological team in 1996. The floor of the cave is now left in a hummocky state with unnatural berms and depressions. Recent camp sites have been set up in the cave and camp fires have blackened the ceiling. During the winter bat survey of 2015, the scent of smoke was still present in the cave. In its current state, the cave will never be preferred as a bat hibernation or maternity site. Restoring the floors to a more level state should be done. Graffiti removal techniques may also work on the blackened ceilings and walls, but technical advice for that technique must be sought from an appropriate specialist. In summary, the cave may be too small in too many ways to be preferable for bat use as the cave has no true dark zone and the ceilings are low and within reach of predators.

Stevens Cave
This is probably the best known and recognized cave of the Stevens Road Tract due to its visibility from the nearby road. The cave has been used repeatedly by the general public, sometimes in unfavorable ways. Recently, the cave had three camp tents inside and a campfire circle. Campfire circles are common in the cave and the ceiling has been coated black from smoke. Graffiti removal techniques may also work on the blackened ceilings and walls, but technical advice on that technique must be sought from an appropriate specialist. This cave may have never been suitable for bat hibernation.

Cave Name Changes

Name changes for many of the caves are recommended to improve expectations. Titles like “Garbage Cave” and “Davenport Cave” are relics associated with historical garbage disposal. Continued use of these names while trying to maintain a clean and natural cave environment would complicate management of the caves. Surnames of local and historical caving figures associated with the SRT caves would suffice. Each name recommendation is listed below:

Garbage Cave no. 1 → Greeley Cave
Named after the deceased Ronald Greeley who studied the SRT area for NASA during the 1970s. Ronald Greeley was one of the seminal investigators of the Horse System and named many of the caves in the Bend and central Oregon area.

Garbage Cave no. 2 → Brogan Cave
Named after the deceased Phil F. Brogan who pioneered the exploration of Lavacicle Cave with Phil Coyner and Jim Anderson. Explored other caves in central Oregon in addition to authoring “*East of the Cascades*.” Brogan was greatly familiar with the caves “east of Bend.”

Davenport Cave → Larson Cave
Named after recently deceased Charles V. Larson who studied and mapped many of the caves of Oregon and who gave Davenport Cave its current moniker. Larson’s influence on the caving community is felt throughout the states of Washington and Oregon. Dozens of cavers thank him for spawning their interest in caving, myself included.

Three Pines → Coyner Cave
Named after the deceased Phil Coyner who explored the caves of the SRT with his friend Jim Anderson during the 1960s. It’s likely many, or all of the trees, after which Three Pines is named, will be cut down for development.

Williams’ Cave → Williams Cave
The survey done by Stephen Wells and Sherry Williams shows an apostrophe. Since this cave has no previous documentation, it’s recommended to remove the apostrophe and keep the name.

Braille Cave
No change recommended. The original name of “My Cave I” was given by local caver Dennis Welbourn who visited many of the Horse System caves in the 1970s. It was subsequently renamed Braille Cave by Matt Skeels to remove moniker ownership.

Vulture Cave → Anderson Cave
Possible name change recommendation. The original “Three Vulture Cave” moniker was confusing, as it lacked plurality. The origins behind the name remain obscure and the caving community has since truncated the name. If the decision is made for renaming, it should be named Anderson Cave after naturalist Jim Anderson, companion and fellow cave explorer to the aforementioned Phil Coyner.

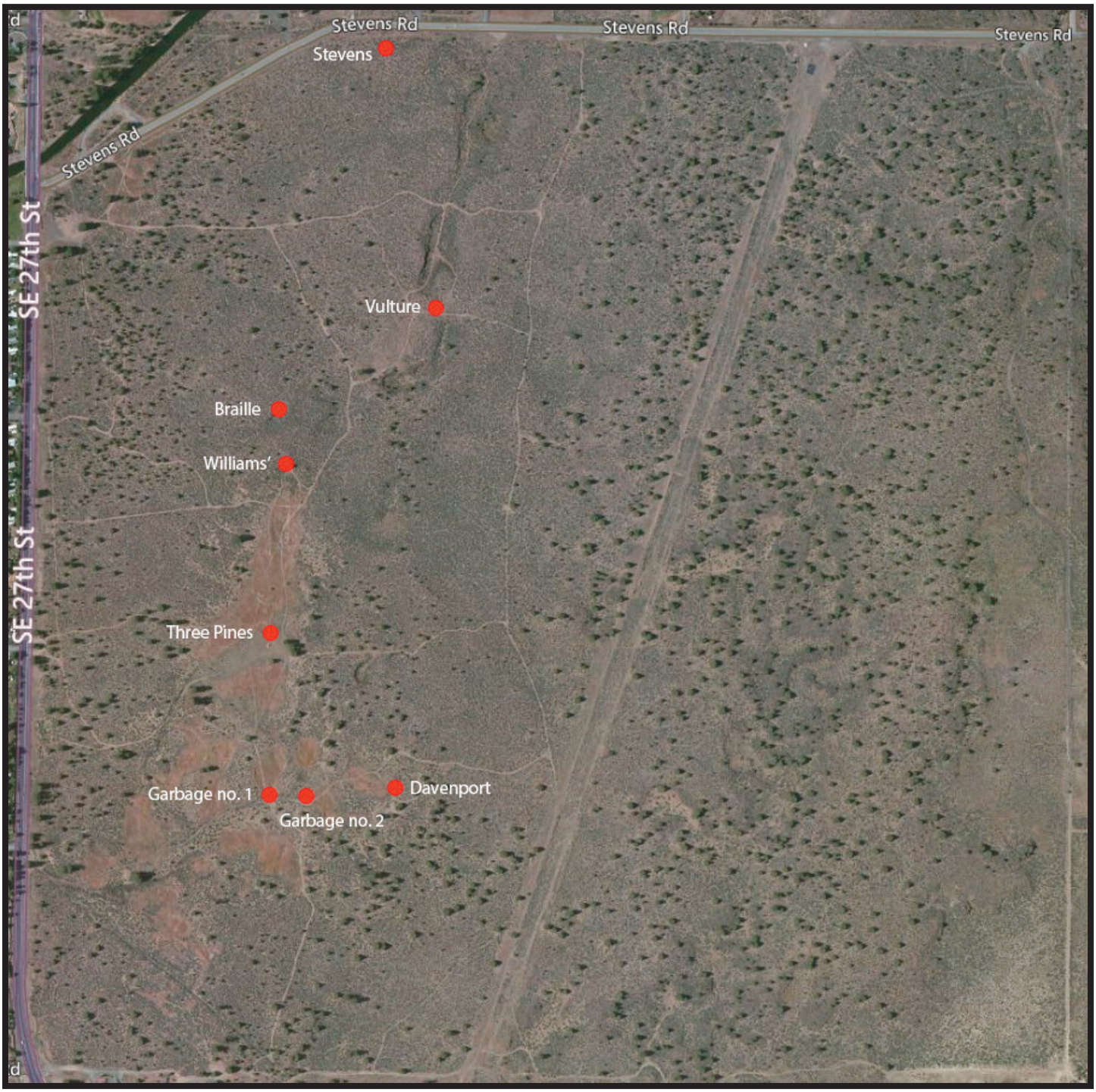
Stevens Cave
No change recommended. The majority of cave literature refers to it as “Stevens Road Cave,” but it was officially renamed to Stevens Cave to remove locational clues, a practice upheld by the caving community to aid in cave management. The current name matches the theme of other recommended name changes.

Section 4. Appendices

Appendix A - Stevens Road Tract Area Cave Location Map
Appendix B - 50 Foot Buffer Zone Boundary Maps
Appendix C - Cave Site Description and History
Appendix D - Stevens Road Tract Area Cave Maps
Appendix E - Stevens Road Tract Bat Species Information
Appendix F - Bat Use History in the Horse System with Special Attention to the Stevens Road Tract
Appendix G - Winter Bat Survey Maps
Appendix H - Definitions
Appendix I - Bibliography

Appendix A:

Stevens Road Tract Area
Cave Location Map



- Cave entrance location

Appendix B:

50 Foot Buffer Zone Boundary Maps

In Appendix B four aerial photos have been edited depicting 50 foot buffer zones. These zones are placed directly above the central passage of the entrances to each cave. Each cave has had its interior passage outlined in white as if visible through the surface terrain.

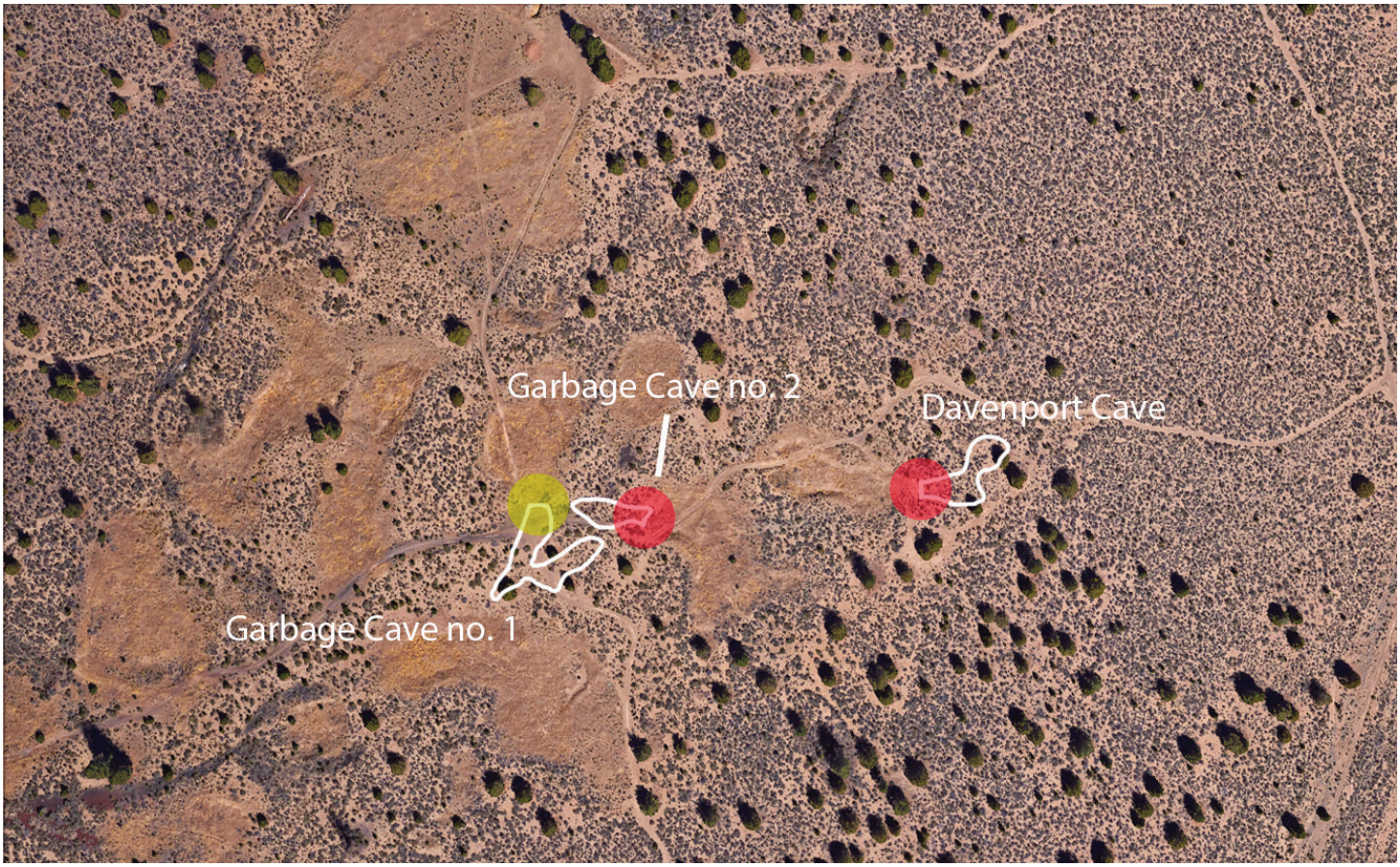
The area within these buffer zones represents zones of no sound disturbance and no permitted entry into the buffer zone during certain times of the year should contingencies require it. See Section 2 Cave Classifications for full details on which caves require buffer zones.

Green buffer zone - Green buffer zones represent Class 1 Caves that do not need buffer zones but have been depicted in the event these caves are reclassified.

Yellow buffer zone - Yellow buffer zones represent Class 2 Caves that do not need buffer zones but have been depicted in the event a four year observation period is enacted which requires a buffer zone.

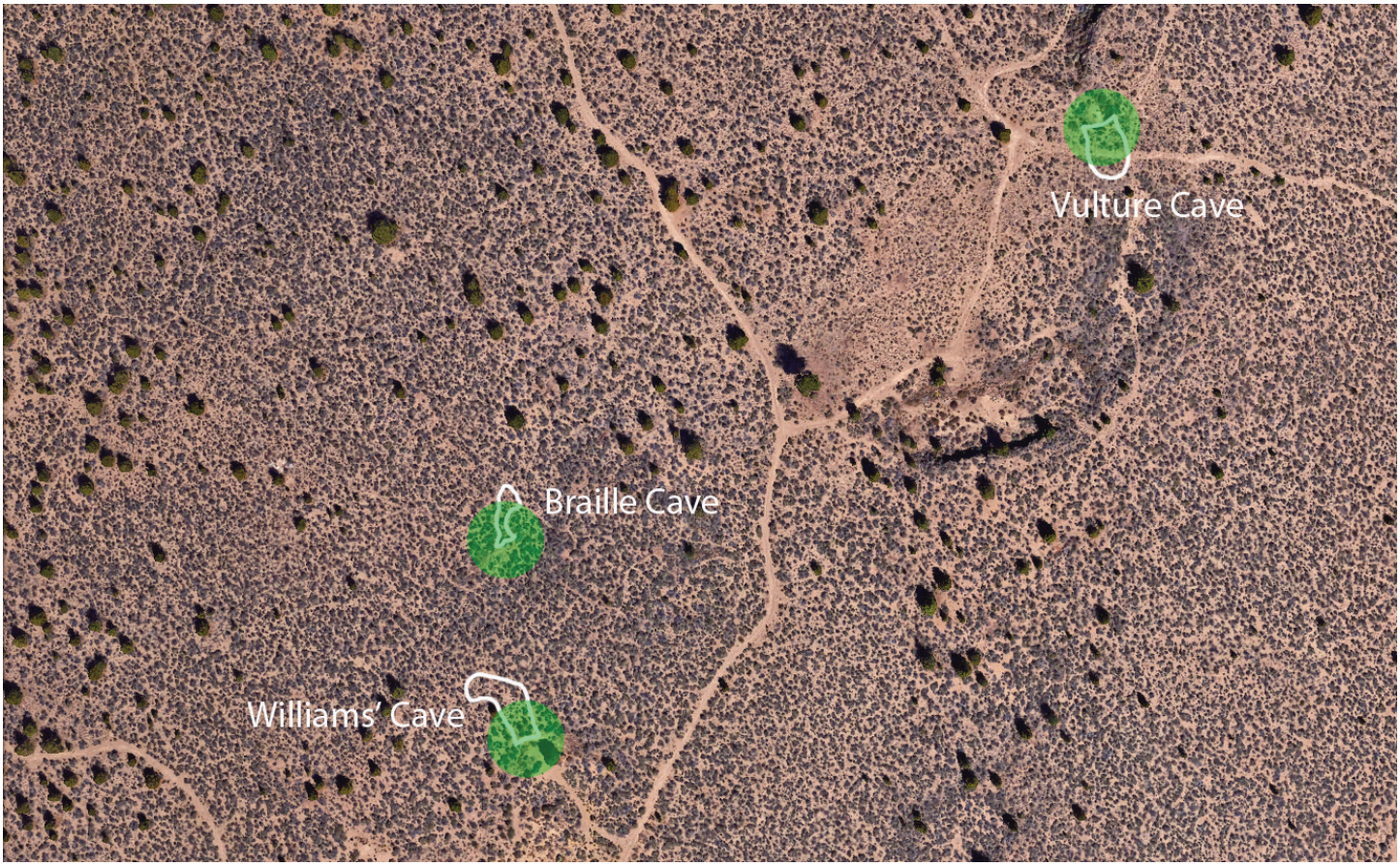
Red buffer zone - Red buffer zones represent Class 3 Caves that need buffer zones to limit sound disturbances by restricting entry into the buffer zone and the cave proper.

Any cave reclassified as Class 4 would have a 50 foot buffer zone and would be identical to a buffer zone depicted in the following aerial photos.



Above: Garbage Cave no. 1, no. 2 and Davenport Cave buffer zones.

Below: Three Pines Cave buffer zone.



Above: Williams', Braille and Vulture Cave buffer zones.

Below: Stevens Cave buffer zone.

Appendix C:
Cave Site Description and History

The Horse Lava Tube System

The caves of the Stevens Road Tract (SRT), also known as Section 11, are a part of the Horse Lava Tube System. The Horse Lava Tube System (HLTS) is a series of lava tubes originating on the far northern flank of Newberry Volcano in Deschutes County, Oregon. The HLTS is also a part of a larger series of geologic events that created what is collectively called the Lava Top Butte basalt. This basalt includes basalts from the Arnold Lava Tube System, the Badlands, and the Lava Top Butte Lava Tube System. The entire Lava Top Butte basalts, which includes the HLTS, have been dated to around 80,000 years old.

The vent for the Horse system erupted from a location in T18S R12E Section 26 located within Deschutes National Forest. During the active period of eruption, the lava flowed north into an ancient channel of the Deschutes River that occupied the area east of Bend and in the Redmond area at the Redmond Canyon. The lava flow now occupies the area immediately south of the city of Bend, east Bend proper, the adjacent areas east of Bend (such as the Bend airport), and north through the Pronghorn Resort, the Redmond Caves, the Redmond Canyon, and finally into the Crooked River Gorge by the unincorporated community of Crooked River Ranch. See Figure 1.

The caves of the HLTS vary in size and morphology and, depending on your definition of a cave, at least 122 have been identified. The majority of these caves are located in or near the city of Bend, with a small minority located at the Pronghorn resort and the Redmond Caves area north of Bend. Of the 122 known caves, approximately 59 are spatter cone caves located at the south end of Bend and in the Deschutes National Forest. Excluding the 11 caves of Pronghorn and Redmond, 52 lava tubes of varying sizes remain in and nearby the SRT mitigation area. This assessment does not account for other nearby caves including the 20 caves of the Arnold system, the 50 caves of the Lava Top Butte system, Skeleton Cave, Boyd Cave, Lava River Cave and many others, which are important in determining bat ranges of certain species.

The HLTS is positioned on the east side of Bend and was more or less untouched by man prior to their arrival in the late 19th century, omitting any native American usage which existed in limited areas of the HLTS. By the time bat use was the focus of any scientific studies, many of the caves of the HLTS were already greatly disturbed. There is no data on prehistoric bat use in the HLTS.

Stevens Road Tract

The SRT is roughly one square mile of land adjacent to the eastern city limits of Bend, located mostly south of Stevens Road and east of 27th St. Mixed reports on the total number of caves within the SRT have been filed over the years, with none being accurate or comprehensive except for those submitted by Matt Skeels in 2008. The caves are situated in an alignment that runs SSW to NNE (South-southwest to North-northeast), although a short, eastern-trending alignment is also present as an offshoot of the main branch starting at Garbage Cave no. 2. All of the caves are located west of the gas pipeline easement that bisects the SRT.

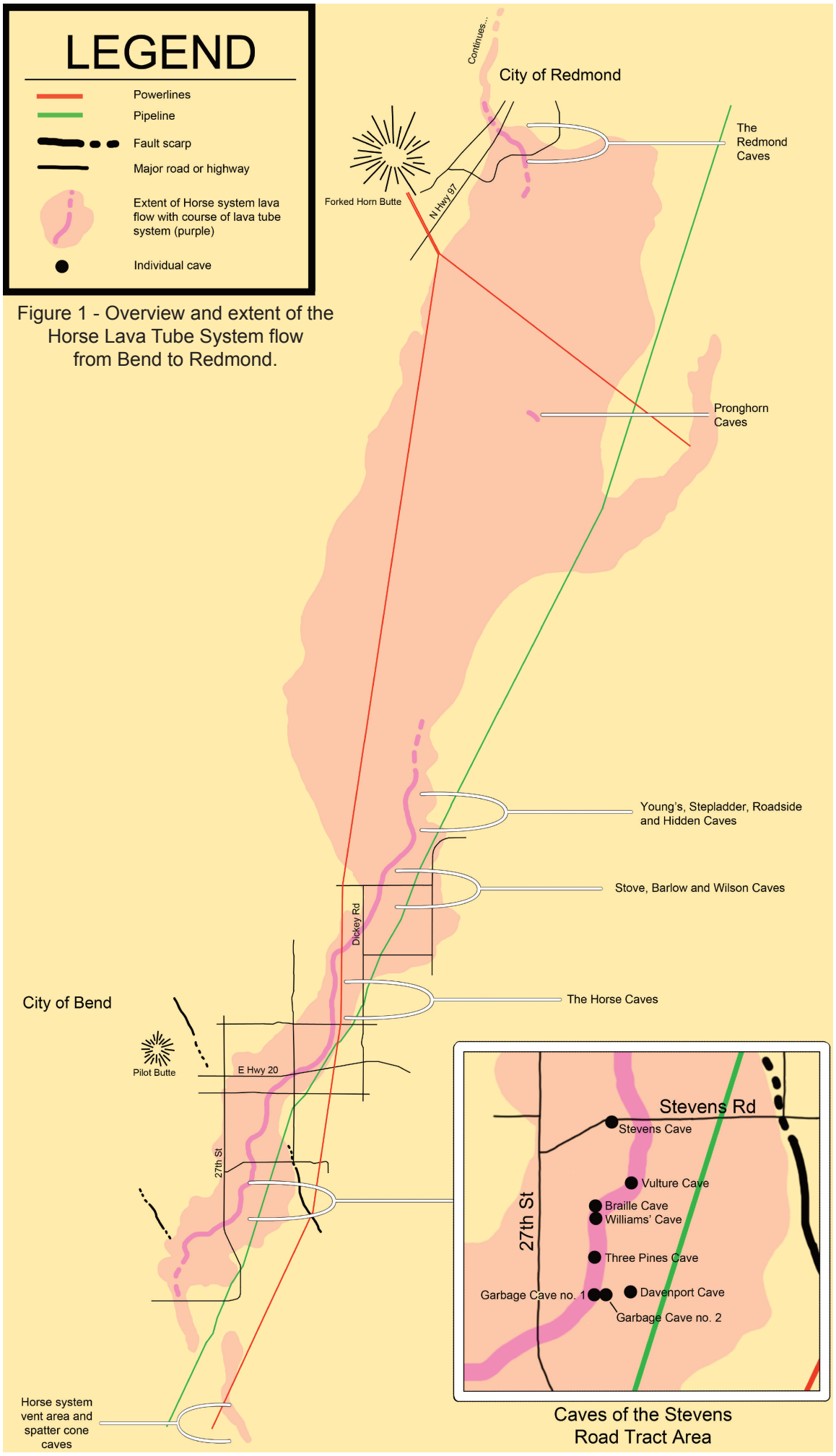


Figure 1 - Overview and extent of the Horse Lava Tube System flow from Bend to Redmond.

Caves of the Stevens Road Tract Area

Eight caves have been identified, mapped and inventoried in the SRT area. They are officially referred to as:

Garbage Cave no. 1
Garbage Cave no. 2
Davenport Cave
Three Pines Cave
Williams' Cave
Braille Cave
Vulture Cave
Stevens Cave

Various other aliases are known for the caves and are listed here to eliminate confusion and to acknowledge previous use in the event of future reference:

Garbage Cave no. 1: Garbage Cave, Garbage Caves
Garbage Cave no. 2: Garbage Cave, Garbage Caves, Dead Dog Cave
Davenport Cave: Garbage Cave no. 1, Garbage Cave no. 2
Three Pines Cave: Garbage Cave no. 2
Williams' Cave: Williams Cave
Braille Cave: My Cave I
Vulture Cave: Three Vulture Cave, Lava Pond Cave, Hobo Cave
Stevens Cave: Stevens Road Cave, Stephens Cave, Steven Roadside Cave

The most noteworthy of these aliases is of Davenport Cave originally being known as Garbage Cave no. 2 as first documented by Ronald Greeley of NASA in 1971. It has since been renamed by others, most notably Charles V. Larson who gave it the current moniker. Additionally, Vulture Cave has had variations in its name, starting out as Lava Pond Cave, then surveyed as Three Vulture Cave by the BLM, then renamed by BLM archaeologists as Hobo Cave, before settling on Vulture Cave by the caving community. It should be noted that another Hobo cave has been referred to as a completely separate talus cave in a collapse trench east of Braille Cave. This "Hobo Cave" is not a lava tube, and lacks characteristic properties to be considered a true cave and therefore will not be further acknowledged in this report.

Cave Characteristics

The 8 caves of the SRT make up some of the smallest caves of the HLTS in terms of length. Garbage Cave no. 1 is 355 feet long and nearly double the length of the next longest, the 195 foot long Davenport Cave. By contrast, Vulture Cave is the shortest at 65 feet long.

Cave passages in the SRT are fairly spacious, with most having walking passage, meaning you can easily stand up and walk around inside. Braille Cave is the most restrictive and difficult cave to explore with a small entrance, low crouching entrance room, and a middle passage traversable only by crawling on your belly. Williams' Cave is the second most restrictive with an average ceiling height around 4.5 feet.The most spacious cave is Garbage Cave no. 1 with the highest ceilings of any cave in the SRT.

Most of the caves have easy walking floors, meaning there are no obstacles to traverse, though a couple have substantial amounts of breakdown (piles of rock that have collected on the floor from the ceiling). Garbage Cave no. 1 had large amounts of boulders in both of its passages. Davenport Cave has one medium-sized pile of breakdown mid-passage. Williams' Cave is the only other cave with

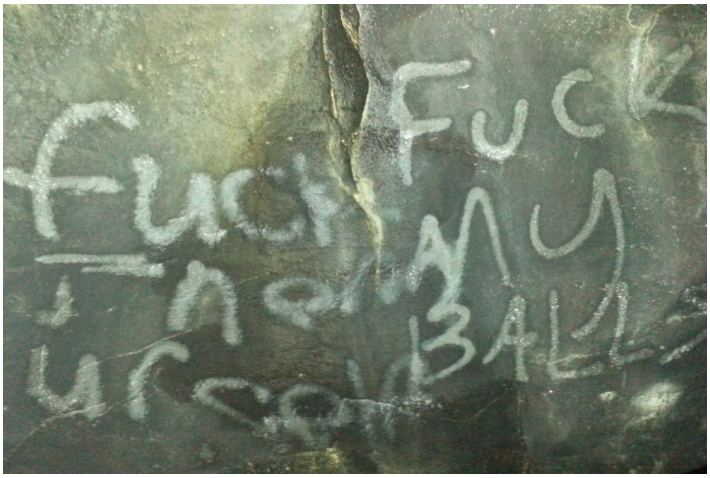
boulders, but most can by bypassed with no effort aside from crouching to avoid the ceiling.

Seven of the eight caves have single, linear passages. Garbage Cave no. 1 has parallelling passages making it the most complex cave in the SRT area. By central Oregon cave standards, however, Garbage Cave no. 1 is a fairly simple cave to explore, though its large amounts of breakdown require awareness of proper footing which can be challenging for the public (e.g. kids between the ages of 0 and 9, adults older than 40).

Until recently, and aside from their use as garbage disposal in the 1970s, the caves of the SRT have seen little defacement or vandalism from the public, with most examples being limited to Stevens Cave by proximity to the adjacent road. Starting in 2010, the caves started to receive an increased amount of traffic. Williams' and Three Pines Caves received their first examples of spray paint graffiti. Following that, Davenport and Vulture Caves also received graffiti. Use then increased two or three-fold amongst caves like Three Pines, Stevens, Vulture, and even Garbage Cave no. 1. Stevens, Vulture, and Three Pines have had tent sites and camp fire circles inside. Three Pines received more graffiti. Stevens, Vulture, Three Pines and Garbage Cave no. 1 all now contain modest amounts of garbage deposited within the last five years. See Figure 2.

Maps for each cave have been updated and are included in Appendix D.

Above: Interior of Vulture Cave - the cave had the largest amounts of modern garbage deposits.



Above: Graffiti found just inside the entrance to Three Pines Cave.

Above: Three tents (one on left in darkness) inside Stevens Cave.

Above: Interior of Garbage Cave no. 1 in the Lavacicle Room (see map in Appendix D).

Figure 2: Four examples of modern defacement and garbage disposal in select caves of the Stevens Road Tract area. Each picture was obtained on a visit to the area on 3/15/2015 during a bat hibernation survey.

Appendix D:

Stevens Road Tract Area
Cave Maps

Page 39. Garbage Cave no. 1

Page 40. Garbage Cave no. 2

Page 41. Davenport Cave

Page 42. Three Pines Cave

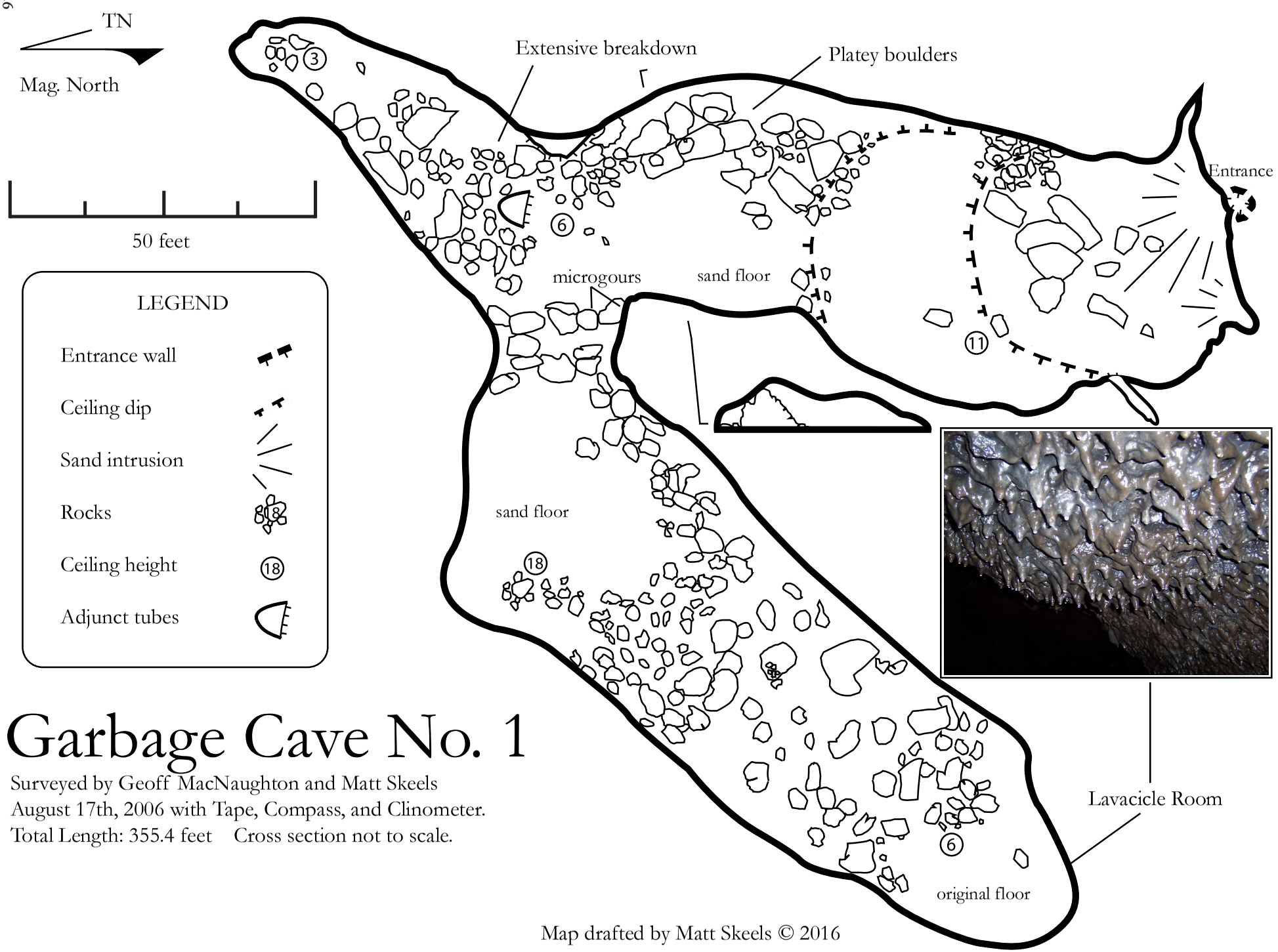
Page 43. Williams' Cave

Page 44. Braille Cave

Page 45. Vulture Cave

Page 46. Stevens Cave

These maps were updated from the Oregon Department of State Lands 2008 submissions.



Garbage Cave No. 1

Surveyed by Geoff MacNaughton and Matt Skeels
August 17th, 2006 with Tape, Compass, and Clinometer.
Total Length: 355.4 feet Cross section not to scale.

Map drafted by Matt Skeels © 2016

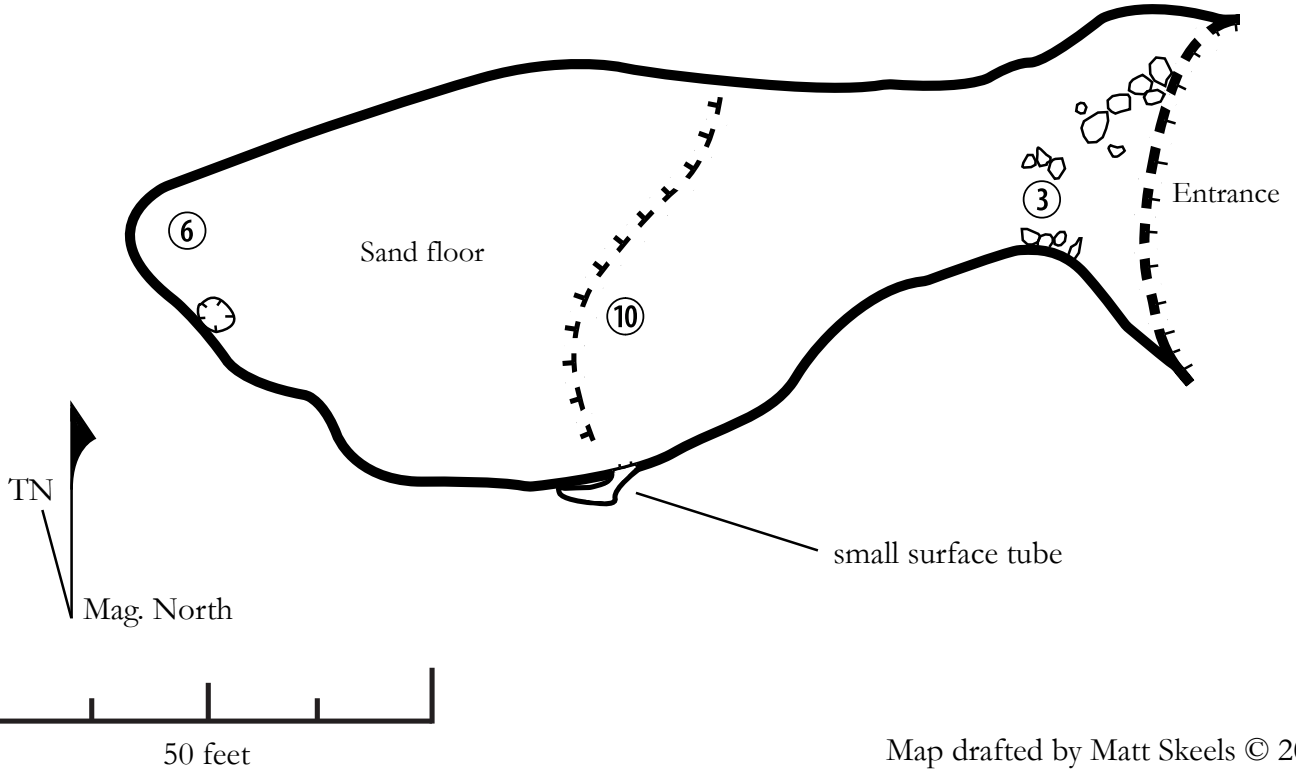
Garbage Cave no. 2

Surveyed by Geoff MacNaughton and Matt Skeels
August 17th, 2006 with Tape, Compass, and Clinometer
Total Length: 123.4 feet

Garbage Cave no. 2 entrance.

LEGEND

- Ceiling height (10)
- Entrance wall
- Ceiling dip
- Dug area
- Rocks
- Depression



Map drafted by Matt Skeels © 2015

05452

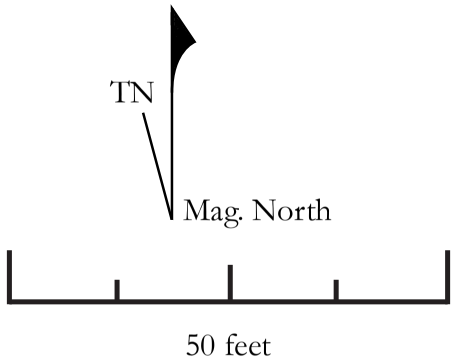
Davenport Cave

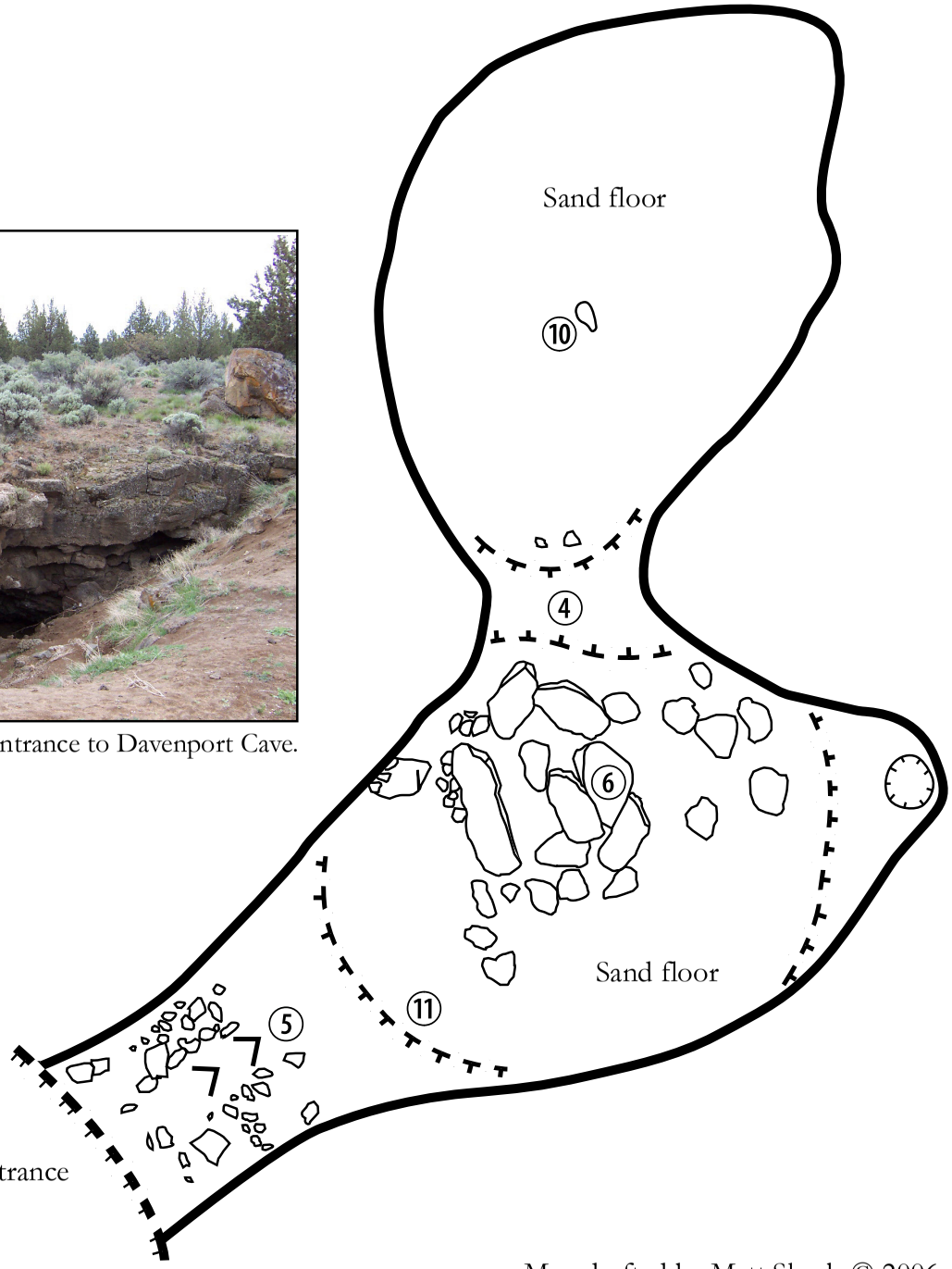
Surveyed by Geoff MacNaughton and Matt Skeels
August 17th, 2006 with Tape,
Compass, and Clinometer.
Total Length: 195.6 feet

Entrance to Davenport Cave.

LEGEND

- Dug area
- Rocks
- Ceiling height (11)
- Entrance wall
- Ceiling dip
- Slope



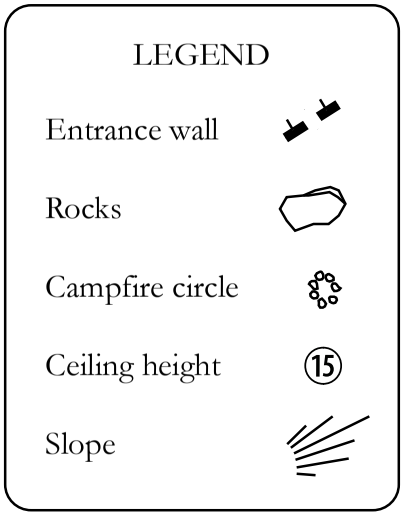


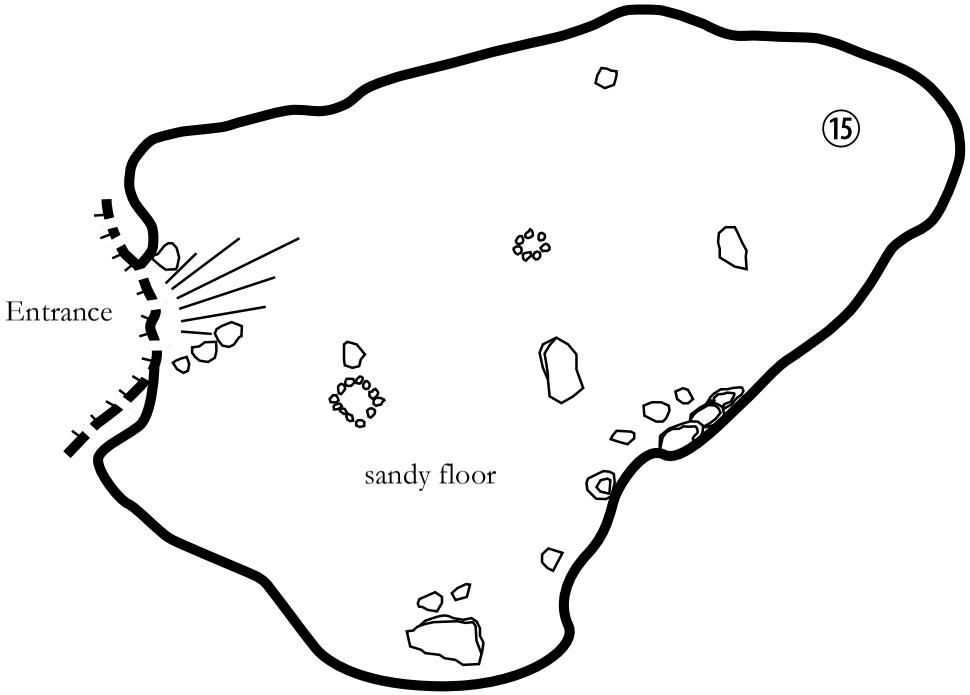
Map drafted by Matt Skeels © 2006

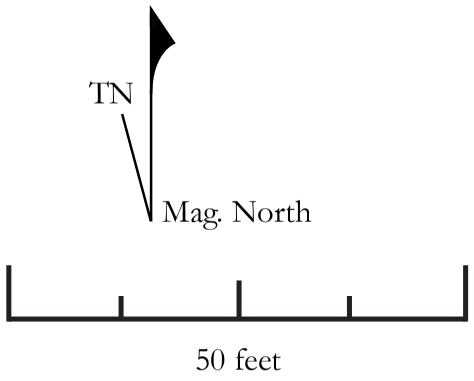
Three Pines Cave

Surveyed by Geoff MacNaughton
and Matt Skeels Dec. 7th 2006
with Tape, Compass, and Clinometer.
Total length: 91.9 ft

Three Pines entrance; note the three pine trees in the background.







Map drafted by Matt Skeels © 2015

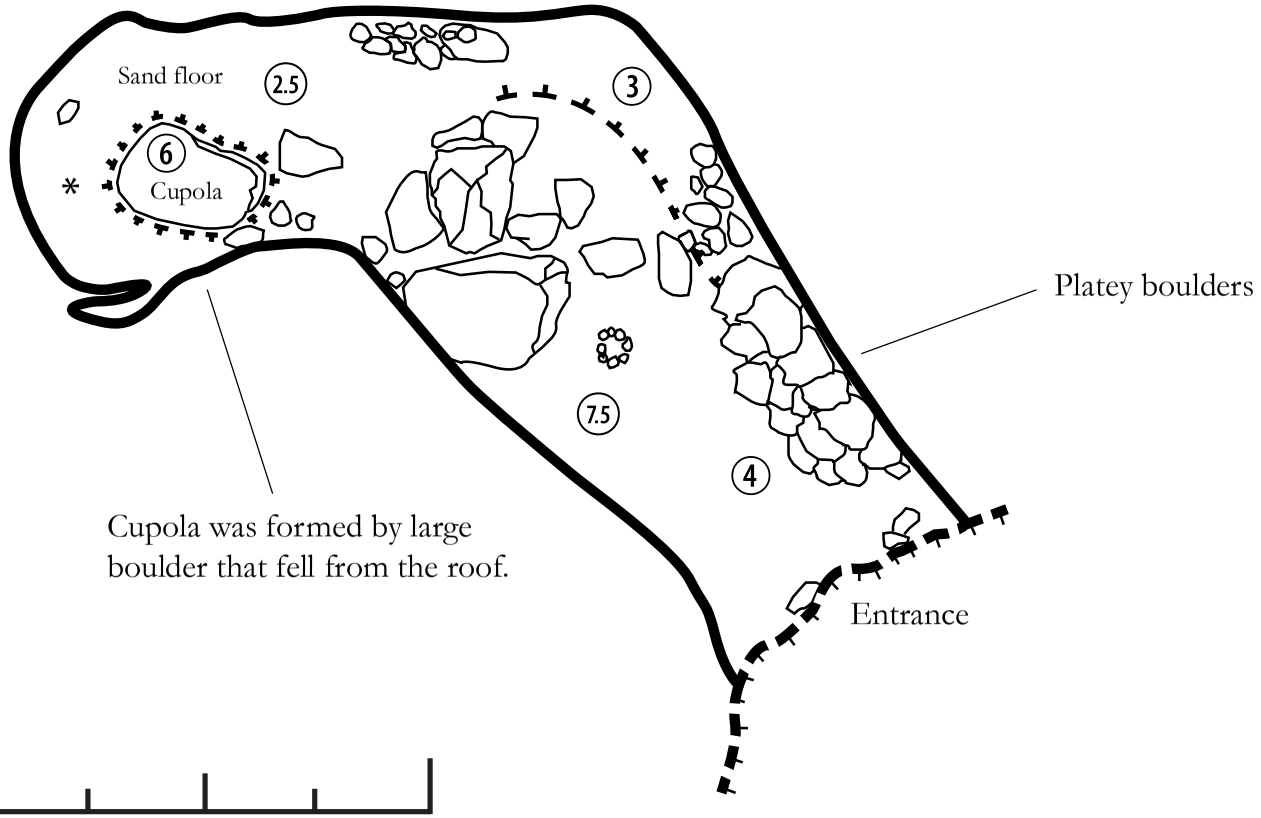
Williams' Cave

Surveyed by Geoff MacNaughton and
Matt Skeels December 7th, 2006 with
Tape, Compass, and Clinometer.
Total Length: 112.9 feet

Entrance to Williams' Cave.

LEGEND

- Rocks
- Campfire circle
- Ceiling height (6)
- Ceiling dip
- Entrance wall
- Myotis bat sighting during survey *



TN
Mag. North

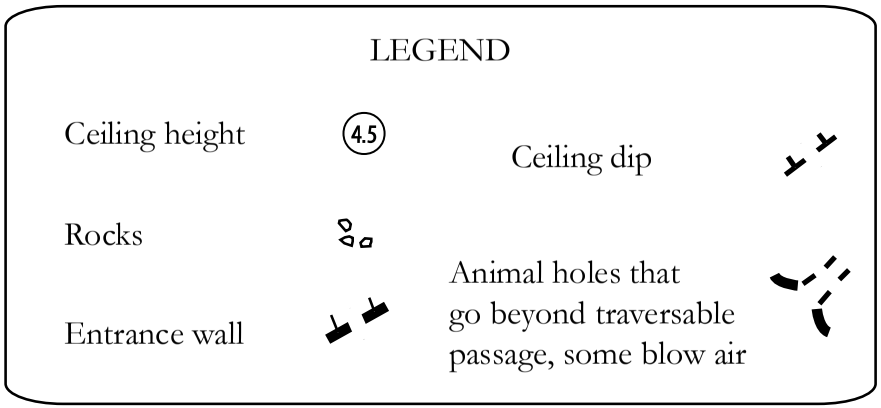
50 feet

Map drafted by Matt Skeels © 2015

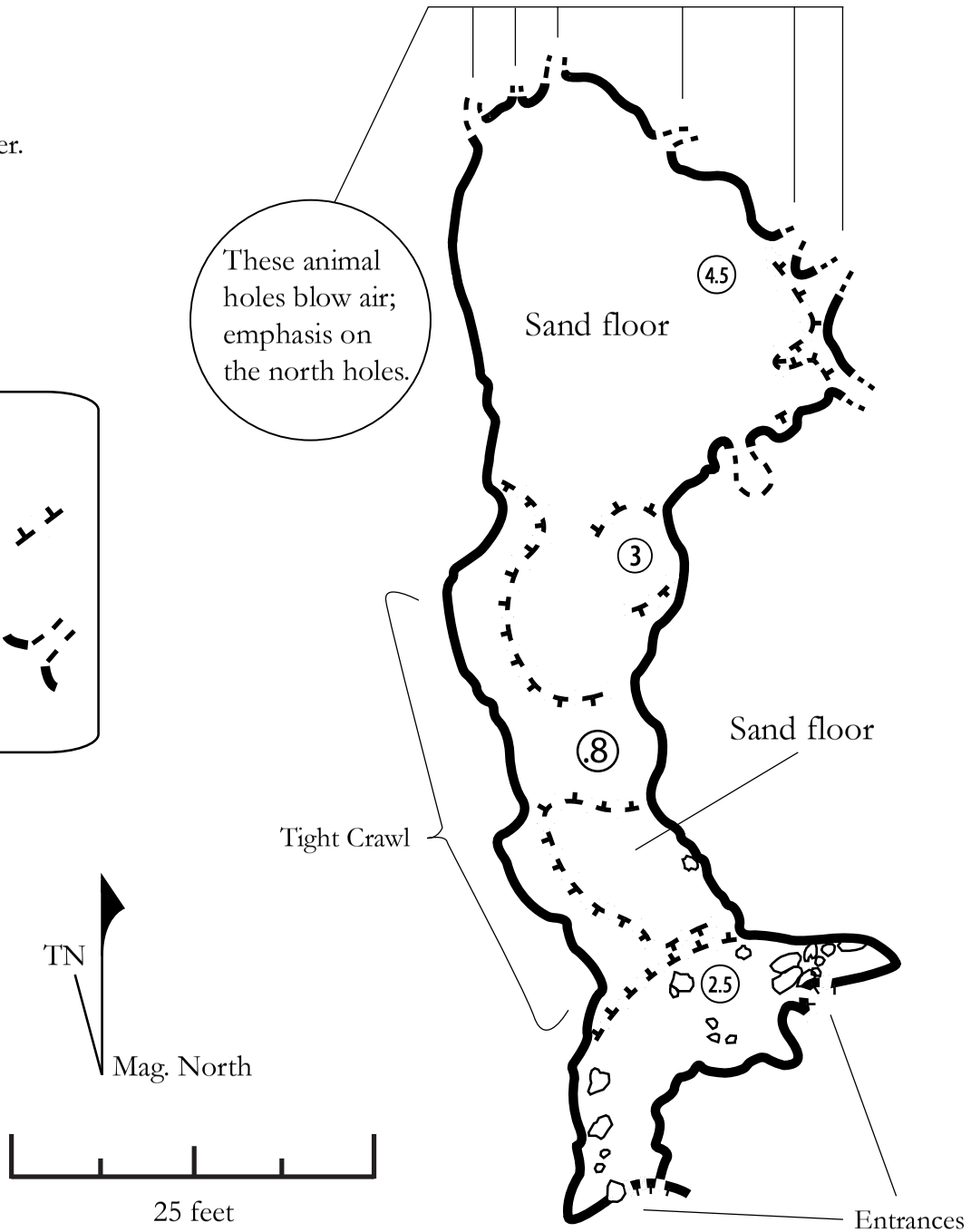
Braille Cave

Surveyed by Geoff MacNaughton and Matt Skeels
on January 2nd, 2007 with Tape, Compass, and Clinometer.
Total Length: 84.9 feet

Map drafted by Matt Skeels © 2015



Entrances to Braille Cave.



05456

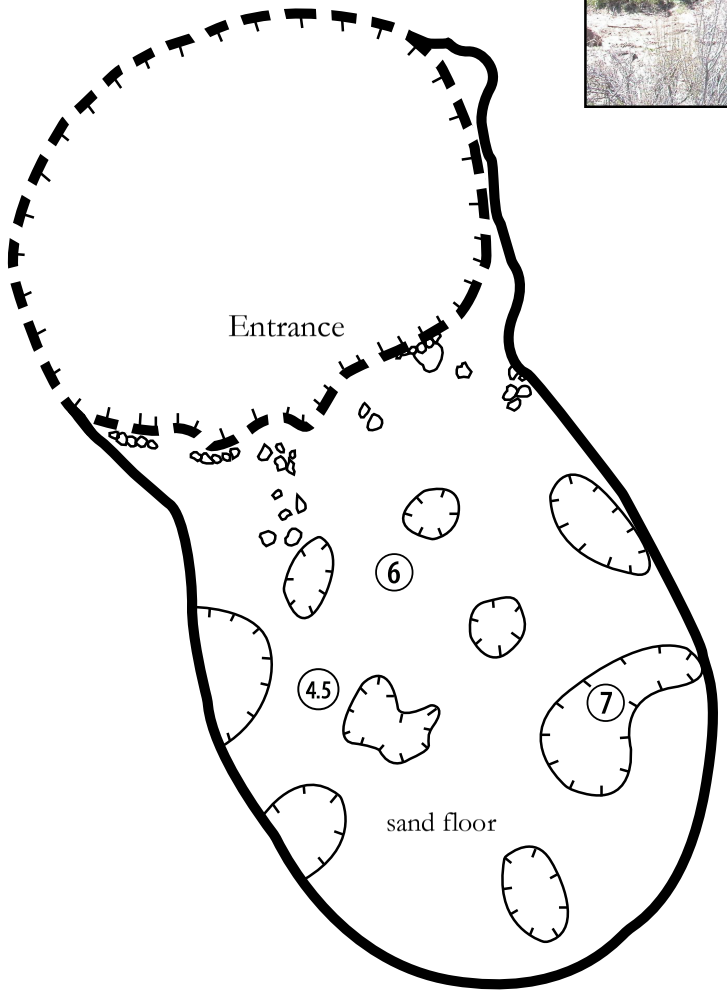
Vulture Cave

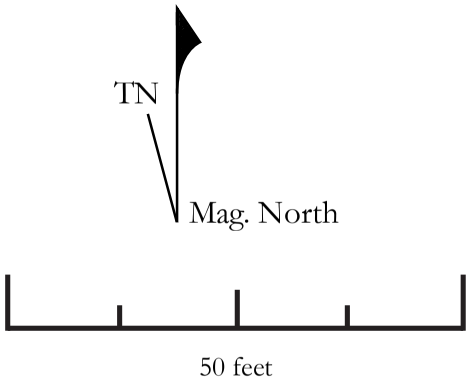
Surveyed by Geoff MacNaughton and Matt Skeels December 7th, 2006 with Tape, Compass, and Clinometer.
Total Length: 65.7 feet

View of the entrance.

LEGEND

- Pothunter hole
- Ceiling height (6)
- Rocks
- Entrance wall





Map drafted by Matt Skeels © 2015

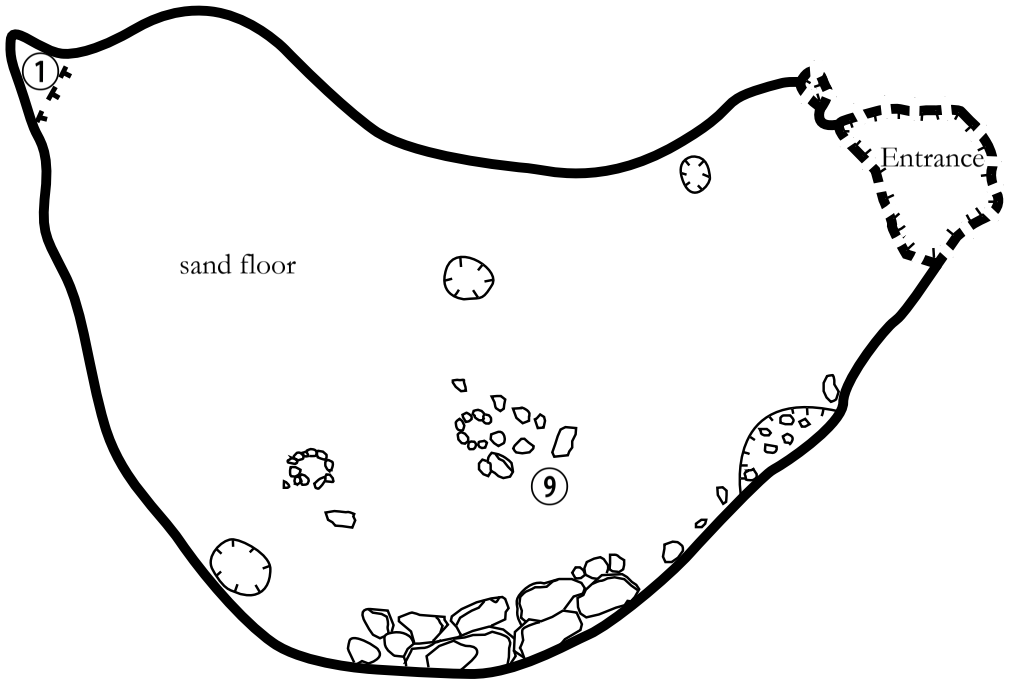
Stevens Cave

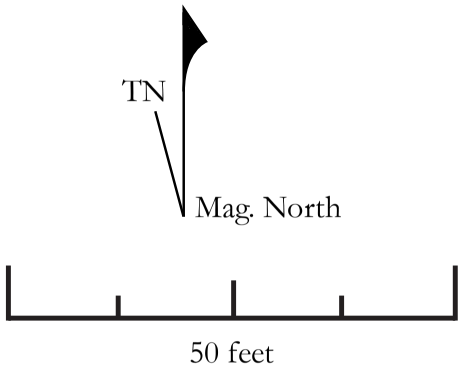
Surveyed by Geoff MacNaughton
Matt Skeels December 7th, 2006
with Tape, Compass, and Clinometer.
Total Length: 115.2 feet

Main entrance to Stevens Cave.

LEGEND

- Ceiling height (9)
- Entrance wall
- Ceiling dip
- Pothunter hole
- Campfire circle
- Rocks





Map drafted by Matt Skeels © 2015

Appendix E:
Stevens Road Tract Bat Species Information

The number of bat species capable of utilizing caves in central Oregon is fairly robust, however, in field observations, the usage has been predominantly by Townsend's big-eared bats which prefer caves for roosting. Other species have been observed in central Oregon caves, typically little brown bats (*Myotis lucifugus),* Canyon bats (*Parastrellus hesperus)* and others. Literature on bats note many different western bat species use caves at one time or another, but unlike the Townsend's big-eared bat, these other bats don't strictly prefer caves or mines to other roosting sites. For this reason, the Townsend's big-eared bat will be the focus of this appendix as it applies to the Stevens Road Tract.

Townsend's Big-eared Bat Species

The species of main concern that have been observed in the Stevens Road Tract are the Townsend's big-eared bats (*Corynorhinus townsendii*), which prefer caves or mines as their primary roosting (maternity, night, or day roosts) or hibernacula sites. Townsend's bats have also been known to occasionally use houses, bridges and hollow trees for day and night roosting.

The Townsend's big-eared bat was previously identified as a part of the *Corynorhinus* subgenera of *Plecotus townsendii* by C.O. Handley in 1959. The species was recognized as a separate genus by Koopman and others in 1993. References by J. Mark Perkins found within this document refer to *Plecotus* which have subsequently been recognized as *Corynorhinus*.

Townsend's bats are a colonial species, meaning they prefer living together, although the males and females of the species don't always live together. Females will form a maternity site to raise their young during the spring until late summer or early fall. If left undisturbed, the species will reuse their roosts indefinitely. Nearly all female bats prefer returning to their natal roost sites. When using a maternity site, the females will form dense clusters. Unlike the female bats, males will disperse to live solitary lives during the summer months.

The species are inclined to be sedentary, with one central Oregon monitoring program noting a Townsend's bat returning to the same cave for 21 consecutive years, possibly longer. No long distance migrations have been noted. Western species of *Corynorhinus* have not been documented travelling further than 30 miles in seasonal movements. In central Oregon, migration from cave sites is generally limited to a range of 15 miles. Townsend's bats usually don't associate with other bats, especially in maternity roosts or hibernaculums, though the occasional unrelated species may be seen elsewhere in the same cave or mine site at these times.

The average Townsend's big-eared bat lives about 16 years but can live longer. The mortality rate in juveniles is rather high the first year, with chances of survival greatly increasing in following years.

Maternity Roosts

The prerequisites for a Townsend's bat maternity roost are varied. Roosting temperature, roost dimensions, light quality, and air flow seem to be key factors, with roosting temperature being critical. Bats may cluster to maintain higher body temperatures and to protect their young. Temperatures of maternity sites may vary depending on regional locations. It is also not uncommon to have a

maternity colony switch roosting sites in an effort to find cooler locations during early pregnancy or warmer spots for later pregnancy and after the pups are born. Generally, maternity sites are warmer than hibernation sites.

The species also prefer relatively spacious maternity roosts. In California, roosts were examined as being at least 98 feet in length and at least 6.5 feet above the ground. Maternity clusters are commonly located in ceiling pockets or along walls of the roost area within the twilight zone. At Poverty Flat Cave in Jackson County, Oregon, a maternity site of Townsend's was observed in the twilight zone, with bat pups visible in nearly direct sunlight at the cave entrance during afternoon hours.

Hibernacula

In hibernation sites of the western United States, Townsend's bats have been observed selecting roosts with stable, cold temperatures and moderate airflow. Individuals will commonly roost on ceilings and walls preferably 10 feet off the ground, though locally in Stookey Ranch Cave (Arnold System) and Davenport Cave (of the SRT) they have been observed less than 6 feet off the ground and sometimes as low as 3 to 4 feet. Temperature seems to be a key factor in hibernation sites, with recorded temperatures in hibernacula ranging from 28.4°F to 55.4°F, with J. Mark Perkins and others noting preferred temperatures below 50°F. The bats will briefly rouse from torpor several times during hibernation to increase blood flow, before settling back into torpor again.

Hibernation periods for Oregon have fluctuated in recent times, but generally start mid-October and end mid-April. Currently, the Deschutes National Forest and Prineville BLM district observe cave closures at hibernation sites between the periods of October 15th and April 15th. As the climate for the region continues to change, so too will the hibernation cycles of the Townsend's bat and adjustments to these closures may be necessary.

Behavior and Diet

The Townsend's bat species may wake up from slumber before nightfall, but won't usually leave the roost until after dark, averaging 45.5 minutes after sunset. In flight, the bat is slow compared to other species, travelling at about 9.5-18 ft/sec, though highly maneuverable and known to navigate through passages less than a 1' x 1' wide. The species is particularly good at avoiding mist nets.

The diet of the Townsend's big-eared bat is highly specialized and consists almost entirely of moths (*Lepidoptera*) with an emphasis on Noctuid moths. Other insects may be ingested infrequently and may include order classifications from *Hemiptera*, *Hymenoptera*, *Homoptera*, *Neuroptera*, *Trichoptera*, and *Plecoptera*. In northern California, the species prefers to forage in forested habitat or along heavily vegetated stream corridors and avoids open pasture land.

Identification of Townsend's Big-eared Bats

For identification purposes, the Townsend's bat can be distinguished from other western bat species by observing the combination of their "2-pronged, horseshoe-shaped lump on the nostrils, and large, rabbit-like ears." Other bats in the Oregon also have long ears, such as the pallid bat (*Antrozous pallidus*), spotted bat (*Euderma maculatum*), and the long-eared myotis (*Myotis evotis*); see Figure 3. Measurements of adult bat forearms range between 39-48mm and ear lengths measure 30-39mm. Generally, the color of a Townsend's bat has been described as dark brown or chocolate brown with their underparts being somewhat paler.

Figure 3 - Left picture: Closeup of a Townsend's big-eared bat. Note long ears and horse-shaped lump on nostrils. Right picture: Long-eared myotis for comparison. Note the slightly less prominent ears and absent pronged nose.

Identifying the Townsend's species is easy once familiarity with the species has been achieved. When the bats are awake and active, identification is easiest and a quick look at the ears will be all that's required. When the bats are sleeping or in torpor, it can be challenging to make accurate identifications. Typically, during hibernation, the bat will curl its ears against its head and tuck them beneath their wings, or alternatively, they may have either ear extended while the other remains tucked. In central Oregon, the species is rarely mistaken for another species because of its uniqueness, making it one of the easiest bats to identify and monitor.

Sensitivity of the Species

The sensitivity of the Townsend's big-eared bat species is familiar to bat biologists. Repeated visits or disturbances to roosting bats will force the species to abandon a site in search of other roosts. Mist-netting a Townsend's big-eared bat has been reported with automatic rejection of a roosting site by the bat. Any form of handling the bats, such as banding or applying a transmitter, also typically leads to roost abandonment.

Status of the Townsend's Big-eared Bat

The Townsend's big-eared bat is currently listed as a critical sensitive species under the Oregon Department of Fish and Wildlife (ODFW) guidelines. The ODFW uses the sensitive species designations to improve the species status via conservation efforts. Efforts applicable to the SRT may include:

- Maintaining, improving, or restoring habitat
- Providing technical expertise, incentives and recognition to landowners who wish to provide wildlife habitat
- Creating cooperative agreements with assurances for private landowners who provide habitat
- Incorporating species' needs into activities that could negatively affect species
- Conducting further research to identify threats and methods to address those threats
- Bringing together land managers, researchers, and other people to share information
- Monitoring populations to detect either positive or negative changes in populations
- Educating people about what the species needs to persist and what actions people can take to assist in the conservation of the species

Though the caves of the SRT may never be privately owned, they will be adjacent to private landowners. Education efforts for these residents will increase the viability of these sites. Imbuing a sense of ownership with local residents, will help discourage disruptive activities and go a long way toward helping sustain and grow local bat populations.

Other species may occasionally utilize caves and have also been recognized as “vulnerable” under the Sensitive Species List by the ODFW. They include:

California Myotis (*Myotis californicus*)
Fringed Myotis (*Myotis thysanodes*)
Long-legged Myotis (*Myotis volans*)
Hoary Bat (*Lasiurus cinereus*)
Silver-haired Bat (*Lasionycteris noctivagans*)
Spotted Bat (*Euderma maculatum*)
Pallid Bat (*Antrozous pallidus*)

None of the above vulnerable species have been observed in the SRT caves.

Appendix F: Bat Use History in the Horse System with Special Attention to the Stevens Road Tract

In this appendix, historical bat use will be noted for the caves of the Horse system, with emphasis on the Stevens Road Tract. There is minimal data on bat use in the Horse system and collectively it is considered deficient. All data for the HLTS has been provided as points of comparison for future bat monitoring in the caves of SRT. For example, a bat study in Barlow Cave (outside of the SRT) may become useful in the future as conditions change and could represent usable data correlations.

Perkins Reports

The first bat study on caves in the HLTS was done by bat biologist J. Mark Perkins. Perkins began a 5 year study in 1980 and published his findings in a 1986 report. Many caves were noted as "potential hibernaculums" but very few of the caves were noted with actual bat use. Perkins noted however, in the past the HLTS likely supported as many bats as the Arnold Lava Tube System did at the time of his 1986 report. Most importantly, Perkins continued to say that bats may begin to reuse certain caves as disturbances are reduced and specifically referred to Young's Cave, the longest cave in the HLTS system at nearly 4,000 feet in traversable length, as well as Wilson, Lewis Farm caves and the Johnson Farm caves.

The corollary between the Horse and Arnold systems, is partially incorrect, as the size and temperatures between the these two cave systems appears to be overlooked. Most of the caves in the Arnold system are comparatively much longer at over 1,000 feet in length and with greater subsurface depths providing more adequate hibernating temperatures. Arnold Ice Cave, for example, has an overburden of 94 feet at the cave entrance. By contrast, the Horse system consists mostly of caves less than 400 feet in length and an average roof thickness rarely exceeding 20 feet.
The average lava tube in the HLTS is 386 feet long and the median being 200 feet. Only five of the 122 caves in the system are longer than 1,000 feet: Young's, Barlow, Pronghorn I, Horse no.1 and Johnson Farm no. 1. The short cave lengths and thinner roof thicknesses can mean slightly warmer and unfavorable hibernation temperatures.

The three largest Redmond Caves, also a part of the HLTS, were studied by Perkins and documented in his 1986 reports. The similarity of the Redmond Caves to the SRT caves are striking, consisting of mostly short caves, with the longest cave at 600 feet in length. This cave, known as Cave Next Door (AKA Redmond Cave no. 3), had a single observation of a Townsend's big-eared bat by Perkins in January of 1986. The Redmond Caves could potentially harbor more bat use, but the Redmond Caves are extensively visited by the citizens of the city of Redmond during all times of the year.

Perkins' report also notes potential hibernaculums in three SRT caves: Stevens, Garbage Cave no. 1 and Garbage Cave no. 2. Because name changes for the Garbage Caves are very common, it is unknown if Perkins is referring to other caves in the SRT. It is likely the true Garbage Cave no. 1 was partially or fully inaccessible to Perkins at the time of his visit, and therefore might have been referring to Davenport Cave.[1] Perkins reported no bats in the three SRT caves he visited, but suggested these caves might be suitable for bat use but did not acknowledge how or why.

Perkins' greatest contribution to understanding bat use in the HLTS was the observation of a hibernaculum and maternity roost in Barlow Cave northeast of Bend. Barlow Cave is a segmented cave, totalling 1,794 feet in length and located on private property. Barlow Cave is much larger than

any cave found on the SRT and its location on private land likely contributed to less disturbance to the bats. Barlow Cave is only partially similar to the caves of the SRT because of its greater length. In a later 1990 report by Perkins, he notes that no bats were observed in any of the caves of northeast Bend and this included Barlow Cave. He concluded increased human visitation in the form of party sites had likely extirpated the bats.

An additional article by Perkins, *A Biological Timing Guide for an Ethical Caver*, was published in 1989. The article was a visitation guide to caves as dictated by bat use. Perkins recalls many of the caves from his 1986 report, but by this time, many of the HLTS caves had been labeled as "Open year round" and specifically noted Stevens, Garbage Cave no. 1 and Garbage Cave no. 2 as belonging to this category (it should again be noted in light of the existing alternative names, Perkins may have been referring to Davenport Cave in place of either of the Garbage Caves).
Perhaps Perkins only considered limited use from the small caving community and not prolonged visitation from the general public. Regardless, the caves described in the visitation guide as open year round, do not appear on the "Caves to Avoid" list. Only Barlow Cave, which is outside of the SRT area, is mentioned as a cave to avoid during the summer because of the maternity colony present at that time.

In 1998, a summer bat study was done at the Redmond Caves. Perkins returned to the caves and noted very limited bat use, with only one Townsend's big-eared bat night roosting in Cave Next Door (Redmond Cave no. 3). Two other bats were mist-netted near the caves, but were not Townsend's bats.

BLM Report on the SRT

According to a Finding of No Significant Impact (FONSI) from 1996, a winter bat study was conducted in 1994-95 by the Prineville BLM district staff in five of the SRT caves. The FONSI report is a little unclear as to the total number of caves on the SRT, but it assumed at the time of the report's filing, that the SRT only contained 6 of the 8 known caves. Consequently, it is unknown which caves were or were not visited during the study.

The winter bat study concluded with zero observations of hibernating bats. Coincidentally, the FONSI report also acknowledged an "incidental trip to the cave" in which a Townsend's big-eared bat was discovered. No details are offered on which cave this sighting occurred in, nor the time of year.
An attempt to procure further documentation on the 1994-95 winter bat study or the "incidental trip" with Prineville BLM staff came up with no results for the SRT, though it was noted that hard copies may exist in a warehouse in Portland, Oregon but would likely only contain information available in the FONSI report.

The report continues by noting no summer bat searches were conducted on the SRT. It's assumed the aforementioned "incidental trip" was during a hibernation period for bats. The report further comments on potential summer bat use in the caves by noting the "five caves" surveyed in the report are not suspected to be summer maternity roosts, nor are they historically known to be hibernacula during winter months.

Studies of non-Townsend's bats were not done for the SRT, but the FONSI report noted myotis species can roost in caves though none were observed on site. The report refers to Perkins' studies noting that the availability of suitable roosting sites on the SRT is relatively low.

A summary of the environmental effects to the caves in the FONSI concludes that "there will be no

significant impact on threatened, endangered or sensitive plant or animal species."

Shawn Zumwalt's Study

A study in 2008, for the Oregon Department of State Lands by Shawn Zumwalt and Jess Jordan, attempted to record the sounds of bats in the SRT cave area. The study was conducted during nightfall when bats are active. He reported finding zero Townsend's big-eared bats in the area. According to J. Mark Perkins, it is difficult to record the signatures of Townsend's big-eared bats. Their vocal sounds are comparatively weaker than other species and typically can only be recorded from a distance of 12 feet away or less.

Miscellaneous Reports

Jim Anderson Story

In the book Tales from a Northwest Naturalist, Anderson recalls visiting the area near "Knott Landfill" and describes the area as having many tubes that were later filled in with refuse. In the 1950s, he notes it was a great spot to find bats and other wildlife. During a 1950s trip to a cave that Anderson describes as having a "davenport" in its entrance, he and two other companions went searching for hibernating bats. Inside the cave they found a single "little brown bat." Anderson's story continues to describe the local bat population of central Oregon as very small.

Neil Marchington's Report

Neil Marchington, a member of the Oregon High Desert Grotto, recollected two visits to the SRT. On February 3rd, 2008 he observed 3 hibernating Townsend's big-eared bats in Garbage Cave no. 2 and 8 Townsend's in Davenport Cave. Marchington also visited Garbage Cave no. 1, Vulture, Braille, and Three Pines caves but observed no hibernating bats. Stevens and Williams' caves were not visited during this time.

On August 12th, 2008 Marchington visited both Garbage Caves, Davenport, Braille, Three Pines and Vulture caves without seeing a single bat.

Matt Skeels' Reports

Matt Skeels has been to all accessible caves in the HLTS, many repeatedly, and has recorded some mixed bat usage. With one exception, very little bat use was seen in the HLTS. In most cases, only a few caves were noted with little more than a single bat per cave during non-hibernation periods. Most observations were of a single isolated and unidentified bat.

Bat use is mixed between Townsend's big-eared bats and non-Townsend's for most of the system. On a few visits, two or less bats were seen in the larger caves such as Young's, Barlow, or the Horse Caves. The majority of the bat use appears to be limited to the caves at the north end of town, particularly those caves on the City of Bend's waste treatment plant property.

The previously noted exception to these observations was at Wilson Cave, near Barlow Cave in northeast Bend. During early summer visits, 30 to 40 Townsend's bats were observed on three separate occasions. The first two observations were in early or mid-summer of 2003 and 2004. In 2013, the bats were observed again as well as a bat pup suggestive of a maternity colony. It is likely this 245 foot long cave, with a north-facing entrance, is an ideal maternity site.

The private ownership and restricted visitation by the public lends the cave to increased bat use. It's possible the bats migrated, or were pushed from, nearby Barlow Cave.

Observations within the SRT are uncommon, with a single non-Townsend's bat being observed hibernating during the December 7th, 2006 survey of Williams' Cave by Geoff MacNaughton and Matt Skeels (see map in Appendix D).

A bat hibernation survey was performed on March 15th, 2015. Two of the eight caves had hibernating Townsend's big-eared bats, with the other six caves having no bats. Davenport Cave was observed as having four Townsend's and Garbage Cave no. 2 having one. See Appendix G.

Garbage Cave no. 1 is large enough for hibernation purposes, as noted by Perkins (see Footnote 1 at the end of this appendix), but the cave appears to be too humid for bat hibernation. Instead, the cave might be used for hydration purposes instead. In the event that the cave entrance is cleared of garbage debris, it's possible the interior conditions of the cave may revert to a more arid and natural state resulting in increased suitability for hibernation purposes.

For the remaining caves, only Williams' Cave seems suitable enough for very limited bat hibernation, based on the single observation of a hibernating myotis in late 2006. In general, the other caves are too short in length (Vulture), too low in ceiling height (Braille and Williams'), too bright and lacking sufficient darkness (Vulture, Three Pines), or too heavily impacted by human visitation (Stevens, Vulture, Three Pines) to allow for bat hibernation.

On June 30th, a non-hibernation and maternity survey was conducted in the SRT. No bats were found in any of the 8 caves.

Historical Bat Use Summary

According to Perkins, it's possible the HLTS was more extensively used prior to the arrival of American settlers and this seems likely. What has not been established is *how much more* the bats utilized the system. It is the opinion of your author that usage was not as prolific as observed in the Arnold system as suggested by Perkins as previously noted with capacity and temperature differences.

Concerning water access, the HLTS is closer to the Deschutes river. With the advent of canal construction in central Oregon, water access may be a moot point for the bats. Bats are known to hydrate themselves from water drops that accumulate on cave ceilings, as is possible in humid caves like Garbage Cave no. 1. These types of caves eliminate long and energy intensive flights to distant water sources such as the Deschutes river. This would be especially true for any maternity colonies where bat migration is limited. Warmer caves seem ideal for bat maternity colonies, which the HLTS provides in greater quantity compared to the Arnold system. However, very little maternity colony use has been observed and limited to two caves outside of the SRT mitigation area.

It seems plausible that bats could move between the Horse and Arnold systems to fit their needs during the seasons, but the numbers of bats needed to support that scenario have not been observed in the HLTS. Stookey Ranch Cave of the Arnold system is a privately owned and gated cave, approximately ten miles from the SRT. The cave is a large Townsend's big-eared bat hibernaculum (roughly 400 bats) in addition to being a maternity colony site. The cave is unique in that it has a relatively warm upper passage and a colder lower passage. The warmer upper passage is more humid, providing hydration for the bats and their young in the form of water drops that collect on the

ceiling. The lower passage is offers passageway constrictions that provide increased wind friction that can further decrease temperatures for hibernation requirements. Stookey Ranch Cave fulfills multiples habitat requirements which nullifies a need for bat migration between the Arnold and Horse systems.

Soil guano deposits would greatly improve our understanding of historical bat use in the SRT caves but mostly only for non-Townsend's species as Townsend's bats are known to avoid defecating at roosting sites.

In summary, the caves of the SRT area have not received much historical bat use, though it may be slightly increasing in the past decade or two. Until recently, the caves were not known to be used by bats in any significant way. Previous reports note non-existant or very limited observations of bats and it is expected future bat use will fluctuate between nonexistent to limited usage in one or two caves on the site. The mitigation plan of this report will be used to mitigate existing conditions of the past decade, noting bat use could revert to non-usage, sometimes for reasons outside of man's control.

Based on current and historical knowledge, the primary focus of any SRT bat mitigation plan, should be focused on Davenport Cave, Garbage Cave no. 2 and Garbage Cave no. 1. Perkins has identified Garbage Cave no. 1 as a potential bat hibernaculum. If, or when, the entrance to the cave is restored, the cave could see hibernation use. Williams' Cave has not been identified as a Townsend's hibernaculum and will remain as a site to monitor along with the remaining caves of the SRT.

Footnote

[1]Garbage Cave no. 1 was originally accessible to Ronald Greeley of NASA who surveyed the cave in 1970. Between his visit and an unknown later date, the entrance to the cave became completely obstructed with garbage. Later on, what is now known as Davenport Cave, was misidentified as Garbage Cave no. 1 despite the glaring differences between it and the map Greeley had published in Bulletin 71. Garbage Cave no. 2, being the only other known cave nearby (and full of garbage), coincidentally received its incorrect albeit fitting title. Even though Davenport Cave is the cave Greeley surveyed as Garbage Cave no. 2, the renaming of the caves had progressed too far. On October 5th of 2003, Matt Skeels had located the lost and garbage-choked entrance of Greeley's original Garbage Cave no. 1. Garbage Cave no. 1 had been relocated, so what was to be done with the imposter known as Garbage Cave no. 1? It turned out Charles Larson had a cave listed in his files as Davenport Cave (after Jim Anderson's story from *Tales from a Northwest Naturalist*) for the area - named for a large sofa found within the cave. At this time, the cave incorrectly known as Garbage Cave no. 1 had a davenport inside and subsequently the names were reassigned again. Unfortunately, Davenport was a duplicate name for Greeley's Garbage Cave no. 2. Too much time had passed however, as the now, firmly coined Garbage Cave no. 2 had held on to its name for a sufficient period of time and it was certainly no davenport cave. It had far more garbage than Davenport Cave and the title seemed apt, even though it could have been named Garbage Cave no. 3.

Appendix G:

Winter Bat Survey Maps

Garbage Cave no. 2
Davenport Cave

Garbage Cave no. 2
Townsend's big-eared bat sighting locations

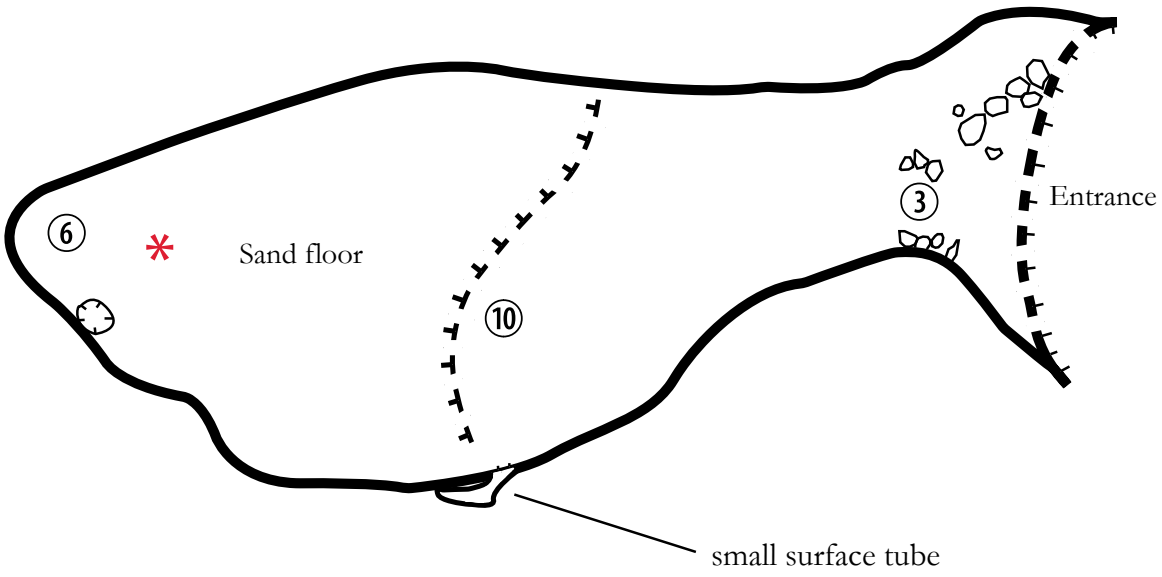
Winter hibernation bat survey on March 15th, 2015.

LEGEND

- Ceiling height ⑩
- Entrance wall
- Ceiling dip
- Dug area
- Rocks
- Depression
- Townsend's bat *

TN

Mag. North



50 feet

Map drafted by Matt Skeels © 2015

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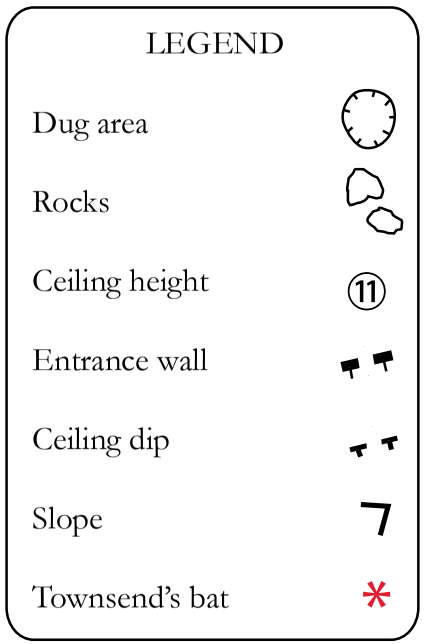
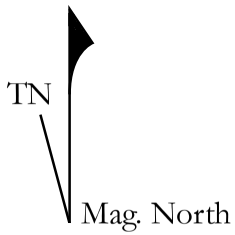
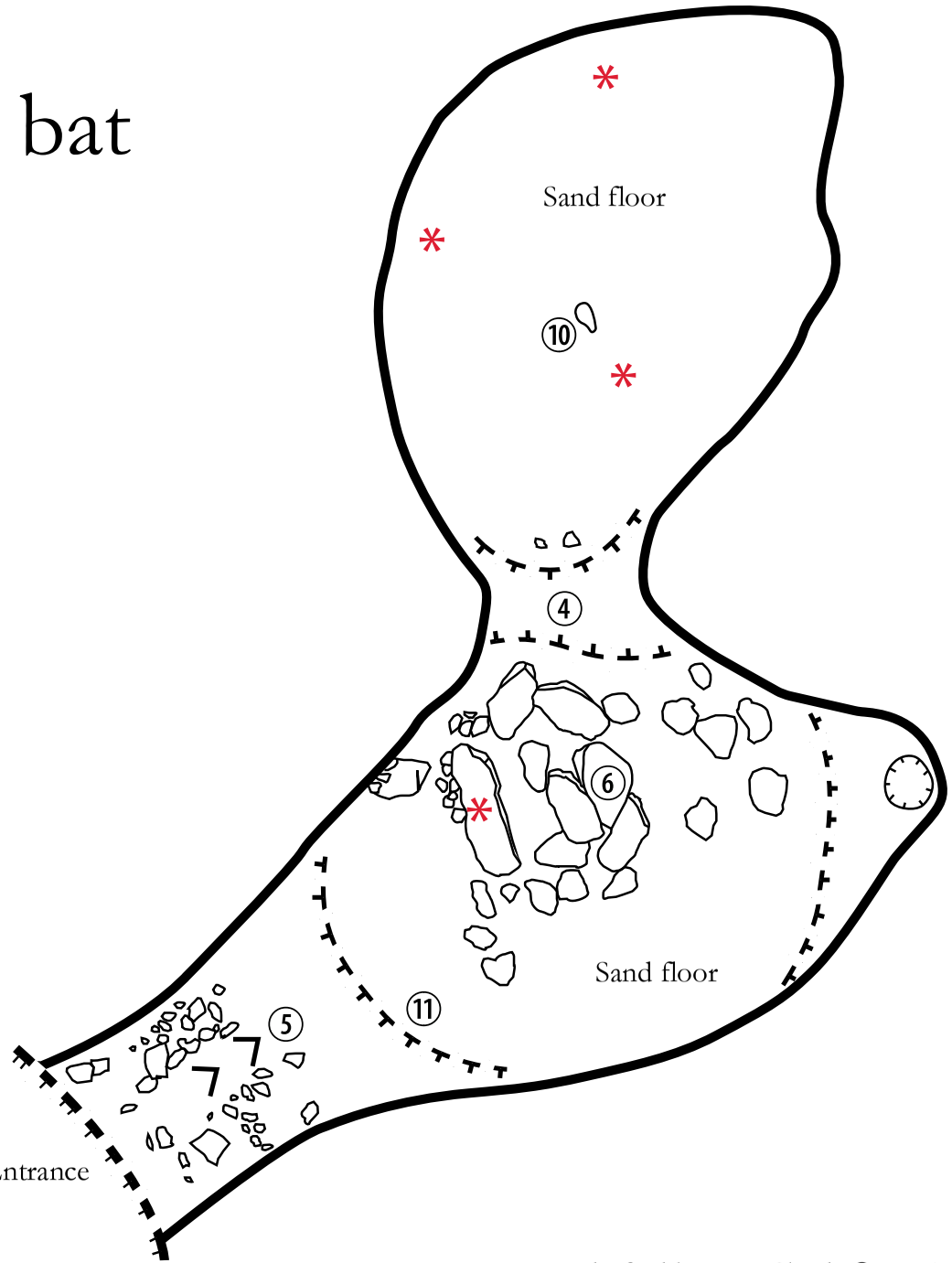
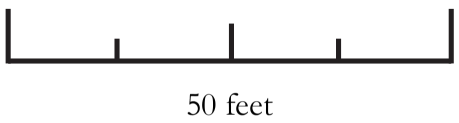
Davenport Cave
Townsend's big-eared bat sighting locations

Winter hibernation bat survey on March 15th, 2015.









Map drafted by Matt Skeels © 2015

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Appendix H: Definitions

A few key words will be defined for the purposes of clarifying the guidelines of this mitigation plan.

Cave - A cave is defined as any lava tube within the Stevens Road Tract area.

Buffer Zone - A buffer zone is a 50 foot perimeter centered on the cave entrance at the drip line, coinciding with the center of that cave passage. Adequate signage will be placed showing or marking the buffer zone, with notices for the public as to what the buffer zone is for. Entry into a buffer zone and the cave proper is prohibited for the general public until the buffer zone is removed.

Hibernation Period - The hibernation period is a length of time during mid-autumn, winter, and early spring when bats are in torpor. This time period is generally from October 1st to April 30th, however with climate change or other mitigating factors, this hibernation period may fluctuate. Closures for hibernation periods will be adjusted accordingly.

Grotto - A Grotto or Grottoe, is an internal organization of the National Speleological Society. Grottos operate on a local level and serve as a club for cave enthusiasts. Participation of members varies. Grottos typically have invaluable experience and information regarding caves and their management.

Maternity Period - The maternity period is a length of time generally starting at the end of the hibernation period on April 15th and ending in fall, generally around September 30th. This period of time is when female Townsend's big-eared bats are pregnant, rearing their young until they have left the maternity roost around mid-August. Maternity sites may break up at this time or as late as the onset of their hibernation period.

Monitor - A qualified bat expert/s capable of identifying Townsend's big-eared bat species and recording data on the species. Monitor may also refer to the act of monitoring (see below).

Monitoring - Monitoring is a series of tasks conducted by employees or volunteers (called monitors) chosen by the governing agency, who are competent in identifying Townsend's big-eared bats.

Non-hibernation period - A period of time generally between April 30th and October 1st when bats are not hibernating but instead awake and active. This period of time is not referring to the maternity period but generally refers to isolated male Townsend's big-eared bat use or activity.

Observation Period - A temporary period of four years, created specifically for this mitigation plan and implemented for a Class 2 cave. This observation period will consist of four consecutive years of hibernation and maternity monitoring.

Regulated hours - Any time period of lawful visitation. Depending on ownership of the caves, regulated hours may or may not exist.

Restrictive barrier - A manmade construction that is built in, at, or near a cave entrance. It may be a fence, gate, panel, divider, partition, wall, or other similar constructs. The goal of a restrictive barrier is to not allow passage through or beyond the barrier, or to limit passage to certain entities, typically by possession of an access key. Bat gates are a common restrictive barrier in caves.

Roost - A roost, or roosting site, is any cave site location in the Stevens Road Tract that is used by bats. This may be a maternity roost, hibernation roost, or a temporary day or night roost.

Townsend's big-eared bat - A bat species scientifically known as *Corynorhinus townsendii* or truncated as *C. townsendii.* In this document, this bat may also be referred to as Townsend's bat, western big-eared bat, or its previous scientific name of *Plecotus townsendii* or *P. Townsendii*. The preferred habitat of a Townsend's bat in central Oregon are lava tube caves.

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89-00944

SCENIC EASEMENT 177 - 0761

WHEREAS, BROOKS RESOURCES CORPORATION, hereinafter called "Brooks", is in the process of developing luxury condominiums on the real property described on Exhibit "A" attached hereto, and

WHEREAS, CENTRAL OREGON IRRIGATION DISTRICT, hereinafter called "District" is in the process of obtaining governmental licenses and permits for a hydroelectric development on the real property described on Exhibit "B" attached hereto, and

WHEREAS, the property described on Exhibit "B" is presently zoned SR-20 and RS, and

WHEREAS, all presently permitted and conditional uses for real property located in Deschutes County zoned SR-20 and RS are set forth on Exhibit "C" attached hereto, and

WHEREAS, Brooks is desirous of obtaining a scenic easement to insure that property uses made of the real property described on Exhibit "B" are compatible with its luxury condominium development,

NOW, THEREFORE, in consideration of the payment of $10.00 and other valuable consideration, the parties agree as follows:

1. GRANT OF EASEMENT: District hereby conveys to Brooks a scenic easement over and across the real property described on Exhibit "B" on the following terms and conditions:

(a) Other than as required or directed by applicable licensing authorities or irrigation uses, District will not utilize the property described on Exhibit "B" for any of

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Bend Title Company

88

the permitted or conditional uses as outlined on Exhibit "C".

(b) District will not attempt to obtain a zone change on the property described on Exhibit "B" without the written consent of Brooks. In the event public authorities change the zoning on the property described on Exhibit "B", District will not use the property, other than as required or directed by applicable licensing or irrigation uses.

(c) Except as required by applicable licensing authorities and for irrigation uses, District will maintain the surface of the property described on Exhibit "B" in its present configuration and appearance so as not to cause an unreasonable visual impact to the real property described on Exhibit "A".

2. TERM OF EASEMENT: The easement herein granted shall expire on April 1, 2019, unless grantor at that time is still generating power from its hydroelectric project, in which case the easement will not expire until grantor is no longer generating power from said project or April 1, 2034, whichever occurs first. Prior to said date, the covenants contained in this easement shall run with the land and shall be binding upon and inure to the benefit of the parties and their successors and assigns.

3. RIGHT TO ENFORCE: Grantee, its agents and employees, shall have the right to enter upon the real property described in Exhibit "A" for the sole purpose of enforcing the terms and conditions of this easement, together with the right to remove from the land any improvement, structure, or other offending article from said real property, provided, however,

GRAY, FANCHER, HOLMES & HURLEY
ATTORNEYS AT LAW
40 N.W. GREENWOOD
P.O. BOX 1151
BEND, OREGON 97709-1151

that Grantee shall be required to utilize existing roads or other normally traveled routes in exercising this right and, provided, further, that this right of enforcement shall not extend to any improvement or structure placed on the property by Central Oregon Irrigation District, and provided, further, that Grantee agrees to indemnify, defend, and hold harmless Grantor from any loss, claim, or liability to Grantor accruing in any manner out of Grantee's exercise of this enforcement right.

DATED This 3rd day of April, 1984.

CENTRAL OREGON IRRIGATION DISTRICT

By _____
Chairman of the Board

By _____
Secretary-Manager

BROOKS RESOURCES CORPORATION

By _____

STATE OF OREGON, County of Deschutes: ss.

The foregoing instrument was acknowledged before me this 3rd day of April, 1984, by Hal Meyers, Chairman of the Board and Ron Nelson, Secretary-Manager of CENTRAL OREGON IRRIGATION DISTRICT, on behalf of the District.

JENNIFER M. SIMPSON
NOTARY PUBLIC - OREGON
My Commission Expires 7/26/86

_____
NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

STATE OF OREGON, County of Deschutes: ss.

The foregoing instrument was acknowledged before me this 3rd day of April, 1984, by Michael P. Hollern, President of BROOKS RESOURCES CORPORATION, on behalf of the corporation.

PAUL H. BUCHANAN
NOTARY PUBLIC
STATE OF OREGON

_____
NOTARY PUBLIC FOR OREGON
My Commission Expires: Jan 22, 1987

GRAY, FANCHER, HOLMES & HURLEY
ATTORNEYS AT LAW
40 N.W. GREENWOOD
P.O. BOX 1151
BEND, OREGON 97709-1151

MT BACHELOR VILLAGE, a planned unit development, located within the City of Bend, Deschutes County, Oregon.

EXHIBIT "A"

PARCEL 1: Those portions of the South half of the Northeast quarter, Southeast quarter of the Northwest quarter, North half of the Northwest quarter of the Southeast quarter, North half of the Northeast quarter of the Southwest quarter, and Southwest quarter of the Northeast quarter of the Southwest quarter of Section 7, Township 18 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon, lying Southeasterly of the centerline of the Deschutes River. Except that portion described in the deed recorded March 29, 1976 in Book 229 Page 677 Deed Records.

PARCEL 2: A parcel of land located in the Southwest one-quarter of Section 7, Township 18 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the Northwest corner of the Southeast one-quarter of the Northeast one-quarter of the Southwest one-quarter (SE¼, NE¼, SW¼) of said Section 7; thence along the North line of said Southeast one-quarter, Northeast one-quarter, Southwest one-quarter South 89° 55' 37" East 677.85 feet to the Northeast corner of said Southeast one-quarter, Northeast one-quarter, Southwest one-quarter, which is located on the Southeasterly rim of the Deschutes River Canyon; thence along said Southeasterly rim South 68° 29' 55" West 144.77 feet; and south 51° 57' 55" West 121.77 feet; and South 45° 41' 00" West 136.99 feet; and South 22° 42' 27" West 235.95 feet; and South 5° 15' 06" West 89.05 feet; and South 64° 09' 57" West 82.48 feet; and South 15° 53' 14" West 155.54 feet; and South 48° 11' 43" West 172.49 feet to the West line of the Northeast one-quarter of the Southeast one-quarter of the Southwest one-quarter (NE¼, SE¼, SW¼) of the aforementioned Section 7; thence leaving the Southerly rim of the Deschutes River Canyon and following the West line of said Northeast one-quarter, Southeast one-quarter, Southwest one-quarter and the West line of the aforementioned Southeast one-quarter, Northeast one-quarter, Southwest one-quarter North 0° 12' 09" West 829.81 feet to the point of beginning.

Parcel 3: A tract of land in the NE¼, SE¼ of Section 7, Township 18 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon, described as follows:

Beginning at the E¼ corner of said Section 7; thence North 89° 52' 20" West 695.25 feet along the E-W centerline to the true point of beginning; thence along the top of rim South 71° 11' 31" West 20.45 feet; thence continuing along the top of rim South 57° 47' 33" West 130.30 feet; thence continuing along the top of rim South 59° 31' 01" West 146.50 feet; thence continuing along the top of the rim South 59° 04' 08" West 218.75 feet; thence continuing along the top of the rim South 74° 27' 58" West 202.32 feet to the N-S centerline of SE¼ of Section 7; thence along said N-S centerline North 00° 00' 12" West 318.40 feet to said E-W centerline; thence South 89° 52' 20" East 638.44 feet along said E-W centerline to the point of beginning. Containing 2.63 acres more or less, all being in Deschutes County, Oregon.

EXHIBIT "B"

88

PARCEL 4: A portion of the Southwest Quarter of Section Seven (7), Township Eighteen (18) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon, described as follows:

Commencing at the Southwest Corner of Parcel 12 as shown on the Survey for Waywest Properties by Emile P. Bachand in May, 1968; thence along the South line of Section 7, T. 18S, R. 12 EWM, South 89° 39' West, 1,352.49 feet; thence, leaving said South line North 0° 07' East, 330 feet, more or less, to a point on the Canyon Rim, the point of beginning of this parcel, thence, from said point of beginning, along said Rim the following courses: North 57° 56' 10" East, 51 feet; thence North 70° 11" 50" East, 26 feet; thence North 44° 07' 40" East, 92 feet; thence North 33° 24' 40" East 52 feet; thence North 27° 51' 30" East, 67 feet; thence North 59° 56' 20" East, 77 feet; thence North 43° 28' 20" East, 62 feet; thence North 40° 42' 00" East, 33 feet, more or less, to a point on the South line of the Northeast portion of Parcel 16; thence, along said boundary of said Parcel 16 South 89° 44' 00" West, 320 feet; thence South 00° 07' 00" West, 335 feet, more or less, to the point of beginning.

PARCEL 5: That portion of Tract Sixteen (16) of WAYWEST PROPERTIES, located within a part of Section Eighteen (18), Township Eighteen (18) South, Range Twelve (12) East of the Willamette Meridian, and a portion of the Southeast Quarter of the Southwest quarter (SE¼,SW¼) of Section Seven (7), Township Eighteen (18) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon, described as follows:

Beginning at the Section Corner common to Sections 12 and 13, Township 18 South, Range 11, EWM, and Section 7 and 18, Township 18 South, Range 12, EWM, thence following the survey for WAYWEST PROPERTIES by Emile P. Bachand in May of 1968, the following courses: South 00° 28' 00" West 430.67 feet to a point on the Centerline of Pine Drive; thence along said Centerline North 60° 30' 00" East 487.42 feet; thence, North 80° 03' 00" East 493.77 feet; thence, North 63° 27' 00" East 497.33 feet to a point on the Southeasterly line of Tract No. 16; thence, leaving Pine Drive and long said Southeasterly portion of Tract No. 16 North 00° 17' 00" East 557.53 feet;thence, North 89° 44' 00" East 320.00 feet, more or less, to a point on top of the Deschutes River Rim; thence, leaving the boundary of said Tract No. 16 and following the top of said Deschutes River Rim on the following courses; North 42° 42' 00" East 40.00 feet, more or less; thence, North 26° 21' 50" East 47.00 feet; thence North 08° 27' 00" East 36.00 feet; thence, North 11° 26' 10" East 55.00 feet; thence, North 01° 45' 20" West 69.00 feet; thence, North 02° 50' 30" East 84.00 feet; thence, North 14° 21' 00" West 56.00 feet; thence North 57° 37' 10" East 37.00 feet; thence, North 67° 36' 00" East 75.00 feet; thence, North 80° 33' 10" East 70.00 feet; thence North 56° 36' 10" East 138.00 feet; thence North 59° 28' 50" East 50.00 feet, more or less, to a point on the most easterly line of said Tract 16; thence, continuing around the boundary of said Tract 16 on the following courses;

thence, North 00° 07' 00" West 130.00 feet, more or less, to the Northeast Corner of said Tract 16; thence, South 89° 50' 00" West 450.00 feet to the Deschutes River; thence, along the Deschutes River South 10° 30' 00" West 416.09 feet; thence, South 37° 15' 00" West 298.00 feet; thence, South 54° 53' 00" West 280.00 feet; thence South 68° 47' 00" West 240.00 feet; thence South 72° 33' 00" West 287.00 feet; thence, South 67° 16' 00" West 640.00 feet to a point on the West Line of said Section 7, Township 18 S., Range 12 East of the Willamette Meridian; thence South 00° 35' 00" West 110.00 feet to the point of beginning. Containing 21.00 acres, more or less, and including a thirty (30.00) foot road easement along Pine Drive Except that portion described in the deed recorded June 11, 1982 in Book 358 Page 235 Deed Records.

Section 13. Suburban High Density Residential Zone or SR-20 Zone

(1) Purpose. SR-20 Zone is intended to provide large urban lots for development with a community water system and individual sewerage disposal systems in areas not planned for community sewerage disposal systems and where soils will accommodate individual disposal systems.

(2) Permitted Uses. The following uses are permitted:

a. Single-family dwelling.

b. Agriculture, excluding the keeping of livestock.

c. Home occupations subject to the provisions of Subsection (14) Section 26.

d. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use subject to Subsection (2) of Section 27.

e. One private garage for each dwelling unit and the garage shall not exceed 720 square feet in floor area.

(3) Conditional Uses. The following conditional uses may be permitted subject to a Conditional Use Permit and the provisions of Section 28 and Section 29.

a. Mobile home subdivision subject to standards of Subsection (11) of Section 26.

b. Churches subject to Subsection (4) of Section 26.

c. Cemeteries and mausoleums, crematories, columbariums, and mortuaries within cemeteries, provided that no mortuary or crematorium is within 100 feet of a boundary street, or where no street borders the cemetery, within 200 feet of a lot in a residential district and subject to Subsection (3) of Section 26.

d. Public, parochial, and private schools, including nursery schools, kindergartens and day nurseries; including business, dancing, trade, technical or similar schools and subject to Subsection (16) of Section 26.

e. Parks and recreation facilities, fire stations, libraries, museums; but not including storage or repair yards, warehouses, or similar buses.

f. Recreation facility, including country clubs, golf courses, swimming clubs, tennis clubs; but not including such intensive commercial recreation uses as a racetrack or amusement park.

g. Utility substations or pumping stations with no equipment storage and sewage treatment facilities.

h. Planned Unit Developments subject to provisions of Section 30.

05481

i. Temporary subdivision tract offices.

j. Community buildings, lodge, and fraternal organizations, except those carried on as a business for profit and subject to Subsection (5) of Section 26.

k. Keeping of livestock, subject to Subsection (7) of Section 26.

l. Moving in a single-family dwelling built prior to January 1, 1961.

m. Mobile home park, subject to Subsection (8) of Section 26.

(4) Height Regulations. No building or structure shall be hereafter erected, enlarged, or structurally altered to exceed 30 feet in height.

(5) Lot Requirements. The following lot requirements shall be observed, provided that the Hearings Body may allow smaller lots or different housing types in a new subdivision approved pursuant to this Ordinance and consistent with the Comprehensive Plan designations for preservation of forested areas or significant rock outcroppings when these lots are internal to the subdivision or after hearing if they are located on the edge of the new plat.

a. Lot Area: Every lot shall have a minimum area of 20,000 square feet.

b. Lot Width: Every lot shall have a minimum average width of 100 feet.

c. Frontage: Every lot shall have a minimum width at the street of 50 feet except that on an approved cul-de-sac this may be reduced to 30 feet.

d. Front Yard: The front year shall be a minimum of 30 feet.

e. Side Yard: A side yard shall be a minimum of 5 feet and the sum of the two side yards shall be a minimum of 15 feet.

f. Rear Yard: The rear yard shall be a minimum of 20 feet.

g. Lot Coverage: Maximum lot coverage by buildings and structures shall be 35 percent of the lot area.

(6) Signs

a. One non-illuminated name plate or home occupation sign not exceeding one-and-one half (1½) square feet in area for each dwelling unit.

b. One non-illuminated temporary sign not exceeding six (6) square feet in area advertising the sale, lease, or rental of the property on which it is located.

c. One non-illuminated temporary sign not exceeding 64 square feet in area advertising lots within that subdivision. Said sign shall be set back at least ten (10) feet from a property line.

d. One non-illuminated sign not exceeding twenty-five (25) square feet in area identifying a conditional use on the property. Said sign shall be set back at least ten (10) feet from a property line.

(7) Off-Street Parking. Off-street parking shall be provided as required in Section 25.

(8) Other Requried Conditions. See Section 26 applying to Special Uses and Section 24.

05483

Section 14. Urban Standard Residential Zone - RS Zone

(1) Purpose; The RS Zone is intended to provide for the most common urban residential densities in places where community sewer services are or will be available and to encourage, accomodate, maintain, and protect a suitable environment for family living.

(2) Permitted Uses. The following uses are permitted:

a. Single-family dwelling.

b. Agriculture, excluding the keeping of livestock.

c. Rooming and boarding of not more than two persons.

d. Home occupation subject to the provisions of Subsection (14) of Section 26.

e. One private garage for each dwelling unit and the garage shall not exceed 720 square feet in floor area.

f. Other accessory uses and buildings and structures customarily appurtenant to a permitted use subject to Subsection (2) of Section 27.

(3) Conditional Uses. The following uses may be permitted subject to a Conditional Use Permit and the provisions of Section 24 and Section 29.

a. Mobile home subdivision subject to standards of Subsection (11) of Section 26.

b. Churches subject to Subsection (4) of Section 26.

c. Cemeteries and mausoleums, crematories, columbariums, and mortuaries within cemeteries provided that no mortuary or crematorium is within 100 feet of a boundary street, or where no street borders the cemetery, within 200 feet of a lot in a residential district and subject to Subsection (3) of Section 26.

d. Public, parochial, and private schools, including nursery schools, kindergartens and day nurseries; including business, dancing, trade, technical, or similar schools, and subject to Subsection (16) of Section 26.

e. Parks and recreation facilities, fire stations, libraries, museums; but not including storage or repair yards, warehouses, or similar uses.

f. Recreation facility, including country clubs, golf courses, swimming clubs, tennis clubs; but not including such intensive commercial recreation uses as a racetrack or amusement park.

g. Utility substations or pumping stations with no equipment storage and sewage treatment facilities.

h. Planned Unit Developments subject to provision of Section 30.

i. Temporary subdivision tract offices.

j. Rear lot development subject to Site Plan Approval as provided in Section 24 and Subsection (13) of Section 26.

k. Community buildings, lodge and fraternal organizations, except those carried on as a business for profit, and subject to Subsection (5) of Section 26.

l. Duplex in areas designated RS provided that each lot occupied by a duplex shall have a minimum area of 12,000 square feet.

m. Two single-family dwellings on one lot in areas designated RS provided that each lot occupied by two single-family dwellings shall have a minimum area of 12,000 square feet and also provided that all yard and coverage requirements set forth in Subsection (5) of Section 14, are observed. In addition, no dwelling unit shall be located within 10 feet of any other dwelling unit on the same lot. There shall be provided for the rear dwelling unoccupied and unobstructed access not less than 15 feet wide to the street fronting the lot.

n. Keeping of livestock, subject to Subsection (7) of Section 26.

o. Moving in a single-family dwelling built prior to January 1, 1961.

p. Mobile home park, subject to Subsection (8) of Section 26.

(4) Height Regulations. No building or structure shall be hereafter erected, enlarged, or structurally altered to exceed 30 feet in height.

(5) Lot Requirements. The following lot requirements shall be observed, provided that the Hearings Body may allow smaller lots or different housing types in a new subdivision approved pursuant to this Ordinance and consistent with the Comprehensive Plan designations for preservation of forested areas or significant rock outcroppings when these lots are internal to the subdivision or after hearing if they are located on the edge of the new plat.

a. Lot Area: Every lot shall have a minimum area of 6,000 square feet.

b. Lot Width: Every lot shall have a minimum average width of 60 feet except that a corner lot shall be a minimum of 70 feet.

c. Frontage: Every lot shall have a minimum width at the street of 50 feet except that on an approved cul-de-sac this may be reduced to 30 feet.

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d. Front Yard: The front yard shall be a minimum of 20 feet except an existing 40 or 50 foot corner lot may have one front yard of 10 feet provided that the garage or carport is at least 20 feet from the front.

e. Side Yard: A side yard shall be a minimum of 5 feet and the sum of the two side yards shall be a minimum of 15 feet.

f. Rear Yard: The rear yard shall be a minimum of 5 feet.

g. Lot Coverage: Maximum lot coverage by buildings and structures shall be 35 percent of the lot area.

(6) Signs

a. One non-illuminated name plate or home occupation sign not exceeding one-and-one-half (1½) square feet in area for each dwelling unit.

b. One non-illuminated temporary sign not exceeding six (6) square feet in area advertising the sale, lease, or rental of the property on which it is located.

c. One non-illuminated temporary sign not exceeding 64 square feet in area advertising lots within that subdivision. Said sign shall be set back at least ten (10) feet from a property line.

d. One non-illuminated sign not exceeding twenty-five (25) square feet in area identifying a conditional use on the property. Said sign shall be set back as least ten (10) feet from a property line.

(7) Off-Street Parking. Off-street parking shall be provided as required in Section 25.

(8) Other Required Conditions. See Section 26 applying to Special Uses and Section 24.

STATE OF OREGON)
COUNTY OF DESCHUTES) ss.

I, MARY SUE PENHOLLOW, COUNTY CLERK AND RECORDER OF CONVEYANCES, IN AND FOR SAID COUNTY, DO HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS RECORDED THIS DAY:

89 JAN 17 AM 9:58

MARY SUE PENHOLLOW
COUNTY CLERK

BY. B. Buck DEPUTY

NO. 89-00944 FEE 70-

DESCHUTES COUNTY OFFICIAL RECORDS

05486

Brooks Resources Corporation

December 29, 2015

Brian Rankin
Project Manager, City of Bend UGB
710 NW Wall Street
Bend, OR 97701

RE: Buildable Lands Inventory

Dear Mr. Rankin:

I have some concerns with the continued inclusion of the160+/- acre property owned by the Central Oregon Irrigation District, referred to as "Opportunity Area 9", on the city's Buildable Land Inventory. As we have discussed previously, approximately 130 acres of this particular property is burdened by a scenic easement granted to Mount Bachelor Village that essentially prohibits any development until the year 2034, well beyond the planning period for this UGB expansion (see attached easement and map of easement area). In addition to the scenic easement, much of the COID property is also located within the Deschutes River Canyon, and has little or no development potential due to the City's Areas of Special Interest and Waterway overlay zones.

As background, back in 1984 COID was pursuing approvals for their hydroelectric project on the property in question, which is located directly across the river from the Mount Bachelor Village Resort. In order to mitigate the impacts of the project and gain the support of the Resort, COID agreed to place a scenic easement on their property that prohibits development until at least 2019, or until April 1, 2034 as long as the property is still being used to generate power. The property is currently used to generate power, and conversations with COID representatives has indicated that this power generation operation is profitable for the District. They therefore have no intention of ceasing operation in the foreseeable future. While the scenic easement was granted to Brooks Resources, the developer of the Mount Bachelor Village Resort, the legal description for the benefitting property simply states "Mount Bachelor Village". The easement also "runs with the land and shall be binding on and inure to the benefit of the parties and their successors and assigns." This means each and every owner of property (including 5th shares) in Mount Bachelor Village, not just Brooks Resources, would need to sign a release in order to extinguish the easement prior to its 2034 expiration date. Thus, Brooks Resources does not have the unilateral ability to release the easement even if we were so inclined, and it is extremely unlikely that each of the hundreds of individual owners in Mount Bachelor Village would agree to the release. Thus, it is highly unlikely that the 130 acres of COID property affected by the easement could be developed prior to 2034.

This easement is a material fact because the COID property shows up on the Buildable Lands Inventory and in the Growth Scenarios as 160+/- acres of vacant developable land and is in fact considered an "Opportunity Area" that is slated for significant residential and employment use. Due to this scenic easement that extends to 2034, 6 years beyond the 2028 planning period, at least 130 acres of this property should not be considered developable during the planning period for this UGB expansion. These 130 acres should be categorized along with other lands subject to restrictive CCR's that limit or prohibit further development, and taken out of the inventory of available lands.

In addition to the aforementioned scenic easement, much of this property is also located within the canyon of the Deschutes River, a designated Area of Special Interest on the city's Comprehensive Plan. Even if it were not burdened with the scenic easement, much of the property would be undevelopable in any event due to steep slopes and the ASI designation.

Thank you for your attention.

Sincerely,

Dale Van Valkenburg
Brooks Resources Corporation
Boundary Alternatives TAC member

EXHIBIT MAP

APPROXIMATE SCENIC EASEMENT AREA PER INST. NO. 89-00944
BASED ON DESCHUTES COUNTY TAX ASSESSOR PARCEL LINES
SECTIONS 7 & 18, TOWNSHIP 18 SOUTH, RANGE 12 EAST, W.M.
CITY OF BEND, DESCHUTES COUNTY, OREGON

SCENIC EASEMENT AREA (INST. 89-00944)
TAX LOT 18-12-07-00-00800 = 96.6± ACRES
TAX LOT 18-12-07-00-00801 = 33.6± ACRES
TOTAL = 130.2± ACRES

N

SCALE
1000 0 500 1000
(1 INCH = 1000 FT.)

DECEMBER 28, 2015

DevTech Engineering Inc.
Site Planning · Civil Engineering
Land Surveying
3052 NW MERCHANT WAY, STE 107
Bend, OR 97701
Phone: (541) 317-8429

December 14, 2015 UGB Steering Committee meeting

Public Testimony **received** between 10-23-2015 and 12-4-2015

1. Don Horton, BMPRD, October 21, 2015 letter

2. Steve Bradford October 30, 2015 email message

3. Steve Bradford November 4, 2015 email message

4. November 4, 2015 handout to the City Council re: Skyline Ranch Road

5. Toby Bayard November 6, 2015 email message

6. Kirk Schueler November 6, 2015 letter

7. Jim Prestwood November 11, 2015 letter and attached map

8. Dale Van Valkenburg, November 11, 2015 letter

9. Sharon Smith November 12, 2015 letter

10. David Olsen November 15, 2015 email

11. Ken Atwell November 19, 2015 testimony before the Residential TAC

12. Tim Elliott letter and attached transportation assessment by Ferguson and Associates, November 19, 2015

13. Paul Dewey November 23, 2015 letter responding to Kirk Schueler testimony

14. Paul Dewey November 23, 2015 letter responding to Sharon Smith testimony

15. Paul Dewey November 23, 2015 letter responding to Dale Van Valkenburg testimony

16. Shay Mikalson and Brad Henry, BLP Schools, December 1, 2015 letter

17. Toby Bayard December 1, 2015 letter

18. Christen Brown December 2, 2015 letter with attachments

19. Dean Wise December 4, 2015 letter.

Bend Park & Recreation DISTRICT

Don Horton, Executive Director
799 SW Columbia Street
Bend, OR 97702
tel: 541. 706.6100 fax: 541.388.5429
www.bendparksandrec.org

October 21, 2015

Brian Rankin
City of Bend
710 NW Wall Street
Bend, OR 97701

RE: Bend Park and Recreation District (District) Park Land UGB Inclusion and Concurrent Annexation via Urban Growth Boundary (UGB) Amendments

For background, it is important to note that the District is the provider of park and recreation services for Bend residents. The District delivers services to its residents as an Oregon special service district in accordance with the provisions of ORS 266.010 et seq. The city of Bend (City) and the District have entered into an Urban Services Provider Agreement, also known as an Intergovernmental Agreement (IGA) pursuant to ORS 190.003 et seq. in order to deliver park and recreation services to residents on behalf of the City. Under the statute, Deschutes County has the responsibility for convening the City and any special district that provides urban services within the Bend UGB for the purpose of negotiating urban service agreements. As has been discussed earlier during the UGB process, the existing IGA between the City and the District will be reviewed and revised to ensure the equitable and efficient provision of services within new UGB after the new boundary has been adopted.

Bend Park and Recreation District (District) Park Land UGB Inclusion
Currently, the District boundary is co-located with the UGB in several areas, and also extends outside the UGB into Deschutes County jurisdiction in several other areas. The issues the District is most interested in include:

- The possible inclusion of several District-owned properties within a preferred UGB expansion scenario, and
- The subsequent future annexation of the new park properties into the City, and what that process will entail.

If a preferred UGB expansion scenario does not propose to include current District-owned properties within the new expanded boundary, the District would request that the TACs and UGB Steering Committee consider boundary expansions to include just those properties that are already contiguous with the current UGB. These properties are already publically-owned by the District and should not negatively affect the residential and employment land calculations, nor impact the future park land calculations since they should already be considered in the expansion formulas.

For any of the parks identified below, the future provision of City water and sewer service can be integral to their ability to be developed or redeveloped as they have their master plans amended over time to adjust to changes in resident demands for new and/or different amenities, as well as other factors. For example, Pine

Bend Park & Recreation DISTRICT

Don Horton, Executive Director
799 SW Columbia Street
Bend, OR 97702
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www.bendparksandrec.org

Nursery Park will likely have sewage capacity issues that will constrain development options as Bend's population grows, park visitation increases, and the on-site septic system reaches capacity thresholds.

The properties the District would like considered for inclusion within an expanded UGB, in priority order are:

1. Pine Nursery Community Park (developed, 147.3 acres)
2. Rock Ridge Community Park (undeveloped, 36.6 acres)
3. Alpine Neighborhood Park (undeveloped, 14.3 acres)
4. High Desert Community Park (undeveloped, 33.1 acres)

We have identified these properties on the attached map for reference.

Concurrent Annexation via Urban Growth Boundary (UGB) Amendments

The District understands that inclusion within a new UGB boundary does not equal annexation. Traditionally, UGB areas to be annexed to the District would require a public vote; (i.e. under a voter-approved annexation plan as provided for in ORS 195.220.) Oregon Revised Statute (ORS) and Oregon Administrative Rules (OAR) provide for and facilitate other methods of annexation. The District's understanding is that annexation of new UGB areas to the City of Bend (City) and to the District would likely take place concurrently in order to allow for the orderly provision of urban services.

ORS 198.857(3) allows for annexation to the City and District by property owner petition. In this case, a "Consent to Annex" from the property owner (District) would allow for concurrent annexation of the new park properties and facilitate the orderly extension of urban services called for in the IGA. Concurrent annexations would only apply to Rock Ridge Park and High Desert Park which are currently outside both the UGB and the District Boundary. Should Rock Ridge Park and High Desert Park be included in the new UGB, the District boundary would only be extended to encompass just the park area once the Consent to Annex was approved.

Pine Nursery and Alpine Parks would only need to annex to the City.

The District is prepared to coordinate with City staff to help to bolster arguments for inclusion of these identified park properties as necessary to meet State requirements. The District is asking that the Remand TACs and Steering Committee consider this request in the context of further discussions on the boundary expansion scenarios.

Thank you,

Don P. Horton
Executive Director
Bend Park and Recreation District

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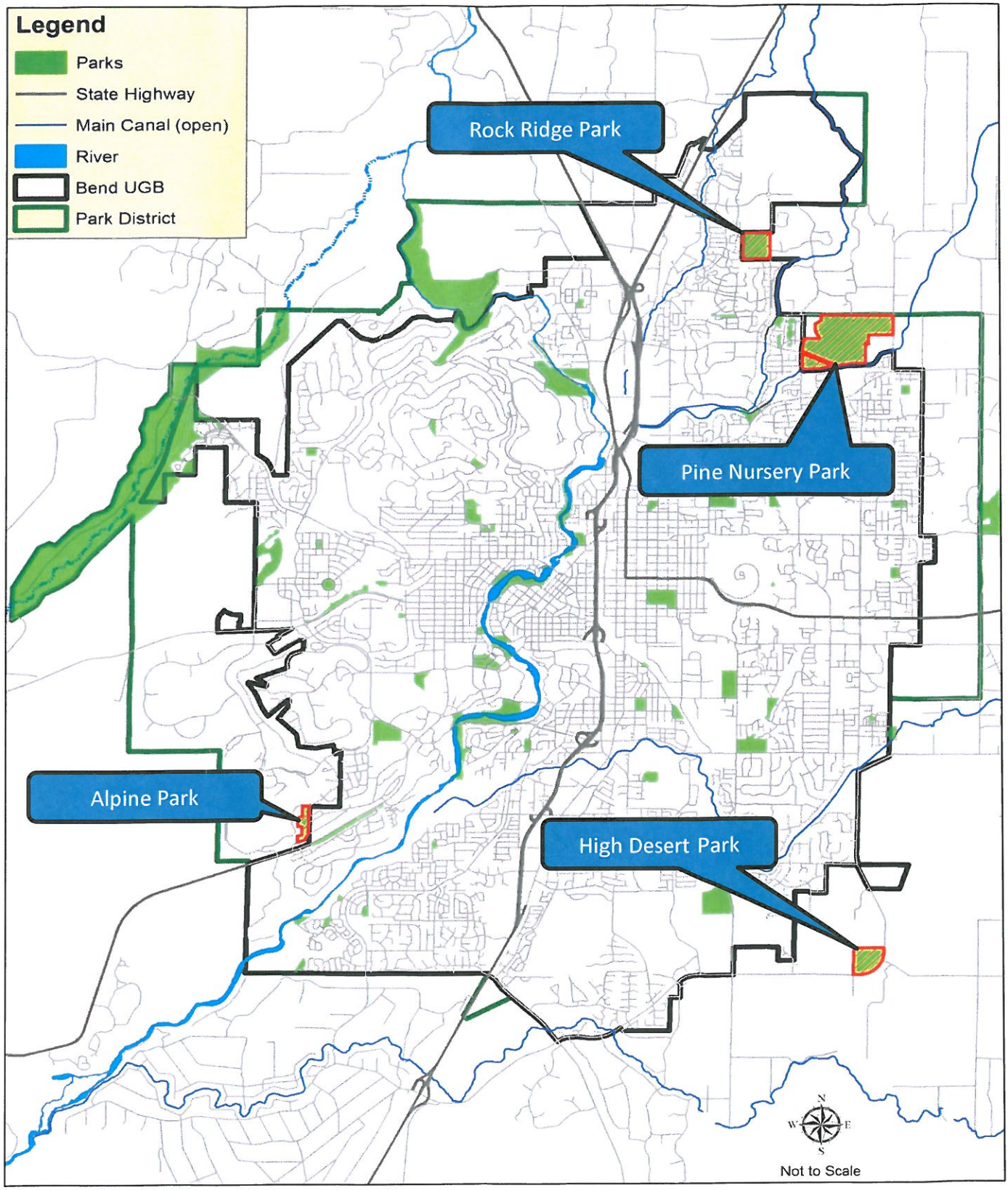
tel: 541. 706.6100 fax: 541.388.5429
www.bendparksandrec.org



National Gold Medal Award Winner

Damian Syrnyk

From: Mary Winters
Sent: Monday, November 02, 2015 1:58 PM
To: Damian Syrnyk
Subject: FW: UGB Development

Damian, do you get these council all emails for the record? Mary

---

From: Barbara Campbell
Sent: Friday, October 30, 2015 4:11 PM
To: STEVE BRADFORD <sbradford@gci.net>; CouncilAll <councilall@bendoregon.gov>
Subject: Re: UGB Development

Thank you. Mr Bradford.

I think you are correct about people not relocating across town just to be near their jobs.
I do think that we have so many new people wanting to move here that many of them would choose a home closer to their work if it was available.
And we absolutely do think we can reduce vehicle miles travel by putting grocery stores near homes.

Barb Campbell
Bend City Councilor

"Well behaved women rarely make history."
-Attributed to Eleanor Roosevelt and Marilyn Monroe

From: STEVE BRADFORD <sbradford@gci.net>
Sent: Friday, October 30, 2015 9:13 AM
To: CouncilAll
Subject: UGB Development

The stated goal of our UGB expansion is to provide a 20 year supply of land for our growing needs. The latest mapping shows only 1800 acres, that is less than 3 square miles for expansion. This seems way under what is needed. If we look back 20 years, it is easy to see that our city has grown far more than this. With the steady inflow of baby boomers into this region, we can expect a far greater population growth than what has been experienced to date.
One aspect of the mapping that I find unrealistic is to think we are going to create employment centers and living centers in the same area so workers don't have to commute. Workers must go where their employer is located, be it across town or in an outlying city. I think it is a waste of time and unrealistic to think that workers are going to relocate their residence to be near their place of employment. Our UGB expansion should simply show proposed residential development areas and proposed commercial development areas.

I would suggest that if we only need 1800 acres by current estimates, then why bother with expanding our UGB at this time? Let's wait for some more in-fill to occur.
Thank you.
Steve Bradford, Bend
I

Damian Syrnyk

From: Mary Winters
Sent: Wednesday, November 04, 2015 10:09 AM
To: Damian Syrnyk
Subject: FW: UGB Development

Follow Up Flag: Follow up
Flag Status: Completed

From: Anne Aurand
Sent: Wednesday, November 04, 2015 6:03 AM
To: Brian Rankin <brankin@bendoregon.gov>; Mary Winters <mwinters@bendoregon.gov>
Subject: Fwd: UGB Development

Sent from my cell, please excuse any typos.

Begin forwarded message:

> **From:** GCI <sbradford@gci.net>
> **Date:** November 4, 2015 at 4:58:18 AM PST
> **To:** Anne Aurand <aaurand@bendoregon.gov>
> **Subject: Re: UGB Development**
>
> The stated goal of the UGB is to provide developable land for the next 20 years. You are not in compliance with your stated goals.
>
> Sent from Steve's iPhone
>
> On Nov 3, 2015, at 11:27 AM, Anne Aurand <aaurand@bendoregon.gov> wrote:
>
> > Steve,
> >
> > Thank you for writing to your City Councilors. They all receive emails to this address and they do appreciate input. The UGB is a huge topic at the City right now and we've been collecting input in many ways. As a staff person who works with the Council and the City's UGB planners, here's what I can add:
> >
> > The 1,800-acre plan resulted from a thorough public involvement process, is backed by considerable data and meant to fulfil land needs for the next 13 years. But you're right: Bend will certainly continue to grow. And, we will continue to add land as needed. Doing this expansion project now is important not only because it helps address anticipated future land shortages, but it also allows the City to more accurately (and therefore efficiently) plan and build infrastructure that will be needed as we grow.

The plan is not mapping employment/residential centers with the expectation that people will necessarily relocate closer to their jobs. The new employment and residential areas are modeled after existing land-use patterns that have a mix of employment and housing areas in close proximity. This mixing has been shown to have some benefits over time, such as decreased reliance on the automobile. We are not assuming everyone will walk to work, but there should be more opportunities to shorten trips over time if we provide services and employment where it is currently not possible.

It sounds like you're following this process, but I wanted to make sure you were aware of the project website: www.bendoregon.gov/bendugb where you'll find lots of project information.

Thanks again for your interest,
Anne

<image002.png> Anne Aurand | Community Relations Manager
541-388-5573
<image003.gif><image004.gif><image005.gif><image006.gif><image007.g

---

From: STEVE BRADFORD <sbradford@gci.net>
Sent: Friday, October 30, 2015 9:13 AM
To: CouncilAll
Subject: UGB Development

The stated goal of our UGB expansion is to provide a 20 year supply of land for our growing needs. The latest mapping shows only 1800 acres, that is less than 3 square miles for expansion. This seems way under what is needed. If we look back 20 years, it is easy to see that our city has grown far more than this. With the steady inflow of baby boomers into this region, we can expect a far greater population growth than what has been experienced to date.
One aspect of the mapping that I find unrealistic is to think we are going to create employment centers and living centers in the same area so workers don't have to commute. Workers must go where their employer is located, be it across town or in an outlying city. I think it is a waste of time and unrealistic to think that workers are going to relocate their residence to be near their place of employment. Our UGB expansion should simply show proposed residential development areas and proposed commercial development areas.
I would suggest that if we only need 1800 acres by current estimates, then why bother with expanding our UGB at this time? Let's wait for some more in-fill to occur.
Thank you.
Steve Bradford, Bend
I

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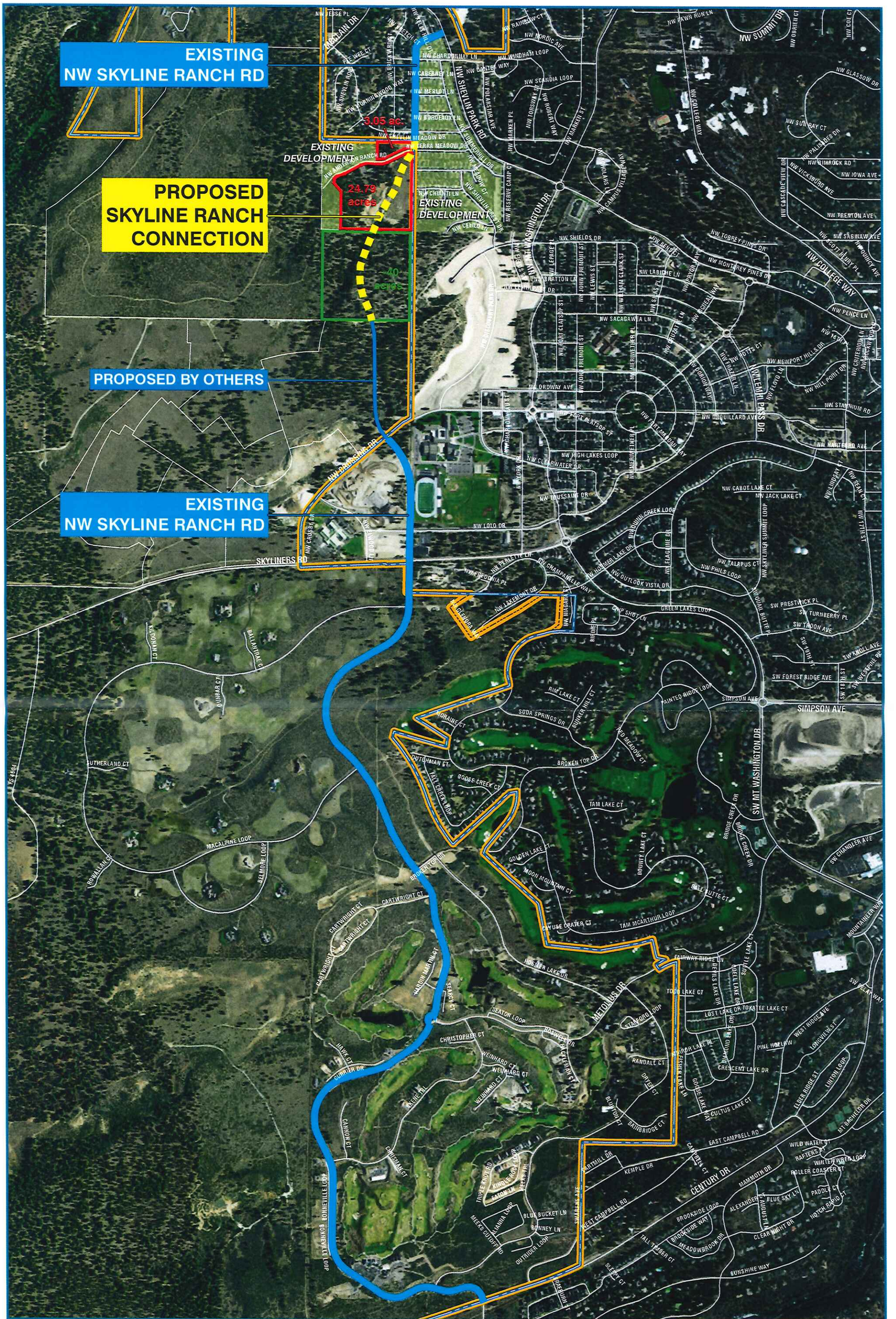
Reasons for including Skyline Ranch Road into the UGB

1. When the proposal was put in front of you for review the number of homes that would be included on the Westside went from 750 to 1,450 for a difference of 700 additional homes. I understand how there would be some resistance to that many homes. I don't know where that number came from as the actual number is closer to 171. That is less than ¼ the amount represented.
2. Skyline Ranch Road is on the TSP and is necessary for transportation including the schools, fire, and police.

3. The property will make the final connection of the important link of Skyline Ranch road. I have attached a map showing the two properties being discussed outlined in red and green. The 28 acre piece I represent, and the 40 acre piece of Matt Day's. You can see the thick blue line depicts Skyline Ranch Road, and how it sweeps around from Shevlin Park Road to Century Drive. I developed Skyline Ranch road to the North of Shevlin Meadows, the School just this year developed it to the North of Skyliner Road, and Tetherow partners further South to Century Drive. You can see that blue line representing Skyline Ranch Road gets interrupted by the dashed yellow line. That dashed yellow line is the missing link of Skyline Ranch road.
4. Bend/LaPine schools support the inclusion of Skyline Ranch Road
5. Bend Fire department would obviously support the connection of roads
6. Including just one developer on the west side is not good for competition, not good for prices, and never works out well.
7. The average square foot price of NWX is $297 vs Shevlin Meadows at $202. Don't get me wrong NWX is a fantastic development, but so is Shevlin Meadows. 45 of the planned 51 lots on the proposed property will be similar to Shevlin Meadows. By just allowing a NWX type property, it only allows the very rich to live on the Westside. Shevlin Meadows allows an entirely different income bracket to own a home and live on Westside. I feel it's really important to have some diversity in our City.

8. This property scores as high as any property on the UGB scoring system and higher than some that are being included in other parts of town.
9. Originally this property was part of the 96 acre master-plan development of Shevlin Meadows and this is the remaining 28 acres.
10. One of the complaints the special interest groups have is they don't want to develop any more land to the West. This property is already bordered on the Westside by rural 5 acre lots. My addition would actually be to the East of the Western border, so it isn't encroaching further to the West.
11. This property was originally zoned surface mine. We depleted the pumice and received a zone change through a public hearing to UAR-10. I can tell you that there aren't any Deer or Elk on the property unless they eat pumice.
12. This property would be the only development that participated in the Westside consortium that has yet to be developed. The developer installed the roundabout at 14th and Newport. It would be unsettling, and ironic that this property would have participated in the roundabout at 14th and Newport 12 years ago, and used all these years to improve traffic congestion, as well as dedicate Skyline Ranch road and not be included in the 20 year plan.
13. This property upsized the lift station to handle the sewage from the property, and that capacity still exists – hence the reason there is no lack of sewer capacity as with other properties to the North and West.
14. I prepared a small video a few weeks ago that gives more visual aides to Skyline Ranch road and its connection. The website address to watch the video is _https://vimeo.com/142736609 I will send all of you an electronic link tomorrow on your email.



Potential Skyline Ranch Road Connection

Parcel of Interest
Neighboring Property
Adjacent Development
Existing Road
Proposed Connection
Proposed by Others
City Limit
UGB

0 1,000 2,000 Feet

AmeriTitle
www.amerititle.com

05502

Damian Syrnyk

From: Toby Bayard <tobybayard@hotmail.com>
Sent: Friday, November 06, 2015 9:29 AM
To: Damian Syrnyk; Joe Dills; Brian Rankin; Ellen Grover
Cc: Toby Bayard
Subject: Re: Today's meeting--process point

While in France, I sent a garbled message that was intended to express agreement with Ellen's comments. Sorry about the typos in the earlier message. I agree about needing "consensus" or approximate consensus ... I don't want to see "special interests" do to this process what happened during the last one, albeit on a much larger, messier scale and with a different Council.

Thanks,

Toby Bayard

From: Damian Syrnyk
Sent: Thursday, October 22, 2015 8:53 AM
To: Joe Dills ; Brian Rankin
Subject: FW: Today's meeting--process point

Boundary TAC members, please find enclosed an email from Ellen Grover. Thanks, Damian

---

From: Ellen H. Grover [mailto:ehg@karnopp.com]
Sent: Thursday, October 22, 2015 8:18 AM
To: Mike Riley <mike@envirocenter.org>; smith@bljlawyers.com
Cc: Mary Winters <mwinters@bendoregon.gov>; Brian Rankin <brankin@bendoregon.gov>; Damian Syrnyk <dsyrnyk@bendoregon.gov>
Subject: Today's meeting--process point

Hi Mike and Sharon. I apologize but work demands prevent me from attending today's meeting. And I also apologize for the lateness of this email, but I've been mulling over where the committee is and where it is going and how most appropriately to contribute. I'll just get to the point: I think the committee's work/recommendation will be strongest if we can build the highest level of consensus possible. And I think that is the intent of staff in running these meetings.

I don't pretend to think we'll get complete consensus (meaning everyone is in favor or can live with the result). But, we are at a stage in the process—the Goal 14 balancing—where both technical and policy considerations are necessarily intermixed. I have the highest regard for the members of the committee and believe our work to date has been principled, but it is a committee comprised of both technical advisers and stakeholders—many of whom have direct interests at stake in the recommendation/scenarios. From a process standpoint, I think any consideration to be mapped as part of a true recommendation should have a strong level of consensus before being mapped. I raise this because I believe the foundations that lead to scenarios 2.1 and 2.2 probably do, but I am not sure that scenario 2.3 does as it reflects simple individual comments—such as a concern about over burdening the east side (which is a concern I do not share). It may be necessary to test out certain ideas, but it is important to ensure that the policy considerations that lead to a recommendation are based on as broad of a consensus as possible as we are now looking at specific properties (where there is a surplus of available land).

Thanks, Ellen

Ellen Grover
Attorney

KARNOPP PETERSEN LLP
ATTORNEYS AT LAW

360 SW Bond St, Ste. 400 | Bend, OR 97702
office: 541.382.3011 | email: ehg@karnopp.com
web: www.karnopp.com | blog: www.karnopp.com/blog

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November 6, 2015

Victor Chudowsky, Chair
City of Bend UGB Steering Committee
710 NW Wall Street
Bend, OR 97701

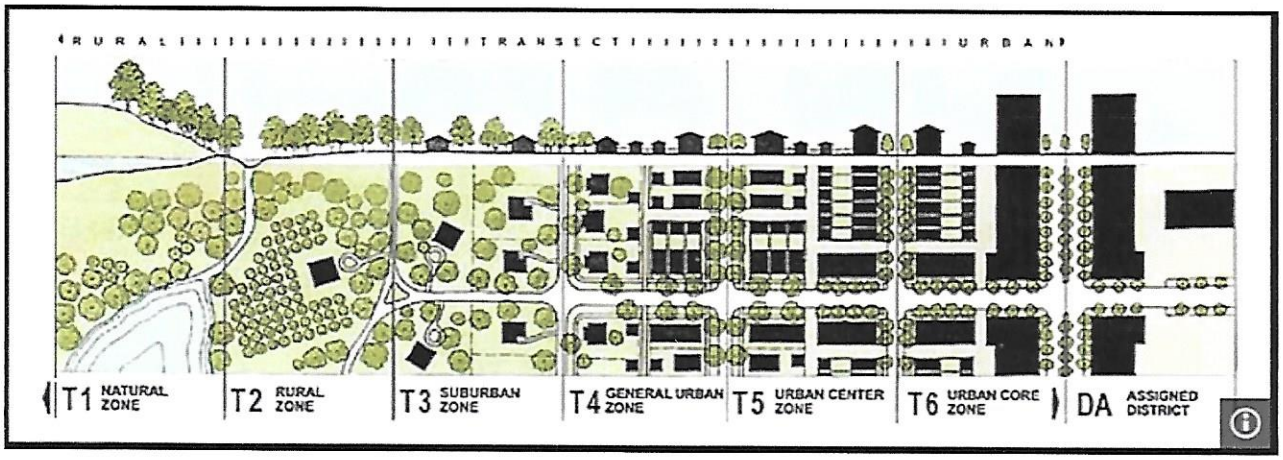
Dear Chair Chudowsky and Members of the UGB Steering Committee:

My name is Kirk Schueler and I reside at 144 NW Vicksburg Avenue, in Bend. In full disclosure of my potential conflicts and interests, I am a partner in West Bend Property Company 2, LLC (WBPC 2). I am also a member of the City of Bend UGB Residential Technical Advisory Committee. WBPC 2 has interests in developing land on the west side of Bend that potentially could be brought into the UGB. The partners of WBPC 2 are essentially the same group that developed NorthWest Crossing.

I watched the October 22nd, 2015 Boundary TAC meeting where they recommended to the UGB Steering Committee to adopt Scenario 2.3, with two amendments. Based on the well-known and widely adopted new urbanist planning principles that I believe in, and were the basis for developing NorthWest Crossing, this appeared to me as the scenario that best supported good planning. I believe the Steering Committee's adoption of Scenario 2.1 contradicts those good planning principles, and overlooked the evidence and testimony presented to the technical advisor committees and boundary committee that supported Scenario 2.3. I am providing this letter to the Steering Committee to highlight the strengths of the Boundary TAC's recommendation, and to request that the Steering Committee reconsider their decision to put forward Scenario 2.1.

The basic building block of New Urbanism is the neighborhood. Neighborhoods are small in scale, roughly ¼ mile from center to edge. Cities are made up of many neighborhoods, typically defined at the edge by corridors, which can include natural features, railroad lines, major transportation elements, and even special districts (i.e. – a hospital, an airport, a major shopping center, etc..). New Urbanist planners have developed the Transect model to guide how neighborhoods are organized when they transition to a defined edge of development, like the undevelopable open spaces beyond the exception and rural residential lands on the west side of Bend.

The Transect is a tool to arrange, in a useful order, the elements of urbanism by classifying them from rural to urban. The concept is relatively simple and makes great sense when you see it in graphical form, as follows:



It is easy to see how this planning principle fits the west side of Bend, where there is a very clear Natural Zone consisting of national forest lands, a large regional public park, and an important waterway (Tumalo Creek). Other parts of Bend do not have this condition. Most of the north and east sides of Bend abut large tracts of

privately owned low-value agricultural land, suitable to accommodate growth for decades to come. However, they are not in the current Urban Reserve, so until they are designated something other than resource lands, they are not eligible for consideration.

A unique opportunity exists on the west side to permanently create this "transect" between the Urban Core (T6) and the Natural Zone (T1). Developments like NorthWest Crossing, Shevlin Ridge, Shevlin Pines, and Shevlin Meadows represent typical development in the General Urban Zone (T4). The question is then how do we develop between these established parts of our city and the "hard edge" of our Natural Zone. The Transect model calls for development that follows the Suburban Zone (T3) treatment. This is already present on the west side in Tetherow and Shevlin Commons, and in the recently approved Tree Farm subdivision. Rural Zone (T2) treatment already exists in the large tracts of private land under forest use zoning in the county and Cascade Highlands, allowing minimal housing density. The right development for lands west of the current UGB should predominantly follow the Suburban Zone (T3) treatment.

The Suburban Zone, as described in the New Urbanism Best Practices Guide, "...isn't exactly the 'burbs. Its close, to be sure, but it doesn't include some things like the big box retail you might instead find in a highway business district. The suburban zone is most similar to the areas on the outskirts of town where the town grid begins to give way to nature."

The Steering Committee's decision to support Scenario 2.1 assigns 750 households and a housing mix of 32% single family detached (SFD), 19% attached single family (ASF), and 49% multifamily housing to 120 acres of the Miller Tree Farm land. As shown in Table 1 below, this means that there will be 511 attached housing units (143 ASF and 368 MF) and 240 detached housing units on this property that is transitioning to a Natural Area. As a comparison, NorthWest Crossing is projected to have between 240 and 300 attached housing units at build out. The proposed housing mix in Scenario 2.1 is not consistent with the planning concept embodied in the Transect. If there was no permanent Natural Zone to the west, then this housing mix would make more sense. This housing mix is more appropriate for the north and east sides of Bend. That is because over the next several decades the current boundaries on those sides of town will have transitioned to more urbanized cores as the boundaries keep moving outward.

Table 1

	Scenario 2.1 Mix	Scenario 2.1 Units
SFD	32 %	240
ASF	19 %	143
MF	49 %	368
	100 %	750

A more appropriate housing mix would be more like the housing mix proposed for the expansion land in the north east in Scenario 2.1. Quite amazingly, the housing mix for this land is proposed to be 73% SFD, 7% ASF, and just 20% MF. Applying that housing mix to the proposed 750 households on the west side would yield the housing units shown in Table 2.

Table 2

	North East Mix	Units
SFD	73 %	548
SFA	7 %	53
MF	20 %	150
	100 %	750

In addition to the inappropriate housing mix, Scenario 2.1 includes 40 acres of employment land. Using the 21% right-of-way factor to get to net acres, and common industry rules of thumb for office and industrial

development (30% to 40% Floor Area Ratios), under Scenario 2.1 there will be between 432,000 sf and 576,000 sf of commercial and industrial buildings on the 180 acres of land brought into the UGB in Scenario 2.1. This does not sound like an area where the town grid begins to give way to nature. In comparison, West Bend Property Company recently completed an analysis of their commercial and industrial lands in NorthWest Crossing and projected at buildout there would be roughly 612,000 sf of commercial and industrial buildings in the 485 acre master planned development.

At the October 22nd boundary TAC meeting there were arguments raised that the west side needs an over-weighted mix of multifamily units in order to provide more affordable housing. There are two serious flaws in this argument. The first is that basic community planning concepts would not locate large concentrations of "affordable housing" away from major transit corridors, centers of employment, or retail. Since this area will never (and should never) urbanize to that degree for the reasons noted above, this area is unlikely to ever provide those infrastructure needs. The second flawed belief is that building multifamily units on the west side will create affordable housing. There is a reason housing is expensive on the west side; people are willing to pay more to live there. Unless there is a significant source of funds available to create enough subsidized affordable housing (since inclusionary zoning is illegal in Oregon), then these apartments will for the most part be for the middle and upper class population; probably financially successful millennials. A second round of UGB expansion will be necessary to address affordable housing, especially if any market rate housing is to be included in that mix.

I believe strongly in good land use planning, and for me that includes the principles of the Transect. I respectfully request that the Steering Committee consider amending its decision to pursue Scenario 2.1 to reflect the following, as encompassed in the Boundary TAC's recommendation to move forward with Scenario 2.3:

- Bring into the UGB all 260 acres of land on the west side as depicted in Scenario 2.3 (owned by Miller, Rio Lobo, and Anderson Ranch) with the following use designations: 205 acres of residential, 15 acres of employment, and 30 acres of civic and open space use.
- Adopt a housing mix for the west lands of 75% SFD/ 5% ASF/ 20% MF, and correspondingly adjust the housing density in the north east to include more density to accommodate the future long term growth of Bend.

Thank you for considering these comments.

Kirk Schueler
Schueler Consulting Services, President
West Bend Property Company 2, LLC, Member

CC: Sharon Smith, Co-Chair Boundary Technical Advisory Committee
Mike Riley, Co-Chair Boundary Technical Advisory Committee

Damian Syrnyk

From: Jim Prestwood <jprestwood@bendbroadband.com>
Sent: Thursday, November 12, 2015 12:38 PM
To: Damian Syrnyk
Subject: RE: UGB Parcels
Attachments: Buck Canyon - UGB0001.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Damian,

Thank you for the opportunity to speak at the recent TAC meeting on October 22, 2015. I should have had this letter to be placed on the record at that time but would now like it to be made part of that record. Please see that the TAC committee receives a copy for review and consideration.

Everywhere we look we see projections and forecasts of continued of growth in Deschutes County and the City of Bend. The three years ending in 2013 Deschutes County grew 5.21 % with 2.5% of that growth between July 2012 to July 2013. The 2012 to 2013 time frame brought over 4000 new folks to Deschutes County, many of these coming to Bend. Ending in July 2015, 2385 new folks moved in. The morning of the recent TAC meeting saw an article in The Oregonian quoting a Census Bureau report showing Bend's growth to be at 3% per year. A recent article in "Bend" magazine projects an increase in Bend's population by 54% by 2035 to 132,209.

These new residents will be looking for reasonably priced property. It is a well-known fact that property on the westside will cost much more per square foot than property in other areas of town. This area on the south end will help increase options of affordable housing in Bend as well and makes sense as an extension of the Baney property's inclusion. We have attached a plat showing how our property's dovetail into Baney's parcel. These additional parcels total approx. 23 acres.

We know you are using your own growth projections during this whole process as well. One question we have is that in the three scenarios, they only allow for approx. 4000 new housing units. As a long term projection, this seems a little shy of what the city will need to keep up with demand and growth. Granted, some of your anticipated growth is going to be in-fill property within the existing City limits, but even at that, we believe Bend will be exceeding its boundaries before the ink dries on the final approval from the State. To that end, we would like to offer additional land that ties in directly to two parcels on the south end of town; Ward's and Baney's parcels as shown in Scenario 2.1. Your handout describing "The Thumb" area stated one of the advantages of the Ward and Baney properties' were that they were both over 20 acres and provided increased opportunities for master planning. At the recent TAC meeting it was added that the infrastructure planned for "The Thumb" would be a sunk cost and the more property (Baney) that was near-by would help spread these costs. The adjacent property to Baney's we have is 23 acres. and would also provide the option of additional access off of Buck Canyon which leads directly to Elk Meadow School and shopping at Lovejoy shopping center.

We are anxious to see our property's be included as part of the UGB expansion scenario 2.1, as they were in the last submission of 2008. Please consider this as an additional option in your future discussions before any final boundaries are drawn. Thank you for your consideration.

Jim & Kathi Prestwood
Roger & Lesa Fadness
Mike & Kathy Kutansky

From: Damian Syrnyk [mailto:dsyrnyk@bendoregon.gov]
Sent: Friday, October 09, 2015 11:49 AM

To: Jim Prestwood
Subject: RE: UGB Parcels

Hi Jim,

The next step is the October 22, 2015 meeting of the Boundary TAC, the same group that met yesterday morning. There will be a public comment period on that meeting's agenda. You can also submit any letters and materials to me that I can then forward on to the Boundary TAC.

Please let me know if you have any questions.

Thanks, Damian

CITY OF BEND

Damian Syrnyk, AICP | Senior Planner
O: 541-312-4919 |

From: Jim Prestwood [mailto:jprestwood@bendbroadband.com]
Sent: Thursday, October 08, 2015 5:16 PM
To: Damian Syrnyk <dsyrnyk@bendoregon.gov>
Subject: RE: UGB Parcels

Damian,

I was able to attend today's TAC meeting, however, the time allowed for public comment and a previously scheduled meeting for me conflicted and I had to leave before 11:00am. I did speak with a member of the TAC committee before the meeting started and interestingly was told to talk to you! Anyway, I would like to be able to speak my (and neighbors) piece on the approx. 20 acre total of our property which sits next to Ward's " thumb" and Baney's parcel.

Please let me know what the next step would be and if not you, who we could discuss this with. Thanks.

Jim Prestwood
541-280-2083

From: Damian Syrnyk [mailto:dsyrnyk@bendoregon.gov]
Sent: Friday, October 02, 2015 9:09 AM
To: Jim Prestwood
Subject: RE: UGB Parcels

Good Morning Jim,

The Boundary and Growth Scenarios TAC will be meeting on Thursday, October 8. They are the body to whom to direct your testimony.

I'm enclosing a link to their website through which you can download their meeting materials for Thursday as well as materials from past meetings.
http://bendoregon.gov/index.aspx?page=52&parent=17589. Newest meeting materials are at the top; oldest at the bottom.

Please let me know if you need anything else.

Thanks,
Damian

CITY OF BEND

Damian Syrnyk, AICP | Senior Planner
O: 541-312-4919 |

From: Jim Prestwood [mailto:jprestwood@bendbroadband.com]
Sent: Friday, October 02, 2015 7:03 AM
To: Damian Syrnyk <dsyrnyk@bendoregon.gov>
Subject: re: UGB Parcels

Damian,

It was nice to chat with you last night at the UGB neighborhood meeting. I was the one asking about the possibility of having a parcel included into one of the scenarios as it appears none of the 6 scenarios are static at this time. My 13 acre parcel sits next to Baney's on the south end next to "the thumb." It was included in the first go around a few years ago. If you could direct me to the person(s) who are developing these scenarios I'd appreciate it. I am planning on attending the October 8th meeting as well. Thanks for your time.

Jim Prestwood
541-280-2083

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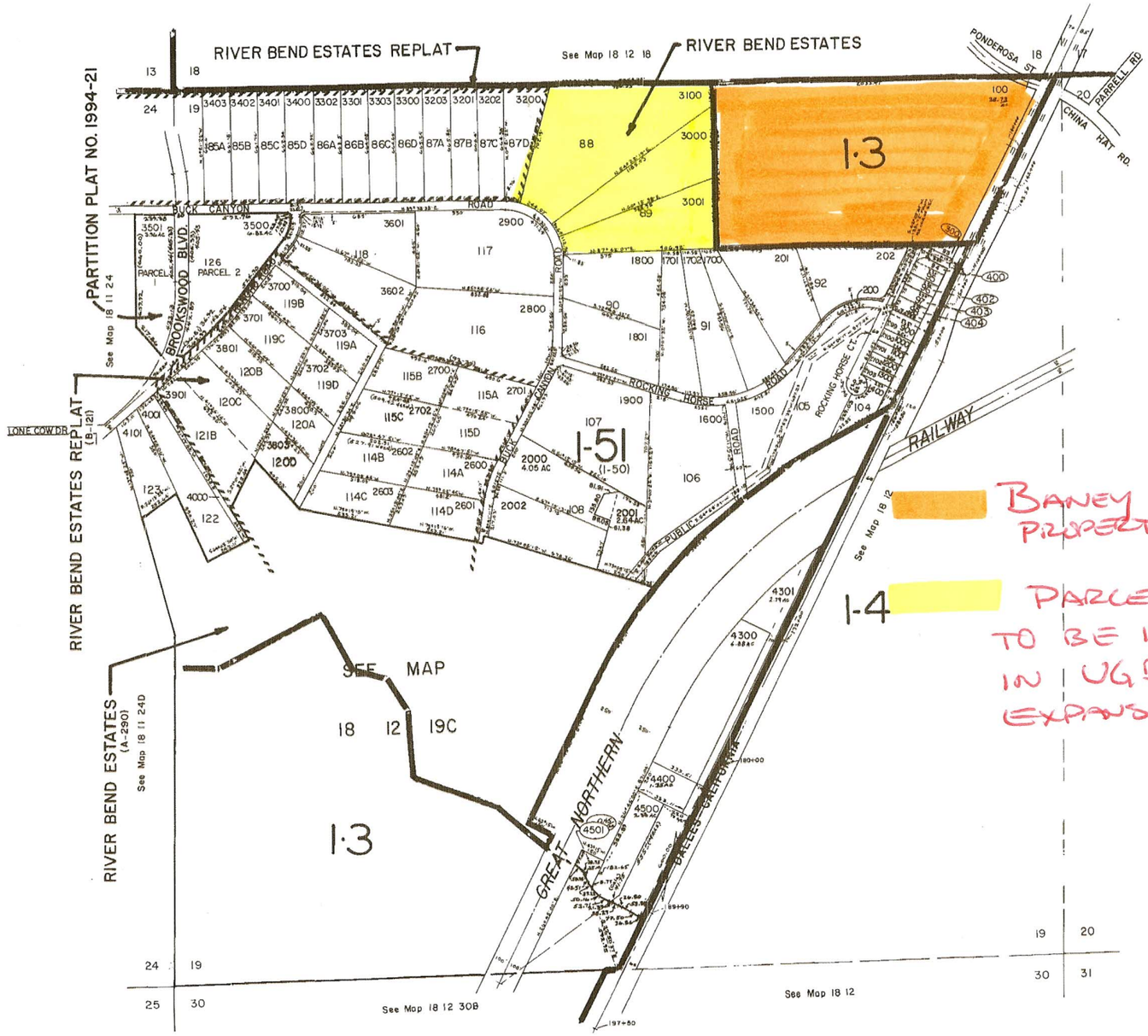
SECTION 19 T.18S. R.12E.W.M.
DESCHUTES COUNTY
1"= 400'

Cancelled numbers 101, 500 thru 800, 2100 thru 2501, 3600 3900, 901, 1001, 1101 4002, 1201, 1301 4100, 4200 401 3802

18 12 19

Revised Date
7-94
8-11-03
1-15-04
12-16-04
7-17-07
8-26-13



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Brooks Resources Corporation

November 11, 2015

Victor Chudowsky, Chair
City of Bend UGB Steering Committee
710 NW Wall Street
Bend, OR 97701

RE: Scenario 2.3 as modified by the TAC

Dear Chair Chudowsky and Members of the UGB Steering Committee:

On October 22, 2015, I spent nearly 7 hours either participating in or observing public meetings regarding the City' Urban Growth Boundary expansion. The first four hour stint was spent as a participant in a meeting of the Boundary Alternatives Technical Advisory Committee, a meeting that was the culmination of 15 months of combined effort between 20 citizen-volunteers, city staff, and an expert team of consultants. The end result of this time consuming, and expensive, effort was 10-3-1 vote approving a recommendation of Scenario 2.3 with amendments. These very specific amendments were to retain the retain the overall boundary depicted in Scenarion2.3 while reducing medium and high density units in the West subarea and move them to the Northeast, DSL property, and the Elbow, resulting in a more balanced mix of housing types in the Northeast and West. The recommendation also included adding more employment and medium/high density residential to the Northeast.

The second half of my day was then spent attending the UGB Steering Committee meeting to consider the TAC's recommendation, which followed the TAC meeting by less than 2 hours. Due to this short turnaround time, staff and the consultant team did not have sufficient time to create a new map that reflected and quantified the TAC-recommended modifications for USC evaluation. This nuance did not appear to be considered or fully understood by the USC, as reactions to the incorrect total number of units listed on 2.3 seemed to drive the discussion back toward 2.1. It was thus with great disappointment that I listened to two of the three dissenting members of the Boundary TAC testify in direct opposition to the recommendation that had just been endorsed by a large majority of the TAC, and then observed the USC reject the TAC's recommendation based largely on the reasoning espoused by those minority TAC members who spoke.

By way of disclosure, while I am member of the Boundary Alternatives TAC, my employer also has an interest in the Miller property that is currently included either all or in part on all three Scenario Maps 2.1, 2.2, and 2.3. Approximately 180 acres of the Miller property is included on both 2.1 and 2.3, while all 245 acres of the property are included on Scenario 2.2. Despite the obvious self-interest inherent in Scenario 2.2, I am a strong advocate for Scenario 2.3 with the amendments recommended by the TAC for the reasons discussed below.

During the USC's rush to judgement it appeared that several subtle, yet important, components of the TAC's recommendation were not fully considered by the USC. The most significant of these considerations was that the land area included in the West subarea in Scenario 2.3 is necessary to accommodate the completion of the Skyline Ranch Road Collector that is currently on the Bend Urban Area Transportation System Plan. The TAC's recommended modifications to Scenario 2.3 includes

enough land area in the West to allow this planned street segment to be connected, but proposed a significant decrease in the overall number of residential units and to lessen the intensity of non-residential uses to reduce the overall impacts of development in this area. This was a point of major discussion at the TAC level, and was the compromise that eventually led to a significant majority of TAC members voting to support this recommendation.

Skyline Ranch Road is already nearly complete between Century Drive and Shevlin Park Road, except for a short section between NW Crossing Drive and the Shevlin Meadows subdivision to the north located in the area being considered for inclusion in the UGB. Once completed, Skyline Ranch Road will provide alternative access to Miller Elementary, Pacific Crest Middle, and Summit High School from neighborhoods to the north, relieving pressure on Mt. Washington Drive and neighborhood streets in NorthWest Crossing. If the West subarea lands in Scenario 2.3 are not included, it will become very unlikely that this important urban roadway that is needed now to serve school traffic will be completed within the planning period (2028). This will leave the planned arterial/collector circulation pattern incomplete in this area and effectively prohibit an important and already needed alternate access to the three schools that would benefit from its completion. In accordance with the TSP, the City required the School District to build an extension of Skyline Ranch Road between Skyliners Road and NW Crossing Drive with construction of the Pacific Crest Middle School, at a cost of over $1,000,000. If the UGB is not expanded in such a way to allow Skyline Ranch Road to be completed, the short section constructed by the school district will be a million dollar road to nowhere and a waste of public money.

Given that there was insufficient time between the TAC and USC meetings for staff and the consultant team to revise the maps and proposed density calculations, it did not appear that the USC fully understood the nuances of the TAC's recommendation before rejecting it in favor of Scenario 2.1. I ask the USC to reconsider the TAC's recommendation to move ahead with amended Scenario 2.3 by first directing staff and the consultant team to make the changes to the map and quantify the resultant mix of uses that were encompassed in our recommendation, and then fully evaluate the TAC's recommendation at the December USC meeting.

Thank you for your attention.

Sincerely,

Dale Van Valkenburg
Brooks Resources Corporation
Boundary Alternatives TAC member

Victor Chudowsky, Chair
City of Bend UGB Steering Committee
710 NW Wall Street
Bend, OR 97701

November 12, 2015

RE: Steering Committee Action

Dear Chair Chudowsky and Members of the UGB Steering Committee:

For the past 15 months, 60 citizen volunteers devoted a tremendous amount of time, energy, and thought towards a community driven effort to update Bend's UGB. Modeled after the SIAG process, this was an innovative way to include public input in the critical UGB expansion process. Our process culminated in a 4-hour session that resulted in a 10-3-1 vote approving a recommendation of Scenario 2.3, with some specific amendments intended to reduce the overall number of units in the west and increase the intensity of development in the east.

Our recommendation was based on months of fact gathering and carefully analyzing alternatives to arrive at a balanced boundary expansion that fully considered a mix of uses in the expansion areas and the shortcomings of the areas omitted. Although there were a diverse set of interests, and tough decisions to be made, the TAC reached a recommendation supported by a substantial majority through exhaustive study and respectful compromise. We left our last meeting feeling that we had developed a solid recommendation, built to withstand the inevitable challenges from various parties dissatisfied with the results. Thus, you can understand our disappointment that the USC proceeded to reject our recommendation mere hours later.

Given that there was insufficient time between our two meetings to revise the maps and proposed density calculations based on the recommendation, it did not appear that the USC fully understood the nuances and intent of the TAC's recommendation. For these reasons, I ask that you reconsider our recommendation of Scenario 2.3, or at least be open to having staff make the changes to the map that were encompassed in our recommendation and giving them the careful consideration that we did.

Going forward, please be mindful of how you treat the TAC recommendations. Giving short shrift to the Boundary TAC's carefully considered recommendations undermines the integrity of the entire citizen-driven process on which the city has spent millions of dollars in order to build a defensible UGB expansion proposal. The message it sends to staff, the consultant team, and the 60 volunteers on the three TACs who worked very hard to craft both a process and a recommendation that could stand up to rigorous scrutiny is: "your work is unimportant." But this work is important and too much effort was put into our recommendation to be summarily dismissed.

Our community needs to finalize the UGB expansion in a defensible way. The evidence shows that we have an inadequate land supply. This contributes to the affordable housing crisis and hampers economic development. Our community cannot afford more delay. We need to work together and this public process is critical to the success of the UGB and the other challenges facing our community. Thank you for your consideration.

Sincerely,

Sharon R. Smith

Sharon R. Smith

cc: Brian Rankin; UGB Steering Committee members

Damian Syrnyk

From: David Olsen <davido@hhpr.com>
Sent: Sunday, November 15, 2015 1:42 PM
To: Damian Syrnyk
Subject: UGB Expansion Decisions of October 22, 2015

Follow Up Flag: Follow up
Flag Status: Flagged

Victor Chudowsky, Chair
City of Bend UGB Steering Committee
710 NW Wall Street
Bend, Oregon 97703

RE: **UGB Expansion Alternatives – October 22, 2015 Public Meeting**

Steering Committee Members:

As a local resident and a land development professional, I have been following the UGB discussions over the last ten-plus years with considerable interest. For the record, I don't have a current Client or business interest in the discussion at this time, but I do have a personal bias and a historic perspective and working understanding of development practices as they relate to the Bend area and more specifically to development on the west side of Bend. It is the west side area that has captured my interest the most and it is the west side area which this letter is oriented toward, for both professional and personal reasons. For what it's worth, I live within one-half mile of the Westside Area properties, so the UGB expansion is literally in my backyard.

Over the last decade, I had the good fortune to have worked with several west side land owners and developments such as Three Pines PUD, Three Pines Ridge, Shevlin Ridge, The Pines, Westside Meadows and Anderson Ranch – all projects which are served by the northerly extension of Skyline Ranch Road. Skyline Ranch Road has been identified on the City's TSP for as long as I can remember and it has been the subject of the City's Approval Condtions for each of the identified projects and several more in the area. The construction of over one-half mile of the roadway was a Condition of Approval for Shevlin Ridge, Westside Meadows and the Shevlin Meadows subdivisions, respectively. To the south, the Bend LaPine School District recently completed a $1m improvement of Skyline Ranch Road to its intersection with NW Crossing Drive, leaving approximately one-half mile of 'un-constructed' roadway between the two roadway segments.

With all the demonstrated energies committed to this TSP-identified roadway over the previous decade, I respectfully question how the UGB Steering Committee could have possibly left the land areas identified as the 'Westside Area', out of the recommended land areas endorsed at the October 22, 2015 meeting. The completion of the missing roadway segment cannot be accomplished without thoughtful decision making and the inclusion of the 'Westside Area' properties. Obviously there are many issues that need to be considered in the decision making process. With all due respect, I believe the following items should be reconsidered by the Steering Committee before a final decision is made regarding the UGB expansion:

- **Follow the Adopted TSP and General Plan:** In terms of location, zoning and transportation planning, both documents support the inclusion of the subject 'Westside Area' properties in the UGB Expansion discussion, and the construction of Skyline Ranch Road as a critical component. Both documents have also been cited in numerous land use decisions over the previous two decades. To ignore these City adopted long-range planning documents at this time, seems not only un-fair to previous development, but mis-guided for the future.

- **Bike / Ped / Vehicle Connectivity:** Westside commutes will be improved considerably by the completion of Skyline Ranch Road. There is a considerable amount of traffic count information for Bend's westside which relates specifically to the NW Crossing residential area and school facility traffic which heavily utilizes Mt Washington Drive. The addition of a second north-south roadway (Skyline Ranch Road) will greatly reduce the number of Mt Washington Drive daily and peak-hour vehicle trips from Awbrey Butte and the Shevlin Road area while also enhancing the north – south connection to Century Drive.
- **Safety and Emergency Services:** With the recent addition of two additional schools adjacent to Summit HS and Miller Elementary on Bend's westside, an additional roadway will provide a much needed alternative emergency route for access - should one be needed. The current concentration of COCC, Summit HS, Miller and High Lakes – all served by only one major roadway in the area (Mt Washington Drive) is not a good example of long range planning or emergency preparation. Weather we like it or not, the risk of wildfire (or other catastrophe), anywhere in town, cannot be taken too lightly.

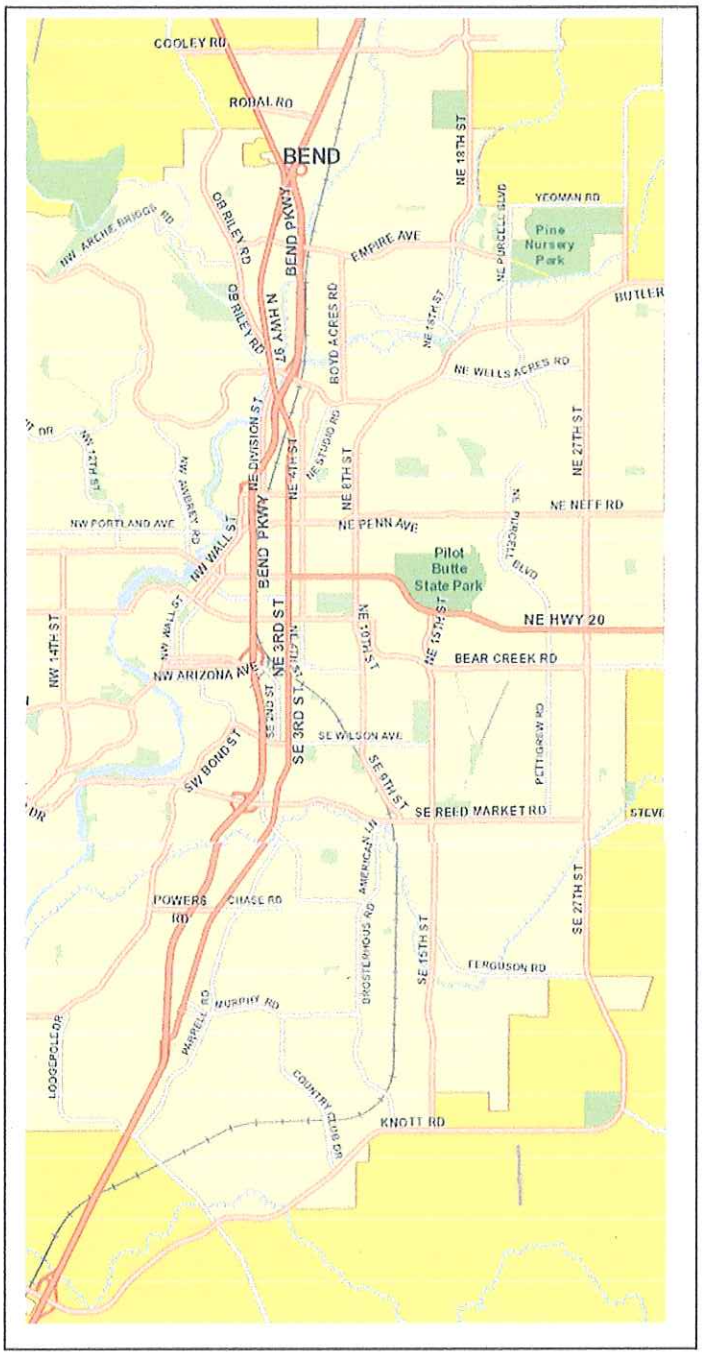
As a consulting professional and a resident of the area, I urge you to take a second look at all the properties currently being considered for inclusion in the UGB Expansion discussion. Please fact-check the information provided, ask questions and make the best decision you can make for both the near and future expansion of Bend.
Thank you for your efforts.

David Olsen, RLA | Development Manager

HARPER HOUF PETERSON RIGHELLIS INC.
ENGINEERS :: PLANNERS :: LANDSCAPE ARCHITECTS :: SURVEYORS
250 NW Franklin Avenue Suite 404 | Bend, Oregon | 97703
p: (541) 318-1161 | **c: (541) 728-1354** | davido@hhpr.com
HHPR.com

11/19 10AM — 1300 NW Wall Res TAC

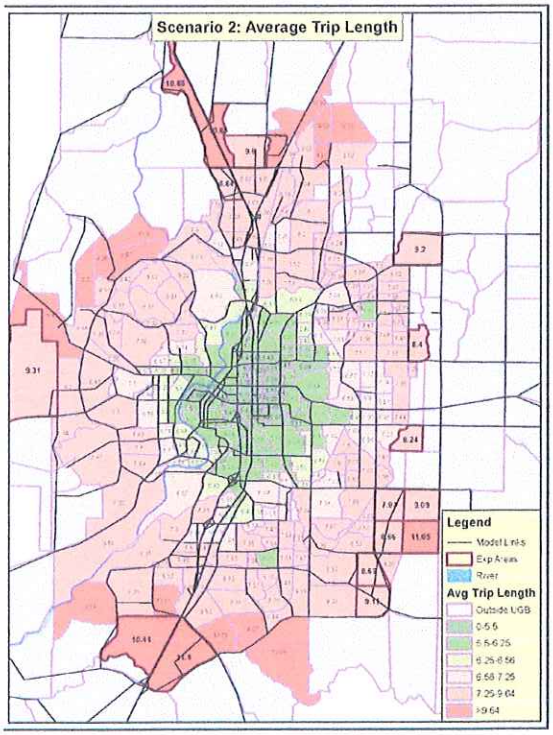
RECEIVED 11/19/2015 @ RESIDENTIAL TAC.



BEND BY THIRDS

Bend divides itself into thirds, in terms of acreage, quite evenly - West Side, Northeast, Southeast. However each third can be treated quite differently. While the West Side is exempt from multifamily - per report to City Council - due to only seven river crossings (Mt. Washington/Butler Mkt, Portland, Newport/Greenwood, Galveston, Colorado, Columbia, Mt. Washington/Reed Market*) - leading to isolation and traffic congestion, the Southeast is considered the prime location for multifamily/affordable housing with only five** railroad crossings - Wilson, Reed Market, Country Club, China Hat, Baker Road.*** But the planning staff seems to explain this contradiction with the comment that the land is less expensive "over there" and that "affordable housing" belongs there".

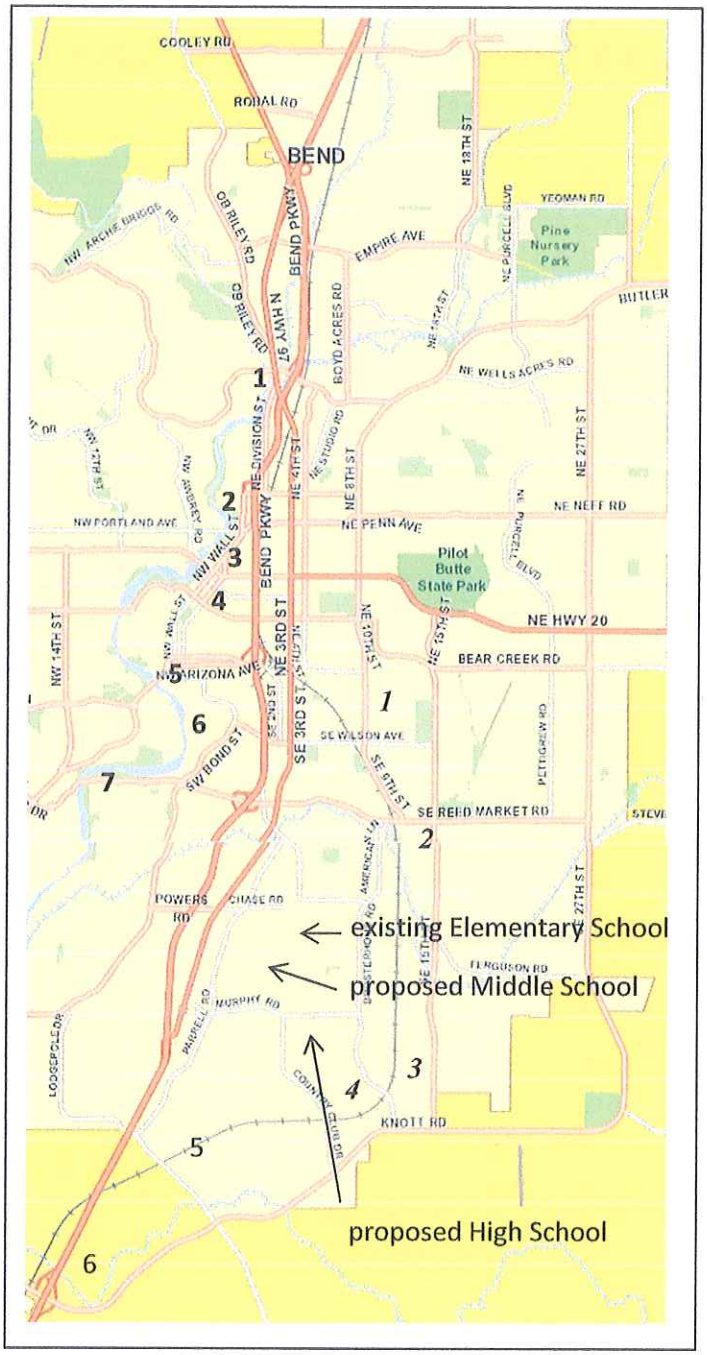
Also, the Southeast properties considered in this UGB expansion plan se to suffer under the cloud of "average trip length from this area (highest in all sub areas)" but in fact the same of the outer limits of any other third. In fact the "Average Trip Length" map suggests that Bend is ideally occupied for an effective mass transit with a strong central tendency for trips. All that remains now for a successful mass transit is a strong deterrent for central area car transit and parking.



* for which all SDC road charges from development in any area of Bend seem to continue to pay

** Murphy Road Crossing sits waiting for funding to make the Murphy Crossing project truely effective

***the Baker Road crossing was identified in the 2009 Central Oregon Rail study as the most critical and most expensive to address. With proper attention to the Ward property this could be addressed with less expense and more comprehensive traffic issue resolution.



BARRIERS -
NATURAL AND MAN-MADE

While the WEST SIDE is considered*, with ONLY six river crossings, to be so constrained that it can't accommodate multi-family housing yet the SOUTHEAST SIDE, with only six points around the railroad, is considered to be the target for affordable/multi-family housing.

While river bridge crossings cause some traffic concentration,

1 Mt. Washington/Butler Market, 2 Portland, 3 Newport/Greenwood, 4 Galveston, 5 Colorado, 6. Columbia, Mt. Washington/Reed Market

they do not represent the stoppage and potential danger of five of the six rail crossings

1 Wilson** (signaled on grade), *2* Reed Market** (signaled on grade), *3* Brosterhous Rd. (height restricted underpass), *4* Country Club** (signaled on grade, potential underpass), *5* China Hat Rd.** (signaled on grade, potential overpass), *6* Baker Road*** (signaled on grade, potential overpass)

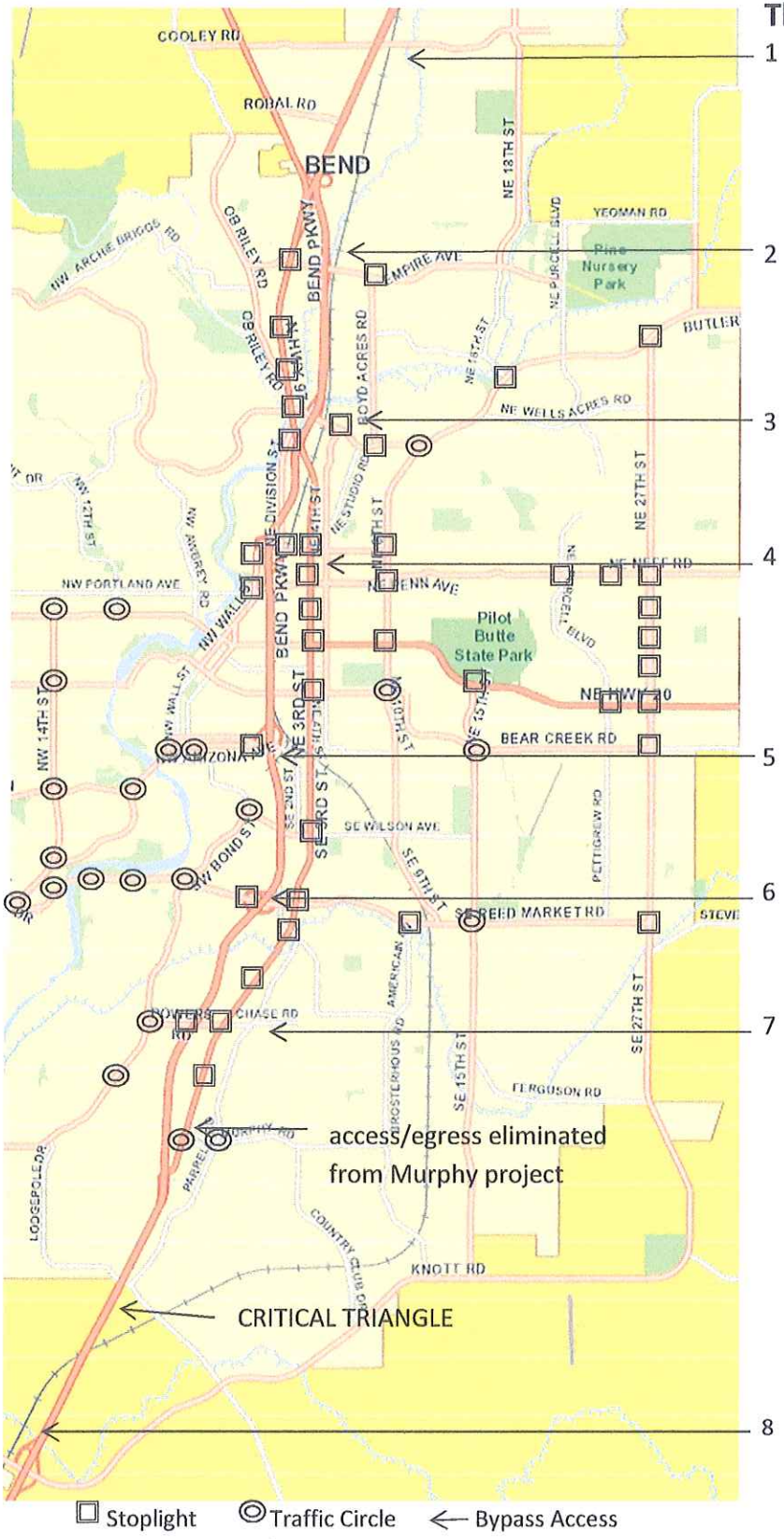
which could receive funding and attention given the proper development options for surrounding properties. Developer funding for the resolution of these issues is not only dependent upon SDC charges but also increased property values derived from "off grade" crossings and the lack of "on grade" crossing signal and whistle noise.

3 River *3* Railroad

* per planning TAC report at 11/9/15 Planning Commission meeting

** Used presently and more so in the future by fully loaded school buses

***Considered by the 2009 rail crossing study to be the most critical and expensive crossing to address



The Commute and Shopping Trip

"Key Disadvantages" noted for the "Thumb" are "heavily reliant on US 97 for connections to the rest of the city" and "average trip lengths are long".

It is not the fault of this City Council or Planning Commission that the previous path of Hwy 97 turned into a continuous strip mall with little cross traffic control, and it is understandable that the Highway Dept. want to control access to the 97 Bypass. But, while all of the Westside encounters one stoplight enroute to downtown Bend, 2 to Cascade Village, and none to the Mill District, trips from the Southeast encounter 5-8 stoplights without using the 97 Bypass. Even using the 97 Bypass presents its own challenges - right turn only access onto 55+ mph traffic - since there isn't an acceleration lane access northbound onto 97 south of Reed Market for over three miles to the Baker/Knott Road interchange. Southbound use of the 97 Bypass is equally difficult with right turn only egress from the 97 Bypass for over 2.5 miles from Powers Rd. to the Baker/Knott Rd. interchange. This compares to a full interchange every mile north of Reed Market.

There is a critical triangle of property that is at the center of resolving many of the connectivity problems for both the "Thumb" as presently define and the rest of Southeast Bend. Part of the Ward property, it is critical that the definition of the "Thumb" be reconsidered to include all of the Ward property to the Baker/Knott Rd. interchange with zoning sufficient to support the necessary infrastructure investment.

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Timothy G. Elliott, P.C.
tim@eaattorneys.com
Admitted Oregon/Idaho

November 18, 2015

City of Bend
UGB Residential and Employment Technical
Advisory Committees
710 NW Wall Street
Bend, Oregon 97701

Dear Committee Members:

I represent Dave Swisher and Anderson Ranch Holding Company. Attached for consideration and inclusion in the record is an assessment undertaken by Ferguson & Associates, Inc. respecting the importance of the connection of Skyline Ranch Road. The report concludes that such a connection would be an important improvement over any scenario that fails to include such a connection, and that such a connection would in fact significantly reduce traffic and congestion on Mt. Washington Drive. The report give clear support for the recommendation of scenario 2.3, or any scenario that includes the Skyline Ranch Road connection.

Please include the report in the record and consider when deliberating.

Thank you.

Very truly yours,

Timothy G. Elliott
Attachment

FERGUSON
& ASSOCIATES, INC.
Transportation Planning/Traffic Engineering

November 19, 2015
#01462

David Swisher
Alexander Drake Building
250 NW Franklin Ave. Suite 401
Bend, Oregon 97701

(541) 382-8223 Office
(541) 788-8971 Cell
dave@daveswisher.com]

re: Assessment of UGB Expansion - Skyline Ranch Road Options - Bend, OR

INTRODUCTION

We have reviewed and analyzed the recent direction of the UGB Steering Committee to exclude lands from the UGB expansion which would preclude the completion of Skyline Ranch Road. The scenario recommended by the Steering Committee (Scenario 2.1) would include more lands farther to the west; but it excluded Skyline Ranch Road. An localized illustration of Scenario 2.1 (approximate boundaries) is shown in Figure 1. The approximate boundaries for the scenario recommended in this report is shown in Figure 2.

Skyline Ranch Road is identified in the Regional Transportation Plan (RTP) as a collector street and as been historically defined as a major collector in the Bend Transportation System Plan. In the study area, the plan shows Skyline Ranch Road connecting Century Drive to Shevlin Park Road as a future connection. It is identified as a future "Illustrative" project in Figure 6-4 and in Table 6-13 of the RTP.

In summary, this report concludes that a solution which allows for the completion of Skyline Ranch Road would unquestionably better meet the requirements of the Oregon Transportation Planning Rule.

OREGON TRANSPORTATION PLANNING RULE

OAR 660 Division 12 implements Goal 12, Transportation: "To provide and encourage a safe, convenient and economic transportation system." In the remand, it was concluded that the UGB expansion did *not* adequately address these requirements. To address these requirements, there are a number of factors that need to be considered. These are not cited directly here, but in general, are addressed herein, as they pertain to the two scenarios compared in this report.

TRANSIT

The difference between the two scenarios evaluated in this analysis amounts to: including 68 acres of land to support the planned Skyline Ranch Road and eliminating about the same amount of land from a potential expansion area located farther to the west, as shown in Figure 3. There are two nearby transit routes. As shown in Figure 3, from the center of the recommended alternative, the distance to the closest transit route (Route 12) is about 0.5 miles, as the crow flies. By comparison, the extra land included in Scenario 2.1 is about 1.1 miles to Route 12, also as the crow flies. Moreover, the recommended scenario is also about 0.6 miles to Route 3, while Scenario 2.1 is about 1.4 miles to route 3.

Transit ridership improves greatly as walking distances to a transit stop decreases. The recommended scenario here, consistent with Scenario 2.3, has significantly shorter walking distances and significantly increases the likelihood that transit would be used compared to the extra lands in Scenario 2.1. The recommended scenario here better meets the requirements of the TPR.

WALK AND BICYCLE TRIPS

The recommended scenario locates buildable land closer to goods and services as well as to the new Discovery Park. From the center of the recommended scenario lands to the center of the park, the distance is about 0.4 miles, as shown in Figure 4. The distance to the extra lands to the center of the park is about 1.1 miles. Almost all walk trips from the recommended location will be shorter than walk trips from the extra lands located farther west, *simply because it closer*.

AUTOMOBILE TRAVEL

The recommended scenario here has a number of clear advantages related to automobile travel that simply cannot be ignored. These advantages are related to the facts that:

1. The lands in the recommended alternative are much closer the center of the Bend than the lands included in Scenario 2.1;
2. The added connectivity of Skyline Ranch Road provide much shorter routes to a number of users, especially to the nearby schools; and,
3. The added connectivity of Skyline Ranch Road provides an alternative route to Mt. Washington Drive for perhaps thousands of vehicles per day.

Most trips from the extra lands added to Scenario 2.1 will add about 0.5 miles of additional travel compared to the recommended alternative. Assuming each of the 250 homes generates about 10 trips per day (and a little less on

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the weekends) the added travel distance would be about 450,000 miles per year with Scenario 2.1 over and above the recommended alternative here, which includes Skyline Ranch Road.

Skyline Ranch Road would provide a connection to three schools: Miller Elementary School, Summit High School, and Pacific Crest Middle School. School boundaries for each of these schools includes a substantial area to the west via Shevlin Park Road. Trips to and from these schools would be shortened with the construction of Skyline Ranch Road and would draw traffic off of Mt Washington Drive lessening traffic congestion on Mt Washington Drive.

BASIS OF STEERING COMMITTEE RECOMMENDATION

The recent Steering Committee decision to exclude the lands which would allow Skyline Ranch Road to be complete was based on part on testimony from the City's transportation consultant:

> *" We didn't see that [Skyline Ranch Road]would be required to meet your city's mobility standards on the Westside. Connectivity is a good thing, it helps with VMT, it helps with walking, it helps with Biking; there was actually some follow up to our meeting this morning where people were talking about that as a key evacuation route . . . a secondary connection could be a great thing for that reason, so I view that link as a good connection to provide options, but it by itself is not a major capacity corridor that is going to alleviate congestion on the Westside."*

We don't believe that the above statement is a sufficient reason to exclude Skyline Ranch Road:

1. The measure of spot congestion at intersections (mobility standards) is not the only criteria necessary to evaluate TPR compliance. This is only one of many criteria and it is limited to one aspect of automobile mobility. Moreover, the assertion that Skyline Ranch Road is not needed to meet mobility standards appears to be based on the Regional Transportation Plan. This plan did not include 750 homes which would be routed down Skyliner Road and no supplemental data or analysis has been made available to demonstrate that this would be true.
2. Other TPR criteria are better met with the inclusions of Skyliner Ranch Road and the lands around the extension. Specifically: the connection reduces vehicle-miles-travelled (VMT); and, the location provides closer walking access to parks and transit as well as shorter distances for bicyclists. And while it might not be a specific criterion, the connection would provide for additional exit routes in the event of an evacuation of the three schools and residences in close proximity.

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3. Finally, the evidence does suggest that the connection would lessen congestion on the street system. Contrary to the above statement, whenever alternative routes and more connections are available, drivers spread out over the system reducing the amount of traffic on adjacent streets. Less traffic on a street means less congestion.

SUMMARY AND CONCLUSIONS

It was shown herein that developing lands that would allow Skyline Ranch Road to be connected would result in:

1. Better access to transit;
2. Better access to parks;
3. Reduced travel time for automobiles;
4. Less impact on Mt. Washington Drive; and,
5. Shorter walking and biking times for most walk/bike trips.

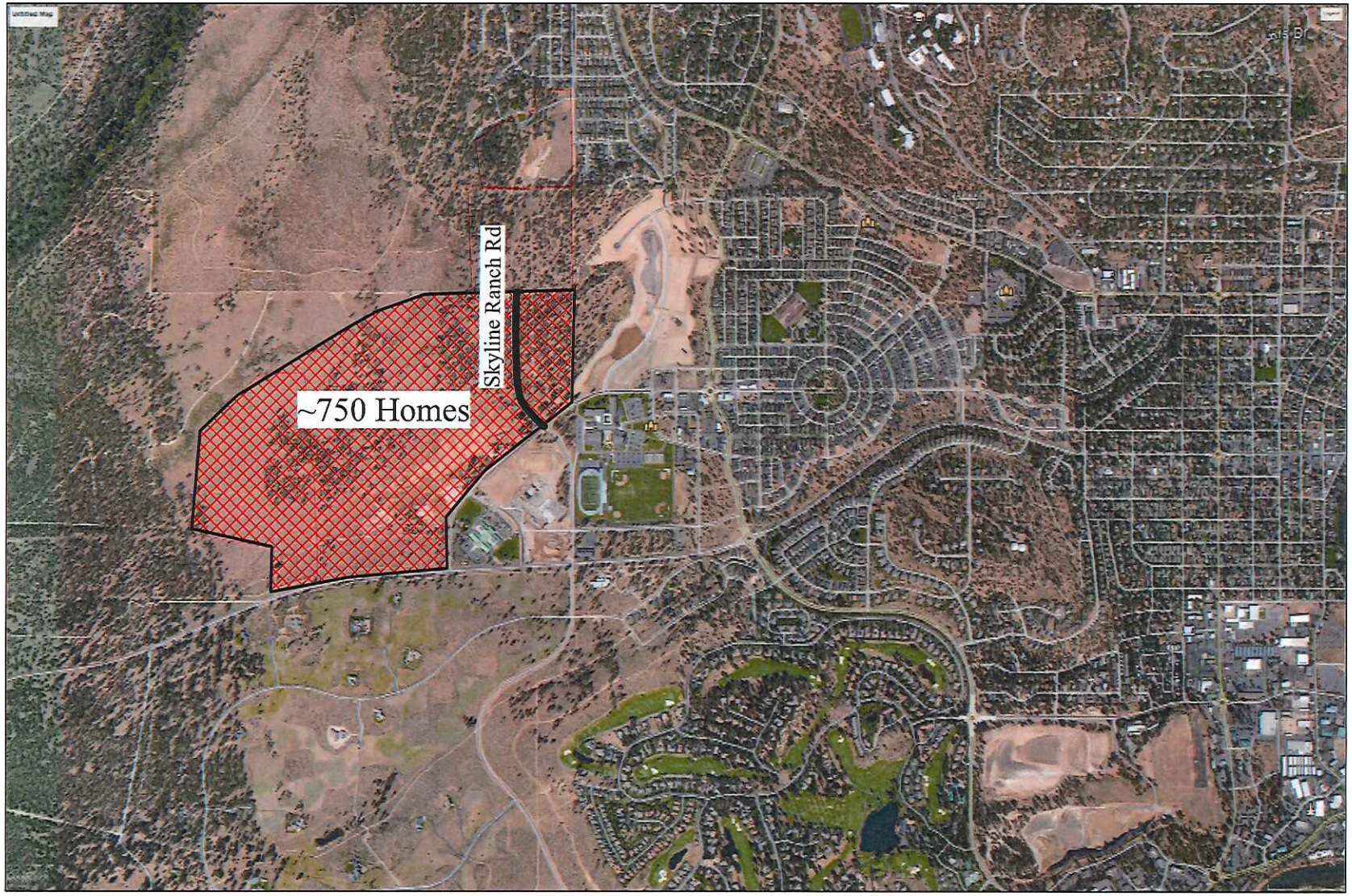
An expansion of the UGB requires that alternatives be evaluated in terms of the Transportation Planning Rule, which favors alternatives which promote alternatives to the automobile as well as alternatives which reduce VMT. The UGB Steering Committee's preference for a scenario that would exclude the completion of Skyline Ranch Road does is inconsistent with the requirements of the Transportation Planning rule when compared to a scenario that includes the skyline Ranch Road connection.

* * * * *

Very truly yours,
FERGUSON & ASSOCIATES, INC.

Scott Ferguson, PE

Attachments:
Figure 1-4



Approximate Location of Land for Scenario 2.1
UGB Expantion Review - Bend, Oregon

#01462
November 16, 2015

Figure 1

Ferguson & Associates, Inc.

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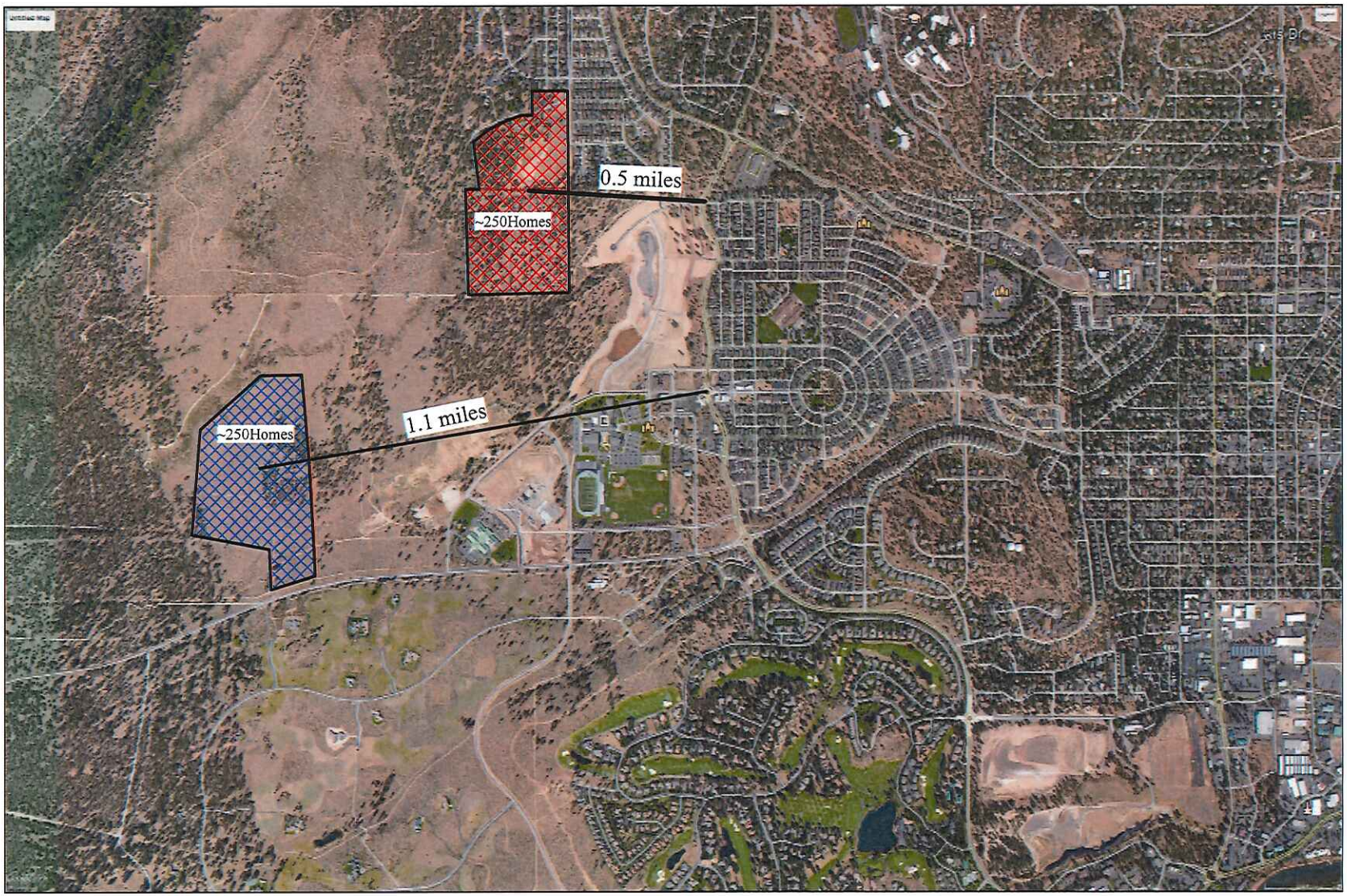
Approximate Location of Land Recommended Scenario
UGB Expantion Review - Bend, Oregon

#01462
November 16, 2015

Figure 2

Ferguson & Associates, Inc.

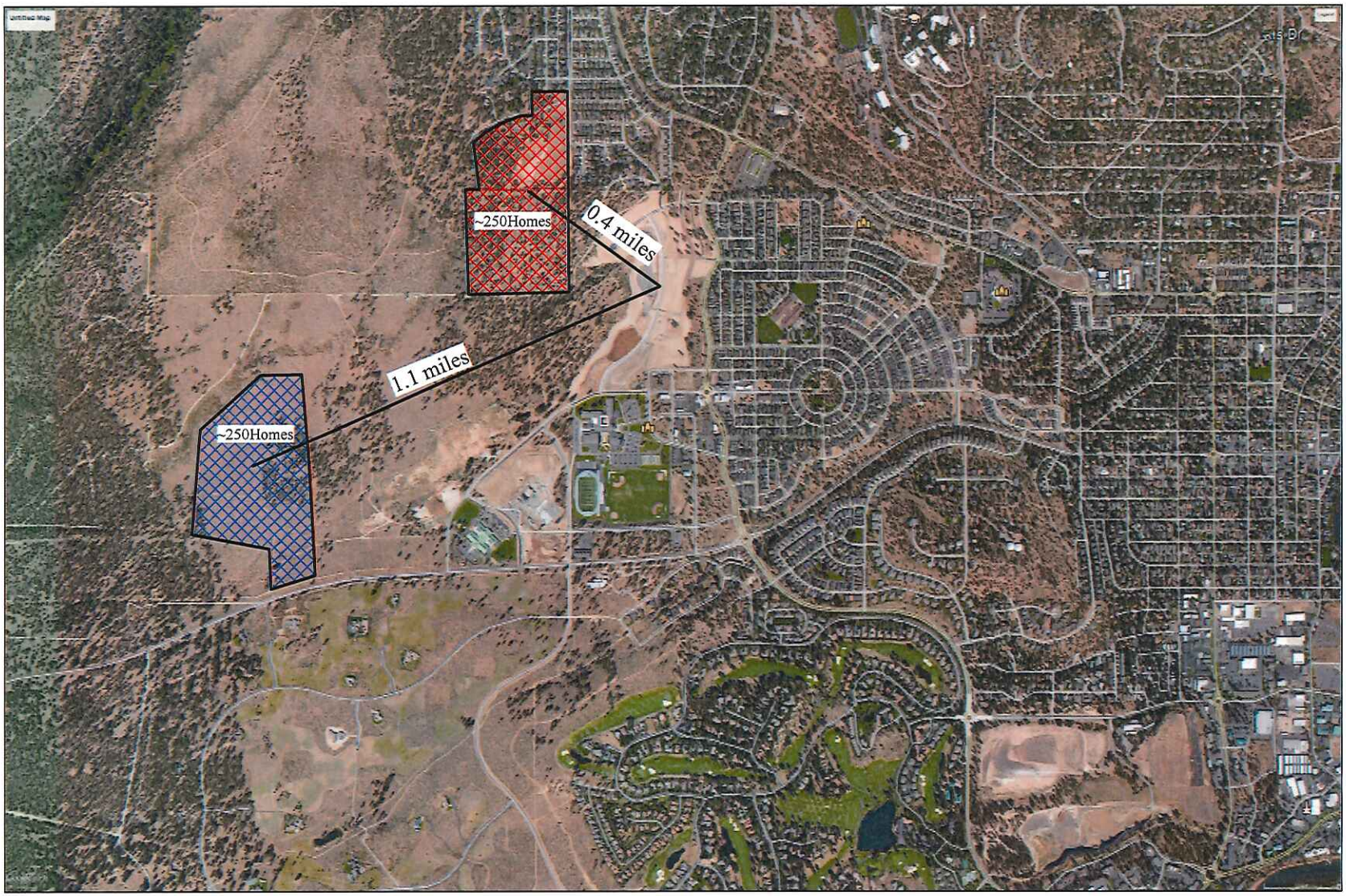


Proximity to Transit
UGB Expantion Review - Bend, Oregon

#01462
November 16, 2015

Figure 3

Ferguson & Associates, Inc.



Proximity to Parks
UGB Expantion Review - Bend, Oregon

#01462
November 16, 2015

Figure 4

Ferguson & Associates, Inc.

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FERGUSON & ASSOCIATES, INC.
Transportation Planning/Traffic Engineering

November 19, 2015
#01462

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TRANSIT

The difference between the two scenarios evaluated in this analysis amounts to: including 68 acres of land to support the planned Skyline Ranch Road and eliminating about the same amount of land from a potential expansion area located farther to the west, as shown in Figure 3. There are two nearby transit routes. As shown in Figure 3, from the center of the recommended alternative, the distance to the closest transit route (Route 12) is about 0.5 miles, as the crow flies. By comparison, the extra land included in Scenario 2.1 is about 1.1 miles to Route 12, also as the crow flies. Moreover, the recommended scenario is also about 0.6 miles to Route 3, while Scenario 2.1 is about 1.4 miles to route 3.

Transit ridership improves greatly as walking distances to a transit stop decreases. The recommended scenario here, consistent with Scenario 2.3, has significantly shorter walking distances and significantly increases the likelihood that transit would be used compared to the extra lands in Scenario 2.1. The recommended scenario here better meets the requirements of the TPR.

WALK AND BICYCLE TRIPS

The recommended scenario locates buildable land closer to goods and services as well as to the new Discovery Park. From the center of the recommended scenario lands to the center of the park, the distance is about 0.4 miles, as shown in Figure 4. The distance to the extra lands to the center of the park is about 1.1 miles. Almost all walk trips from the recommended location will be shorter than walk trips from the extra lands located farther west, *simply because it closer*.

AUTOMOBILE TRAVEL

The recommended scenario here has a number of clear advantages related to automobile travel that simply cannot be ignored. These advantages are related to the facts that:

1. The lands in the recommended alternative are much closer the center of the Bend than the lands included in Scenario 2.1;
2. The added connectivity of Skyline Ranch Road provide much shorter routes to a number of users, especially to the nearby schools; and,
3. The added connectivity of Skyline Ranch Road provides an alternative route to Mt. Washington Drive for perhaps thousands of vehicles per day.

Most trips from the extra lands added to Scenario 2.1 will add about 0.5 miles of additional travel compared to the recommended alternative. Assuming each of the 250 homes generates about 10 trips per day (and a little less on

the weekends) the added travel distance would be about 450,000 miles per year with Scenario 2.1 over and above the recommended alternative here, which includes Skyline Ranch Road.

Skyline Ranch Road would provide a connection to three schools: Miller Elementary School, Summit High School, and Pacific Crest Middle School. School boundaries for each of these schools includes a substantial area to the west via Shevlin Park Road. Trips to and from these schools would be shortened with the construction of Skyline Ranch Road and would draw traffic off of Mt Washington Drive lessening traffic congestion on Mt Washington Drive.

Basis of Steering Committee Recommendation

The recent Steering Committee decision to exclude the lands which would allow Skyline Ranch Road to be complete was based on part on testimony from the City's transportation consultant:

> *" We didn't see that [Skyline Ranch Road]would be required to meet your city's mobility standards on the Westside. Connectivity is a good thing, it helps with VMT, it helps with walking, it helps with Biking; there was actually some follow up to our meeting this morning where people were talking about that as a key evacuation route . . . a secondary connection could be a great thing for that reason, so I view that link as a good connection to provide options, but it by itself is not a major capacity corridor that is going to alleviate congestion on the Westside."*

We don't believe that the above statement is a sufficient reason to exclude Skyline Ranch Road:

1. The measure of spot congestion at intersections (mobility standards) is not the only criteria necessary to evaluate TPR compliance. This is only one of many criteria and it is limited to one aspect of automobile mobility. Moreover, the assertion that Skyline Ranch Road is not needed to meet mobility standards appears to be based on the Regional Transportation Plan. This plan did not include 750 homes which would be routed down Skyliner Road and no supplemental data or analysis has been made available to demonstrate that this would be true.
2. Other TPR criteria are better met with the inclusions of Skyliner Ranch Road and the lands around the extension. Specifically: the connection reduces vehicle-miles-travelled (VMT); and, the location provides closer walking access to parks and transit as well as shorter distances for bicyclists. And while it might not be a specific criterion, the connection would provide for additional exit routes in the event of an evacuation of the three schools and residences in close proximity.

3. Finally, the evidence does suggest that the connection would lessen congestion on the street system. Contrary to the above statement, whenever alternative routes and more connections are available, drivers spread out over the system reducing the amount of traffic on adjacent streets. Less traffic on a street means less congestion.

SUMMARY AND CONCLUSIONS

It was shown herein that developing lands that would allow Skyline Ranch Road to be connected would result in:

1. Better access to transit;
2. Better access to parks;
3. Reduced travel time for automobiles;
4. Less impact on Mt. Washington Drive; and,
5. Shorter walking and biking times for most walk/bike trips.

An expansion of the UGB requires that alternatives be evaluated in terms of the Transportation Planning Rule, which favors alternatives which promote alternatives to the automobile as well as alternatives which reduce VMT. The UGB Steering Committee's preference for a scenario that would exclude the completion of Skyline Ranch Road does is inconsistent with the requirements of the Transportation Planning rule when compared to a scenario that includes the skyline Ranch Road connection.

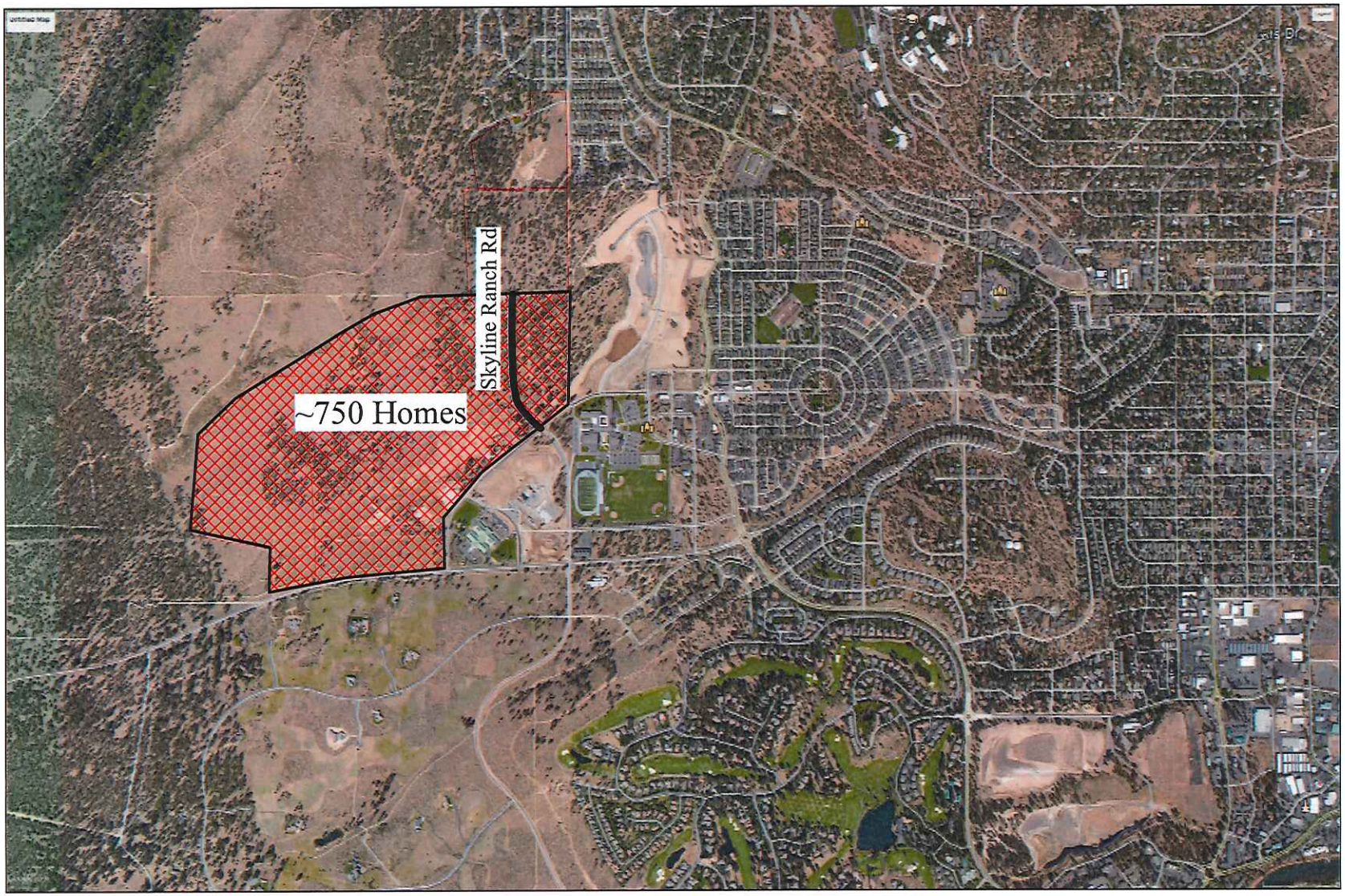
* * * * *

Very truly yours,
FERGUSON & ASSOCIATES, INC.

Scott Ferguson, PE

Attachments:
Figure 1-4

05532



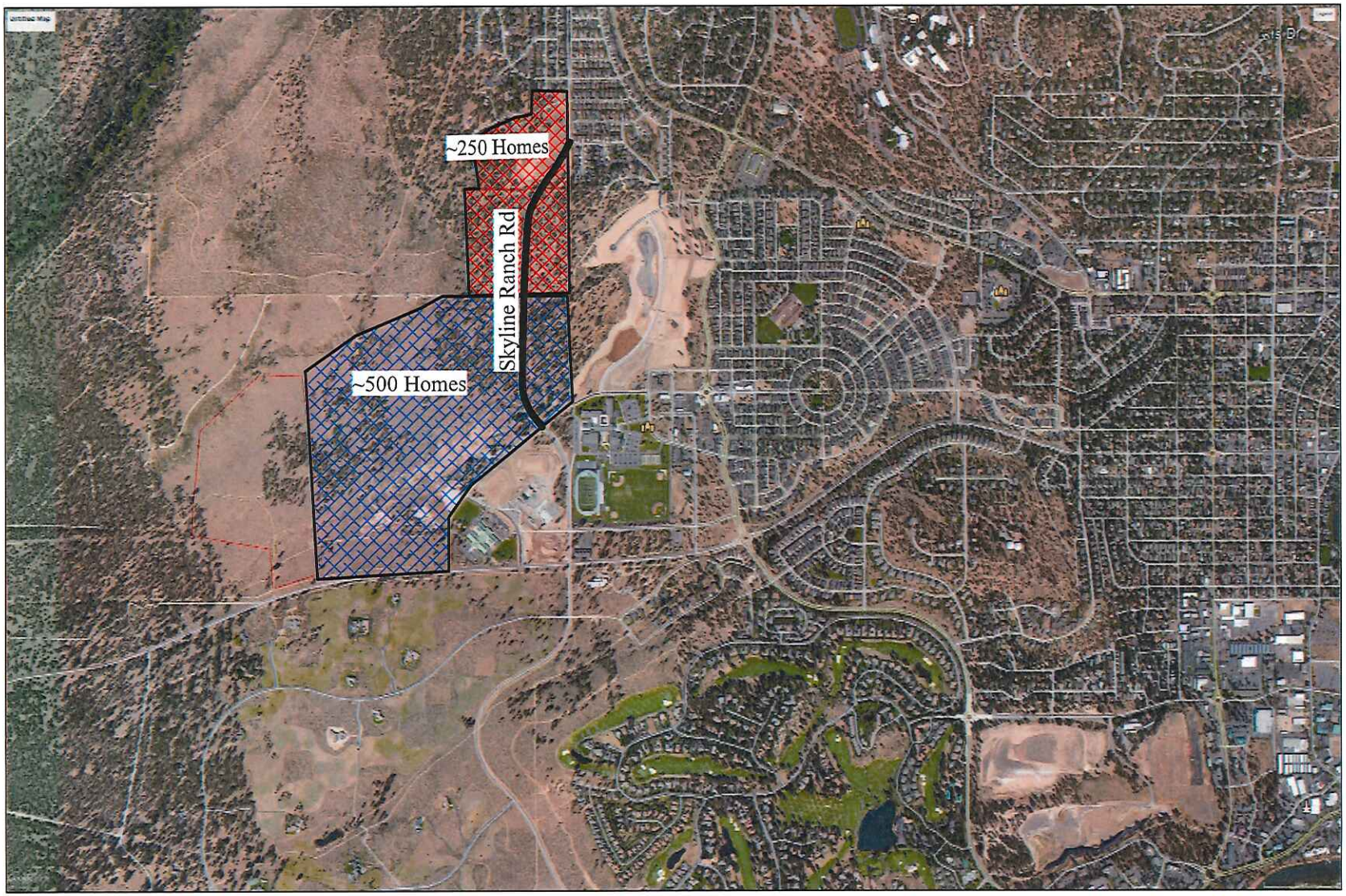
Approximate Location of Land for Scenario 2.1
UGB Expantion Review - Bend, Oregon

#01462
November 16, 2015

Figure 1

Ferguson & Associates, Inc.

05533

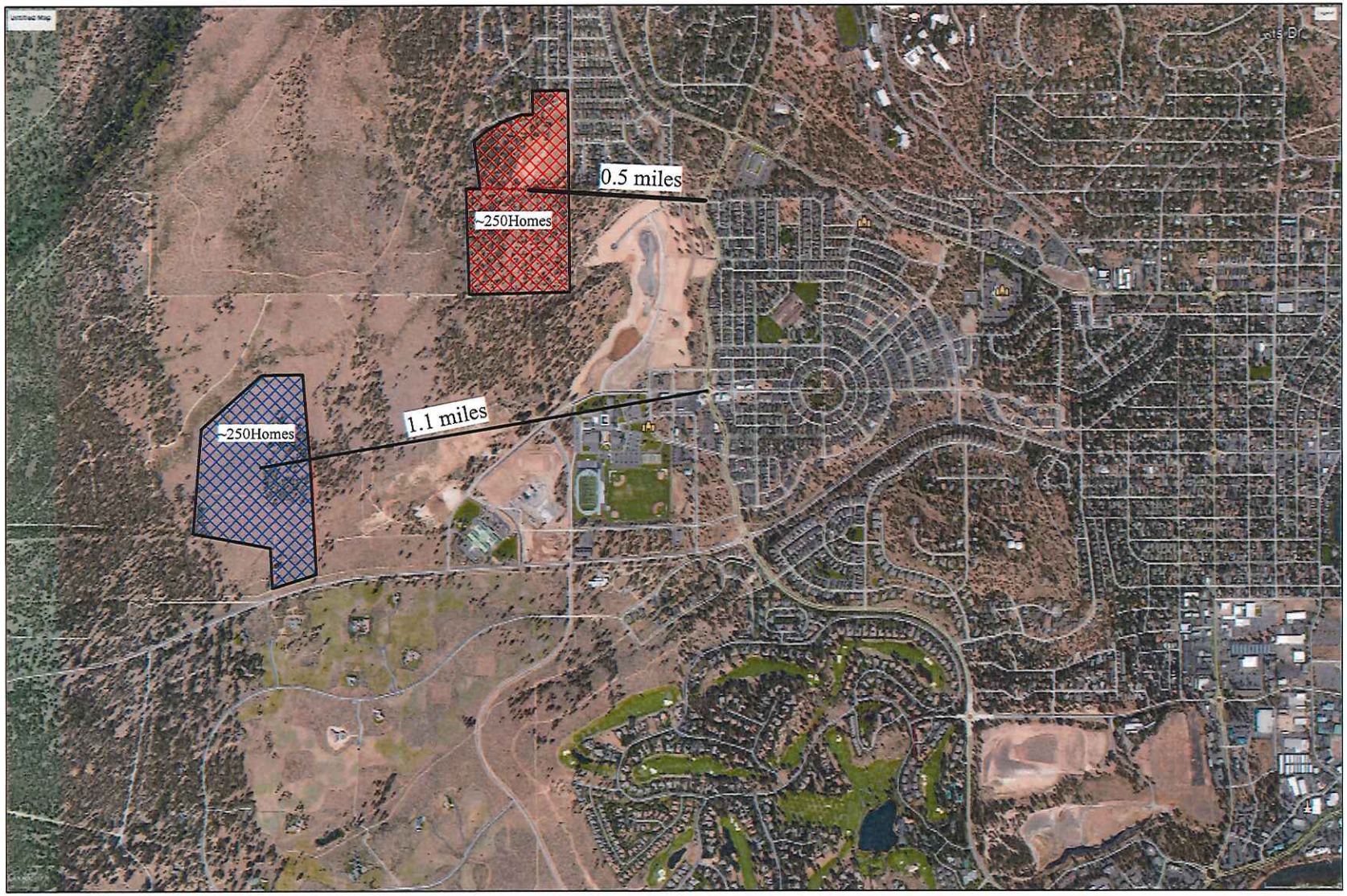


Approximate Location of Land Recommended Scenario
UGB Expantion Review - Bend, Oregon

#01462
November 16, 2015

Figure 2

Ferguson & Associates, Inc.

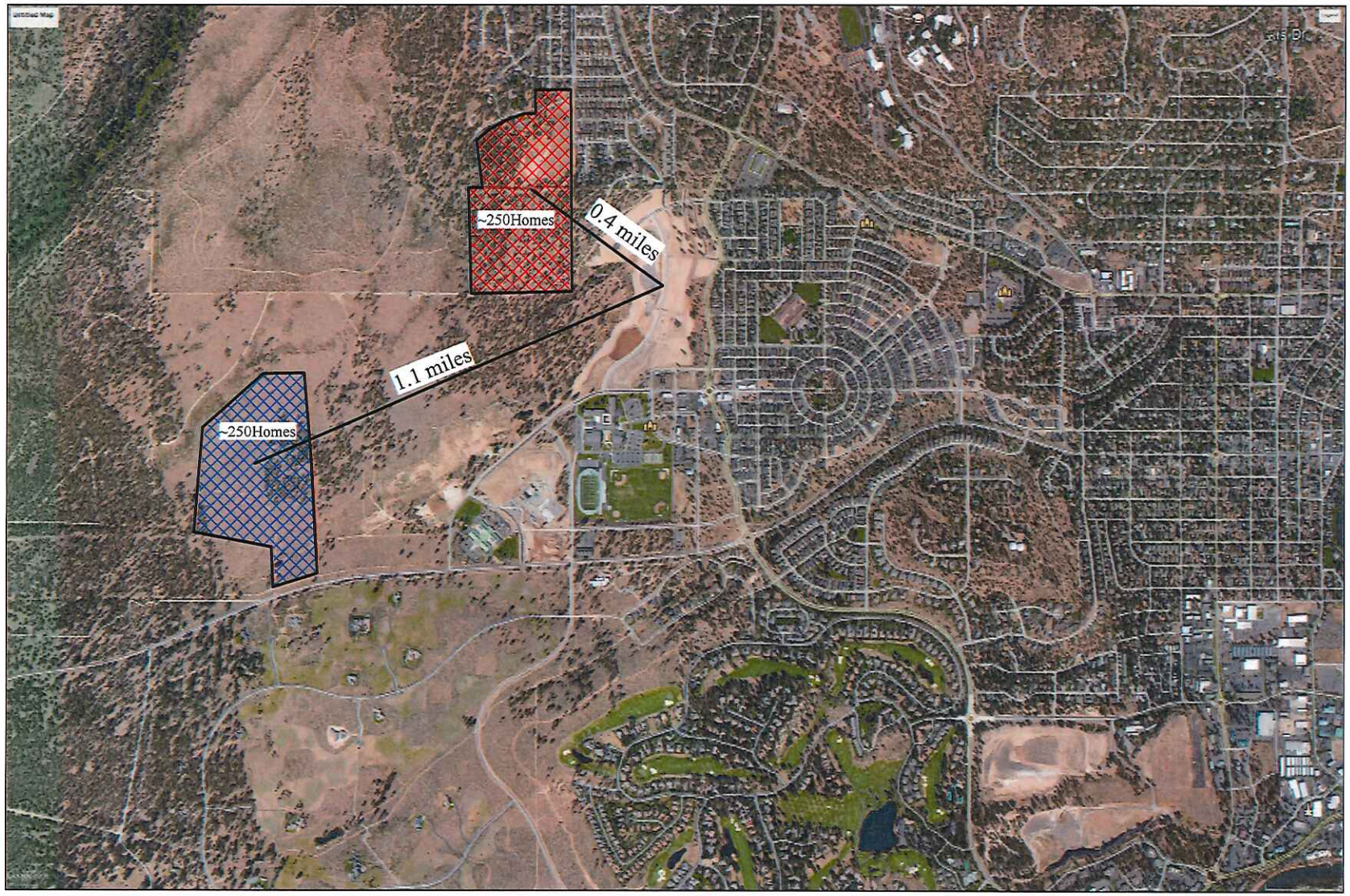


Proximity to Transit
UGB Expantion Review - Bend, Oregon

Figure 3

#01462
November 16, 2015

Ferguson & Associates, Inc.



Proximity to Parks
UGB Expantion Review - Bend, Oregon

#01462
November 16, 2015

Figure 4

Ferguson & Associates, Inc.

November 23, 2015

Mr. Victor Chudowsky, Chair
City of Bend UGB Steering Committee
710 NW Wall St.
Bend, OR 97701

Re: Response to Letter from Kirk Scheuler

Dear Chair Chudowsky and Members of the UGB Steering Committee:

I am a member of the UGB Boundary Technical Advisory Committee ("TAC") and am writing to respond to a November 6 letter to you from Kirk Scheuler (a member of the Residential Lands TAC) calling for adoption of: 1) the additional west side lands proposed in Scenario 2.3; 2) the 750 residential unit total proposed in Scenario 2.1; and 3) changing the housing mix of the 750 units to as follows:

single-family detached: from 240 to 548 units
single-family attached: from 143 to 53 units
multi-family: from 368 to 150 units
with shifting housing density to the northeast
and apparently getting rid of the 2.1 employment land allocations on the west side

One rationale given in the letter for the shift to more single-family detached housing on the west and the shift in density to the northeast is that building multi-family units on the west side will not create affordable housing because housing is simply too expensive on the west side.

While I agree with the obvious fact that most of the west side residential development is not going to be affordable and that the advantage of more residential development being on the east side is the greater affordability, I still believe that a significant amount of multi-family housing is appropriate on the new west side lands near the existing schools.

Very early on, the Boundary TAC gave a preference to properties being included in the UGB expansion if they had larger acreages and were near schools. Because the Miller property benefited from these preferences, it would be good to see housing closer to the schools be affordable and that families with children could actually afford to live there, so their children could indeed conveniently get to school. Also, while "inclusionary zoning" (requiring developers to include actual affordable housing in their developments) is apparently currently illegal in Oregon, there is nothing to prevent a responsible developer from providing for such affordable development, particularly if in the remainder of the large parcel of land substantial revenues from development are expected.

Finally, while the idea of different zones of development, with a tapering to lesser development approaching a forest is obviously a good idea (given the fire danger and impacts on wildlife

habitat), the level of suggested buildout (this UGB process plus the next one) on the Miller property (nearly 1,000 houses) and the Rio Lobo property to the north (1,100 houses) is far too intensive for this sensitive area.

It would have been nice to have had this discussion of appropriate zones of housing density on the west side, though, and I would have been supportive of changing the housing mix more in line with Mr. Scheuler's suggestion to achieve a meaningful tapering. Hopefully, that discussion will at least occur before any more lands are proposed to be brought in on the west side.

Very truly yours,

s/ Paul Dewey

PAUL DEWEY
1539 NW Vicksburg Ave.
Bend, OR 97703

cc: Brian Rankin
USC Members
Boundary TAC Members

November 23, 2015

Mr. Victor Chudowsky, Chair
City of Bend UGB Steering Committee
710 NW Wall St.
Bend, OR 97701

Re: Response to Letter from Sharon Smith

Dear Chair Chudowsky and Members of the UGB Steering Committee:

I am a member of the Boundary Technical Advisory Committee ("TAC") and am writing to respond to a November 12 letter from Sharon Smith (also on the Boundary TAC) to the UGB Steering Committee ("USC") asserting that the USC did not fully understand and gave "short shrift" to and "summarily dismissed" the Boundary TAC recommendations on October 22. I was actually present at the USC meeting and respectfully disagree with her description and conclusion that your review meant that you feel the TAC's "work is unimportant."

While the USC is the decision-maker here, not any TACs, its members have always been respectful and appreciative of the TACs, staff and the consultants. It is also not correct that the USC summarily dismissed TAC recommendations. In fact, after stating that Scenario 2.1 should remain the preferred alternative, the USC made several amendments to it, consistent with what the TAC recommended, including to bring in more land in the northeast associated with the "perfect rectangle," to shift more industrial zoning to the DSL land, to change zoning in the O.B. Riley Road/Hwy 20 area, to drop a small parcel on the east side, etc.

I also must disagree with Ms. Smith's description of the TAC's recommendation of Scenario 2.3 as "based on months of fact gathering and carefully analyzing alternatives" and that 2.3 was a recommendation made "through exhaustive study." The careful analysis of alternatives and exhaustive study were of the three scenarios, 1.1, 2.1 and 3.1. Scenarios 2.2 and 2.3 were presented to the TAC only on October 22 and had not been subject to the same level of analysis as the three main scenarios. In fact, some of us on the Boundary TAC got critical information on the new scenarios only about 24 hours before the TAC meeting.

Also, the 10-3-1 vote did not indicate, as suggested by Ms. Smith, that there was overwhelming support of 2.3. At least two of the 10 positive votes had earlier voted for 2.1 and were just voting to move the issue to the USC or to support the possibility of amendments being made to 2.3.

Furthermore, I have great concern about what the Boundary TAC did with regard to the integrity of the larger public process. Prior to the Boundary TAC meeting, the City had engaged in exhaustive public outreach, giving information on and asking the public to comment and vote on Scenarios 1.1, 2.1 and 3.1. Scenarios 2.2 and 2.3 included fundamental changes from those three scenarios; they were not "tweaks," as some describe them. It was entirely appropriate for the

USC to return the focus to the fully vetted and public-supported 2.1, and then make true tweaks to it.

Very truly yours,

s/ Paul Dewey

PAUL DEWEY
1539 NW Vicksburg Ave.
Bend, OR 97703

cc: Brian Rankin
USC Members
Boundary TAC Members

November 23, 2015

Mr. Victor Chudowsky, Chair
City of Bend UGB Steering Committee
710 NW Wall St.
Bend, OR 97701

Re: Response to Letter from Dale Van Valkenburg

Dear Chair Chudowsky and Members of the UGB Steering Committee:

I am a member of the UGB Boundary Technical Advisory Committee ("TAC") and am responding to the letter from Brooks Resources Corporation of November 11, written to the Committee by Dale Van Valkenburg (also a member of the Boundary TAC).

As I explained in my accompanying letter responding to a letter from Sharon Smith, I don't believe criticism of the USC for voting for Scenario 2.1 is appropriate, as if it was a "rush to judgment." It was certainly less of a rush to judgment for the USC to vote for the fully-analyzed and publicly-vetted and supported Scenario 2.1 rather than the unanalyzed 2.3 that the Boundary TAC itself had had so little time to review.

As for there having been a compromise at the TAC to decrease the number of west side residential units originally in Scenario 2.3, no range or amount of decrease was even mentioned. It is hardly appropriate to criticize the USC as being in a "rush to judgment" where the TAC was throwing out a last minute, half-baked approach that, again, had not been analyzed or presented to the public.

The suggestion that the USC did not consider bringing in land for the proposed Skyline Ranch Road collector is also not correct. That issue was extensively discussed by the USC, both pro and con. As explained at that meeting, this section of the proposed road has not been considered necessary for this UGB expansion. It is also telling that in the past year of Boundary TAC meetings the road has scarcely, if ever, been mentioned as an issue. To my knowledge, in none of the Boundary TAC discussions of what criteria should be used to prioritize lands for inclusion (such as large lots, proximity to schools, etc.) have lands for a particular road segment been proposed. It is arising now only because some landowners along the proposed route want their land included in the UGB so that they can do residential development.

There is also no support given (at least not given to the TAC over the past year) for the assertion that this stretch of road is needed for the three schools. There are few developments to the north which would need access to the schools and there has been no showing that these neighborhoods' use of Mt. Washington Drive is a problem.

Calling existing construction of a segment of the road by the school district as being "a million dollar road to nowhere and a waste of public money" is simply not appropriate. As Mr. Van

Valkenburg well knows, it is entirely normal that a road be built in segments as land is developed. There are any number of road segments in the City's Transportation System Plan that are not being included in this UGB expansion.

Thank you for your consideration.

Very truly yours,

s/ Paul Dewey

PAUL DEWEY
1539 NW Vicksburg Ave.
Bend, OR 97703

cc: Brian Rankin
USC Members
Boundary TAC Members

Est. 1883
BEND LAPINE
Schools
EDUCATING THRIVING CITIZENS

OFFICE OF THE SUPERINTENDENT
Education Center
520 N.W. Wall Street
Bend, Oregon 97701-2699

December 1, 2015

Victor Chudowsky, Chair
City of Bend UGB Steering Committee
710 NW Wall Street
Bend, OR 97701

RE: UGB expansion

Dear Chair Chudowsky and Members of the UGB Steering Committee:

The School District staff has been working with City staff in a collaborative way to plan for and build school facilities to meet our growing student population. As many of you know, the District develops a Sites and Facilities Plan to meet our 20 year projected facility needs. We update this Plan every 5 years using a community and staff advisory committee. We used our Plan to locate the new Pacific Crest Middle School adjacent to Miller Elementary and Summit High School. In our planning, we look at impacts to transportation and our assumptions are based on the City's Transportation System Plan (TSP).

When we built Pacific Crest, we had several discussions with staff regarding whether it would be necessary to construct the segment of Skyline Ranch Road. In the discussions, the road was described as an important link in the City's TSP. Our cost to construct that portion of the road was significant. We understand that the current draft UGB expansion map does not include property that would provide a critical segment of the future completion of Skyline Ranch Road. We ask that you consider an expansion that will allow the completion of Skyline Ranch Road. Once complete, we believe this road will improve the circulation throughout the attendance area for our west side campus. It will relieve the pressure of funneling school traffic through the Mount Washington/Skyliners Road roundabout. It will facilitate transportation from Shevlin Road to Century Drive, providing an alternative route to Mt. Washington and 14th street. We were initially resistant to building the segment of Skyline Ranch Road between Northwest Crossing Drive and Skyliners Road. But since we have completed this segment, we would like to see the benefits of a complete link as part of the UGB expansion.

Thank you for your consideration.

Sincerely,

Shay Mikalson
Superintendent

Brad Henry
Chief Operations and Financial Officer

cc: Brian Rankin; UGB Steering Committee members

December 1, 2015

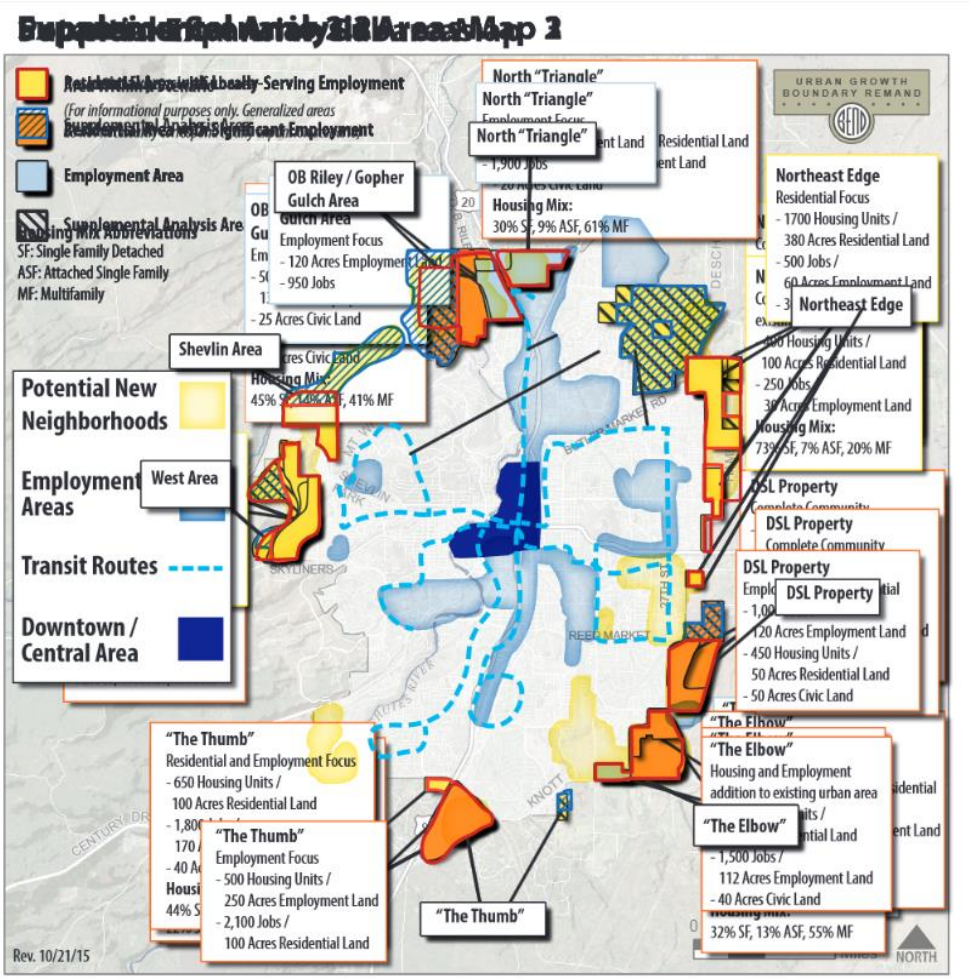
Mr. Victor Chudowsky
Chair, Urban Growth Boundary Steering Committee
City of Bend
710 NW Wall St.
Bend, OR 97703

Feedback on the 10/22/15 Bend UGB Remand Boundary Technical Advisory Committee (TAC) meeting

Dear Chair Chudowsky and members of the UGB Steering Committee:

I, Toby Bayard, am a member of the Boundary TAC, and was in Europe during October. I missed both the 10/8 and 10/22 TAC meetings. Prior to my departure, I submitted detailed instructions to the TAC, stating my strong support for Scenario 2.1, and explaining why I felt it best met the TACôs decision criteria. Then I headed for France.

While overseas, I read all emails sent to the Boundary TAC, and tried to be involved. I missed the 10/8 meeting where an ñassumed decisionò was made to create additional Scenario maps. On 10/10, I checked for minutes for the 10/8 meeting; they were not yet posted. (At the time of this writing, these minutes are still not available.) Thus, I had no way of knowing, while I was in France, that the Boundary TAC would consider two entirely new Scenarios on 10/22. (The lack of 10/8 minutes is not a criticism of staff; they have done / are doing, an outstanding job of managing and coordinating an accelerated, complex process.)



Screen capture of how the three new scenarios looked (and still look) when viewed in my browser

On Wed. 10/21, at 5:20 pm PST, Damian Syrnyk emailed a link to a Boundary TAC website that took the recipient to a document with the maps for Scenarios 2.1, 2.2 and 2.3. These maps were to be discussed and voted on the next morning, less than 24 hours later. The email arrived in my inbox on Thursday, 10/22, at 2:20 am, European time, while I slept. I rose five hours later, clicked on the link and a browser opened, displaying a document, but all three maps were overwritten, one on top of the other, so that they appeared as three identical images, each impossible to read (see above). I assumed that they were the same three Scenario maps that weôd been working on when I left, and didnôt worry about not being able to read them.

I had no way of knowing a vote on two new Scenario maps had taken place until Damian forwarded a message from Ellen Grover, noting her discomfort with the abbreviated process. Because France is nine hours ahead of Oregon, this email arrived in my mailbox long after both the 10/22 Boundary TAC and USC meetings / votes had taken place. Since Iôve returned to Oregon, Iôve caught up on the Boundary TACôs activity. The more Iôve learned, the more concerned I am about how the 10/22 vote is being perceived, i.e., that the USC choose to ñignore the vote of an advisory committeeò and struck out on its own. I disagree with this perception.

- The Boundary TAC is made up of members that include (a) stakeholders (e.g., developers, property owners, representatives of agencies with a financial interest in the Remandôs outcome), (b) citizen participants, (c) those representing organizations that might have a ñpolicy biasò for a particular outcome but who lack a clear financial interest, and (d) two land use attorneys. (With respect to the attorneys, there may be a category overlap). Historically, the groupôs balance has worked well when we have all been given the time and opportunity to participate. At the 10/22 meeting, the balance was skewed, as certain members were missing (see below). The lack of true balance was exacerbated by a compressed schedule.
- The new Scenario 2.2 and 2.3 maps were presented to the TAC less than 24 hours before the 10/22 meeting, during which an advisory decision was being made about which Scenario would be recommended to the USC. The USC meeting also took place on 10/22, but a few hours later, in the afternoon.
- When the output of an advisory committee such as the Boundary TAC is widely perceived as being a ñPreferred Scenarioò recommendation for a policy-making group (i.e., the USCð the ultimate decision makers about how Bend will grow), the stakes seem high. The last-minute introduction of previously unexamined scenarios that canôt be analyzed with the same level of teamwork, objectivity and rigor as previous scenarios, members on both sides might well assert that the process has been violated. But was it?
- Iôdonôt think so. We (the members of all the TACs and the USC) must remember that this UGB Remand process is a very new one for Bend. The remand instructions from the DLCD have ushered in a ñcultural shiftò for our City. The Remand Orderôs bias for a small expansion, with maximum infill, ñmeasuresò that promote vertical mixed growth along transit corridors, and a housing mix more sensitive to ñaffordabilityò is a huge shift in direction for a community that is used to ñmore of the sameò. Yet, we must build the muscle to make this leap if we are to comply with the Remand Order. This requires a true team effort.
- Making this leap will not be easy, particularly in 2016ð an election year, if we approach the exercise as a game with winners and losers. In my opinion, Bend can only win if we all ñcool offò and let the process work, despite the fact that itôs new to all of us. We might be ñfeeling our way alongò, adjusting as we go, but this process is our best chance for success, as Oregonôs Statewide Land Use administrative rules and statues are, in this case, a major player. The State is also part of our team.
- In response to a letter from Sharon Smith to the USC, I have to agree with Paul Deweyôs follow-on correspondence where he disputed her statement that there was ñoverwhelming support of Scenario 2.3ò. Sharon Smith has done a terrific job of helping to facilitate our TAC meetings, but she must also have been aware that Gary Timm, Ellen Grover and I were not at the 10/22 meeting. I believe that we all would have voted for Scenario 2.1.
- Further, much research has been done on how groups make decisions. Like it or not, ñpeer pressureò and a ñdesire for consensusò is a key factor. At least two other members of the Boundary (who originally voted for Scenario 2.1) may have continued to support it if three absent members (one, a land use attorney) had been able to strongly advocate for it. I suggest that, had the groupôs composition been different on 10/22,

the vote might have been 8 to 8 ï a ñtieò. This analysis (which has been confirmed through conversations with some of those involved) suggests that the Boundary TAC is much more ñevenly splitò in terms of which Scenario to support. And, this is probably how members of the larger community feel, too.

- Whether one wants a huge boundary expansion, or a compact expansion, growth to the east or growth to the west, etc., there are going to be ñwinners and losersò, as long as we allow ourselves to think in those terms. One thing we all agree on, though. We want to satisfy the requirements of the Remand Order this time, so that we are not still wading around UGB boundary expansion discussions four years from now. And, that is why we have to rise above the spate of hostility and ill-will that the Boundary TACôs 10/22 Scenario 2.3 vote, and the USCôs reluctance to accept it, have engendered. We are all in this together.

Chair Chudowsky, and USC members, I ask that the Boundary TAC be given a chance to get to ñtrue consensusò before the USCôs 12/14 meeting, and/or that the USC postpone making a firm decision until its Boundary ñadvisory teamò can find a way to ñmeet in the middleò. Iôm distressed that the December meeting of the Boundary TAC was cancelledð without any explanation as to why. True, this is your decision to make, and I understand that we, in the Boundary TAC, are only advisors and not decision or ñpolicyò makers, but in deference to the amount of time we have invested, and to protect how the process will be perceived by the public, I ask that we have a chance to refine the Scenario that we advance to you, and do so with more lead time and participation. I think that this will go a long way toward removing the heat from the debates around who did what, and why; who lost and who won.

In closing, I ask that you not truncate or rush the last stages of this process and negate the fine work and strong processes that were put into place by Brian Rankin, and Joe Gill and his team at the Angelo Planning Group, and the TAC members themselves. And most of all, I ask that you (we all) make every attempt to move away from a ñwin / loseò stance, and remember that we in the midst of a major cultural change for our City, a change which was initiated by the Remand Order. No one likes ñenforced changeò, but in my professional experience, organizations é entities é and probably cities, tooé can greatly benefit from it in the long run.

I thank you, Chair Chudowsky, and the entire USC for considering my comments.

Toby Bayard
20555 Bowery Lane
Bend, OR 97703-8850

RECEIVED
12/2/2015
CGMP

December 2, 2015

City of Bend
UGB Steering Committee and
Boundary Technical Advisory Committee
c/o Brian Rankin and Damian Syrnyk, City of Bend, Long Range Planning

Re: Urban Growth Boundary Remand

Members of UGB Steering Committee and the Boundary TAC:

I am writing to ask for reconsideration of Scenario 2.1 as it impacts the portion of land in Southeast Bend referred to in these documents as "The Elbow".

I agree with the inclusion of these lands. The issue is application of zoning as it applies to this parcel.

I ask you consider the alternative proposed. Discussion, analysis, recommendation and comments are attached.

Sincerely,

Christen M. Brown

December 1, 2015

UGB Steering Committee and Staff

I am submitting this testimony to address the portion of the UGB Remand known as "THE ELBOW".

The comments are based on the information provided in:

Exhibit A - Boundary TAC Meeting #12 (page 22) October 22, 2015
Exhibit B – Boundary TAC Meeting #11 (Page 77) October 8. 2015
Exhibit C -- Boundary TAC Meeting agenda (Page 5) October 22, 2015
Exhibit D – Chapter 2.2 Bend Development Code Commercial Zoning Districts
Exhibit E – Chapter 2.3 Bend Development Code Mixed-Use Zoning Districts
Exhibit F -- Tax Lot Map of 18 12 15CD

The specific area of interest is the Western portion of the Elbow. The boundaries more particularly described are Knott Road on the South, 15th Street on the West, Future street #224a (at Exhibit B) on the North and Raintree Drive on the East. The total acreage of this area is approximately 70 acres. Our particular parcel is the 11 acre parcel with my wife's existing farm stand located at 20950 Knott Road. JL Ward owns the western 40 acres and I have asked and been advised they will speak to their expectations separately.

"Exhibit A" Pg 22 contains a map of the proposed zoning for the Elbow. Scenario 2.1 shows the entirety of the 70 acres in Commercial zoning and Medium to High Density housing. An "on the ground" picture of this subject parcel is an area four (4) blocks deep North from Knott Road and eight (8) blocks long East along Knott Road from 15th Street. A parcel of this size and zoned commercial begs for development far exceeding the needs of the area even after development and infilling. The Forum center is only 40 acres!

Except for the two small parcels on Raintree Drive, these 70 acres are available to the gravity sewer in existence on 15th street. This availability of sewer as well as all the other utilities on Knott Road means this property could be developed soon. However, this area is at the far Southern end of the sewer and excess demand can become an issue. When the issue of capacity is raised (and it will be), high density housing is not an appropriate use at the "end of the line". High volume uses are better placed at the base instead of the farthest reach.

Per my discussions with your staff, I understand the lines or locations of these zones are not exact. The issue discussed here transcends the ability to gerrymander the locations for the designated zones. The issue is the excess commercial and high density housing zoning and the omission of ME zoning for the Elbow.

Commercial zoning (Exhibit D page 2) specifically addresses the uses expected in the commercial zone. Zoning CB does not apply. Zoning CC is limited to five acres, Zoning CL is supposed to be along highways or "new commercial center" and appears to be the ultimate designation if this map remains unchanged. Zoning CG is for large site commercial and would not be neighborhood friendly. The present map would also allow (CG) large site development.

Based on the current options: If adopted, the expected outcome could reasonably be expected to be CL or CG. This commercial zoning encourages extensive unnecessary adverse impact on the area. The subject properties are largely without terrain change and openly visible. The choice of commercial will also directly impact the agricultural nature of the properties outside the subject area across Knott Road to the South.

The commercial zoning of this magnitude is not appropriate. May I suggest, at most, a small strip only one-half block deep and for a limited distance along Knott Road is a more embraceable approach. A worthy alternative is ME zoning; as it would still allow for smaller scale commercial development, as needed!

This smaller commercial strip provides a buffer between Knott road and the Residential development and is certainly more appropriate. The community and neighborhood could be much better served if the development in this area includes employment opportunities with a working wage. Those opportunities come from development focused on Mixed Employment (ME) zoning. Retail (commercial) jobs are notorious for being at the bottom of the pay scale. Skilled tasks pay better. Mixed employment would encourage those skill jobs and a better potential for working wage employment. We will continue to wring our hands at the inability to provide "affordable" housing with no easy solution. I would suggest you instead consider zoning which encourages better pay and therefore makes housing "more affordable".

Recommendation:

If you have to zone some of the elbow commercial, you must consider a drastic reduction in the scale as outlined. If zoned ME the allowed uses will still allow commercial but restrict to less than 50,000 square foot footprints. This limit on size is a more sensible approach. This rural setting does not need large commercial (retail).

High density housing at the end of the sewer is a poor application of resources and use of capital. ME zoning would encourage working wage job creation without the high sewer demands of high density residential.

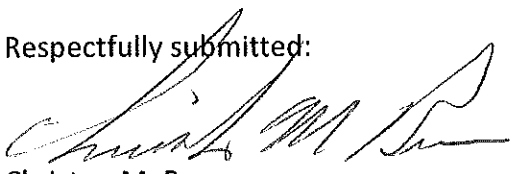
Comments:

I do not speak for the other owners of property in this 70 acre parcel. They will individually make their own comments as they deem appropriate.

We moved onto this property in 1985 and knew it was zoned Urban Area Reserve. We have understood the neighborhood being created and are mystified you consider the proposed zoning for 70 acres of commercial and high density housing a viable use for this land.

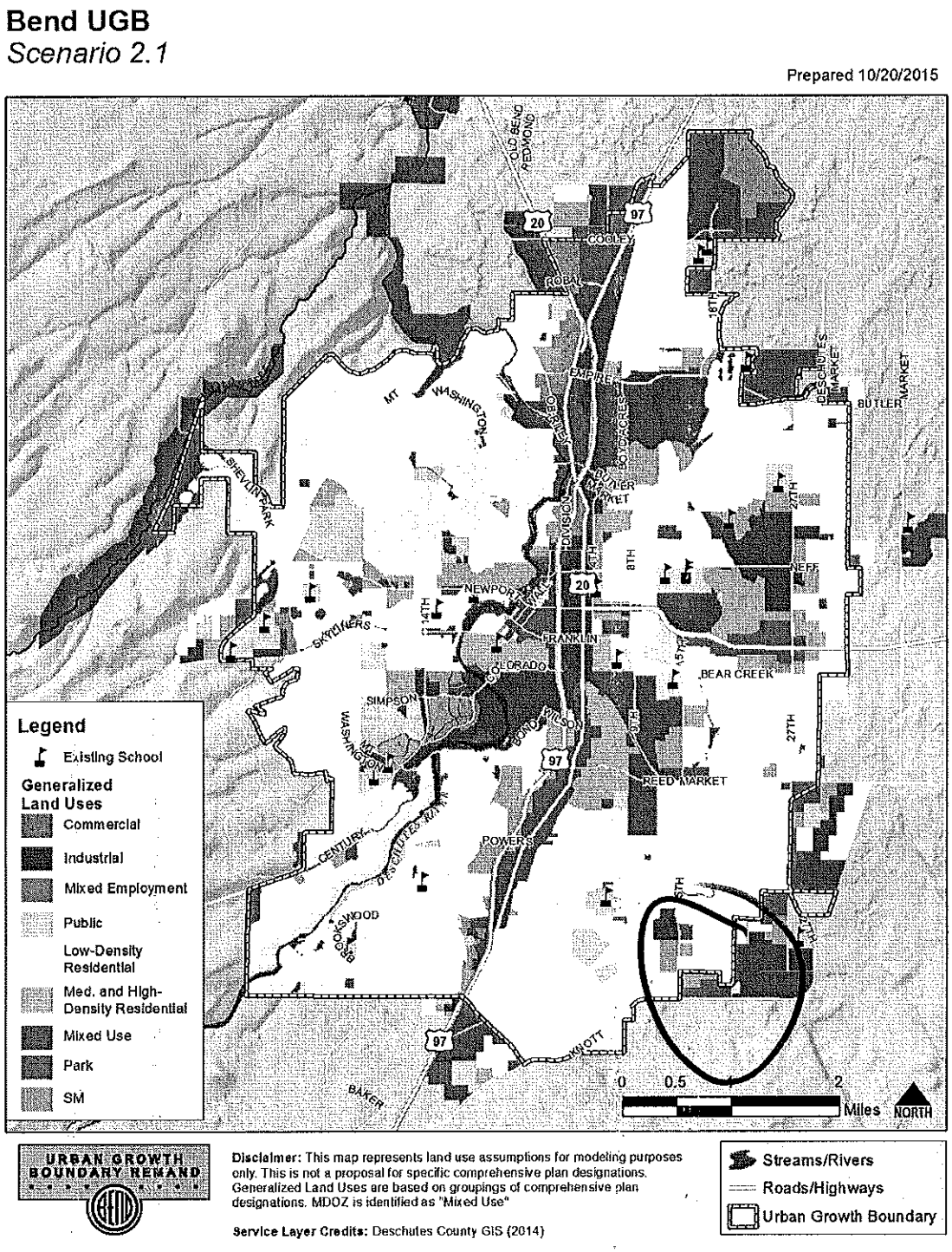
For our parcel: Mixed Employment will do a better job of creating a safe neighborhood with a minimum of disruption to the surrounding residences both inside the proposed city limits and across Knott Road. The present Elbow designations do not include ME zoning. Consider a change from Commercial to Mixed Employment zoning in the Elbow as part of your deliberations.

Respectfully submitted:



Christen M. Brown
20950 Knott Road

Figure 1: Scenario 2.1 Generalized Land Use Map



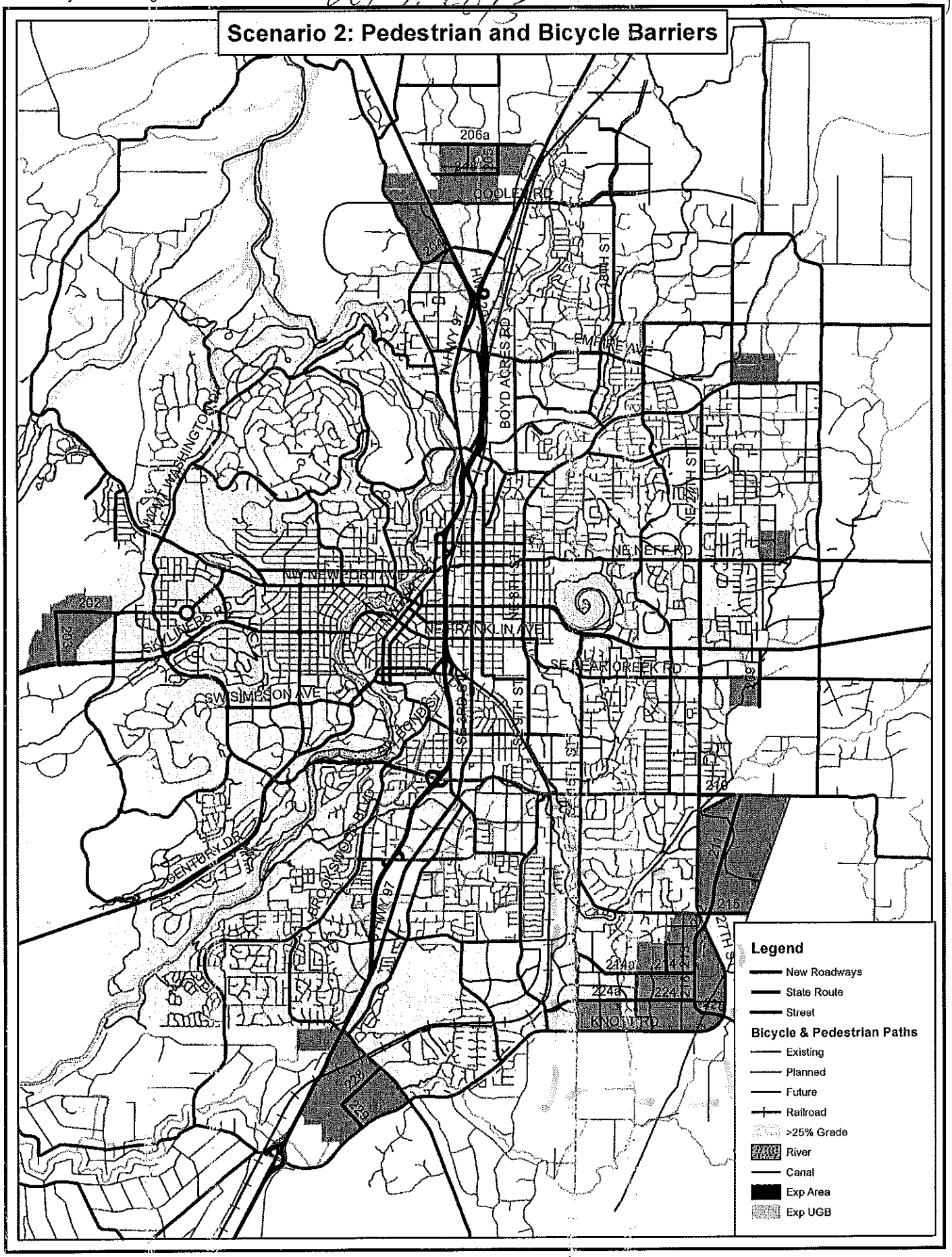


Figure 57

Exh 13

System, the team evaluated the scenarios and the SAAMs against 11 different performance measures. Chris also went into more detail about the results of the evaluations of average trip length and vehicle miles traveled (VMT) and congestion. With respect to congestion, SAAM-1 performed the best and Scenario 3.1 performed the worst of the scenarios.

- Cost Effective Infrastructure – Chris of DKS and Associates and Dave Stangel of MSA and Associates gave the presentation of how the scenarios performed against 11 different performance measures on cost-effective infrastructure. With respect to the cost of transportation improvements, SAAM-3 was the cheapest or least expensive; Scenario 2.1 was the most expensive when considering total scenario transportation costs. The TAC questions and comments on this topic included whether OSU Cascades was included in the analysis, whether the Empire Avenue extension was considered, density increases contemplated in the Central Area, and whether highway improvement costs were included in the cost estimates. Dave Stangel gave a presentation that focused on those performance measures aimed at the sewer collection system. He presented three (3) immediate projects that will address existing issues in the current collection system: the Colorado Lift Station; the North Area Improvements, and; Phase 1 of the Southeast Interceptor. He highlighted what sewer improvements would be needed to serve the scenarios and those needed to serve the SAAMs. Dave also address water system improvements, and how providing water service to any of the scenarios or SAAMs through the city's water system will not be an issue; this performance measure was not a difference maker. With respect to the four performance measures focused on sewer and water, Scenario 1.2 performed the best and SAAM-3 performed the worst. The TAC comments on questions here included the City's coordination with Avion Water Company and their input on costs of providing service to the scenarios and the SAAMs.

- Factor 3 – Comparative Environmental, Social, Economic, and Energy Consequences

  - Quality Natural Environment (Environmental and Energy Consequences) – Karen Swirsky of the Growth Management Department gave the first presentation on this topic, focusing on wildlife and wildfire. The team considered six performance measures, of which two addressed wildfire and wildlife. For wildlife, the analysis considered the location of scenarios and subareas in deer and elk winter range that has been mapped and potential deer and elk winter range. Of the scenarios and SAAMs, SAAM-2 performed best and avoided the potential winter range areas. Regarding wildfire hazard, the team considered risk and hazard to evaluate the scenarios and the SAAMs. She referred to a map that identified different classifications of fire hazard: Extreme, Mosaic High, Managed High, Managed and Well-Managed High, and Well-Managed High. The TAC questions and comments on this topic included to what extent climate change has been incorporated in the analysis, whether the record shows a property by property analysis, the results reflecting additional work performed in the field, and fire history in the short term and the long term. With respect to this last topic, Craig Letz of the consultant team clarified that some mapped data in the record provided an incomplete look at wildfire

Exh 'C'

2.2.200 Zoning District Locations and Characteristics.

Zone District Locations and Characteristics

Zone District	Location and Characteristics
Central Business District (CB)	The Central Business District encompasses the historic downtown and centra business district that has commercial and/or mixed-use development with a storefront character.
Convenience Commercial District (CC)	The Convenience Commercial District is adjacent and connected to the Residential District(s) it is intended to serve. Convenience Commercial uses are larger in scale and area than neighborhood commercial uses and provide for frequent shopping and service needs of nearby residents. The zone is intended to provide locations for a wide range of small and medium sized businesses and services as a convenience to the neighboring residential area New convenience commercial nodes shall develop as commercial centers rather than a commercial strip and be limited in size up to 5 acres.
Limited Commercial District (CL)	The Limited Commercial District provides for a wide range of retail, service, a tourist commercial uses in the community along highways or in new commerc centers.
General Commercial District (CG)	The General Commercial District provides a broad mix of commercial uses th have large site requirements, are oriented to the higher classification roadway and provide services to the entire City and surrounding area.

[Ord. NS-2195, 2013; Ord. NS-2016, 2006]

2.2.300 Permitted and Conditional Uses. Revised 4/15 Revised 10/15

The land uses listed in Table 2.2.300 are allowed in the Commercial Districts, subject to the provisions of this code. Uses that are listed in Table 2.2.300 and land uses that are similar are permitted or conditionally allowed. The land uses identified with a "C" in Table 2.2.300 require Conditional Use Permit approval prior to development, in accordance with BDC Chapter 4.4.

Table 2.2.300 – Permitted and Conditional Uses

Land Use	CB	*CC	CL	CG
Residential				
Existing Residential Use	P	P	P	P
*New residential use as part of a mixed-use development	P	P	P	P
*Temporary housing	C	N	C	C
Commercial				
Retail Sales and Service (non-automobile dependent/oriented)				

Ex D-1

Land Use	CB	*CC	CL	CG
– building footprint less than 50,000 square feet	P	P	P	P
– building footprint greater than 50,000 square feet	P	C	P	P
Retail Sales and Service (*automobile dependent)	N	C	P	P
Retail Sales and Service (*automobile oriented)	C	C	P	P
Restaurants/Food and Beverage Services – with *drive-through	C	C	P	P
Restaurants/Food and Beverage Services – without drive-through	P	P	P	P
Offices and Clinics	P	P	P	P
Production Office	N	N	C	P
Convention Center/Meeting Rooms	C	N	P	P
Lodging (e.g., hotels, motels, *bed and breakfast inns, *short-term rentals, hostels)	P	P	P	P
Hospitals	N	N	P	P
Commercial and Public Parking	P	P	P	P
Commercial Storage – enclosed in building and on an upper story	C	P	P	P
– not enclosed in building	N	N	P	P
– enclosed in building on ground floor (i.e., mini-storage)	N	N	C	P
Entertainment and Recreation – enclosed in building (e.g., theater, fitness facility)	P	P	P	P
– not enclosed (e.g., amusement, outdoor arena)	N	N	C	P
Day Care	P	P	P	P
Redemption Center	N	N	P	P
Trailer Park/Campground	N	N	C	C
Mortuary	N	N	P	P
Wholesale Sales (more than 75% of sales are wholesale)	N	N	P	P
Veterinary Clinic (small animal)	C	P	P	P
*Mixed-use (residential with commercial/civic/industrial) Mixed-use developments shall be subject to the use limitations prescribed for the respective individual uses	P	P	P	P
Public and Institutional				
Government – point of service intended to serve the entire City (e.g., City Hall, main library, main post office, main Department of Motor Vehicles service center)	P	N	P	P

Ex D-2

Chapter 2.3
MIXED-USE ZONING DISTRICTS (ME, MR AND PO) Revised 4/15 Revised 10/15

Sections:

2.3.100 Purpose and Applicability.

2.3.200 Permitted and Conditional Uses. Revised 4/15 Revised 10/15

2.3.300 Development Standards. Revised 10/15

2.3.400 Building Orientation.

2.3.500 Architectural Standards.

2.3.600 Special Development Standards for the MR Zone.

2.3.100 Purpose and Applicability.

A. The Mixed-Use Districts are intended to provide a balanced mix of residential and employment opportunities. These mixed-use areas provide a transition between existing urban environments and both existing and future residential developments. The Mixed-Use Districts support service commercial, employment, and housing needs of a growing community. The Mixed-Use District standards are based on the following principles:

- Ensure efficient use of land and public services.
- Create a mix of housing and employment opportunities.
- Provide transportation options for employees and customers.
- Provide business services close to major employment centers.
- Ensure compatibility of mixed-use developments with the surrounding area and minimize off-site impacts associated with development.

The Mixed-Use Districts: Mixed Employment (ME), Mixed-Use Riverfront (MR), and Professional Office (PO) are identified on the City's official Zoning Map. The districts serve distinctly different purposes as described below.

Zone District	Location and Characteristics
Mixed Employment District (ME)	The Mixed Employment Zone is intended to provide a broad mix of uses that offer a variety of employment opportunities. Where Mixed Employment Districts occur on the edge of the City, their function is more transitional in nature providing service commerc businesses and supporting residential uses in an aesthetic mixed environment. In this instance, when residential units are provided, the units shall be within easy walking distance to the commercial and employment uses.
Mixed-Use Riverfront District (MR)	The Mixed-Use Riverfront District is intended to implement the General Plan policies fo the creative redevelopment of mill site properties adjacent to the Deschutes River. It is intended to allow for a mix of uses that: • Provide a variety of employment opportunities and housing types; • Foster pedestrian and other non-motor vehicle activity; • Ensure functionally coordinated, aesthetically pleasing and cohesive site plannin and design;

Ex E-1

Zone District	Location and Characteristics
	• Ensure compatibility of mixed-use development with the surrounding area and minimize off-site impacts associated with the development; and • Encourage access to, and enjoyment of, the Deschutes River.
Professional Office District (PO)	The Professional Office Zone is intended to provide for professional offices in locations near arterial or collector streets and to provide a transition of uses between residential areas and other more intensive zones. Through design standards, the Professional Office Zone is intended to create a mix of high density residential housing, office and service commercial developments that are pedestrian-oriented and provide a positive contribution to the streetscape.

B. Applicability. The standards of this chapter apply to all development in the Mixed-Use Zoning Districts. [Ord. NS-2195, 2013; Ord. NS-2016, 2006]

2.3.200 Permitted and Conditional Uses. Revised 4/15 Revised 10/15

A. Permitted and Conditional Uses. The land uses listed in Table 2.3.200 are allowed in the Mixed-Use Districts, subject to the provisions of this chapter. Only land uses that are listed in Table 2.3.200 and land uses that are approved as "similar" to those in Table 2.3.200 may be permitted or conditionally allowed. The land uses identified with a "C" in Table 2.3.200 require Conditional Use Permit approval prior to development, in accordance with BDC Chapter 4.4.

B. Exceptions. Existing uses and buildings lawfully established under previously effective land use regulations are allowed to continue subject to BDC Chapter 5.2.

Table 2.3.200

Permitted and Conditional Uses

Land Use	ME	MR	PO
Residential			
Single-Family Dwelling as a primary use	C	P	C
Single-Family Dwelling as a secondary use	P	P	P
Multifamily Residential* as a primary use	C	P	C
Multifamily Residential* as a secondary use	P	P	P
Temporary Housing* as a secondary use	P	N	P/C
Commercial			
Retail Sales and Service • not to exceed 50,000 sq. ft. ground floor	P	P	N
• not to exceed 75,000 sq. ft. ground floor for ME zoned property five acres or greater	P	N	N
Retail Sales and Service (auto dependent*)	P	N	N
Retail Sales and Service (auto oriented*)	P	N	N

Ex E-2

Exhibit E
05558

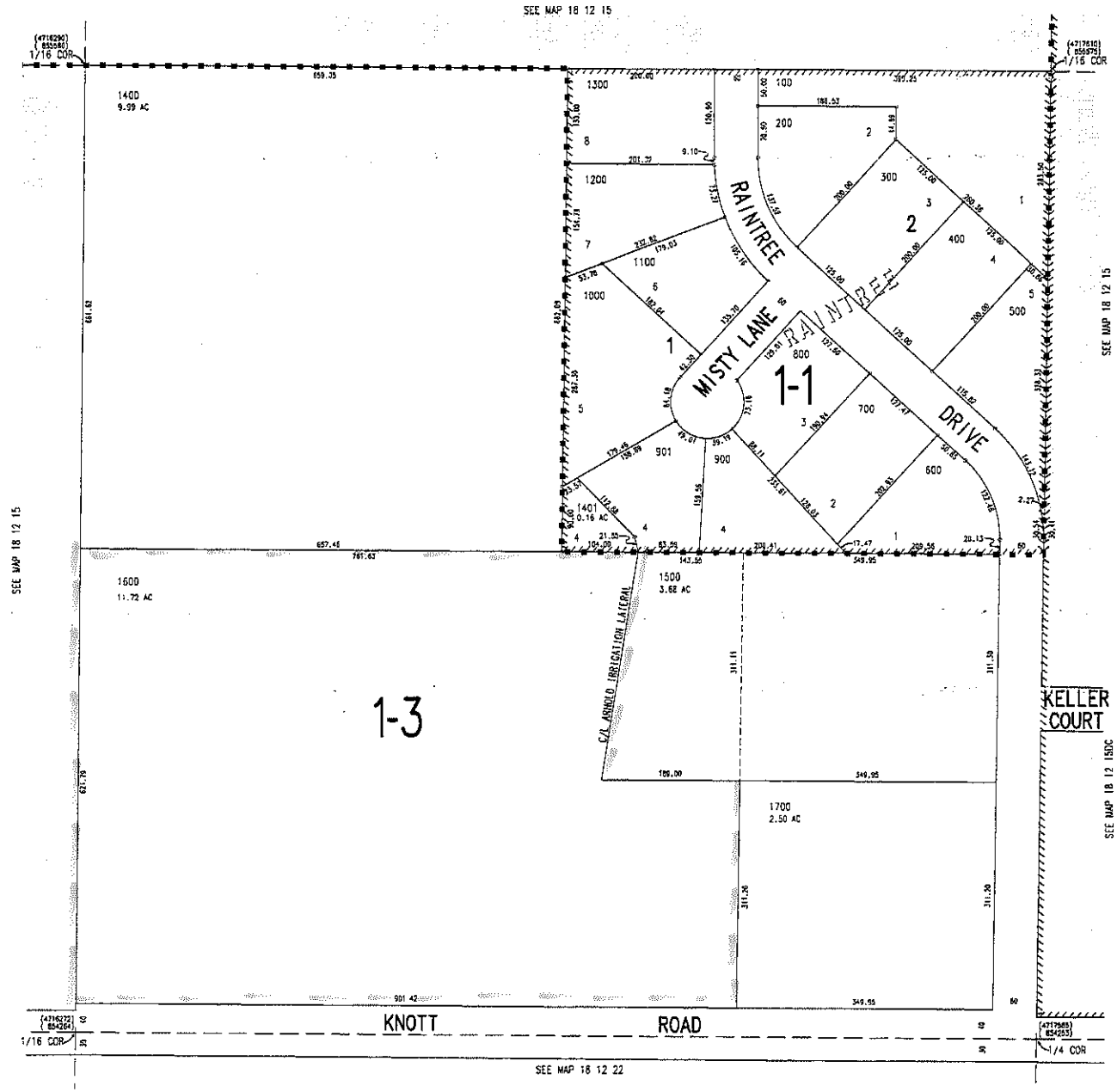
THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY.

REVISED: 09/16/2005

SE1/4 SW1/4 SEC. 15 T.18S. R.12E. W.M.
DESCHUTES COUNTY

1" = 100'

18 12 15CD



18 12 15CD

JL Ward Co

December 4, 2015

Mr. Victor Chudowsky, Chair
City of Bend UGB Steering Committee
710 NW Wall Street
Bend, Oregon 97701

RE: Efficiency Measures on SE 15th Street

Dear Mr. Chudowsky,

The J L Ward Co has carefully studied the options to master plan and to develop our 240 acres on SE 15th Street using the current City Code and Zoning and compared this to the Efficiency Measures proposed for this property. At the conclusion of the most recent Boundary TAC meeting we were encouraged by the committee members and staff to submit our vision for our property. We want to work with the City to meet its density and land use goals, and we are committed to having a Complete Community, including medium and high density housing and commercial uses in the appropriate quantities. We'd like to take this opportunity to work with the City to achieve our common goals.

The J L Ward Co has developed in Bend since the mid 1960's, and has decades of experience developing high quality projects—we know how to do this work from start to finish. Planning and building a 240 acre project carries significant risk, and is an expensive and complex process that will likely take 10-15 years to complete. It is our intent and desire to create a high quality project with amenities like the NorthWest Crossing neighborhood has—and we feel Bend's southeast quadrant deserves and will benefit from this type of neighborhood. To accomplish this, the economics must work; and to make the economics work the acreages proposed for commercial uses and for medium and high density housing need to be adjusted from the acreages proposed in the Efficiency Measures. For any complete community to be successful it must have the correct proportion of housing units close to the service nodes (Convenience Commercial) and appurtenant General Commercial and Mixed Employment zones.

NorthWest Crossing is a successful project—they've created a Complete Community with a mix of uses that works. Using the NorthWest Crossing mixed use model, the amount of land assigned to various uses in the 15th Street Efficiency Measures would need to be adjusted to be close to the following:

Use/Zone	Acres
Elementary School	15
Park	5
RS	186
RM	10
RH	7
CG/CC/ME	17
Total	240

We've also closely studied the proportional share of RM, RH and commercial zoning the Efficiency Measures propose and we've concluded our 15th Street property has been disproportionately burdened. We recognize the need for these zones throughout the City and in the UGB expansion areas, plus the TAC's have

20505 Murphy Road • Bend, OR 97702 • (541) 382-0491 • Fax (541) 382-5082

expressed their commitment to have Complete Communities throughout the City. We are confident the City will grow in a more sustainable and achievable development pattern when the Efficiency Measures are distributed throughout the City in a more equitable way.

The tables below compare the number of housing units associated with our adjustments and as originally proposed in the Efficiency Measures:

J L Ward Co Proposal

	RS Density Range		RM Density Range		RH Density Range	
Units Per Acre	4	7.3	7.3	21.7	21.7	43
Yield	744	1358	73	217	152	301

Efficiency Measure Proposal

	RS Density Range		RM Density Range		RH Density Range	
Units Per Acre	4	7.3	7.3	21.7	21.7	43
Yield	660	1205	191	566	332	658

At first glance, the number of units may seem large; however, the number of units translates into the following modifications to the Efficiency Measures to our 15th Street Property:

Add 21 acres of RS (8.7% of the 15th Street property);
Remove 16 Acres RM (6.6% of the 15th Street property);
Remove 8 Acres of RH (3.3% of the 15th Street property);
Remove 1 Acre of CC/GC/ME (.42% of the 15th Street property).

As you can see, the changes to the Efficiency Measures we've proposed for our property are minimal. Our proposal is reasonable: these small changes will create the mix of uses that will provide us the opportunity for a successful project; and it will allow other property owners a similar opportunity.

Attached a Conceptual Development Plan (Exhibit A) that graphically represents the areas and the variety of the zones and uses we've proposed.

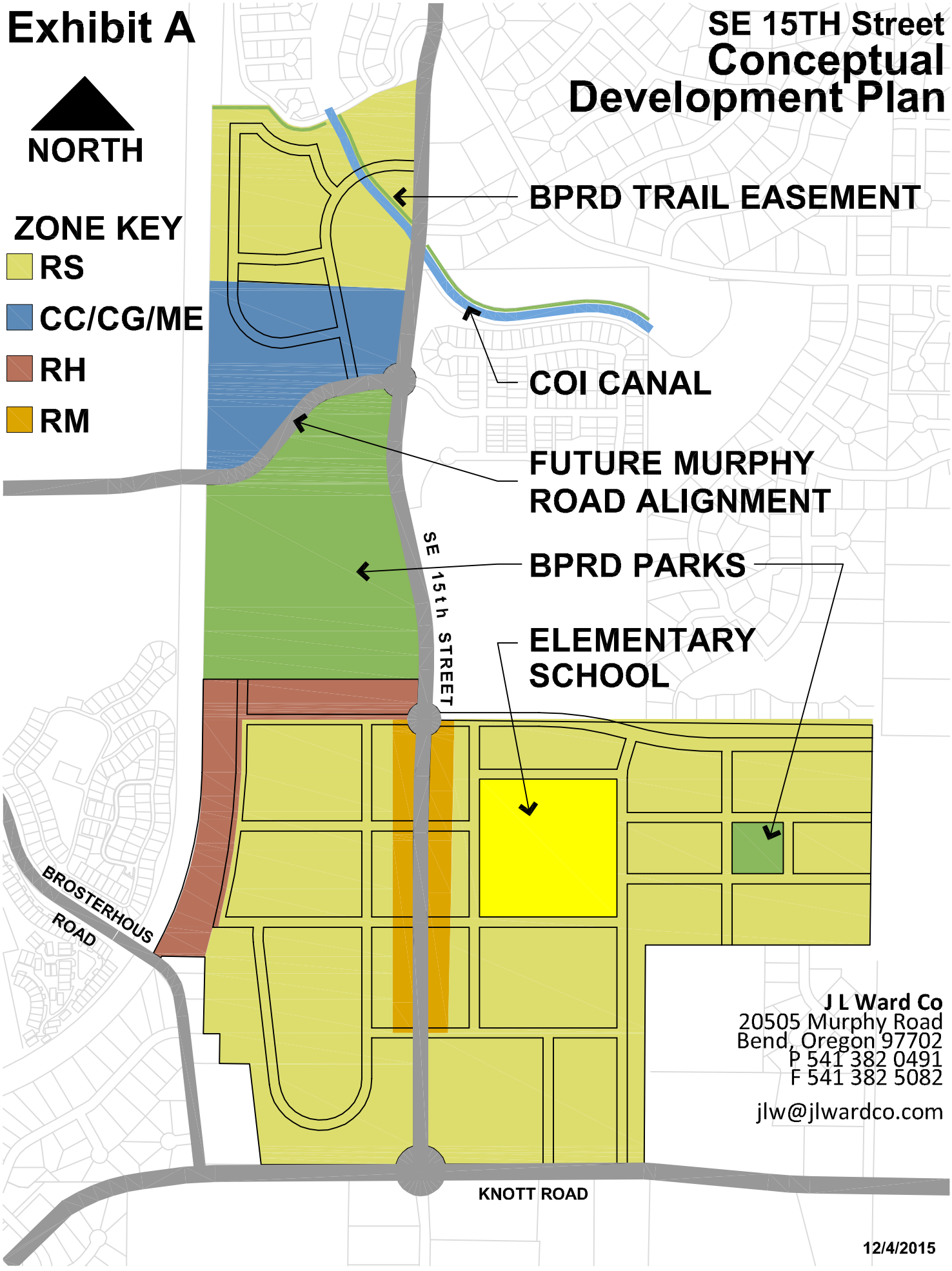
Because this is the largest undeveloped privately owned property within the City, we feel it is critical for us to be able to plan and build this community with the correct proportion and mix of uses that will allow for success. Please let me know when we can begin this mutually beneficial collaborative process to make these minor adjustments to the Efficiency Measures allocations that will lay the foundation for sustainable development patterns as Bend continues to grow.

Sincerely,

Dean Wise

C: Brian Rankin
USC Members
TAC Members

Exhibit A



SE 15TH Street Conceptual Development Plan

J L Ward Co
20505 Murphy Road
Bend, Oregon 97702
P 541 382 0491
F 541 382 5082

jlw@jlwardco.com

12/4/2015

December 14, 2015 UGB Steering Committee meeting

Public Testimony **received** between 12-7-2015 and 12-9-2015 (Part 2)

1. Curt Baney November 29, 2015 letter

2. Elizabeth Dickson, Hurley Re, December 8, 2015 letter

3. Barb Rumer, December 8, 2015 letter

4. Barb Pettersen, December 7, 2015 letter

5. Chris Herrick, December 9, 2015 email

OXFORD
Hotel Group
BEND, OREGON

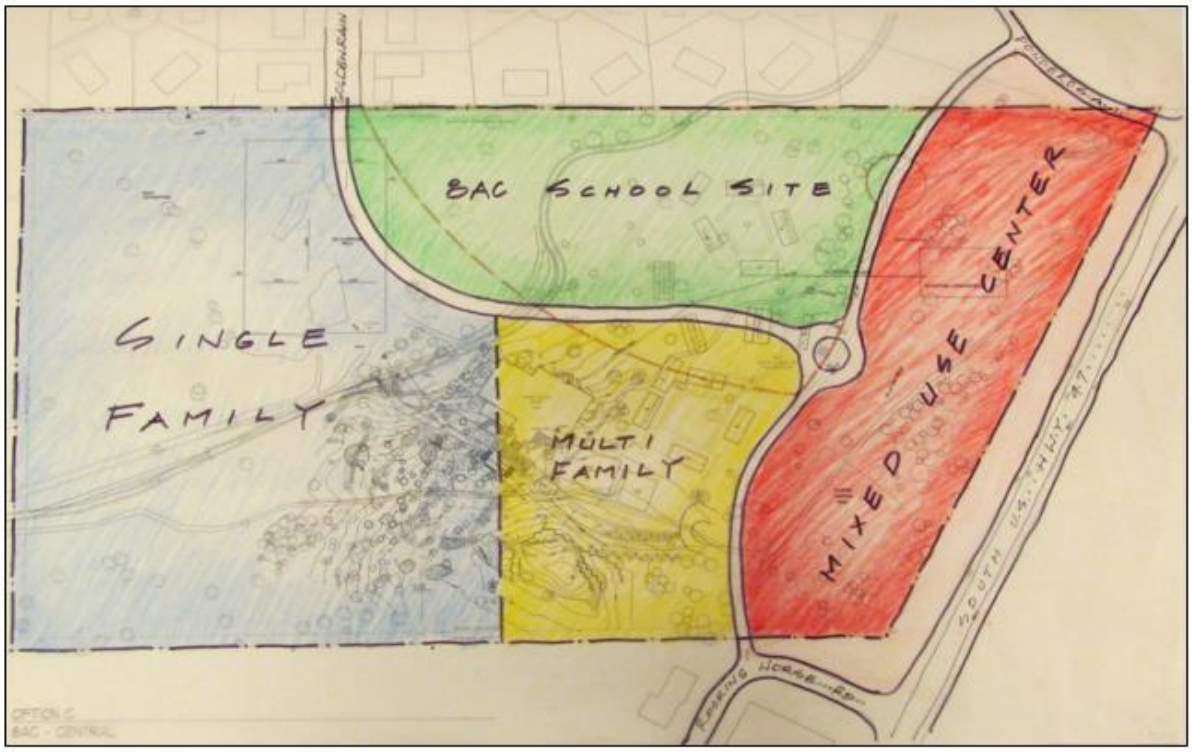
November 29, 2015

UGB Steering Committee
UGB Expansion sub-committee
City Council UGB Liaisons
City Staff

Dear Committee Members:

Thank you for your diligence in the UGB process. We have been following this project for many years and look forward to its conclusion as you do too. At the last meeting we were disappointed that the Steering Committee chose to remove our property from the study map. This is troubling for many reasons and we ask you to reconsider by examining a few key points that were not fully discussed:

1. The proposed removal removes **the only parcel south of the UGB and west of Highway 97**. The many citizens in this particular area of Bend are likely to make shorter drives if services are available. They are not likely to cross the Highway to get to the future Ward site. The Ward site will serve different portions of the community to the east. Even if they could, the presence of a median will require out of direction travel for citizens on the west side of the highway**. Our property is proposed for mixed-use, including a school site, multi-family housing, employment, and commercial services** as the record shows. See attached maps. We plan to provide services for nearby residents and the **many homes already surrounding the property**. Please refer to the vicinity map as attached.



Proposed layout of Baney site showing mixed-uses, school, housing, and employment node

2. We were confused by the consultant's statements that the metrics used to evaluate our site included a VMT that is measured to center of Bend. The consultant then stated that our site would produce long trips to the center of Bend. (Why this was not also stated for the Ward site is perplexing) Nonetheless, citizens near our property are unlikely to make long trips if services are available close by. Thus, our site has the best chance of serving the developed area just west of the highway and reducing vehicle trips to the center of Bend. The best neighborhood designs typically have services and schools nearby. Our property will provide those features.

3. Our property, when developed, will supply needed sewer improvements to the existing City residents that only have access to septic now. Recent conversations with the city sewer department indicate that the City is many years away from providing this essential service. With development of our site, sewer main improvements will occur and provide the backbone of needed system improvements. This data is in the record as submitted by our engineer, Tim Weishaupt, PE. Yet, the City's consultant only mentioned that there were sewer issues in a few areas but did not mention how our property provides a huge benefit by fixing existing sewer problems.

4. **The UGB sub-committee did not recommend removal of our property** and so we ask that that this also be taken into consideration. Inclusion of our property allows the area to the south and west of the highway to have similar opportunities as other properties do on other sides of the UGB. This southern area should not be left out from any inclusion.

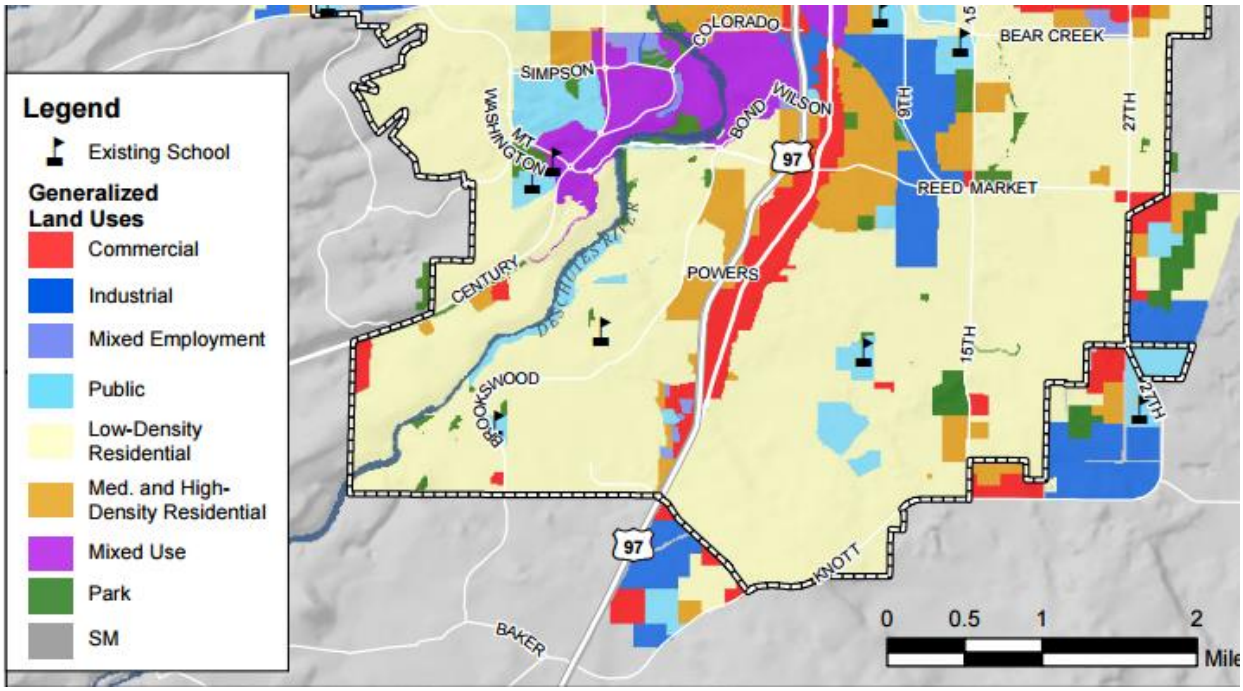
In closing, with the recent action to remove our property from the map, **the UGB expansion would not include <u>any</u> property south of the City and west of the highway.** Nor, would the UGB expansion include properties to the south that would help make existing City properties more complete neighborhoods with services, schools, and multi-family housing.

We respectfully ask that the Steering Committee reconsider our property for inclusion for the reasons stated above. If you have any questions please feel free to call me to discuss this further.

Sincerely,

Curt Baney, President
Baney Corporation
Tel.: 541-382-2188 Email: curtb@oxfordsuites.com

Attachments



Note in this latest revision map how there is no property south of the UGB and west of the Highway included in the UGB expansion proposal.

The Red outline shows where the Baney property is located in relation to the Highway and those fully developed properties surrounding the property on the north, south, and west.

HURLEY | RE
ATTORNEYS AT LAW | P.C.

747 SW Mill View Way, Bend, OR 97702
541-317-5505 ▪ Fax: 541-317-5507 ▪ www.hurley-re.com

December 8, 2015

Brian Rankin
City of Bend Principal Planner
710 NW Wall Street
Bend, OR 97701

via First Class Mail & Email to brankin@ci.bend.or.us

RE: Urban Growth Boundary Expansion – Residential Zoning for Tax Lots 100 & 1700
Township 18 South, Range 12 East, Section 15

Dear Brian,

Our offices represent the Robert M. Schumacher and Sandy L. Schumacher Revocable Living Trust, by Sandy L. Schumacher, Trustee, owner of 64.56 total acres on two adjoining tax lots ("Subject Property," described above) in southeast Bend, which is likely to be included in the City of Bend's next Urban Growth Boundary Expansion.

The most recent scenario being considered is Expansion Scenario 2.1A, attached for reference. It shows our client's property is included in "The Elbow" area in southeast Bend. These lots both adjoin residential lands which are already developed. In Scenario 2.1A, industrial development would be allowed directly next to these homes. Industrial development is not compatible with residential neighborhoods. Industrial operations start early in the morning or may even operate through the night. Industrial uses are also often very noisy. Such uses would not be compatible with family neighborhoods, where people sleep during industrial operation hours.

Furthermore, industrial uses generate heavy truck and trailer traffic for goods coming in and going out. The noise of these heavy vehicles is disruptive, and also potentially dangerous for small children walking and biking in the adjoining neighborhood.

Finally, industrial uses generate smoke and fumes that are not anticipated in residential neighborhoods, and do not belong there. These neighborhoods were established with a reasonable expectation of compatible adjoining development. Industrial development does not mesh well with these residential neighborhoods, and should not be promoted next to them by City action.

According to Scenario 2.1A, tax lot 100 and most of tax lot 1700 are marked to be zoned for industrial use once included in the UGB, with the remainder of 1700 to be zoned for public use. While we understand the need to make space for jobs in this area of Bend, it is neither in the best interest of my client nor the City to zone the Subject Property for industrial use. My client believes that their property may be more properly suited for a medium-density residential zoning designation, compatible with the

zoning designations of the adjoining properties – Residential Standard Density (RS) and Residential Low Density (RL).

In the alternative, my client's property would also be better suited to a commercial zoning designation in terms of keeping compatibility with current and future surrounding uses. Adjoining residential land would be better complimented by commercial adjacency than direct transition into industrial land, and there is very little commercial development in southeast Bend.

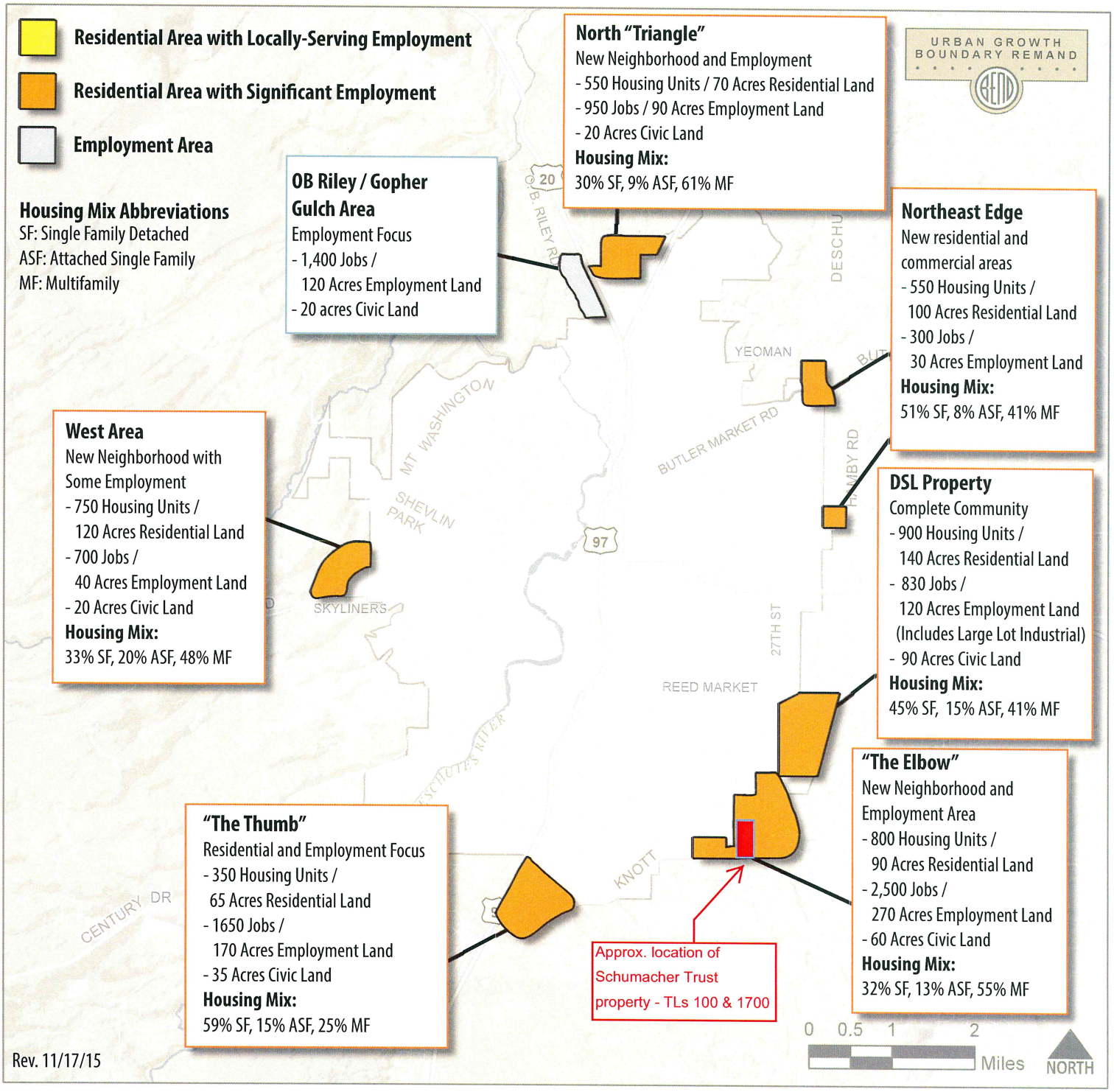
We understand the City's desire to reduce trips and length of same. However, it's likely that quality of life of Bend's residents depends more on a peaceful home than a short commute.

Thank you for considering our concerns on behalf of the Schumacher Trust.

Sincerely,

Elizabeth A. Dickson
EAD/mls
Enclosures as noted
Cc: Client

Expansion Scenario 2.1A

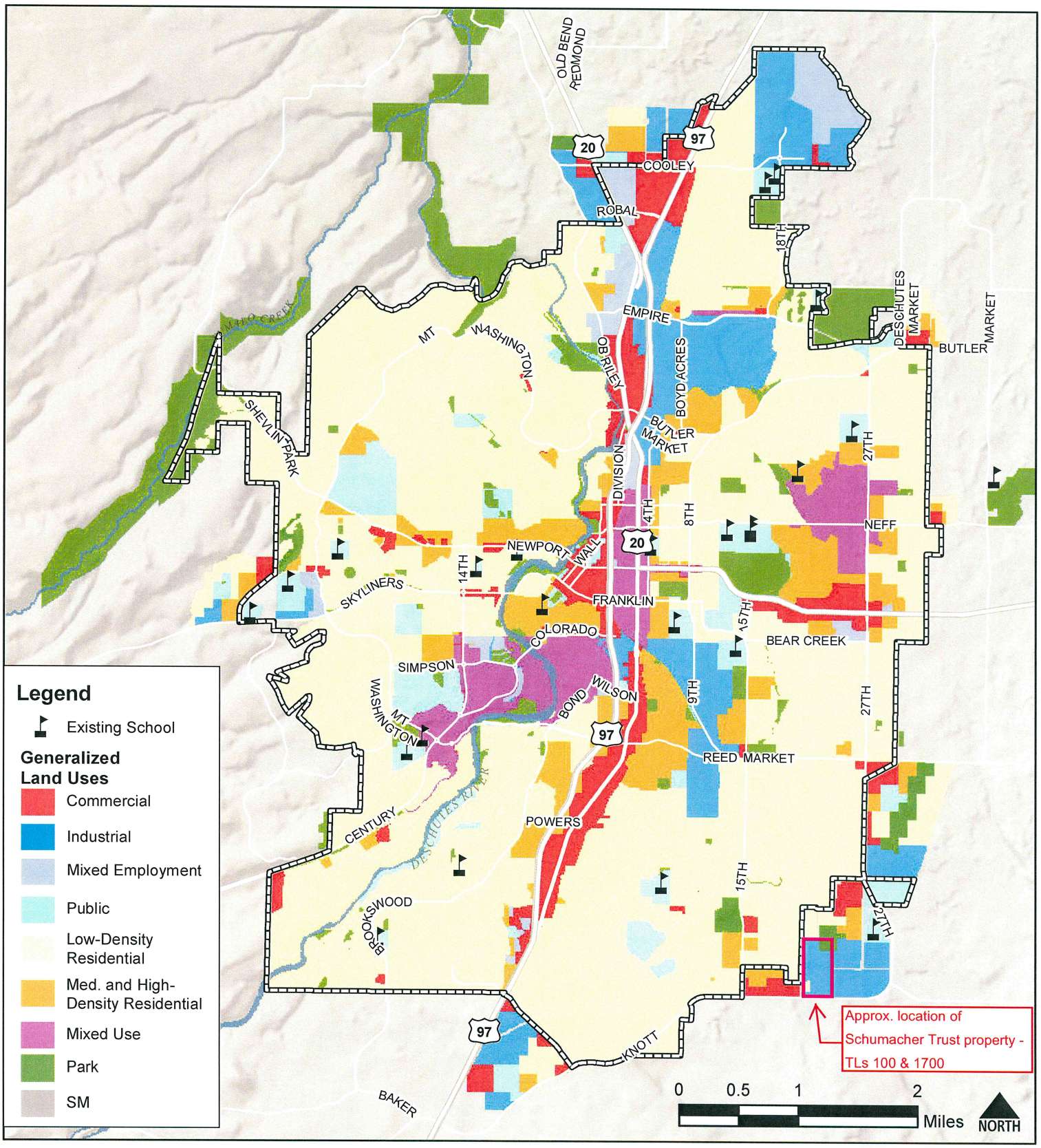


Bend UGB

Draft USC Direction on Revisions to Scenario 2.1

"Scenario 2.1A"

Prepared 11/18/2015



Legend

- Existing School

Generalized Land Uses

- Commercial
- Industrial
- Mixed Employment
- Public
- Low-Density Residential
- Med. and High-Density Residential
- Mixed Use
- Park
- SM

URBAN GROWTH BOUNDARY REMAND

Disclaimer: This map represents land use assumptions for modeling purposes only. This is not a proposal for specific comprehensive plan designations. Generalized Land Uses are based on groupings of comprehensive plan designations. MDOZ is identified as "Mixed Use"

Service Layer Credits: Deschutes County GIS (2014)

- Streams/Rivers
- Roads/Highways
- Urban Growth Boundary

05569

December 8, 2015

TO: Victor Chudowsky, Chair of the Bend Urban Growth Boundary—UGB—Expansion Steering Committee
Bend UGB Remand Boundary Expansion Technical Advisory Committee

SUBJECT: Concerns regarding westside growth and, fire, traffic congestion and affordable housing

My name is Barb Rumer and I live at 1592 NW Remarkable Drive, Bend, 97703. I have lived in Bend since 2004. My late husband, Jim Eisenhard, was the Planning Director for the city of Medford for ovr 20 years. His enthusiasm for, and knowledge of land use planning trends and best practices have continued to shape my own views after his death.

The purpose of my correspondence is to offer feedback on the direction that Bend's UGB expansion has taken in recent months. From its outset, Bend chose to respond to the State's UGB Remand Order with an open public process that encouraged feedback at every turn. It hired Portland-based Angelo Planning Group to facilitate the process, set up public information meetings, and created opportunities for citizen feedback by using "MetroQuest", an on-line public-involvement tool. Bend also created an inclusive UGB Steering Committee (USC) to make a final decision on the expansion map to be adopted by its City Council. Its decision-making was guided by three technical advisory committees (TACs) charged with analyzing the need for land, direction of growth, type of land uses, and the State rules that govern the expansion of a UGB. The Residential and Employment TACs provided input to the "Boundary TAC", whose work is ongoing.

The process appeared to be working well until October, when the Boundary TAC met on 10/8, to determine the process for forwarding its "preliminary preferred Scenario" to the USC. Both the Boundary TAC and the USC were meeting on the same day, 10/22 (Boundary in the a.m, USC in the p.m.). Using a public process and guided by evaluation criteria and overlay maps, the Boundary TAC had narrowed down three scenario maps to a finalist (Scenario 2.1). Scenario 2.1 was discussed at the 10/8 meeting where facilitator polled TAC members, seeking feedback on 2.1. At some point after the 10/8 meeting, City planning made an independent decision to create two entirely new Scenario maps, 2.2 and 2.3 (based, they say, on "group feedback"). It is unclear who guided their creation, but they differed from the three previous Scenarios that the public had voted on using the well-accepted "MetroQuest" online survey / feedback tool. (This process was, in part, how Scenario 2.1was originally selected.) On 10/21, the night before the Boundary TAC's 10/22 meeting, City Planning staff emailed Scenarios 2.2 and 2.3 to its members. This was less than 24 hours before the TAC was to vote on the Scenario to forward to the USC the following day. The new maps were not presented to the public at large, nor could they be analyzed with the same level of precision, due to the abbreviated time frame. Nevertheless, the Boundary TAC, which tilted heavily to the "development side" due to the excused absence of several "smart growth" members, voted 10-3 to send Scenario 2.3 to the USC. The USC voted 9-3 to reject Scenario 2.3 and instead, accept the original Scenario 2.1, subject to modifications.

Scenario 2.3 made changes to Scenario 2.1. It nearly doubled the number of homes to be built on the westside, by including two new parcels of land (80 acres total). On the plus side, it included land in northeast Bend (the "Perfect Rectangle") that is comprised of multiple smaller lots owned by different property owners). It moved industrial land from north of the City to its southeast side (the Department of State Lands' Section 11) and removed some land in the southeast ("The Thumb).

I'm most concerned by the murky commandeering of an otherwise open and above-board public process by … no one is sure. The decision to create new Scenario maps was made without the knowledge of the full Boundary TAC. I'm also concerned, for four reasons, about an increase in the number of residences on the northwest side from 750 to 1,400. First, there is a real and increased risk of wildfire when development abuts a national forest. Second, westside residents have been complaining about traffic congestion ever since NW Crossing Phase II began (maybe before). Third, the price of westside land precludes the construction of housing suitable for first-time buyers, hourly-wage workers, or even "average citizens". It is costly to develop and homes tend to be sold as part of a "gated community". Bend has enough of that; we need affordable housing. Lastly, while there are plenty of schools on the northwest side, families with school aged kids don't tend to live near them. This exacerbates the traffic problems as school children are being driven (or driving) to school as opposed to walking or biking.)

Thank you for your attention to, and consideration of, my views on this topic.

Barb Rumer

December 7, 2015

TO: Victor Chudowsky; Chair–Bend UGB Steering Committee (USC)
Bend's Boundary Technical Advisory Committee (Boundary TAC)

SUBJECT: Bend's UGB Expansion / Comments on west side growth

Dear Chair Chudowsky and Boundary TAC members:

My name is Barb Pettersen. I live 2607 N.W. Polarstar, in Bend's Valhalla Heights. My husband and I have lived here for over 15 years and watched Bend's west side grow … and grow … and keep on growing to the point where it no longer has the same character that existed when we moved here. It is becoming increasingly difficult to live on the west side.

I'm very grateful to those who lend their time and talent to the community, and I understand that you are all either elected officials, volunteers, or both. I recognize that your efforts are often overlooked and that you receive many more complaints and criticisms than you do compliments and gracious comments. I will try to be constructive in my own feedback, because I am sincere when I commend you for your service.

My feedback concerns growth of Bend's UGB to the west. I find it hard to justify the addition of even 750 new homes to the area between Skyliners Road and Shevlin Park (which I believe is the number currently under consideration by the USC). This area's present density and the congestion that occurs on Mt. Washington Drive and Newport/Shevlin (particularly during the hours that parents are driving children to school) is tough on us who live over here and has gotten much worse this past year. I've since heard a rumor (related to me at Mt. Bachelor's Nordic Lodge) that the Boundary TAC voted for a new UGB growth map that would increase this number to 1,400 new homes. This number shocks me, and it shocked the person who repeated it to me. I hope that it is not true as we will be inundated if that occurs. If (or should I say 'when") there is another fire in the Deschutes National Forest, as there was in June 2014 (the fast-moving Two Bulls fire), it's very likely that homes will burn. There is a serious problem with dead and dying pine trees along Century Drive, in the Skyline Forest, by Shevlin Park, etc. This fuel load is frightening. The last thing that any of us want is for Bend to receive national news coverage as the result of a destructive fire.

I don't think that Bend's east side has nearly the fire danger, or congestion problems that we have here and adding more houses will not help solve Bend's affordable housing crisis, either. Affordable west side housing is a thing of the past. The cost of land here precludes its construction.

Please, when you vote on where to expand Bend's UGB, remember that the real need for more housing, (affordable housing) is to the east of Bend's current boundary. Those with large parcels on the west side have already realized sizeable profits from previous land sales. Likewise, small acreage property owners on Bend's east side want to be included in the expanded UGB. It will greatly increase their land values. This time around, I would like to see these residents, many of whom have lived here for decades, have an opportunity to put their land to more efficient use, so that they can move on to the next stage of their lives and we, as a community, can solve our affordable housing crisis.

Sincerely,

Barbara Pettersen
2607 N.W. Polarstar
Bend, Oregon 97703

Damian Syrnyk

From: Victor Chudowsky
Sent: Thursday, December 10, 2015 7:15 AM
To: Damian Syrnyk; Brian Rankin
Subject: Fw: "Scenario 2.3" of proposed UGB expansion

Can you put this in the record - thx

From: Chris Herrick <christine.herrick49@gmail.com>
Sent: Wednesday, December 09, 2015 4:09 PM
To: Victor Chudowsky
Cc: Brian Rankin; Casey Roats; Doug Knight; Nathan Boddie; Jim Clinton; Barbara Campbell; Sally Russell; Leeds Tyler; Rook Erin; debone Tony
Subject: "Scenario 2.3" of proposed UGB expansion

Mr. Victor Chudowsky
Chair; Bend Urban Growth Boundary Steering Committee

Chair Chudowsky:

My name is Chris Herrick. My husband, John Coltman, and I have owned property in Northwest Crossing since 2007. When we first purchased here, we were eager to live in what was being promoted as a “complete community”, a walkable neighborhood with modestly-sized homes having access to local shops, restaurants, schools and parks. From that standpoint, we are not entirely disappointed, with one exception: we’d hoped for a local grocery store. To date, there isn’t one within walking distance.

What we are not happy about is the tremendous development that has taken place around us. What first seemed like a neighborhood has now become an island in a traffic nightmare, with congestion on Mt. Washington Drive, Shevlin Park Road, Skyliners Road, and virtually all the westside’s core “east-west” arterials (e.g., Galveston, Newport, Portland). We are also disturbed about the lack of public process that enabled the selection of land on which Oregon State University’s Cascades Campus is now being built. While we have not joined the Truth in Site group in their efforts to delay or halt the campus’ construction, we share many of their concerns.

Traffic gridlock is a major concern not just because of the livability issues it raises, but also because of the extreme fire danger in this part of Bend. In June of 2014, early in the fire season, the Two Bulls fire, which came very near developed areas on the westside, caused many nearby residents to be placed on Level 1, 2 or 3 evacuation alerts. Those on Level 3 did evacuate but many on Levels 1 or 2 did not. Luckily the winds were with us. There was no need for us all to try to get out at once on already congested roads. I emphasize ‘luck’, as it saved this area. Luck can, and does run out. It is frightening to contemplate the potential interplay of a fast-moving wildfire and the need to

rapidly evacuate all the expanding west side neighborhoods and schools that are in the already-built urban/forest interface.

We are not directly involved in the City's Urban Growth Boundary (UGB) expansion process but are watching from the sidelines with great interest, especially as any west side expansion would likely impact the traffic congestion/wildfire evacuation risk issues. As former Portlanders, too, we are supporters of urban density and "smart growth." During trips to the Tucson area, for example, we have observed with horror the impact on landscape and livability when urban growth is not strictly controlled.

Until now, we have been pleased with what we have learned about the City of Bend's UGB expansion process, both from the Bulletin and from a friend who is a volunteer participant on a committee guiding the process. Particularly gratifying to us was that expansion Scenario 2.1, seeking relatively modest but dense growth in dwelling units on the west side, appeared well on its way to becoming the approved expansion scenario, having been published in the Bulletin, shown on the City's website, voted on by citizens via Bend's MetroQuest survey and otherwise vetted by the public and the various City advisory groups guiding the expansion process. However, recently we were told that the big west side landowning and development interests (particularly Brooks/West Bend, Miller, Day and Swisher) attempted to subvert or co-opt the public process by privately inducing City planners to invent and present a new "Scenario 2.3" that ups the number of dwelling units in the expanded UGB from 750 to 1400. Scenario 2.3 would include parcels of two previously excluded landowners (Day and Swisher), with a Brooks representative agreeing to drop back down to 750 if all commercial uses were removed from the expansion parcels. We were further told that this new Scenario 2.3, which had not been vetted through the advisory group process, was presented in great haste to the steering committee, giving the advisory group less than 24 hours notice and at a meeting when a number of advisory group members who were likely to vote against it were absent. This type of attempted last minute influence by moneyed stakeholders -- assuming it actually occurred as has been described to me -- is precisely the type of event that, if publicly revealed, gives government a bad reputation.

Fortunately, as clearly reflected in the otherwise muddled story published by Tyler Leeds of the Bulletin on October 23, a majority (Knight, Boddie, Clinton and Campbell, with Russell absent) of the steering committee of which you are chair voted to stick with the approved Scenario 2.1, with Councilor Boddie giving as a reason that the new proposed Scenario 2.3 would shift additional housing to the City's western flank. You, Councilor Roats and Commissioner DeBone were outvoted, so we gather that Scenario 2.1 survived a close call but stands for the moment as the direction the City intends to take on expansion of the UGB. Kudos to Boddie, Knight, Clinton and Campbell, whom I am thanking for their support of the transparent advisory group and public input process via courtesy copies of this letter.

Since you are the steering committee chair and were an active participant in these events, I bring them to your attention to let you know that we who own homes in areas adjoining areas proposed for expansion and thus have a vested interested in the UGB expansion outcome are paying close attention. That attention will be reflected, at minimum, in our future votes. Some of us have great concern that Bend's development no longer continue to be managed from behind the scenes by

the moneyed westside landowners/developers in their own interest and that it instead be directed by average citizens who have the City's long term best interest at heart. In particular, many of us do not believe any UGB expansion should facilitate building more houses for rich people in the short term. The urgent need for housing in this town is for affordable housing, which due to current land values can most efficiently and abundantly be constructed on the east side of town. Whenever we learn of apparent private influence by the west side landowner/developer entities favoring more houses for the wealthy on the west side, public representatives like yourself who have sided with those interests will be challenged. There is change in the air and newer Bend citizens are pushing back against the "good old boy" interests that previously controlled Bend development. Please keep this in mind as you make the policy that determines how our city grows.

Sincerely,

Chris Herrick

christine.herrick49@gmail.com

2281 NW High Lakes Loop
Bend, OR 97703

cc: Brian Rankin, City of Bend Community Development; Commissioner Tony DeBone, Deschutes County; Councilor Casey Roats, City of Bend; Councilor Doug Knight, City of Bend; Councilor Nathan Boddie, City of Bend; Mayor Jim Clinton, City of Bend; Councilor Barb Campbell, City of Bend; Councilor Sally Russell, City of Bend; Reporter Tyler Leeds, Bulletin newspaper; Editor Erin Rook, Source Weekly

December 14, 2015 UGB Steering Committee meeting

Public Testimony **received** between **12-10-2015** and **12-11-2015** (Part 3)

1 Bill Galaway, December 10, 2015 letter

2. Sue Vordenberg, December 10, 2015 email

3. Tia Lewis, December 11 letter and attachments

To: UGB Steering Committee

From: Bill Galaway, Chairman, Southeast Bend Neighborhood Association

Copy: Brian Rankin, Joe Dills

Subject: UGB Expansion Plans for the Thumb

As Chairman of the Southeast Bend Neighborhood Association, it is my responsibility to look out for the interests of those who live in our neighborhoods. In my opinion, the current proposal for UGB expansion into the Thumb does not satisfy the needs and interest of our neighborhoods.

We have 2 primary concerns.

1. Traffic in and out of the Thumb.
2. The amount of Industrial property proposed for the Thumb.

1. Traffic in and out of the Thumb.

The current proposal calls for expanding into approximately 2/3 of the land in the Thumb, and not extending to the overpass on Knott/Baker. The proposal calls for adding 350 residences and 1,650 jobs into this area. This will add at least 2,000 vehicles entering the Thumb on a daily basis. This proposal suggests no road improvements are required in support of the expansion.

Access to the Thumb is difficult. From the North and West, the only way in is on Parrell Road from Murphy. This stretch of Parrell has about 20 houses with driveways that directly access the road, in addition to 5 existing neighborhood accesses. In no way should Parrell be used as primary access to this area from the North and West.

From the East, access to the Thumb is via Knott Road. Knott Road already has heavy traffic as it is being used as the primary trucking traffic heading east to south. With the UGB expansion primarily along the east side of Bend, this road will have increased traffic. This road has to be improved.

We propose that the UGB expansion in the Thumb include all the property to the Baker/Knott overpass. Entrances to the Thumb would be designed to influence drivers to use Highway 97 to the Baker/Knott interchange and thereby eliminate Parrell Road as a primary feeder street into the area. Knot Road heading northeast will still have to be improved in support of all the expansion on the East side. In addition, we should work with ODOT to reduce the speed limit along Highway 97 and add back the left turn onto China Hat Road heading south.

2. The amount of Industrial property proposed for the Thumb.

The Southeast neighborhoods are remarkably devoid of any amenities. We have only one restaurant, we have zero parks and schools, no shopping, and very few businesses. We have a number of neighborhoods, and 3 golf courses within close proximity of the neighborhoods. Other than the golf, we have to drive a long distance to any amenity.

One of the goals of the UGB expansion was to create self-sustaining neighborhoods similar to the model in Northwest Crossing. A mixed use development in the Thumb would add restaurants, shops, and employment opportunities to the Southeast neighborhoods, most of which are in very close proximity to the Thumb.

The current map for the Thumb shows ~50% of the property designated for Industrial use. This is contrary to the goal of having self-sustained developments in support of the residences within the Southeast Neighborhoods. We expect to see at least 80% of the Thumb be designated for mixed use residential/commercial. If some level of Industrial is required, it could be located in the southern tip of the Thumb, right by the Knott/Baker overpass.

In summary, the Southeast Bend Neighborhood Association recommends that the entire Thumb be included in the UGB expansion, and that at least 80% of the Thumb be designated as mixed use residential/commercial in order to provide the southeast neighborhoods the amenities that the rest of the neighborhoods in Bend enjoy.

Thank you.

Damian Syrnyk

From: Vordenberg <vordenbe@yahoo.com>
Sent: Thursday, December 10, 2015 9:40 PM
To: Damian Syrnyk
Cc: Vordenberg Lloyd or Sue
Subject: UGB Testimony

Follow Up Flag: FollowUp
Flag Status: Flagged

Please forward the following testimony to the Bend UGB Steering Committee Chair, Victor Chudowsky and also to the UGB Boundary Technical Advisory Committee. I very much appreciate your assistance.
Sue Vordenberg

Mr. Victor Chudowsky
Chairman
Bend Urban Growth Boundary Steering Committee
710 NW Wall St.
Bend, OR 97701

Dear Mr Chudowsky,

I have followed the UGB planning process with great interest as reported in the Bulletin. I also have followed reports about affordable housing needs and traffic issues, both important factors in UGB planning. The original Scenario 2.1 was the preferred, well vetted and publicized plan, although the Bulletin did report in articles on 10/9 and 10/23 that it was subject to modifications. I recently have become aware of what those modifications include pertaining to Bend's west side. It seems to me that both the housing and traffic issues were ignored in the modified scenario that will nearly double the number of allowable dwelling units added in west Bend over the original Scenario 2.1. This must not happen.

As a resident in The Reserve at Broken Top, I am intimately familiar with traffic issues in the area. One east/west roadway--Skyliner Road, and one north/south roadway--Mt. Washington Drive, serve a vast expanse of already exploding growth. With three schools in the immediate area plus expansion of residential, commercial and light industry development in NWX, people trying to merge into traffic from nearby neighborhoods any time of day, but particularly around the lunch hour and before and after school, do so at their peril. Accelerated development in Tetherow already has had a traffic impact, and traffic generated by the new OSU campus when it opens will exacerbate the situation even more. But you must already know this. So why would the proposed modified UGB Scenario 2.3 add 1400 allowable dwelling units accessed only by already burdened roadways? I thought the original Scenario 2.1 adding 750 future allowable homes was misguided, but 1400 is imprudent if not reckless. And this is just under normal circumstances.

Fire danger compounds the issue. Reports I've read that wild fires can occur on any side of Bend ignore the prevailing wind patterns off the Cascades and the added danger those wind patterns have on the increasingly

dense west side urban-forest interface. The limited number of roads, especially if schools have to be evacuated, will be completely inadequate if anything near 1400 homes are added to those already existing, being built, or in the approval process on the west side of Mt. Washington Drive. Can you imagine the chaos of fire-fighting equipment and manpower moving against massive evacuation traffic on the two arterial roads in the area? This is a recipe for disastrous gridlock.

How some of the otherwise intelligent members of the groups engaged in UGB planning can justify minimizing the importance of these issues boggles my mind, and raises for me and the many others I've spoken with, the question of special interests apparently receiving undue consideration over community interests, especially safety.

Then there is the matter of the inadequacy of reasonably priced housing in Bend. I know you know the statistics. I know you know that the housing crisis, even before the arrival of 5000 OSU students needing inexpensive housing, is not going to be addressed by developments on expensive west side land. You have to know that, and so do others involved in UGB planning. So why, other than because of pressure from special interests, would additional, inevitably high-priced housing be put into the plan?

Citing complex and competing interests throughout Bend in the proposed modified UGB scenario--Scenario 2.3, does not come close to addressing why the west side modifications are being put forward, given the traffic, housing, and safety issues involved. Nor does it explain how the west side modifications could be allowed to gain purchase over the months-long planning process at what can only be viewed as the last minute.

I am not alone in my concerns, but it takes a bit of effort for busy people to get the information they need to understand how their everyday lives will be affected by the amount and type of future development allowed in a specific quadrant of the city. Those who have the time and insight may lack the conviction that writing to you will make a difference. I, myself, am not sure that I will be heard, or my views considered, but I *am* sure that if I do nothing, those "better connected" to Bend's decision-makers will prevail.

Chair Chudowsky, I hope you and the UGB Steering Committee will carefully consider my comments when voting on an expansion Scenario to adopt and forward to the State of Oregon. Those of us who vote will be watching with interest to see what comes next.

Sincerely,

Sue Vordenberg

2671 Niagara Court
Bend, OR 97703

Sent from my iPad

SCHWABE, WILLIAMSON & WYATT®
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December 11, 2015

Brian Rankin
Planning Manager / Growth Management
City of Bend
710 NW Wall Street
Bend, OR 97701

Re: UGB - Boundary & Growth Scenario Maps, Goal 14 Factors
Evidence for Inclusion of Coats UAR Property
Our File No.: 125457-188345

Dear Brian:

Our office represents the Joyce Coats Revocable Trust, Eric and Robin Coats, Shevlin Sand & Gravel and CCCC, LLC.

Please present the enclosed materials to the Boundary TAC and the USC and include them in the record for the UGB remand. This evidence addresses the Goal 14 factors and provides suggested findings for the land shown on the maps attached as Exhibit A and Exhibit B demonstrating why it meets all Goal 14 factors and why it should be included in the UGB. Specifically, the property (including 33 acres owned by the school district) comprises approximately 449 acres and is identified with the tax map and lot numbers shown on Exhibit C.

Goal 14 Factors

I. Background: History and Ownership of the Coat's Property

The Coats family owns approximately 700 acres in the Urban Reserve on the west side of Bend. The family has held this property since for over 40 years and well before it was designated Urban Area Reserve (UAR) in 1976. For tax and business purposes, the property is held in several different record owners' names but all acreage shown on the Overall Property Setting Map and the Conceptual Master Plan map, except the 34 acres owned by the school district, is controlled by Eric and Robin Coats (Exhibit C).

The Coats family seeks to have approximately 416 acres of its land together with the 34 acres owned by the School District to be included in the UGB for urban development including a variety of residential densities, employment and mixed use lands, and public schools, all within walking distance and near recreational amenities as shown on the Conceptual Master Plan map, Exhibit B. As discussed more fully below, this property is suitable for inclusion into the UGB and vital to the City of Bend for park, trail, transportation and sewer connections on the west side of Bend.

II. Goal 14, Urbanization: Analysis

GOAL 14: URBANIZATION
OAR 660-015-0000(14)
(Effective April 28, 2006)

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

FINDING: As demonstrated below, transitioning the Coats Property from rural to urban uses can be done efficiently and will support the City's anticipated population growth of about 38,500 people and 22,891 jobs by the year 2028, by creating livable and walkable communities that are close to urban and recreational amenities.[1]

Orderly and efficient transition:

The Coat's Property abuts the existing urban growth boundary along its eastern boundary and its southern boundaries. Mostly residential development at urban standards, the abutting lands inside the City limits are primarily developed with single family dwellings in platted subdivisions. On the west side, the Coat's Property shares a boundary with Bend Parks and Recreation District's (BPRD) Shevlin Park and Tumalo Creek. West of the park and Tumalo Creek are platted residential subdivisions in the Rural Residential zone (RR-10). Along the northern boundary is the Deschutes River and across the river is the recently acquired Riley Ranch Nature Preserve, also owned by BPRD.[2] Extending the UGB to the Coat's western boundary along Shevlin Park and Tumalo Creek is a natural logical boundary for expanding the City limits.

[1] Population Source: Bend Housing Needs Analysis, Bend's Growth to 2028, Draft Document: August 14, 2015, pp. 1 and 70.

[2] Within the northern portion of the 700-acre property, is an active sand and gravel mining operation consisting of approximately 200 acres that is zoned Surface Mine. This mining portion of the property is not being considered for inclusion in the Urban Growth Boundary (UGB).

Transportation Connectivity and Public Utility and Services:

Transitioning the City limits from urban to rural to expand and include the Coat's Property will efficiently incorporate existing and planned transportation systems both within and outside the City limits.

The City's own street layouts and planned transportation systems include street extensions within the Coat's Property, as well as existing roads within the City limits that are stubbed to the edge of the Coats Property for future urbanization of their land. Currently, no fewer than eight urban public roads are stubbed to the boundary of the Coat's Property, these include:

Street	Subdivision/Urban Development
• Chiloquin Drive	(Renaissance at Shevlin Park)
• Mehama Drive	(Renaissance at Shevlin Park)
• Imbler Drive	(Renaissance at Shevlin Park)
• Shevlin Bluffs Road	(Shevlin Estates)
• Skyline Ranch Road	(Westside Meadows)
• Polarstar Avenue	(Shevlin Court)
• Nordic Avenue	(Valhalla Heights)
• Regency Street	(Awbrey Ridge)

In addition, the City of Bend's, "Bend Urban Area Roadway System Plan" dated April 2014 shows two proposed Major Collector roads traversing through the Coat's Property (Exhibit D). The extension of Skyline Ranch Road northerly from Shevlin Park Road and the east-west Collector Road, crossing Coats Lands from Putnam Road to Buck Drive that connects to Johnson Market Road. This important transportation link provides substantial connectivity to existing City areas east of the Coats lands, provides important secondary access for lands west of the Coats property, and affords the opportunity for alternate routes that can relieve pressure on the existing City arterial and collector road network through west Bend and the downtown core area.

The Putnam Road extension is also an important transportation link for City and Deschutes County residents providing additional connectivity to areas east of the Coats lands, providing important secondary access for lands west of Coats, and again affording the opportunity for alternate routes that can relieve pressure on the existing City arterial and collector road network through west Bend and the downtown core area.

Each of these road connections also include substantial utility infrastructure, domestic water and fire protection water supply infrastructure, sanitary sewers, power, natural gas, and/or communications utilities, and emergency response and evacuation needs that provide for an orderly and efficient extension of the City's infrastructure systems.

Schools:

Schools play an important role in creating livable and vibrant communities. The Bend-La Pine School District has planned a middle school within the Coat's Property in the southern portion of the property. In addition, discussions have been ongoing with the Coat's to add an elementary school in near the middle school as well. Siting the schools within the Coat's Property demonstrates the School District's confidence that the property can accommodate its need for schools and future population growth in concert and in proximity with the proposed Conceptual Master Plan to add mixed housing, parks and trails, and neighborhood commercial center within walking distance.

Parks and Outdoor Recreation:

The Coat's Property provides multiple opportunities for connections to recreation and nature that include: Shevlin Park and Tumalo Creek that abut the Coat's Property to the West; Deschutes River and the newly acquired Riley Ranch Nature Preserve, a 184-acre park located to the north. The Park District has worked closely with the Coat's family in identifying lands on their property for acquisition and management by the Park District that would connect and ultimately create a vast and important trail network for park patrons and City residents. Exhibit B shows the existing and proposed trail network and acquisition by the Park District.

Large Land Area:

The 449-acre Coat's Property is under single ownership (except for the School District property) with minimal development resulting in opportunities for cohesive planning and management of the property. Development of the property has the potential to provide the City of Bend with housing and employment opportunities, schools, and a connecting park system all within walking distance of one another.

Conclusion:

The purpose of Goal 14 is 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 Coat's Property does just that: expansion of the UGB into the Coat's land provides for an orderly transition from the fringes of urban reserve to City densities. The transition is an efficient transition from rural to urban land use in that streets and infrastructure are already in place and stubbed to their boundaries, the Park District is eagerly awaiting for trail system connections and park land acquisitions, the Bend-La Pine School District is cooperatively working with the Coat's Family on planning a middle school and elementary school all within walking distance of potential residential and employment opportunities.

Out of all the lands the City has been considering for inclusion in the UGB, the Coat's Property is the gem; providing the closest interpretation in balancing the location factors of Goal 14 and, should be given priority over other lands being considered.

Urban Growth Boundaries

Urban growth boundaries shall be established and maintained by cities, counties and regional governments to provide land for urban development needs and to identify and separate urban and urbanizable land from rural land. Establishment and change of urban growth boundaries shall be a cooperative process among cities, counties and, where applicable, regional governments.

An urban growth boundary and amendments to the boundary shall be adopted by all cities within the boundary and by the county or counties within which the boundary is located, consistent with intergovernmental agreements, except for the Metro regional urban growth boundary established pursuant to ORS chapter 268, which shall be adopted or amended by the Metropolitan Service District.

Land Need

Establishment and change of urban growth boundaries shall be based on the following:

(1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and

The City's long range population is expected to grow by about 38, 500 between 2008 and 2028 for a total population of 115,063.[3] The demographics of this growth include an addition of:[4]

Baby Boomers, people over the age of 65 years old, are projected to grow by more than 37,000 people in Deschutes County and about half of this growth will be in Bend.

Millennials are expected to grow by about 14,000 people in Deschutes County and about half of this growth will be in Bend.

Hispanic and Latino population is expected to continue to grow in Bend (no number given for their growth).

As the City's population continues to grow and the demographic trends change, housing and employment opportunities will need to respond to those changes as well. The City in its Bend Housing Needs Analysis, page 78, estimates that an additional 16,681 dwelling units between 2008 and 2028 - with 13, 769 of these dwelling units needed between 2014 and 2028 - to accommodate the population growth. In addition, the Housing Need Analysis, page 70, estimates that between 2008 and 2028, the City will add 22,891 jobs mostly in office and service sectors. The City has evaluated the buildable lands inventory to accommodate the housing and

[3] Source: Bend Housing Needs Analysis, Bend's Growth to 2018 (draft document dated August 14, 2015), page 1.
[4] Ibid.

employment needs within the UGB and determined additional lands will be needed outside the UGB to accommodate the future population growth. The City has narrowed the amount of land to be included in the City's urban growth boundary to about 1670 acres.[5] The complex lengthy process of identifying which areas to be brought in to the UGB is reflected on the current chosen scenario map, Scenario 2.1A map (Exhibit E).[6]

The Coat's family disagrees with the City's conclusions on the amount and locations of acreage to come in the City's UGB in terms of order of priority lands and lands to meet the employment and housing needs as discussed below:

Order of Priority Lands:

LCDC's Remand, November 3, 2010 order concluded on page 134 that "the county UAR lands are exceptions lands under ORS 197.298 . . . ." These UAR lands include the Coat's Property. The Coat's Property has been designated UAR since 1976.

Further, on page 17 of the City's Bend Urban Growth Boundary Expansion Scenarios Evaluation Report, dated October 1. 2015, the City states, "Unlike the 2009 proposal, ***only priority exception lands are being considered***" (emphasis added).

While LCDC lumped the UAR lands with all the rest of the exception lands, such as RR-10 and MUA-10 lands, the City's General Plan[7] distinguishes the UAR lands from other exception lands by separately identifying them as lands needed for the long term, growth and expansion of the Bend urban area as stated below:[8]

> *Urban Reserve Boundary*
>
> *Some communities, like Bend, also have an Urban Reserve Boundary line beyond the Urban Growth Boundary. Between the UGB and the Urban Reserve Boundary are additional lands that are needed for the long term — 30-50 year — growth and expansion of the Bend urban area. Figure 1 on page 1-5 shows the Urban Reserve Boundary. When the General Plan was "acknowledged" by the state in 1981, the Urban Reserve area was recognized as an "exception area" to long-term farm or forest uses under statewide planning Goals 3 and 4, and therefore available for urban development.* ***Lands in this Urban Reserve area are considered first for any expansion of the Urban Growth Boundary***. (Emphasis added.)
>
> *The Urban Reserve area covers several thousand acres along the western and northern sides of the Urban Growth Boundary, and smaller areas along the east and southeast edges of the UGB. In total, the Urban Reserve area covers approximately 6,860 acres or*

[5] This number reflects the acreage shown on the Expansion Scenario 2.1A (dated 11/17/2015).
[6] Ibid.
[7] We are aware that the City is in the process of amending the General Plan and will be renaming the document the Bend Comprehensive Plan after its adoption in 2016 (reference footnote 2 on page 4 of the Draft Urbanization Report dated 12/1/2015).
[8] Source: Bend Area General Plan, Chapter 1, page 1-4.

> *about 10.7 square miles. It is a mixture of vacant lands, areas with surface mining operations, residential areas, and public open space lands. A discussion of the residential uses that can be developed in the Urban Reserve area is provided in Chapter 5, Housing and Residential Lands.*

Further, the City's zoning Characteristics found on Table 2.1.100 of the Bend Development Code describe the Urban Area Reserve District (UAR) as "a holding zone for urban development." Neither the City's General Plan or Zoning Code describe any other exception lands to be included in a discussion for the City's long term goals; as stated above in the General Plan, "*Lands in this Urban Reserve area are considered first for any expansion of the Urban Growth Boundary.*"

Since LCDC determined in the remand that all the UAR lands area exception areas for purposes of ORS 197.298, then there are no "first priority lands" as that term is described in ORS 197.298(a). Therefore, the next priority of lands to be considered is identified in subsection (b) of ORS 197.298:

> *(b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of land needed, second priority is land adjacent to an urban growth boundary that is identified in an acknowledged comprehensive plan as an exception area or nonresource land. Second priority may include resource land that is completely surrounded by exception areas unless such resource land is high-value farmland as described in ORS 215.710.*

In reviewing the preferred Scenario 2.1A, there is a mixture of UAR-10 lands and MUA-10, and RR-10 lands. About 12% of these lands are not in the Urban Area Reserve, but exception lands, including MUA-10 and RR-10. One of these properties, the DSL land, publically owned by the State of Oregon and consisting of 350 acres, had a miraculous plan amendment and zone change approved by the Board of County Commissioners during the pendency of the present remand process that changed the zoning from EFU to MUA-10 (Deschutes County file number PA-11-7/ZC-11-2). That property now accounts for about 21% (350 acres/16705 acres[9]) of the total acres under consideration for inclusion in the UGB.

According to the Bend Area General Plan, the Urban Reserve area covers approximately 6,860 acres.[10] The total amount of land the City is proposing to include in its UGB is 1,670 acres. About 12%, of those lands, however, are outside the Urban Reserve Area. The City by its own rules should consider the Urban Reserve areas first for any expansion of the Urban Growth

[9] The total 1,670 acres is derived from adding all the acreages found on Scenario 2.1A dated 11/17/15.
[10] Bend Area General Plan, Chapter 1: Plan Management and Citizen Involvement, adopted November 1998.

Boundary. It's hard to believe the City had to reach outside the 6,860 acres of Urban Reserve lands to find lands suitable to accommodate future growth.

Further, the City is taking an overly limited view on the amount of land and what properties to bring in the UGB. When reviewing Scenario 2.1A as a whole, the City is creating a monochromatic landscape that lacks variety. It may be more expensive to construct infrastructure and homes on steeper topography or where deer mingle with the residents, but what would Bend be, for example, if we did not have the desirable residential community of Awbrey Butte? Or the award-winning Northwest Crossing on the West side that is less than 2 miles to public forest lands where risk of forest fire is of concern. Bend is a desirable place to live in part, because of the proximity to recreational amenities of our public mountains, rivers, and forests that the West side provides easy access to. The Coat's Property is part of the West side and shares these desirable attributes for building a great and diverse community close to recreational opportunities and downtown Bend.

> ***(2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection (2).***
>
> ***In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need.***
>
> ***Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.***

Each of these needs is addressed below.

> **Demonstrated need for [or any combination of the need categories in this subsection (2)]:**
>
> **Housing:**

The City of Bend anticipates the population to grow by 38,500 people between 2008 and 2028.[11] To accommodate this growth, the City's expects to add 16,681 new housing units between 2008 and 2028 with 13,769 of these units to be added between 2014 and 2028[12] for a housing mix in the 2016-2028 timeframe to include 55% single-family detached, 10% single-family attached, and 35% multi-family housing types.[13] The demographics of the added growth will largely

[11] Ibid., page 1.
[12] Ibid., page 23.
[13] "City of Bend, Urban Growth Boundary Steering Committee Meeting Notes," dated March 19, 2015, page 2, USC Meeting 4.

occur in aging baby boomers (about half of 37,000 people over the age of 65 in Deschutes County), Millennials (about half of 14,000 people in Deschutes County), and an unknown number of Hispanic and Latino population.[14] Each of these demographic types will bring to the forefront specific housing needs where "the most pressing need is to increase the range (both in size and in pricing) of housing products in walkable neighborhoods."[15] The draft Housing Analysis concludes on page 75:

> ***Bend's average development density will change with a shift in the type of housing developed in Bend over the 2014-2028 period.*** *The conclusion of the housing needs analysis is that Bend will have increased demand for a wider range of housing types, especially more affordable housing types. These housing types include: small lot single-family detached, smaller single-family detached units such as cottages, townhouses (aka rowhouses), duplexes, tri-plexes and quad-plexes, garden apartments, and urban apartments and condominiums. Development of these housing types will generally be at higher densities than Bend's historical densities. These housing types will be developed primarily in the RS and RM zones, with some denser multifamily housing in the RH zone.*[16]

The Coat's Property is uniquely situated to meet the diverse housing needs expected to trend over time. As shown on Exhibit B, the proposed layout shows a mixture of schools, housing at various densities, commercial uses, employment opportunities and recreational amenities. The conceptual design leaves open the opportunity to address more specific housing needs, whether it be smaller lots with smaller homes, cluster, or cottage housing, townhomes, or multifamily developments; the opportunities for catering to specific housing needs are possible with the Coat's Property – not so with other properties under consideration that are earmarked for particular housing types. The draft Housing Analysis in its "Summary of key findings about how demographic trends may affect housing choice" includes:[17]

> • **Location of housing will be increasingly important.** The location of housing is becoming increasingly important, with increased demand for housing in walkable neighborhoods near retail and other amenities. Where they can afford it, the Millennials generally prefer housing in walkable areas with retail and other amenities nearby, rather than housing in more suburban areas or in outlying cities.

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[14] The December 2015 Housing Chapter, Chapter 6, of the draft City of Bend Comprehensive Plan, page 6-5 also mentions an influx of 5000 four-year university students creating a need for affordable student housing off campus.
[15] Ibid., page 47.
[16] Ibid., page 75.
[17] Ibid., page 49.

Some Baby Boomers who are downsizing are also choosing to live in similar walkable areas.

• **Design of housing and neighborhoods is important.** Well-designed multi-family and compact single-family located in a desirable neighborhood can provide opportunities for a wider range of housing options. Consumers are more likely to make the tradeoff of a smaller lot and home size when neighborhood parks, schools, and retail amenities are within walking distance. Therefore, there will be steady demand for multi-family and small-lot or attached single family housing in close-in locations proximate to Bend's downtown amenities and jobs.

The Coat's Conceptual Master Plan offers walkable neighborhoods near parks and schools, commercial and retail amenities all within about 3 miles from downtown Bend, which fits in well with the City's Project Goal of:

> ***Housing Options and Affordability***
>
> *Bend residents have access to a variety of high quality housing options, including housing affordable to people with a range of incomes and housing suitable to seniors, females, people with special needs, and others. Housing design is innovative and energy efficient.*

The City's UGB Expansion Scenarios Evaluation Report (dated October 1, 2015) dismisses the Coat's Property, in part, because land costs and housing prices are higher on the west side.[18] This cost burden, however, could be shared through creative community master planned zoning and incentives for affordable housing developments which are listed policies in the Housing Chapter of the draft City of Bend Comprehensive Plan (dated December 2015).

What is interesting, is the City's reports ignore that the demand for housing continues to be on the west side, for example, one of the few areas that continued building homes during the recession was at NW Crossing, which suggests despite the higher cost of land and housing, residents desire to live on the west side.[19] The preferred Expansion Scenario 2.1A shows the

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[18] UGB Expansion Scenarios Evaluation Report, October 1, 2015, pages 34 and 45.

[19] The Bend Housing Needs Analysis dated August 14, 2015, page 69 states relative to regional and local growth and Bend's existing mix of housing (a result of a range of historical factors):

> Between 1990 and 2013, about 85% of Deschutes County's population growth was from positive net migration (in-migration exceeded out migration) from other parts of Oregon or from outside of Oregon. Interviews with real estate professionals suggest **Bend attracts in-migrants who have sufficient capital and income to afford higher-cost housing in Bend.** In addition, Bend is

only land to be added to the West side is the "West Area," which would add 120 acres of residential land to accommodate 750 housing units with a mix of 33% single-family detached, 20% attached single family, and 48% multifamily. Limiting the UGB expansion on the west side to this one area where the design is likely to be an extension of NW Crossing's complete community[20] is just going to drive the demand and ultimately the costs of residential housing up on the west side over time. Allocating additional land to the west side will level the playing field and drive the demand down by opening up more opportunities to meet the housing mix needs where demand for living is highest on the west side.

The Evaluation Report also erroneously interprets as a disadvantage the Coat's Property as having "Few or no parcels under 20 acres and contiguous to the existing UGB."[21] The entire 700-acre property is under the control of Eric and Robin Coats and taken together as a whole, the property is contiguous to the existing UGB. The Coat's Property is held in several different record owners' names for tax and business purposes. Even though the actual tax lots are large in size, because the property is under one ownership, the ability to tailor the lot sizes to meet the housing need is possible.

Employment opportunities:

According to the City's draft Bend Economic Opportunities Analysis, dated November 2015, Bend is expected to grow by 22,891 employees over the period of 2008-2028 with 21,943 new employees to be added between the years of 2013-2028 as stated below:

> *Bend forecasts that employment will grow by 22,891 employees (about 61%) over the 20 year period between 2008 and 2028, at an average annual growth rate of 2.4%. Employment in Bend increased by 948 between 2008 and 2013; thus, the City forecasts 21,943 new employees between 2013 and 2028. Based on site requirements of target employers, Bend will need 726 sites less than five acres and 32 sites greater than five acres to accommodate new employment forecast for the 2013-2028 period.*
>
> *In 2014, Bend had 1,162 vacant acres of vacant employment land. About one-quarter of Bend's vacant employment land is in sites smaller than 5 acres, 28% is on sites 5 to 50 acres, and 36% is in three sites larger than 50 acres.*

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attracting Millennials, many of whom prefer to live in an area with easy access to outdoor recreation. [Emphasis added]

[20] Letter to Boundary Alternative TAC from Charley Miller, Co-Manager of the Miller Tree Farm, LLC, dated October 21, 2015.
[21] Ibid., page 45.

> *The EOA concludes that Bend has a deficit of 366 sites smaller than five acres and 17 sites between 5 and 50 acres. It also concludes that 25% of Bend's total employment land supply meets the Goal 9 definition of short*-term supply.

As shown on the Conceptual Master Plan for the Coat's Property (Exhibit B), the thrust of the Coat's plan is to develop a master planned community that includes a variety of housing types, schools, parks and trails, and a neighborhood center area where the residents can walk or bike to work along with businesses that support and complement the residential and recreational character of the area. Proposed zoning for the neighborhood center includes a mix of residential (RM), commercial (CL) and mixed employment (ME). The neighborhood center could offer, for example, professional services, commercial uses such as retail shops and restaurants, and a healthcare satellite from one of the larger medical facilities in the area.

According to the draft Bend Economic Opportunity Analysis page 42, General Retail and Office Uses require the following site characteristics:

1. **Site size**. Sites for general retail and office firms range in size from 0.1 to 10 acres.

2. **Land ownership**. Sites with two or fewer owners are necessary to reduce the cost and uncertainty of land assembly.

3. **Automotive access**. Retail and office buildings should be located on arterial or collector streets. The ideal site would have direct access to an arterial or collector.

4. **Topography**. General retail and office sites should be relatively flat, with slopes of not more than 15%.

5. **Access to services.** City services should be directly accessible to the site, including sanitary sewer, and municipal water.

6. **Surrounding land uses**. General retail and office buildings are directly compatible with other commercial uses, mixed uses, and residential uses. Bend's Development Code and other policies address issues of compatibility between uses, such as requirements for building setbacks, screening, fencing, visual buffering, and landscaping.

Because of the single ownership of the Coat's Property, the site size to accommodate retail and office uses could be adjusted to meet the needs of any retail or office site. In addition, the property abuts Shevlin Park Road, an arterial street, which would provide direct access to the proposed neighborhood center. City services, such as water and sewer, are also available for

connection. Finally, with the planned community, the retail and office buildings are meant to be compatible with the surrounding residential and recreational uses.

The Coat's Property is able to contribute to meeting the future employment needs of the City through providing supportive employment opportunities within their master planned community as well as the surrounding residential areas outside of the Coat's Property. In addition, the City is considering adding Mixed Use Zones and revising standards for residential uses as part of the mixed use in Commercial zones that if approved, could be incorporated into the Coat's master planned community.[22]

Livability:

The Bend Area General Plan, Chapter 5, page 10, supports "neighborhood livability" through:

- *policies designed to increase personal mobility and maintain safety;*
- *more flexible standards to incorporate natural features and open space into new housing developments;*
- *providing for small stores and commercial centers to serve neighborhoods.*

Further, the City's Project Goals (dated September 4, 2014) strive for a livable community for Bend and include:

- A Quality Natural Environment
- Balanced Transportation System
- Great Neighborhoods
- Strong Active Downtown
- Strong Diverse Economy
- Connections to Recreation and Nature
- Housing Options and Affordability

[22] See Table 5-1 on page 5-4 of the draft City of Bend Comprehensive Plan dated August 2015.

- Cost Effective Infrastructure

The December 2015 Housing Chapter, Chapter 6 of the draft City of Bend Comprehensive Plan, page 6-6 describes "Neighborhood Livability" as:

- Safe and convenient for travel by foot, car, and bike
- Natural features, parks, open space
- Small-scale shops and places to eat and drink in the neighborhood or nearby
- Quality housing that provides diverse housing types and flexibility that meets market demand
- Comfortable integration and transitions between housing types an commercial uses.

No single area under consideration in the UGB expansion will meet each of these livable standards, but taken as a whole, each of the properties will contribute to achieving the City's livability goals. The Coat's Property is strong in the following areas:

- Providing a balanced quality natural environment through the ability to manage the entire property that includes developing parks and trail systems and protecting wildlife resources.
- Creating a "Great Neighborhood" that is well-designed, safe, and walkable, and includes local schools and parks as well as a small neighborhood center with local shops, a mix of housing types and community gathering places as shown on the Conceptual Master Plan (Exhibit B).
- Providing multiple connections to Recreation and Nature through the Bend Parks and Recreation District's acquisition and management of portions of the Coat's Property connecting trails along Tumalo Creek and the Deschutes River and on the east side near Awbrey Butte.
- The ability to master plan communities for mixed housing types and densities for residents with a range of incomes and housing needs creating a variety of high quality housing types with the potential for innovative and energy efficient designs.

The Coat's Property will also contribute to a balanced transportation system through the extension of existing roadways within and adjacent to the property that also encourages through master planning, multimodal transportation, including a walkable community close to schools, parks, homes, and businesses. The property can also contribute to providing a range of diverse jobs through the commercial sector of the property and connect to existing infrastructure. In addition, the property has the ability to serve, not just its community, but also reach out to the nearby surrounding communities to the south and those areas west of Tumalo Creek along Johnson Road. The Coat's Property is a major player in contributing to the livability of Bend.

Schools:

The Memorandum to the Urban Growth Boundary and Growth Scenarios Technical Advisory Committee from Fregonese Associates, Inc. regarding "Scenario Evaluation: Environ Tomorrow Technical Memorandum," dated October 2, 2015, regarding performance measures for housing units within walking distance of schools states on page 3 under "Purpose":

> *Schools are an important ingredient of a complete community. Having schools within walking distance supports great neighborhoods because schools are an important destination for many households, and they often provide recreational amenities (e.g. playgrounds and ball fields) that are accessible to the public during non-school hours. (Ability to walk also decreases reliance on the automobile; however, this is captured by other performance measures.)*

The Bend-La Pine School District owns approximately 34 acres of land adjacent to the Coat's Property on its southwest corner along Shevlin Park Road. The District has identified in its 2012 Site and Facilities Update the need for a new middle school to be located at the "Shevlin Site" (Exhibit F) as stated below:

> *Having established the need for additional middle school capacity in the Bend area, the committee reviewed estimates of middle school enrollment for 2017-18 based on proxy attendance areas associated with two possible middle school locations. Due to the actual and anticipated enrollment growth patterns for middle school students, the committee felt the western location located on Shevlin Park Road better distributed capacity than the previously identified southern location on Murphy Road. The committee considered a variety of other factors including sewer development concerns, traffic constraints, socioeconomic*

balance, and prior attendance boundary adjustments to equalize enrollment. In balance, the committee found the Shevlin site better served the anticipated middle school enrollment patterns for the near term, and the Murphy site was considered to be appropriate for subsequent middle school development.

The City's GIS map dated March 5, 2015 and titled, "Exception Land Proximity to Schools," shows the Coat's Property is greater than .5 miles presumably to the nearest existing school, which would be High Lakes Elementary School. The map, however, fails to take into account the School District's own plan supported by demonstrated need to build a new Middle School for the Bend urban area community on their property located along Shevlin Park Road and within the Coat's Property. Failure to include the School District's plan for future schools on the property paints a false picture that does not represent the School District's plan or vision.

The District and the Coat's family have also been in discussions to add an elementary school alongside of the Middle School. The Coat's Property is well-positioned to support these schools with road infrastructure, utility needs, limited commercial uses, parks, and residential development within walking distance to the schools. These attributes of the Coat's Property fit in with the City's Project Goals, dated September 4, 2014, for "Great Neighborhoods," which states:

Great Neighborhoods

Bend has a variety of great neighborhoods that promote a sense of community and are well- designed, safe, walkable, and include local schools and parks. Small neighborhood centers provide local shops, a mix of housing types, and community gathering places. The character of historic neighborhoods is protected and infill development is compatible.

Attached as Exhibit G, is a letter addressed to Brian Rankin of the City of Bend from Brad Henry, Chief Operations and Financial officer of the Bend-La Pine Schools (dated October 20, 2105). The District is requesting that the "Shevlin Area" shown on Expansion Scenario 3.1 be brought in the UGB. The District property is "planned for a school to meet growth projections in the northwest area of Bend" and the District is "unable to locate an alternative suitable site that meets the location and size requirements for a school. Other sites, further south, would likely be too close to existing schools." The letter concludes that "(h)aving the school district parcel and some additional residential land will complete the street grid system, provide buffers to existing development and enhance a walkable school neighborhood."

Parks or open space:

The Coat's family own approximately 700 acres, including an active surface mine. One of the advantages of owning such a large piece of property is the value of being able to plan on a large scale, which is what the Bend Park and Recreation District (BPRD) desires to do with the portion of the Coat's Property primarily located along Tumalo Creek (an extension of the existing Shevlin Park) and along the Deschutes River to connect existing and proposed trail systems, including the recently acquired Riley Ranch Nature Preserve (see Exhibit H for support from the Executive Director, Don Horton, and the Planning Manager, Steve Jorgensen of the Park District[23]).

As shown on Exhibit A, the Bend Parks and Recreation District has identified trails, park land, and an access easement over the Coat's Property. The proposed trails and park land within the Coat's Property provides an integral networking system linking existing trail systems within the City and County to a larger regional trail and park system, including trail connections and park land along Tumalo Creek to Shevlin Park and up to Tumalo State Park and linking a trail system east of Deschutes River with a bridge connection to the recently acquired Riley Ranch Nature Preserve parkland.

Some commenters have questioned why bring the Coat's Property into the City's UGB if the park need can be satisfied outside the UGB? According to the Bend Metro Park and Recreation District's Parks, Recreation, and Green Spaces Comprehensive Plan, February 2012 Update, the Primary Service Area of the District includes:

> *The primary service area of the District is defined as the area within the political boundaries encompassing those who pay District taxes. To a lesser degree, the District also serves those living outside the primary service area and tourists who use parks and facilities. These patrons can participate in programs on a space available basis, at a higher fee than residents, where fees apply. However, the District does not make planning decisions based upon the needs of out-of-District residents.*
>
> *The District boundary is slightly larger than the City of Bend, however approximately 98% of its population is currently within the Bend Urban Growth Boundary (UGB). The 2004 DCCPF estimates the population of the Bend UGB, based on data from the 2000 Census, at 65,210 residents as of July 1, 2004. The methodology employed in this Chapter uses the estimated 2004 UGB population as the starting point; adds the small portion of District population remaining outside Bend UGB subsequent to the July 1, 2003, annexation; uses the DCCPF growth rates for future projections; and applies a blended growth rate to areas*

[23] Significantly missing from the summary of Don Horton's testimony reflected in the October 8, 2015, Boundary and Growth Scenario TAC committee meeting notes is his comments about the importance of bringing a piece like the Shevlin Area/Coat's Property into the UGB to provide trail and park connections.

> *within and outside of the Bend UGB to arrive at a July 2004 District population estimate of 66,746 residents.*

Because 98% of the District's population currently resides within the Bend UGB, it makes sense to have the property under the City's planning jurisdiction and not the County and, therefore, should be included in the City's UGB expansion plan.

Further, we are aware of the Hearings Officer's denial of the Riley Ranch Nature Preserve located in Deschutes County northeast of the Coat's Property (Deschutes County file numbers 247-15-00033-CU, 247-15-000334-SP), where the proposal included a new bridge across the Deschutes River to connect the park with the Deschutes River Trial on to property owned by the Coat's Family.[24] The Hearings Officer found, in part, that the bridge did not meet the minimum applicable setbacks in the zones and as a result, denied the application. The Hearings Officer noted, however, that other bridges spanning the Deschutes River have been approved as stated on pages 11 and 12 of the decision as stated below:

> The Hearings Officer is aware that other bridges spanning the Deschutes River have been approved by the City of Bend and the former BUAPC. The record includes copies of two decisions approving bridges: the foot bridge crossing the Deschutes River south of the Bill Healy Memorial Bridge (File No. 05-17); and the foot bridge crossing the river near the First Street Rapids (File No. PZ-12-0220). Both bridges were reviewed under the Bend Development Code. In both cases, the bridges were held not to be subject to the minimum 100-foot setback from the river based on a finding that they were not "buildings." However, the definitions of "building" and "structure" in the Bend Development Code differ significantly from those in Title 19. Chapter 1.2 of the Development Code defines "building" as "a structure which is designated and suitable for the habitation or shelter of human beings or animals or the shelter or storage of property." The code definition of "structure" is identical to the definition in Title 19 except for the addition of the following sentence:
>
> > **"Building" and "structure" are not interchangeable terms. A building is one type of structure that shelters humans, animals and the like.[6]**

/ / /

[24] The Deschutes County Planning Commission approved the Riley Ranch Preserve applications on November 16, 2015 and the proposal is currently before the Land Use Board of Appeals for review.

> In other words, unlike Title 19, the Bend Development Code distinguishes between "buildings" and "structures" in applying minimum yards and setbacks only to the former. Therefore, the Hearings Officer finds these bridge approvals are distinguishable from the circumstances presented here.
>
> For the foregoing reasons, the Hearings Officer finds from the text and context of Section 19.12.050 that the proposed bridge is subject to the minimum yards and setbacks therein. Therefore, because the bridge cannot satisfy those setbacks, I find I cannot recommend that the DCPD approve the bridge. Nevertheless, because the proposed bridge is only one element of the regional park, and is proposed to be built in a later phase of park development following the cessation of adjacent mining on SM Site 308 (projected to occur in five years), I find it is appropriate for me to review the rest of the proposed park without the bridge for compliance with the applicable standards and criteria.[7]
>
> [6] These definitions, found in Chapter 1.2 of the current Bend Development Code, have been the same since before the 2005 foot bridge decision was issued.
>
> [7] The Hearings Officer believes it may be feasible for the applicant to obtain a setback variance for the bridge under the variance criteria in Chapter 19.108. The applicant also may be able to resolve the setback issue through a lot line adjustment of the property line between the subject property and the adjacent SM Site 308.

The importance of raising the Hearings Officer's decision regarding the bridge is to demonstrate the challenges the Park District faces with proposals such as this in County's jurisdiction versus in the City's jurisdiction. Had the Coat's Property been in the City of Bend, the Park District may have avoided the permit denial, at least in terms of the bridge and that portion located on the Coat's Property, because the bridge may have met the City's Bend Development Code, similar to the bridges south of Bill Healy Memorial Bridge and the bridge near the First Street Rapids. Bringing the Coat's Property into the City allows the City to have better management of this key piece of property for park's purposes, and gives certainty to the Park District to formulate designs that fit within the City's Development code that support its vision, "*To be a leader in building a community connected to nature, active lifestyles and one another.*"

In addition, Bend Park and Recreation District's planned and proposed trails and park land on the Coat's Property fit well with the City's Project Goals, dated September 4, 2014, for "Connections to Recreation and Nature" as stated below:

> *Bend continues to enhance its network of parks, trails, greenbelts, recreational facilities, and scenic views inside and outside the city.*

In determining need, local government may specify characteristics necessary for land to be suitable for an identified need such as:

Parcel size:

The City's GIS map dated January 2, 2015 and titled, "Priority Exception Land Parcel Size" shows the majority of the Coat's Property to be greater than 20 acres with some smaller-sized parcels. While this information may be accurate at a tax lot level, the Coats family actually owns approximately 700 acres in the Urban Reserve and the property is held in several different record owners' names for tax and business purposes. All acreage shown on Exhibits A and B (except the 34 acres owned by the school district) is controlled by Eric and Robin Coats. The Coats family has held this UAR designated property as urban reserve to be included in the UGB since its UAR designation in 1976.

Advantages of having a large land area such as the Coat's Property and under a single ownership are numerous, some of which include: working with a single landowner to achieve common goals such as master planning neighborhoods and communities, providing public facilities, such as schools, connecting roads and utilities, adding parks and trails, and preservation of natural resources and open spaces. The large size of the Coat's Property offers an enormous opportunity to give to the Community of Bend a vision for a quality place to live, work, and play.

Topography:

Topography of the Coat's Property varies with gently rolling terrain, disturbed mining areas, and steep slopes mainly along the canyon walls of Tumalo Creek and Deschutes River. Figure 1 of the draft Bend Buildable Lands Inventory (dated August 14, 2015), shows Physical Constraints, including areas with 25% or greater slopes and areas within the FEMA 100-year floodplain that are assumed to be not "buildable" for purposes of the inventory and filtered out for consideration. Portions of the Coat's Property have steep slopes; it's a 700 acre property that is bordered in part, by Tumalo Creek and Deschutes River. The steep slopes are predominantly located in the northern part of the property along the Deschutes River as well as Tumalo Creek, and the 100-year flood plain is within the Deschutes River. The southern portion of the property, however, is predominantly free of steep slopes (with the exception of a sloped area near the southeast) and has no 100-year floodplain.

The Coat's Property has ample land to plan and avoid development along steep slopes or within the 100-year floodplain. As shown on the Conceptual Master Plan, Exhibit B, the southern portion of the Coat's Property is where the majority of the proposed development would occur, including schools, housing, and mixed use commercial areas. In addition, the areas along Tumalo Creek and the Deschutes River are slated for acquisition or management by the Bend Parks and Recreation District; thereby providing a buffer and transition between the steep slopes and 100-year floodplain along the Deschutes River and Tumalo Creek.

Proximity:

The City's GIS map dated January 20, 2015, and titled, "Taxlot Distance from UGB," shows the Coat's Property as having tax lots that are contiguous to the UGB, that are within .25 miles, and that are within 1 mile of the UGB. Consisting of 700 acres of land, the results of this map make sense, that some parts of the property abut the UGB and some tax lots are further away from the UGB.

Boundary Location

The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:

(1) Efficient accommodation of identified land needs;

Parcel Size:

The City's GIS map dated January 2, 2015 and titled, "Priority Exception Land Parcel Size" shows the majority of the Coat's Property to be greater than 20 acres with some smaller-sized parcels. While this information may be accurate at a tax lot level, the Coats family actually owns approximately 700 acres in the Urban Reserve and the property is held in several different record owners' names for tax and business purposes. All acreage shown on Exhibits A and B maps (except the 34 acres owned by the school district) is controlled by Eric and Robin Coats. The Coats family has held this UAR designated property as urban reserve to be included in the UGB since its UAR designation in 1976.

Advantages of having a large land area such as the Coat's Property and under a single ownership are numerous, some of which include: working with a single landowner to achieve common goals such as master planning neighborhoods and communities, providing public facilities, such as schools, connecting roads and utilities, adding parks and trails, and preservation of natural resources and open spaces. The large size of the Coat's Property offers an enormous opportunity to give to the Community of Bend a vision for a quality place to live, work, and play.

Improvement to Land Value Ratio:

The majority of the Coats property has no structures and has been partially mined for aggregate, sand and gravel over the past 50+ years. However, it is not now nor has it ever been a listed or protected Goal 5 resource so residential development surrounds the property to the south and east. The Factor 1 Map for Improvement to Land Value Ratio shows Tax Lot 300 on Assessor's

Map 17-11-25 with a higher improvement than land value. However, this improvement value is based on the structures and improvements associated with the Ready Mix Plant located on Tax Lot 300. Despite a high assessed value, these improvements have a remaining useful life of approximately 3 years. The material used for the ready mix will be mined out of the larger pit to the north in less than 18 months. At that time, the operators will abandon the Ready Mix Plant site on Tax Lot 300 and move the scales and any remaining operations to the pit site to the north. This property is planned to be ready for redevelopment by the end of 2018.

Distance from UGB:

The City's GIS map dated January 20, 2015, and titled, "Taxlot Distance from UGB," shows the Coat's Property as having tax lots that are contiguous to the UGB, that are within .25 miles, and that are within 1 mile of the UGB. Consisting of 700 acres of land, the results of this map make sense, that some parts of the property abut the UGB and some tax lots are further away from the UGB.

Steep Slopes:

The GIS map, dated March 6, 2015, and titled "Steep Slopes" shows the Coat's Property as having slopes over 25%. In addition, Figure 1 of the draft Bend Buildable Lands Inventory (dated August 14, 2015), shows Physical Constraints, including areas with 25% or greater slopes and areas within the FEMA 100-year floodplain that are assumed to be not "buildable" for purposes of the inventory and filtered out for further consideration.

We agree that portions of the Coat's Property have steep slopes; it's a 700 acre property that is bordered in part, by Tumalo Creek and Deschutes River. The steep slopes are predominantly located in the northern part of the property along the Deschutes River as well as Tumalo Creek. The southern portion of the property, however, is predominantly free of steep slopes (with the exception of a sloped area near the southeast).

The Coat's Property has ample land to plan and avoid development along steep slopes. As shown on the Conceptual Master Plan, Exhibit B, the southern portion of the Coat's Property is where the majority of the proposed development would occur, including schools, housing, and mixed use commercial areas. In addition, the areas along Tumalo Creek and the Deschutes River are slated for acquisition or management by the Bend Parks and Recreation District; thereby providing a buffer and transition between the steep slopes and 100-year floodplain along the Deschutes River and Tumalo Creek.

Subdivisions with Known CC&Rs:

The Coat's Property has no subdivision development and therefore, no CC&Rs.

(2) Orderly and economic provision of public facilities and services;

Updated sewer, water, and transportation findings will be provided in a separate memo for consideration and inclusion into the UGB record.

Transportation:

The City's GIS maps dated March 5, 2015, and titled, "Physical Barriers to Connectivity" and "Connectivity to Complete Roadway Grid" show the Coat's Property as having "Significant Barriers" and "Poor Connectivity" respectively. We have requested from City staff a copy of the source data that went into creating these maps (the bottom of each map states, "Service Layer Credits: DKS, Deschutes County GIS (2014)"). On page 37, of the City's March 13, 2015 Memorandum to the Bend UGB Steering Committee, the Factor 2 maps "categorize exception lands in the 2-miles study area based on a mix of GIS and other data, and professional judgment by engineers on the project team." Further, on page 38, regarding the System Connectivity Map:

> Of the three transportation maps, the project team and the TAC found this one the most challenging. This map is intended to convey a general impression of which exception areas can readily provide route choices and adequate system hierarchy, resulting in balanced flows and travel choices for all modes. The map in this packet reflects TAC input to change the ranking of a few areas (primarily in the NE quadrant). The TAC recommended approval of this map at Meeting 6, with the clarification that the rankings on this map have been generalized from "parcel level" data to an "area" basis.

Page 37 says the "Transportation – Barriers Map" used GIS files and "shows streams and rivers, railroads, major highways and steep slopes. Overall, the most significant barriers are the Deschutes River, significant slopes (typically near the Deschutes River and Tumalo Creek) and the railroad."

Without having the opportunity of reviewing or knowing the resource data (and assuming the data can be quantified when it includes "professional judgement by engineers on the project

team" and "TAC input to change the ranking of a few areas") it makes it difficult to comment on the results. And the results in this case are particularly harsh to the Coat's Property.

The City of Bend's, "Bend Urban Area Roadway System Plan" dated April 2014 (Exhibit D) shows two proposed Major Collector roads traversing through the Coat's Property. The extension of Skyline Ranch Road northerly from Shevlin Park Road and the east-west Collector Road, crossing Coats Lands from Putnam Road to Buck Drive that connects to Johnson Market Road.

The Skyline Ranch Road connection will offer an alternative route for northerly and easterly bound traffic in west Bend and will relieve pressure and impacts on the existing City arterial and collector road network through west Bend, and the downtown core area. Skyline Ranch Road will extend northerly through the Coats lands, cross an existing bridge at Tumalo Creek, and connect to Tumalo Park Road. The important transportation link would provide substantial additional connectivity to existing City areas east of the Coats lands, provide important secondary access for lands west of Coats, and afford the opportunity for alternate routes that can relive pressure on the existing City arterial and collector road network through west Bend, and the downtown core area.

The Putnam Road extension is an important transportation link that would provide substantial additional connectivity to existing City areas east of the Coats lands, provide important secondary access for lands west of Coats, and again afford the opportunity for alternate routes that can relive pressure on the existing City arterial and collector road network through west Bend, and the downtown core area.

In addition to the Skyline Ranch Road and Putnam Road Collector extensions, no fewer than 8 urban public roads have been constructed (stubbed) to the boundary of the Coat's Property, in anticipation of the urbanization of the Coats lands. Each of these road connections include substantial utility infrastructure normally associated with urbanization; domestic water and fire protection water supply infrastructure, sanitary sewers, power, natural gas, and/or communications utilities. The 8 existing road and utility connections are shown on Exhibit B and are listed below along with the subdivision or local urban development within which that infrastructure was extended to the Coats land:

- Chiloquin Drive (Renaissance at Shevlin Park)
- Mehama Drive (Renaissance at Shevlin Park)
- Imbler Drive (Renaissance at Shevlin Park)
- Shevlin Bluffs Rd. (Shevlin Estates)
- Skyline Ranch Rd. (Westside Meadows)

- Polarstar Avenue (Shevlin Court)
- Nordic Avenue (Valhalla Heights)
- Regency Street (Awbrey Ridge)

Given all of the above, the TAC maps suggestion of poor connectivity and significant physical barriers to connectivity relative to the urbanization of the Coats lands, and relative to comparative evaluation of potential expansion lands, are inexplicable, and highly inaccurate.

Note that both of these TAC maps bewilderingly include lands west of Tumalo Creek, outside the current UAR, in their presentation of poor connectivity, same as Coats lands, even though all of the Coats lands are east of the creek, and thus have the numerous available transportation connections noted above, without impact of the creek whatsoever. It is completely illogical and erroneous to characterize the Coats lands same as lands west of the creek, when the entire current Bend urban area, and any areas being considered for UGB expansion are east of the creek. This is true particularly given that no other lands were treated similarly (association with lands west of the creek, even though other potential expansion lands could have been similarly categorized).

In addition note specifically that both of the subject TAC maps include the following statement, "Barrier (or connectivity) rankings based on geographic area and not by individual parcel". Thus the inexplicable inclusion of the lands west of Tumalo Creek on these maps, and then their "geographic area" association with Coats lands, leads to these gross inaccuracies relative to the Coats lands.

Urbanization of the Coats lands will allow for the orderly extension of these long-planned stubbed public roads, the completion of several transportation links and grid connections, that will allow for the dispersion of traffic to reduce impacts on the City primary transportation routes, and thus preserve capacity on those primary routes.

Not only are these planned Collector roads important for the City's overall transportation system connections, but these roads provide vital emergency response and evacuation needs for fire or other natural hazards on the west side of Bend.

Water:

The GIS map dated March 12, 2015 and titled, "Water Analysis: Bend & Avion Service Areas" shows the Coat's Property having a "Good" Exception Land Ranking, which is the best of the ranking system.

Wastewater:

The GIS map dated March 5, 2015 and titled, "Preliminary Analysis of Potential UGB Expansion Wastewater Basins" shows the Coat's Property as having a "Poor" ranking for the potential UGB Expansion Basins. By basing the results of this map using a "geographic area and not by individual parcel" as the map states at the bottom, the Coat's Property becomes part of a much larger land area that may not necessarily reflect the conditions at the Coat's Property. We have requested from City staff the source data that created this map so we could have a chance to review it and its severe "poor" ranking results.

Based on our engineering studies, the "Preliminary Analysis of Potential UGB Expansion Wastewater Basins" map appears to be highly inaccurate with respect to sanitary sewer service potential and feasibility to the Coats lands. The Map does not reflect the significant opportunities for efficient gravity service to the existing collection system for the majority of the Coats lands. On this TAC Map -Preliminary Analysis, the Coats lands are inexplicably included with huge portions of land west of Tumalo Creek and Johnson Road even though all such lands are currently outside the UAR. This "Preliminary Analysis" then is heavily reliant on conceptual sewer solutions that are unrealistic and unnecessary to serve the Coats Lands, (a NW interceptor, regional pump station across river, etc.), concepts that are related to serving lands west of Tumalo Creek and the UAR. This Map and Preliminary Analysis overlooks many other more practical and efficient sewer solutions to the Coats lands. There is no justification or evidence base in the record or the TAC processes, to warrant the "poor" categorization for sewer service to the Coats lands as indicated on this TAC map, nor that supports the implication that Coats lands must be served by such unrealistic infrastructure that would be needed to serve lands west of Tumalo Creek and the UAR.

Our studies show that the majority of the subject Coats lands to be considered for UGB suitability and inclusion could be gravity served by standard gravity sewer extensions from the existing City sewer collection system adjacent the subject Coats property. A significant portion can readily gravity sewer to the existing collection system that drains to the City Awbrey Glen Sewage Pump Station. Other portions of the Coats lands can gravity sewer to other City Collection system mains already stubbed to the Coats property. The Awbrey Glen Pump station and its related pressure sewer were originally planned for far greater sewage flows than currently reach the station, as the original planned service area largely developed at far lower densities than originally planned. Thus there is opportunity to get better utilization and efficiencies of the previous City sewer infrastructure investment by serving the Coats lands. Currently that infrastructure has been significantly under-utilized.

The City Sewer Collection System Master Plan, December 2014, including the Collection System Public Facility Plan, verifies there are no current capacity issues at the Awbrey Glen Pump station, nor none anticipated in the Master Plan planning horizon. Additionally the Master Plan indicates the City is already planning a significant upgrade to the Awbrey Glen pump station discharge sewer (the Valhalla Sewer Relocation and Odor Control project), to better serve the current UGB and address periodic odor issues in the existing sewer. The project is identified as project ID12 in Table 1B of the Sewer Collection System Public Facility Plan, and is

identified to be pursued immediately (Year 1 of the plan execution at $1.6M). The project plans a new gravity sewer to replace a portion of the existing pressure sewer. Inclusion of Coats lands in the UGB, will help the City and public realize efficiencies and added value for this project investment that is already planned and budgeted for the current UGB service. Given the significant costs and ever increasing rates the City customers are to bear to implement the City Sewer Master Plan, it's important that the City maximize the value of each and every project investment. The addition of Coats lands will help ensure that the full value of that investment is realized for the public.

Given these clear and profound shortcomings, we strongly encourage the TAC and UGB Steering Committee to disregard the "Preliminary Analysis of Potential UGB Expansion Wastewater Basins" map, in the relative consideration of UGB inclusion lands with respect to sewer service to the Coats's Property.

Stormwater:

Based on the GIS maps "Surficial Geology," dated March 12, 2015; Drinking Water Protection Areas (DWPA)," dated March 6 2015; and "Exception Land Distance from Drinking Water Protection Areas (DWPS)," dated January 20, 2015, the Coat's Property is better situated than several of the other properties under consideration in the best performer Scenario 2.1.

Based on the GIS maps "Surficial Geology," dated March 12, 2015; Drinking Water Protection Areas (DWPA)," dated March 6 2015; and "Exception Land Distance from Drinking Water Protection Areas (DWPS)," dated January 20, 2015, the Coat's Property is better situated than several of the other properties under consideration in the best performer Scenario 2.1.

Schools:

The Bend-La Pine School District owns approximately 34 acres of land adjacent to the Coat's Property on its southwest corner along Shevlin Park Road. The District has identified in its 2012 Site and Facilities Update the need for a new middle school to be located at the "Shevlin Site" (Exhibit F) as stated below:

> *Having established the need for additional middle school capacity in the Bend area, the committee reviewed estimates of middle school enrollment for 2017-18 based on proxy attendance areas associated with two possible middle school locations. Due to the actual and anticipated enrollment growth patterns for middle school students, the committee felt the western location located on Shevlin Park Road better distributed capacity than the previously identified southern location on Murphy Road. The committee considered a variety of other factors*

including sewer development concerns, traffic constraints, socioeconomic balance, and prior attendance boundary adjustments to equalize enrollment. In balance, the committee found the Shevlin site better served the anticipated middle school enrollment patterns for the near term, and the Murphy site was considered to be appropriate for subsequent middle school development.

The City's GIS map dated March 5, 2015 and titled, "Exception Land Proximity to Schools," shows the Coat's Property is greater than .5 miles presumably to the nearest existing school, which would be High Lakes Elementary School. The map, however, fails to take into account the School District's own plan supported by demonstrated need to build a new Middle School for the Bend urban area community on their property located along Shevlin Park Road and within the Coat's Property. Creating a map that excludes the School District's' future planned schools presents an inaccurate picture of the District's own expansion plan. The District, in its October 20, 2015 letter to the City from the Chief Operations and Financial Officer of the School District, Brand Henry, has specifically requested of the City to include the Shevlin Area in the UGB (Exhibit G).

The District and the Coat's family have also been in discussions to add an elementary school alongside of the Middle School. The Coat's Property is well-positioned to support these schools with road infrastructure, utility needs, limited commercial uses, and residential development within walking distance to the schools. The Coat's Property fits in with the City's Project Goals, dated September 4, 2014, for "Great Neighborhoods," which states:

Great Neighborhoods

Bend has a variety of great neighborhoods that promote a sense of community and are well- designed, safe, walkable, and include local schools and parks. Small neighborhood centers provide local shops, a mix of housing types, and community gathering places. The character of historic neighborhoods is protected and infill development is compatible.

(3) Comparative environmental, energy, economic and social consequences; and

Riparian Corridors

The GIS map titled, "Riparian Areas – 100' buffer form [sic] Deschutes River & Tumalo Creek" (prepared on March 6, 2015) shows the mid- to northwestern portion of the Coat's Property

falling within the 100-foot buffer from Tumalo Creek. In addition, a portion of the Coat's Property along the eastern border falls within the 100-foot buffer from Deschutes River. Page 91 of DLCD's November 3, 2010 Remand and Partial Acknowledgment Order, states the "significant riparian area will fall within the canyon walls."

The 700-acre size of the Coat's land allows for overall management of the riparian corridor along Tumalo Creek and the Deschutes River. As shown on Exhibit A the Bend Parks & Recreation District has planned trails, park land and easements on Coat's land located along Tumalo Creek and Deschutes River. Acquisition by the Park District allows management of these lands along Tumalo Creek and Deschutes River affording protection to the riparian corridors from urban impact.

Protection of the riparian corridors within the Coat's Property can be facilitated through the establishment of standards developed by the City, including setbacks and retention of vegetation within the corridor.[25] Steep canyons also limit access to the riparian corridors of the Deschutes River and Tumalo Creek providing further protection to this resource.

The City in its UGB Expansion Scenarios Evaluation Report, dated October 1, 2015, lists as a disadvantage of the Shevlin Area (see page 45 and 46 of the):

> *Northwestern edge is adjacent to Tumalo Creek (but the Bend Metropolitan Parks & Recreation District has ownership of the property within roughly 500ft [sic] of the river.*

The City has not identified how much setback from Tumalo Creek is necessary to protect the riparian areas along the sides of the creek. The City seems to close its eyes to the fact that the Coat's own 700 acres of contiguous land that boarders both Tumalo Creek and Deschutes River,

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[25] The City also states on Page 14 of the APG Scenario Evaluation – Land Use Analysis Technical Memorandum, dated October 2, 2015, regarding linear distance of riparian areas adjacent to development:

> *Purpose*
>
> *Discussions during early phases of the UGB project have identified that Goal 5 protection of the Deschutes River and Tumalo Creek areas will require a fine-grained and site-specific evaluation of appropriate buffer distances. For this evaluation, we examined the linear feet along the Deschutes River and Tumalo Creek in the Shevlin Area and the Gopher Gulch Area. Some of the this land is in Bend Parks & Recreation ownership, and some assumes a "clustered" development time that includes open space buffers, but these do not guarantee Goal 5 resource protection and are still measured for this performance measure.*

the Park District already has ownership of land along Tumalo Creek and wants to acquire the Coat's land along Tumalo Creek, if brought into the City, the City's building code can offer even greater setback protection working with the owner. How much land does the City need in order to be satisfied that the riparian area along the sides of the creek will be protected from urban impact? Comments from ODFW on the Riley Ranch Nature Preserve application dated July 21, 2105 recommends maintaining "all trails at least 200' away from Deschutes River and Tumalo Creek" (Exhibit I). Blanketing the Shevlin Area with this riparian disadvantage offers no foresight into possibilities of working with the owner, the park district, and the City to create a balanced approach to protecting the resource.

Exception Land & Big Game Winter Ranges (ODFW) and Proximity to Winter Range:

APG Scenario Evaluation – Land Use Analysis Technical Memorandum page 13 contains a GIS map dated March 6, 2015 titled, "Exception Land & Big Game Winter Ranges." The map identifies the Coat's Property as elk and deer winter ranges and identifies the majority of the Coat's Property as "Potential" elk habitat. The map shows a large oval that covers not only the Coat's Property, but north of Deschutes River, east of the UGB in the City limits, and south of Shevlin Park Road in the City limits.

The sources listed at the bottom for the Exception Land & Big Game Winter Ranges map state: "*Service Layer Credits: Oregon Department of Fish and Wildlife (2011-2012).* According to the APG Scenario Evaluation, page 12, the Methodology used to evaluate the acres of development that *may* impact wildlife areas identified by ODFW includes:

> ODFW "areas of potential concern" identified are loose ovals where elk/deer tend to rest. For the purposes of this evaluation they were not treated as geographically accurate features, but rather indicative of a general area within topographic boundaries. Where these areas overlap with an expansion subarea, they are assumed to encompass the entire subarea unless a topographic boundary is present.

The problem with the City using a broad brush stroke to demonstrate a "general area" is the harsh results the map has on the Coat's Property. The City is using these results to identify the Coat's Property as having an "important weakness" in their evaluation and selection process of a

preferred UGB expansion scenario; which is a concern to the Coat's family as highlighted below.[26]

The LCDC remand order did not require the City to address wildlife habitat outside of the riparian corridors;[27] however, the City is using this information to screen out potential properties from further consideration into the UGB. According to the March 13, 2015 to the Urban Growth Boundary Steering Committee from the Angelo Planning Group Team regarding "Employment/Residential TAC and Boundary TAC Recommendations" page 39:

> *Staff met with the ODFW Deschutes District Wildlife Biologist (Corey Heath) and Corey participated in the TAC discussion of wildlife habitat at Meeting 7. ODFW places the highest value on the bit [sic] game habitat that is currently within the Deschutes County Wildlife Overlay Zone. Of the areas identified as big game habitat on the 2009 ODFW map that are not within the Wildlife Overlay Zone, Corey identified three areas of exception land within the 2-mile study area that **may** provide important cover for elk and deer. These areas are roughly identified with ovals on the informational map of Big Game Winter Ranges. [Emphasis added.]*

Corey Heath, the wildlife biologist at ODFW, states that the three areas of exception land within the 2-mile study area "***may***" (emphasis added) provide important cover for elk and deer; which according to the GIS "Exception Land & Big Game Winter Ranges" not only includes the majority of the Coat's Property, but also a big swath of land located east of the Coat's Property and in the City limits, north of Deschutes River, and south of Shevlin Park Road in the City limits. Based on this evidence that the majority of the 700-acre Coat's Property "***may***" provide important cover for elk and deer, the City in its September 23, 2015, Executive Summary finds in part, that the Coat's Property in Scenario 3.1 contains an "important weakness."

We contacted City staff as well as District biologist Corey Heath at ODFW to obtain copies of the source documents that created these maps. Mr. Heath explained that the current elk population migrated from southwest Bend/Elk Meadow area a few years ago to the open spaces of the Coat's Property, Awbrey Glen golf course, and west in the Johnson Road area. In determining the location of the elk and deer, Mr. Heath does not recall being on the Coat's Property. He said ODFW has flown over the Coat's Property and has seen the elk and deer. In addition, the herd of elk has caused damage on the Awbrey Glen golf course and the deer and elk

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[26] Bend Urban Growth Boundary Expansion Scenarios Evaluation Report, Executive Summary. September 23, 2015, Page 4.

[27] City of Bend Memorandum dated March 13, 2015 to the Urban Growth Boundary Steering Committee from the Angelo Planning Group Team regarding "Employment/Residential TAC and Boundary TAC Recommendations" page 39.

droppings are evidence of the existence of the animals. He does not know how much time the elk are spending on the Coats Property.

First, the Coat's Property consists of 700 acres; much of which is either presently being mined or has past mining activity altering the topography, vegetation, and landscape. The northern portion of the property is an active aggregate, sand and gravel mine and the southern portion has structures and improvements associated with the Ready Mix Plant with scales and truck operations. Further, mining activities, such as blasting, mining, and occasionally crushing the resource, as well as transporting the resources via trucks, decimate the topography as well as any vegetation cover.

In addition to the past and present mining on the property, the City of Bend has long-identified an extension to Skyline Ranch Road, a proposed Major Collector running in a north-south direction, through the Coat's Property.[28] The City also proposes another collector road in the north part on the Coat's Property connecting Buck Drive with Putnam Road. The Bend Parks and Recreation District proposes trails, easements, and land acquisitions on the property for the benefit of the Bend Community to enjoy. Finally, the School District has plans not only to build a Middle School on the property, but also an Elementary School on the property.

The majority of the Awbrey Glen Golf course is located in the City limits with some of the greens abutting the Coat's Property. The course does not abut the entire 700-acre Coat's Property. ODFW has not conducted its own site visit and habitat cover assessment on the Coat's Property so the basis for the City's findings that this property may provide important cover habitat for elk and deer is not based on clear supportive evidence. For the City to screen out the Coat's Property for consideration into the UGB because parts of the 700-acre property "may" provide cover habitat for elk and deer is unfounded and unreasonable.

The applicant has hired a wildlife biologist to conduct a deer and elk habitat assessment on the southern 150-acre portion of the property. The results of this assessment will be submitted in a supplemental filing for consideration and inclusion into the UGB record.

Development of the Coat's Property can incorporate wildlife mitigation plans based on site specific analysis of existing big game elk and deer winter range habitat of the property and include mitigation strategies to limit potential impact on the big game wildlife that not only include the Coat's Property, but the other areas that are impacted by the broad oval brushstroke of the Exception Land & Big Game Winter Ranges. The Bend Parks and Recreation District, for example, says it is "open to working with ODFW and discussing seasonal closures as needed" in the Riley Ranch Nature Preserve park.[29] In addition, the recent approval of the Miller The Tree Farm residential development by the Deschutes County Board of County Commissioners (Deschutes County file numbers 247-14-000244-CU, 247-000245-TP) consisting of a cluster

[28] Deschutes County on its April 25, 2012 "Bend Area Map" also identifies the extension of Skyline Ranch Road through the property.

[29] Deschutes County Hearings Officer's Decision on Riley Ranch Nature Preserve dated October 15, 2015, page 49 (County file numbers 247-15-00033-CU, 247-15-000334-SP).

planned unit development in the UAR and RR-10 zone is another example of balancing development within a wildlife elk and deer range habitat.

The benefit of having one owner for the approximate 700 acres creates an opportunity for the City and ODFW to work together with the landowner in creating a deer and elk winter range management plan that has the potential to encompass the whole property. Managing the property as a whole, rather than piecemeal, has a lot of advantages for protecting elk and deer habitat.

Federal/State Scenic Waterways

As shown on GIS Map Federal/State Scenic Waterways, a portion of the Coat's Property along the Deschutes River is within the Federal/State Scenic Waterways. The Coat's family is working closely with the Bend Park and Recreation District in acquiring and/or managing the lands along this portion of Deschutes River. With Park District management of these lands, scenic waterways will be protected from urban development. Also, protection of the view shed can be afforded through existing Federal, State, and Bend City regulations.

Mineral & Aggregate Resources

The majority of the Coat's Property is zoned Surface Mining Zone (SM) and has been partially mined for the past 50+ years. Even though the property is zoned SM, it is not on Deschutes County inventory of significant natural resources sites and, therefore, is not subject to Goal 5 review or protection. As a result, residential development surrounds the property to the south and east. A portion of the property, approximately 200 acres, is an active sand and gravel mining operation and operating under DOGAMI permit, Permit # 09-0018. A portion of the active surface mine is being actively mined (approximately 120 acres), a portion is used in conjunction with mining (approximately 40 acres), and a portion has remaining resource left to mine (approximately 40 acres).

Future plans for the mining site include removing the Ready Mix Plant site on Tax Lot 300 and moving the scales and remaining operations to the pit site to the north. There is approximately 5-7 years' worth of resource left on the 200 acre area that can be economically mined, after which time the property will be reclaimed and available for subsequent use. The remaining 500 acres owned by the Coats family does not have sufficient resource worthy of extraction or is too close to urban uses to mine and is in position for redevelopment by the end of 2018.

The GIS map titled, "Exception Land Proximity to Surface Mining Impact Areas" shows the northern half of the Coat's Property to be within or partially within an impact area assumedly because the property is zoned Surface Mine. However, once the surface mine extraction and operations cease, the property will be reclaimed and no longer be an impact area.

Fire Risk:

LCDC's 2010 Remand decision concludes on page 93 with regards to whether the City is required to address Wildfire Risk in evaluating alternative UGB expansion areas:

> *The Commission concludes that under these circumstances, neither Goals 2 nor 7 requires the City to address wildfire risk. This conclusion does not imply that the City should not explain in its findings how it has addressed wildfire risk. It is entirely appropriate and permissible for the City to consider relative risk of wildfire in alternate UGB expansion candidate areas in considering the (ESEE) consequences of the alternatives under locational factor 3 of Goal 14.*

From the City's investigation into wildfire risks associated with the UGB expansion, the May 18, 2015 Memo to the UGB Boundary TAC from Craig Letz, Wildfire Consultant and City Staff, the conclusion is that "*wildfire risk is high all around the City. The only areas outside of Bend that are not high risk of wildfire are irrigated fields (e.g. pasture) or rocky areas (e.g. surface mines, pressure ridges).*"

In terms of the Coat's Property, the property ranks 4 out of 6 in the Fire Risk Ratings and 4 out of 6 in the Greater Bend CWPP Boundary subareas on the City's GIS maps, ("Composite Wildfire Risk Ratings" and "Greater Bend CWPP Boundary Subareas" both maps dated March 6, 2015).[30] The surface mining area on the Coat's Property is not at high risk of wildfire according to the May 18, 2015 memo from Letz.

The City's Memorandum to the Urban Growth Boundary and Growth Scenarios Technical Advisory Committee from Karen Swirsky, City of Bend Growth Management regarding "Scenario Evaluation: Wildfire Hazard Technical Memorandum" dated October 1, 2015 concluded:

> *Based on the wildfire **risk** as determined by the CWPP, and **hazards** as evaluated in the field, there are only subtle differences between the six proposed Scenarios/SAAMs. There are no areas under consideration for inclusion into the UGB that have a low fire risk or hazard due [sic] the Central Oregon's climate and the prevalent vegetation types. All areas under consideration have a high or extreme fire risk and hazards.*

[30] As noted on the Factor 3 Maps, Stage 2 Maps for Factor 3 of Goal 14: ESEE Consequences, page 101, the GIS maps "Fire Risk – CWPP Boundary Subareas" and "Composite Wildfire Risk Ratings" state these maps are "not for use in Stage 2." Nevertheless, since the City chose to incorporate them and use them in their analysis in this section, we have addressed them.

> *With the exception of portions of the Shevlin subarea, property vegetation management and imposition of mitigation measures, such as the fire protective building codes shown in the attached memorandum: Potential Wildfire Mitigation Approach could minimize risk in all areas under consideration. Shevlin is the exception due to the combination of topography and adjacent vegetation. However, fire hazard to development in that area could be minimized with aggressive management, careful land use planning, and implementation of fire protective measures.*

The evaluation tools used in the wildfire evaluation used published maps and an on-the-ground survey of lands under consideration for inclusion into the UGB by a group of wildfire experts that included fire official from the City of Bend, Deschutes county, Oregon Department of Forestry, and US Forest Service. However, the report is not clear as to where the group of wildfire experts conducted the on-the-ground survey on the Coat's Property.

In addressing the concern of the City that the Coat's Property may be a fire hazard and, therefore, presents a disadvantage to inclusion into the UGB[31], the Coat's Family hired an expert to conduct a "Forest Fire Fuels and Health Evaluation" on the southern portion of the property where the majority of the development is proposed as shown on the Conceptual Master Plan. John Jackson of Singletree Enterprises who specializes in consulting services for application to wildland fire, forest resources management and community preparedness planning, evaluated hazardous vegetation management and appropriate stand stocking level management as "(t)hese two parameters are often used to judge overall resilience of a forested areas to high intensity, stand replacement wildfire." The report concludes (see Exhibit J for report):

> With the exception of three specific areas (described in more detail below) the above-listed portion of the Coats property can best be described as meeting optimum standards for fire resilience and forest health: stand thinned to appropriate stocking levels with brush and other "ladder fuels" appropriately treated.[i]
>
> [1] Ecology and Management of Eastern Oregon Forests-A comprehensive Manual for Forest Managers. Oregon State University Extension Service, pages 52-3.

The three exceptions are various areas in the study area that Mr. Jackson recommends mowing of brush or thinning of a timber stand. He also describes the School District property located adjacent to the Coat's Property on tax lot 17-11-23, tax lot 600 as being an area of "higher fire fuels risk" and recommends "appropriate forest management, such as done on the adjacent Coats

[31] Op cit., UGB Expansion Scenarios Evaluation Report, page 45.

property . . .." Based on Consultant's John Jackson's findings much of the property he evaluated met "optimum standards for fire resilience and forest health;" a few areas were in need of mowing and timber stand thinning, which is nothing the Coat's family cannot attend to and which the City concurs with in its findings as well, ". . . fire hazard to development in that area [Shevlin] could be minimized with aggressive management, careful land use planning, and implementation of fire protective measures."

In addition, any future development of the Coat's Property can include on-site mitigation measures, including specific site design, building and landscaping materials, and incorporating Firewise mitigation tools. Further, the Coat's Property risk of wildfire is reduced by the natural fire break of Tumalo Creek, Shevlin Park, the Bend Parks and Recreation District interest in acquiring and maintaining properties along Tumalo Creek and Deschutes River, and existing residential development to the west and north, some of which is farmland and irrigated fields to the north, which according to the Letz May 18, 2015 memo are not at high risk of wildfire.

Taking a broader look of the Coat's Property, in terms of wildfire management and protection for the community of Bend, the Property plays a critical role in moving traffic north to south, and east to west with the planned extension of Skyline Ranch Road, a Major Collector, that runs northerly from Shevlin Park Road through the Coats Property, crossing an existing bridge at Tumalo Creek and connecting to Tumalo Park Road as well as the planned Collector that links Putnam Road to Buck Drive, an east-west corridor. These traffic corridors if connected, could provide critical transportation links for the entire Bend community and serve as emergency response and evacuation routes for both north-south and east-west directions. In addition, the Coat's Property is ideally suited to extend existing infrastructure, such as water main and fire hydrant connections, that would aid in the protection from wildfire (see Exhibit K for existing fire hydrant locations).

In outlying forest area, the Greater Bend Community Wildfire Protection Plan (August 29, 2011) identifies programs in the Wildland Urban Interface that offer partnerships with private forestland owners that encourage fuels management as part of an overall plan for management of the forest resource. Further, the USFS' West Bend Vegetation Management Project (December 2013) is a massive project affecting over 25,000 acres of forest land located west of Bend with the purpose of the project to "maintain and restore forest health; reduce the threat of large-scale wildfire effects to people, property, and important ecosystem components including habitat for interior forest wildlife species; contribute wood products to the local regional economy; and to reintroduce fire in fire-dependent ecosystems." Part of the project has begun with the primary goal of protecting Bend's Watershed by the removal of dead trees and creating a fire break intended to halt wildfires from moving towards the watershed.

Balancing on-site fire mitigation tools as well as off-site wildfire protection plans, in addition to adding traffic corridors that will aid in emergency response and evacuation will aide in mitigating the potential for fire hazard on the Coat's Property.

100-year Floodplains

The March 6, 2015 GIS map titled, "100-year Floodplain," shows a portion of the Coat's Property located along Deschutes River in the Floodplain. The floodplain portion of the property, however, is located in the river canyon. Acquisition of the portion of the Coat's Property along the river rim by the Bend Parks and Recreation District for future park and trail access will provide a setback from the floodplain areas.

Proximity to Elementary Schools & Parks

Schools: The March 5, 2015 GIS map titled, "Exception Land Proximity to Schools" shows the Coat's Property greater than .5 miles from the nearest school. However, while the map shows the school district property on the map, it fails to include the School District's plan for a middle school to be located on this property.

Parks: The majority of the Coat's Property is contiguous to, or near an existing Park: Shevlin Park abuts the Coat's Property along its western boundary; Tumalo State Park abuts the Coat's Property to the north; and the recently acquired BPRD Riley Ranch Nature Preserve is located east across the Deschutes River from the Coat's Property. Further, the BPRD has expressed interest in acquiring or managing portions of Coat's property along Tumalo Creek to the west and north, and along the Deschutes River rim on the west portion. In addition, the Park District has identified a planned trail east to west in the mid-portion of the Coat's Property that connects with other planned trail systems outside of the Coat's Property and in the City limits.

Greenprint Overall Priorities

The GIS Map dated March 10, 2015, and titled, "Greenprint: Overall Priorities" shows "Overall Conservation Priorities." The map shows Coat's Property as having a mix of high, second, and third highest number of Goals Overlap. The highest and second highest goal overlaps are understandably along the Deschutes River and Tumalo Creek. As shown on the Coat's Conceptual Master Plan, Exhibit B, there is no development along these river corridors. In fact, the plan shows trails, park land, and road easements along the rim of the Coat's Property.

Summary of Comparative Environmental, Energy, Economic, and Social Consequences

Environmental Consequences

The Coat's Property is a large 700-acre property that includes riparian areas in the Deschutes River and Tumalo Creek canyons, federal and state scenic waterways, and deer and elk habitat. In addition, the property has an active surface mine whose activities, such as blasting, crushing, transporting, have altered the topography, vegetation, and landscape overtime. Full protection and a blanket restriction on development of the disturbed property need not occur to afford protection of the natural resources on the property. Site-specific evaluations on the natural resources on the property will provide information that the City currently lacks but is basing its decisions on, in part, to exclude the Coat's Property from consideration to be included in the UGB. Deer and elk habitat could be managed under a plan that also addresses and balances the fire protection risks; and riparian and scenic waterways could be protected through zoning and acquisition of the river rim areas by the Park District.

Energy Consequences

Expanding the UGB will increase the energy consumption as the purpose of the expansion is to provide additional acreage for development purposes which by its nature requires energy to be accomplished. Any areas under consideration by the City will increase energy consumption. The City has determined that expansion of the UGB is necessary to meet the demands of an increase in population. The Coat's Property is located adjacent to the City limits and affords orderly connections to existing street and other utilities that are adjacent to their property which in turn, will reduce costs of connecting these facilities.

Economic Consequences

Development of the Coat's Property will provide jobs related to construction, establishment of schools, and creating a neighborhood commercial area. Concern has been expressed about the fire risk in this area and as shown on the John Jackson report can be mitigated through proper management of the land and incorporation of on-site mitigation measures in the planning and design of the property. Prohibiting development of the property will result in not realizing these economic benefits to the City. With mindful planning and balance of the economic benefits and the environment, the need to prohibit urban development on this already disturbed property will not be necessary.

Social Consequences

Adding schools and parks within a master planned development creates a vibrant community with positive social consequences. Because of the ability to master plan the

Coat's Property, addressing affordable housing issues can be incorporated into the overall design. Adjacent to many natural resources, positive social effects can be had by easily getting outdoors and enjoying the natural environment. Energy consumption would increase, but that is the same with all the properties considered to be brought into the City. In addition, the property has planned City streets that would benefit the community and provide alternate emergency access points.

(4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

Nearby Farm Land and Farm Activities: From the Coat's Property, nearby farm land zoned EFU is located north of the Coat's Property. Exhibit L shows the EFU-zoned lands located north of the Coats property. Portions of these EFU zoned lands, however, are properties not dedicated to farm uses and activities, including State-owned park land and privately-owned parcels that have received nonfarm partition and/or dwelling approvals. Across from Tumalo Creek and north of the Coat's Property are EFU zoned parcels that are partially irrigated. Between these farm properties are lands zoned Surface Mining as well as State-owned park land. In addition, steep canyon walls and Tumalo Creek intervene between the Coat's property and these farm lands to the north. Compatibility of the Coat's property with the nearby farm land is high considering distance, intervening topography, and nonfarm uses. In addition, other properties under consideration located north of the Coat's Property, OB Riley/Gopher Gulch Area, and those in the southeast areas, The Elbow and DSL lands, include lands adjacent to or within .25 miles of EFU-zoned lands. Based on this information, the Coat's Property is highly compatible with nearby agricultural lands.

Nearby Forest Land and Forest Activities: The nearest forest lands outside the UGB to the Coat's Property are located west of the property, none of which are contiguous to their Property. Exhibit M shows the Coat's Property and nearby zoning. As shown on this map, forest zoned lands are buffered from the Coat's Property by intervening public lands (Shevlin Park owned by Bend Metro Parks & Recreation and zoned OS&C and PF), and a large swath of subdivision lands zoned RR-10 to the west. Further, the Park District's interest in acquiring the area along Tumalo Creek will add intervening open space and distance between the Coat's Property and forest lands. Directly south of the Coat's Property is Shevlin Park Road and residential subdivision land within the City limits zoned RS. Further, Tumalo Creek and its steep topography also create a buffer between the forest lands to the west and the Coat's Property. Distance and intervening uses, including residential, park, and Shevlin Park Road, buffer the forest-zoned activities from the Coat's Property thereby, ensuring compatibility with nearby forest-zoned activities.

Conclusion:

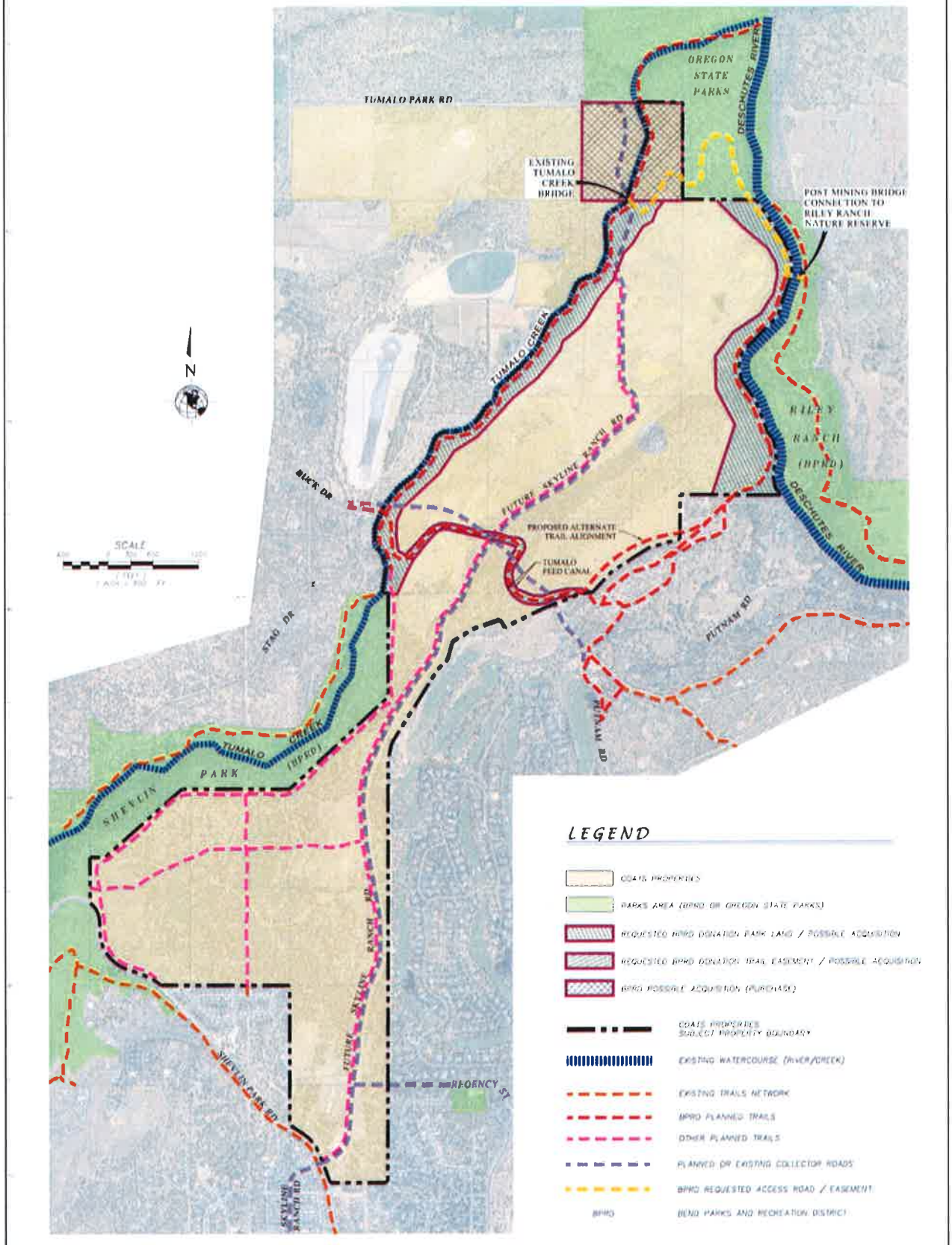
For all the reasons set forth here, the Coat's Property, or some portion of the Coat's Property, should be included in the present UGB expansion. It is important for our community, meets all Goal 14 factors, and its inclusion is supported by the School District, the Park District, and provides important transportation connections.

Thank you for the opportunity to submit evidence supporting inclusion of this property in the UGB.

Sincerely,

Tia M. Lewis

TML:ls



EX-B

COATS PROPERTIES

OVERALL PROPERTY SETTING MAP

BEND/DESCHUTES OREGON

SCALE: 1" = 600'

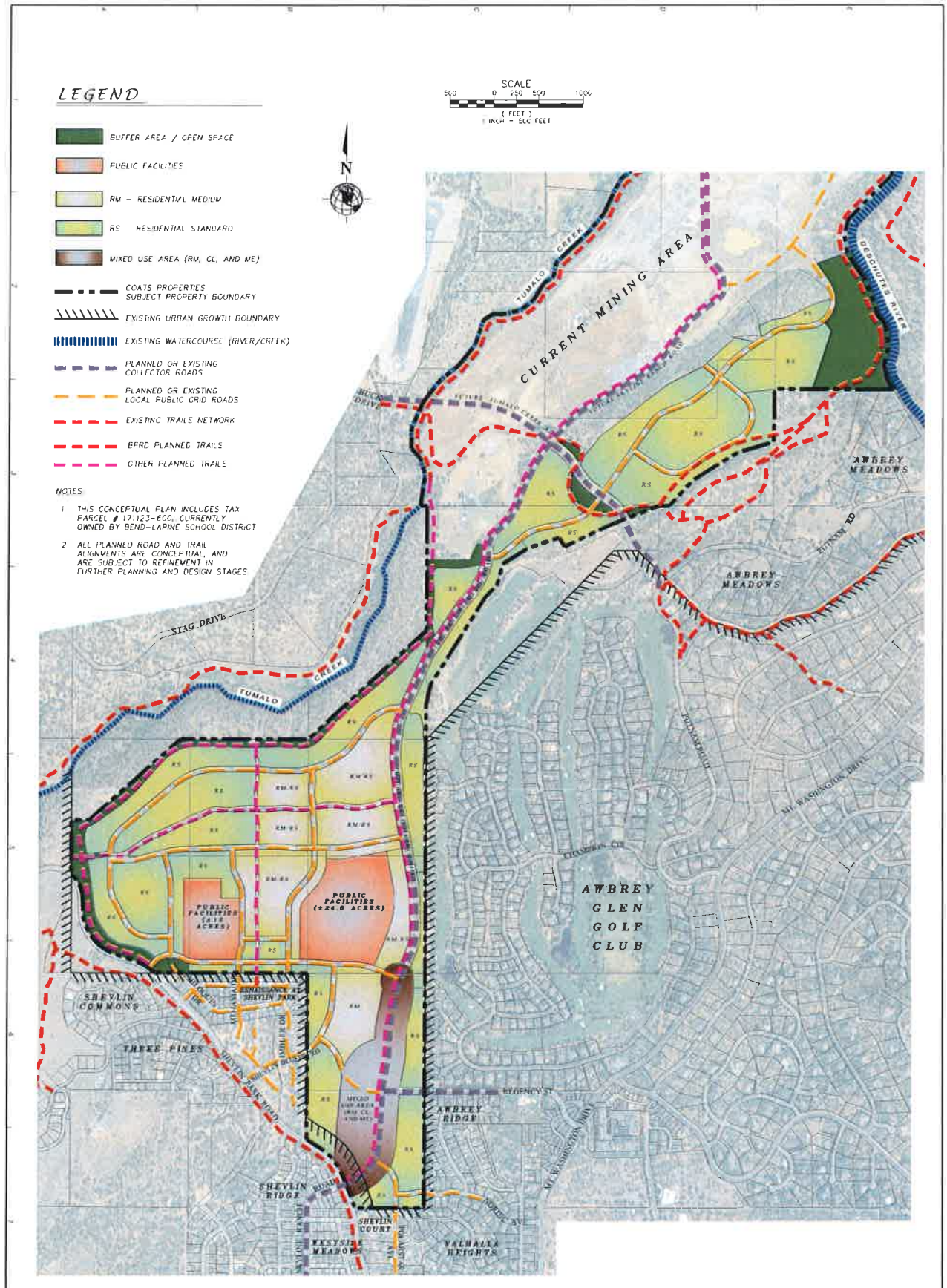
PROJECT NO: COAT001

DRAWING FILE NAME:

D'Agostino Parker, LLC

Exhibit A
Page 1 of 1

05620



EX-A

DESIGNED BY: KD/AE CHECKED BY: KD
DRAWN BY: AE/CB APPROVED BY: KD
LAST EDIT: 06/09/15 PLOT DATE: 06/10/2015

DATE	BY	REV	REVISION	CK'D/APP'R

REGISTERED PROFESSIONAL ENGINEER
OREGON
JULY 29, 1994
KEITH R. DAGGETT
EXPIRES: 6/30/16

COATS PROPERTIES

CONCEPTUAL MASTER PLAN

BEND/DESCHUTES OREGON

SCALE:	PROJECT NO.	DRAWING FILE NAME:
1" = 500'	COAT001	

D'Agostino Parker, LLC

Exhibit B
Page 1 of 1

05621

EXHIBIT C

Map / Taxlot	Account	Owner Name	Acreage
1711240000100	117406	CCCC LLC	35.47
1711240000700	117415	CCCC LLC	40.00
1711240000600	117416	CCCC LLC	40.00
1711250000300	117427	CCCC LLC	28.55
1711250000200	117428	CCCC LLC	40.00
1711230000500	131969	CCCC LLC	40.00
1711240000403	209812	CCCC LLC	18.63
1711230000502	268801	CCCC LLC	25.00
1711230000503	268802	CCCC LLC	40.00
1711130000500	112750	ERMK LLC	55.44
1711130000100	106885	ERMK LLC	15.82
1712180000100	109018	ERMK LLC	35.78
1711230000600	150925	School Dist #1	33.73

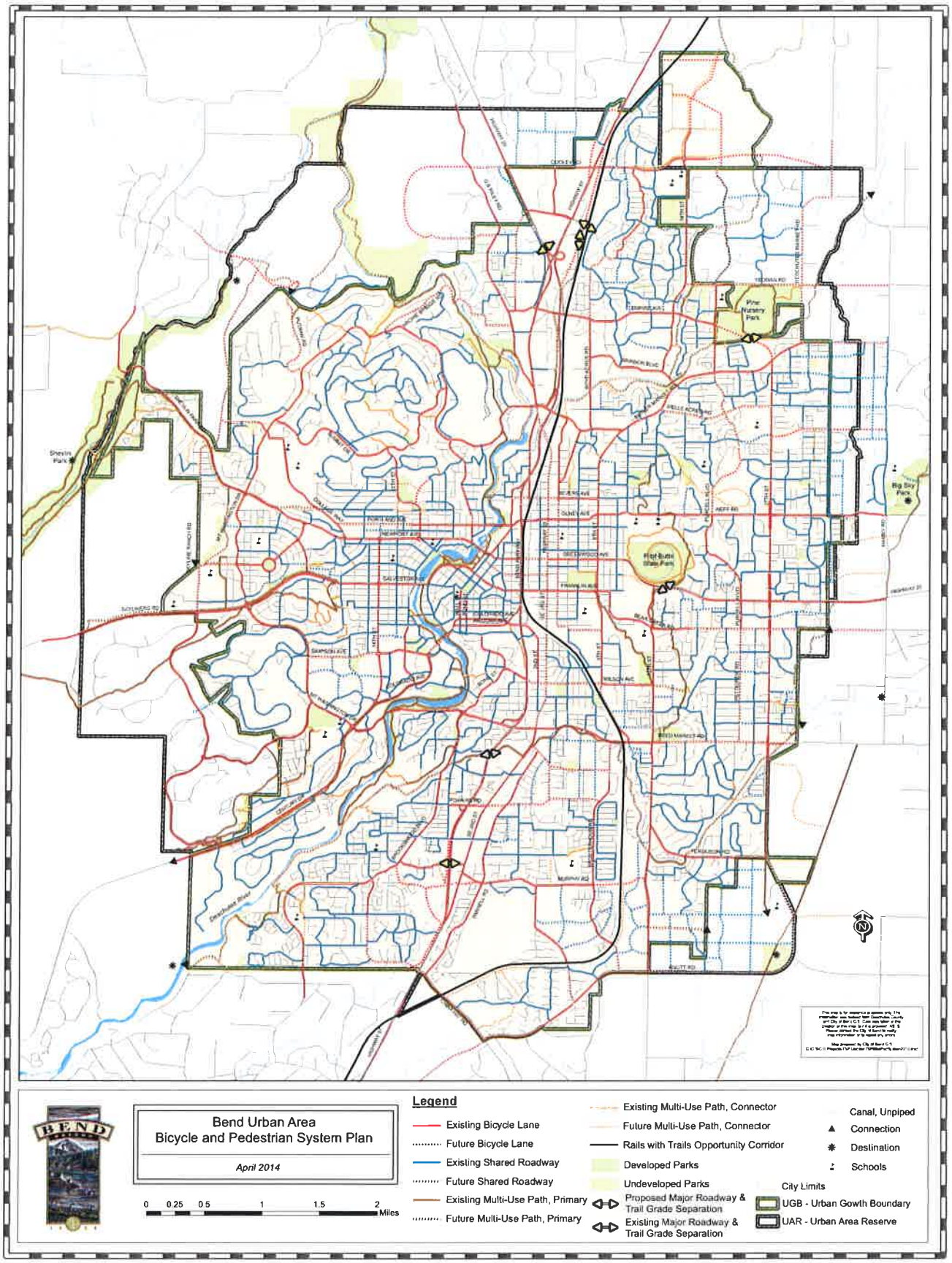
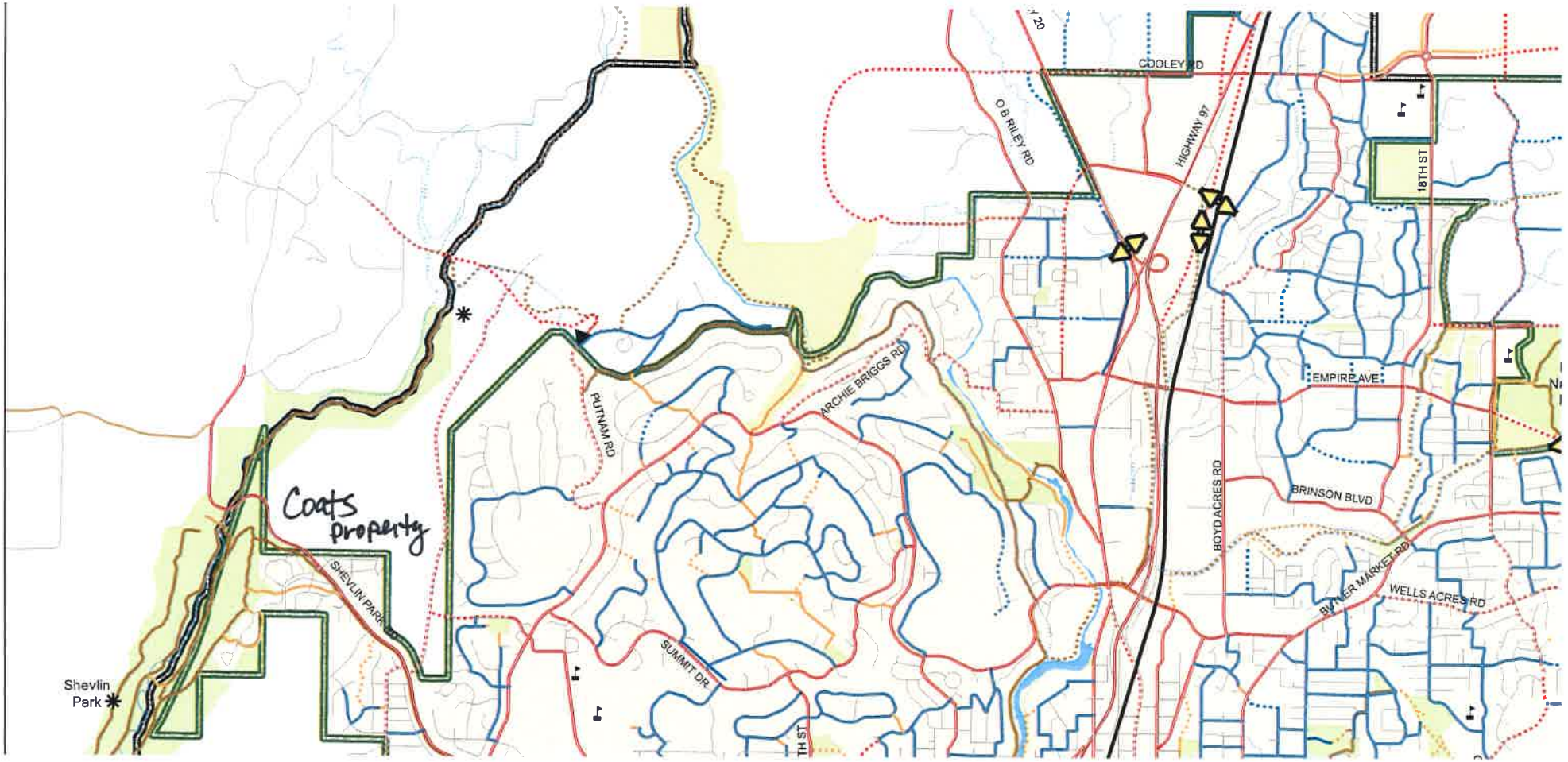


Exhibit D
Page 1 of 2



Source: Bend Urban Area Bicycle and Pedestrian System Plan (April 2014)

Exhibit D
Page 2 of 2
05624

Expansion Scenario 2.1A

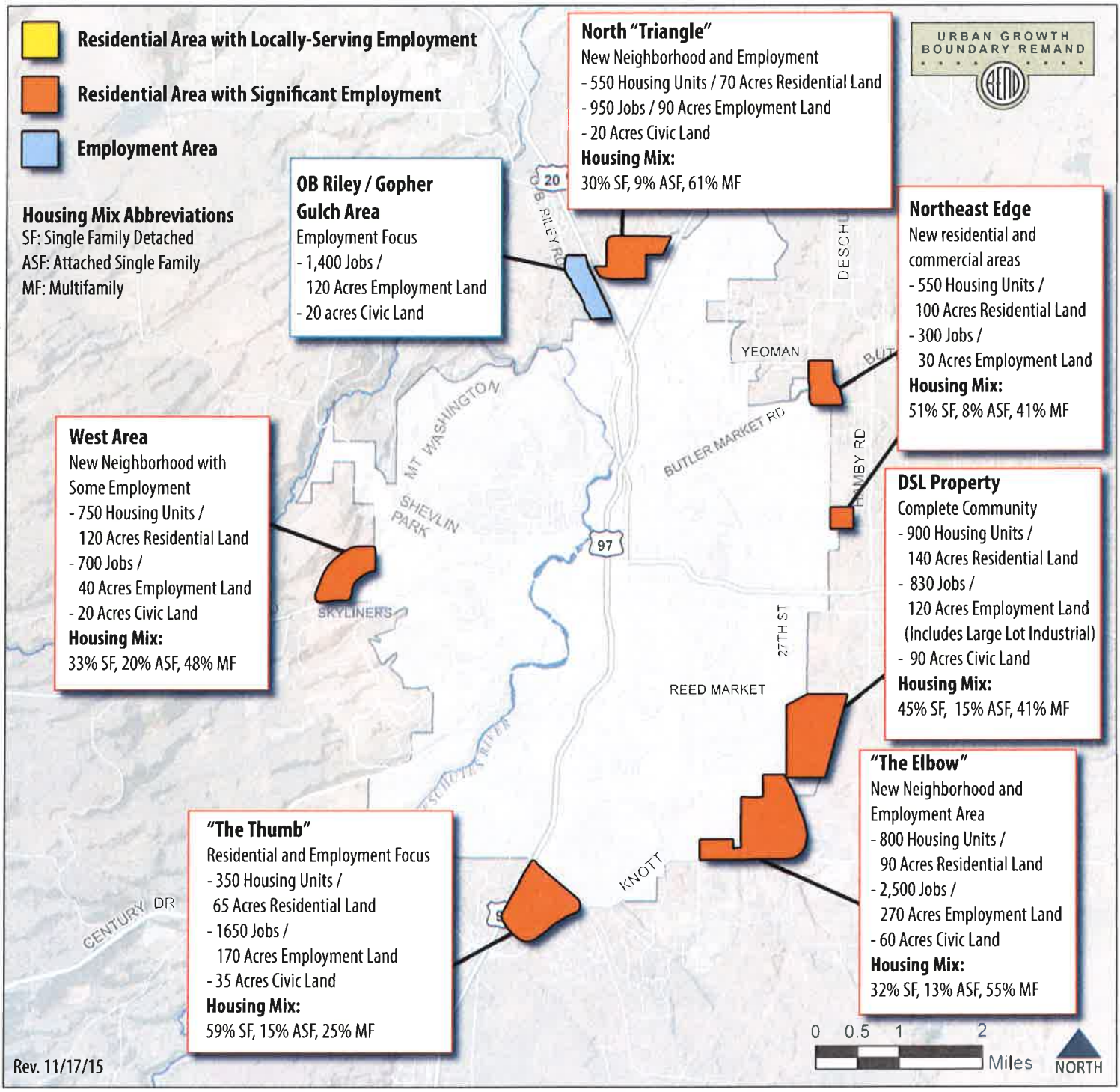


Exhibit E
Page 1 of 1

05625

Source: Bend La Pine School website, "Sites + Facilities," 2012 Update

Sites and Facilities 2012 Update

In the spring of 2012, the Superintendent requested the most recent Sites and Facilities Committee be invited to review and update the recommendations contained in the *"Bend-La Pine Schools 2010 School Facility Plan"*.

Enrollment Update

In preparation for the update, the Population Research Center at Portland State University (PRC) was asked to update its 2009 *"Bend-La Pine School District Population and Enrollment Forecasts 2010-2011 to 2030-2031"*. In addition to updating enrollment figures, the original 2010 population forecasts were replaced with 2010 census data and recent birth data were incorporated in the forecast model. Lastly, we are using actual 12-13 enrollment counts as a base.

In summary, forecast shows net in-migration will mitigate a reduction in Kindergarten and 1st grade students entering mid-decade, and full day kindergarten starting in 2015-16 will tend to increase enrollment. However, PRC expects slower elementary enrollment growth in the last half of this decade as a result of the birth decline. The updated forecast anticipates enrollment in Bend-La Pine Schools of 19,264 students by 2020 and enrollment of 23,116 students by 2030.

Capacity Analysis

These updated enrollment data were incorporated into an updated capacity *"Analysis for Bend-La Pine School District: 2009 to 2030"*. The data shows that the need for an additional 300 seats of elementary capacity remains unchanged from the *2010 School Facility Plan*. The forecast shows this need in Bend no later than the fall of 2016. With Pine Ridge, William E Miller, Bear Creek and High Lakes essentially at capacity in 2012-13, it makes sense that the additional 300 seats be located to relieve the pressure on these schools.

In addition, the need for middle and high school capacity has been advanced in time. The committee noted that sufficient school capacity in south county (La Pine and Sunriver) is available for the foreseeable future. The committee requested and received additional refinement analyses for middle and high school capacity needs in the Bend urban area.

Based on the refined analyses, the need for a new high school was unchanged and remained in the 2020-21 school year. However, the timing of need for a new middle school in the Bend area advanced to at least 2017-18, well within the development period covered by this plan update. In fact, the committee considered several demographic and logistical factors, which may move the need for middle school capacity up to 2016-17.

Having established the need for additional middle school capacity in the Bend area, the committee reviewed estimates of middle school enrollment for 2017-18 based on proxy attendance areas associated with two possible middle school locations. Due to the actual and anticipated enrollment growth patterns for middle school students, the committee felt the western location located on Shevlin Park Road better distributed capacity than the previously identified southern location on Murphy Road. The

committee considered a variety of other factors including sewer development concerns, traffic constraints, socioeconomic balance, and prior attendance boundary adjustments to equalize enrollment. In balance, the committee found the Shevlin site better served the anticipated middle school enrollment patterns for the near term, and the Murphy site was considered to be appropriate for subsequent middle school development.

Projects for Existing Facilities

At the time of the Superintendent's request, the recommended projects list for existing facilities compiled by the 2010 Sites and Facilities Committee was two years old. Facilities Development staff conducted another survey of all the existing facilities using the same review procedure utilized in 2009. This survey realized an additional 40 projects to be considered along with the original 183 recommended projects. Including an allowance for a new middle school and a new elementary school, the revised project list totaled $128,726,753.

A sub-committee was responsible for evaluating the new list of potential projects, prioritizing and scrutinizing the old projects and the new projects along with the possibility of adding the two new schools. During the course of meeting once a week over several months, the TAC Committee determined that a new middle school and elementary school was required. The Existing Facilities Committee finalized their review based on this information and provided a recommendation of a final list of priority projects in the amount of $97,927,080, which included 138 projects, a new middle school, and a new elementary school (Appendix A).

Debt Structure

The committee expressed strong interest in maintaining a debt structure that allows for a steady property tax rate. The recent economic downturn has delayed the need for capital construction, so the stable tax rate has dropped to around $1.60 per thousand dollars of taxable assessed value in 2012-13.

The committee reviewed a variety of capital construction grouping options to structure bond debt to meet capacity and other facility needs over time while maintaining a stable property tax rate. The recommended bond amount of approximately $98,000,000 will maintain the rate at around $1.60 per thousand dollars of taxable value. The committee recommends a May 2013 election request to meet the needs identified for the next five years. In addition, debt capacity would be available to support an additional capital construction request as soon as May of 2018.

Recommendation

The Sites and Facilities committee is pleased to recommend the attached list of priority projects (Appendix A) in the amount of $97,927,080, which includes 138 projects, a new middle school, and a new elementary school, be placed on the May 2013 ballot as a bond levy request for capital construction.

PROPOSED PROJECTS
2013 MAP

The 2012 Sites and Facilities Committee is recommending a bond levy that would finance 140 projects, including two new schools.

This project would extend the life of existing buildings, many of which are more than 30 years old, provide funds for renovations and expansions of existing buildings, and build neighborhood schools in high growth areas.

BEND LAPINE Schools

MAINTENANCE PRESERVATION

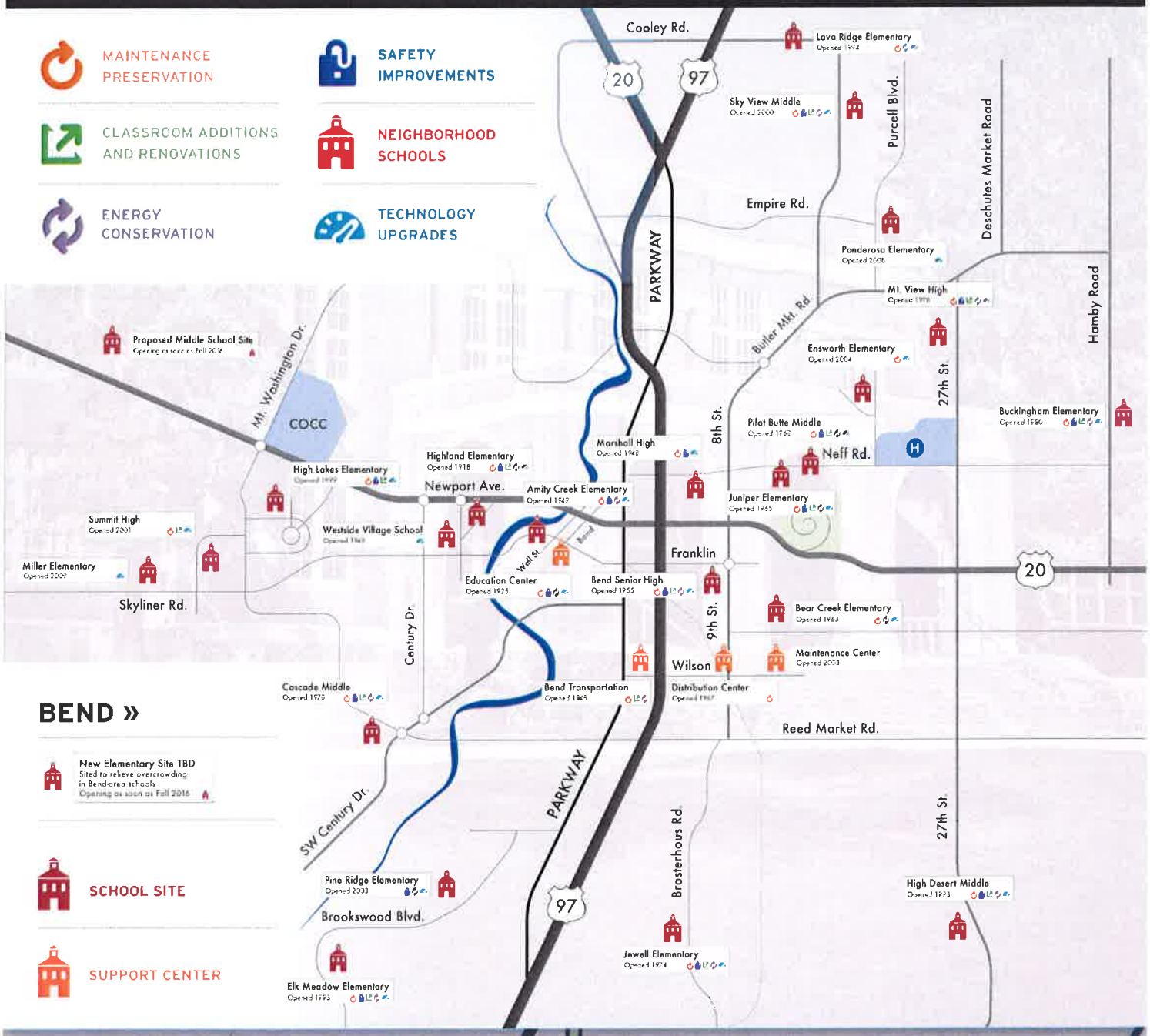
SAFETY IMPROVEMENTS

CLASSROOM ADDITIONS AND RENOVATIONS

NEIGHBORHOOD SCHOOLS

ENERGY CONSERVATION

TECHNOLOGY UPGRADES

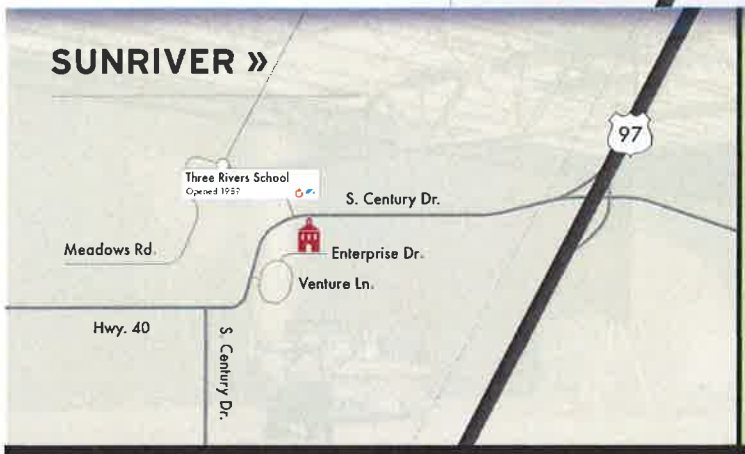


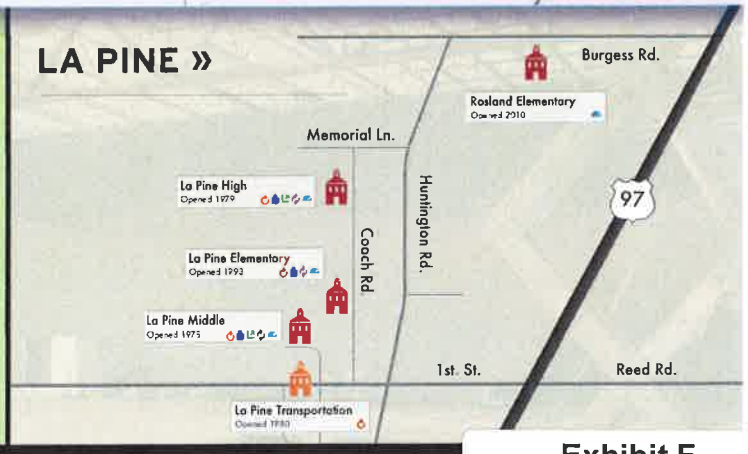
BEND »

New Elementary Site TBD
Sited to relieve overcrowding in Bend-area schools
Opening as soon as Fall 2016

SCHOOL SITE

SUPPORT CENTER





Est 1883
BEND LAPINE
Schools
EDUCATING THRIVING CITIZENS

OFFICE OF THE SUPERINTENDENT
Education Center
520 N.W. Wall Street
Bend, Oregon 97701-2699

October 20, 2015

Brian Rankin
City of Bend
710 NW Wall Street
Bend, OR 97701

Mr. Rankin,

Bend-La Pine Schools owns property adjacent to Shevlin Park road (tax map #1711230000600), in the area identified in the UGB Expansion Scenario 3.1 as "Shevlin Area." The property is planned for a school to meet growth projections in the northwest area of Bend. We are currently over capacity in some schools and anticipate that we will need another school in this area as the land in the west side continues to develop. We have been unable to locate an alternative suitable site that meets the location and size requirements for a school. Other sites, further south, would likely be too close to existing schools.

We request that the area identified in Scenario 3.1 as "Shevlin Area" be brought in to the UGB. Having the school district parcel and some additional residential land will complete the street grid system, provide buffers to existing development and enhance a walkable school neighborhood.

Thank you for your consideration.

Sincerely,

Brad Henry
Chief Operations and Financial Officer
Bend-La Pine Schools

Exhibit G
Page 1 of 1

Source of Comment	Summary of Comment	Project Team Response
Steve Jorgensen, representing BMPRD, oral testimony on 6/9/15	Steve presented oral testimony and commented that the TAC should look for opportunities for trail connections. He specifically referenced the 1995 Trails Plan that identified potential trails on the Coats' property that were very important from the District's perspective. He also noted that the district requests that the park-owned site in "the Elbow" be included in the UGB so it can be traded for other lands that are better suited or needed for a park.	The park-owned site in "the Elbow" is included in Scenario 2.1, and for modeling purposes it is assumed to have non-park uses. Portions of the Coats property are included in Scenario 3.1, with the full concept plan area extending to the creek and river included in the Supplemental Analysis Area.
Tim Elliott, representing Anderson Ranch, oral testimony on 6/9/15	Commented on the Goal 14 analysis. Land priority issue a primary issue on remand. Consider the first priority lands first.	Roughly 15 acres of Anderson Ranch (in the West Area) is included in Scenario 1.1, and the full site (roughly 28 acres) is included in Scenario 3.1.

strongest for Scenarios 1.2 and 2.1. Natural Environment was a topic priority of the respondents and cost-effective infrastructure was a priority chosen most often by the respondents.

Becky Hewitt of APG then summarized the team recommendations. Of the six scenarios and SAAMs, Scenario 2.1 performed the best and was in the top tier on several criteria. She summarized the key weaknesses of the other alternatives with each of the other scenarios and SAAMs having at least one key weakness. She also summarized the team recommendations for potential refinements to the subareas in Scenario 2.1.

4. Public Comment.

After a short break, the TAC reconvened to accept public comments.

1. Lori Murphy – an attorney with Miller Nash, representing Sage Wind Farms; Rick Lane submitted materials. She directed the TAC to written testimony submitted to them regarding a tract of multiple properties identified as "Butler Market Village." The tract is 240 acres in size and referred to in the letter as the Perfect Rectangle. All property included in the tract is zoned MUA10 or UAR10 – all exception lands.

2. Myles Conway – an attorney representing property owner Rio Lobo. This property was not included in Scenario 2.1; some in Scenario 3.1. The property surrounded by UGB. The property scored very well on infrastructure analysis and is well managed for wildfire risk. There is a benefit to include to manage for wildfire. Skyline Ranch Road extension. All concerns in Scenario 3.1 don't have anything to do with this property. – Take an independent look at this property. It should be included.

3. Ed Elkins – owner of 412 acres in Gopher Gulch Ranch. Haven't irrigated for about 15 years. DSL – secondary level of exception lands. Gopher Gulch is first priority land. Development costs will be lower. A master plan from 2005 – sewer costs taken into account. Fire issues – none; asphalt, parks. Planned for different types of housing. Swalley water not an issue.

4. Tia Lewis – attorney representing Coats' property in Shevlin Area. Maps – 1. Conceptual master plan of 443 acres. Most important west side property. Surrounded on three sides by residential development. Served by six urban residential streets. Significant parks and trail connections. Should be managed by city and part of the park district. Have their own Goal 14 findings with evidence to support. Look at this separately from subarea – scores highly; sewer modeling by Awbrey and existing services with gravity. Important for transportation connections. Does not require all traffic to feed into west side and downtown. Wildfire – two water courses and surface mine abuts property.

5. Don Horton – representing Bend Metro Parks and Rec District. Thank you to all the volunteers. Arduous task. One, amount of effort and time – only a small amount land coming in. Encourage you to bring in more than what you're bringing in. Find properties that make the most sense – livable, walkable communities. Get as much land as you can.

Source: City of Bend, Boundary & Growth Scenarios Technical Advisory Committee, Meeting Notes, Dated October 8, 2015.

6. Greg Blackmore – representing Brownrigg Family – 61 acre property – highlight items in your packet. Letter dated October 1 and conceptual master plan. This property is a gateway property. Northwest quadrant – north of Cooley, between OB Riley and Highway 20. Don't designate as large lot industrial; include mix of commercial and residential uses.

7. Tim Elliott – attorney representing Anderson Ranch holding company – Scenario 1.2 – top of the giraffes' neck. 27 acres. Not all of this property is included in Scenario 1.2. Sewer infrastructure – this area scored well. Owners have paid for sewer capacity. Schools are close. In Westside subarea. Will provide connectivity.

8. Matt Harrell – here on behalf of Gopher Gulch Ranch. Property offers opportunity for complete community. Settling on less acreage a disservice to the community.

5. TAC Roundtable

Following public comments, Joe asked started a roundtable discussion, asking each TAC member for their initial thoughts and observations. See flip chart notes attached to the end of this meeting summary.

1. Charley Miller – Subarea opportunities – to evaluate; 2.1 – with proposed modifications- what does 2.1 look like.

2. Dale Van Valkenburg – 2.1 is heavy in the southeast – wants to talk about difference makers

3. Tom Kemper – similar thoughts on 2.1 – process for evaluating and tweaking 2.1

4. Gary Timm – what is the refined scenario 2.1 look like? Northeast east area could stand some more complete communities

5. John Russell – pass

6. Steve Hultberg – difficult to differentiate one property from another in subareas; how would properties in one scenario do in another scenario. Need to understand how this works. Not just in west side. Need to address how a property passes/fails with other properties in a group.

7. Paul Dewey – alternatives – do you revisit Central Area Plan – increase number of units that could be built there? Would this affect cost of expansion? Miller Nash proposal – larger block of 240 acres in the northeast

8. Robin Vora – summary of things that are cost prohibitive; unrealistic by 2028. Still trouble supporting west side development – Goal 14 factors. Other tracts on east side that seem to have fewer conflicts. Wants to see 200 acres that have fewer Goal 14 conflicts that are not included in scenario 2.1.

Oregon
Kate Brown, Governor

Department of Fish and Wildlife
Deschutes Watershed District
East Region
61374 Parrell Road
Bend, Oregon 97702
(541) 388-6363
FAX (541) 388-6281

July 21, 2015

Anthony Raguine, Senior Planner
Deschutes County Planning Division
P.O. Box 6005
Bend, OR 97708

RE: File Numbers 247-15-000333-CU/334-SP, Establishment of Riley Ranch Nature Reserve

The Bend Parks and Recreation Department (BPRD) is proposing to develop approximately 184 acres at the addresses of 63599 O.B. Riley Road and 19975 Glen Vista Road in Bend as the Riley Ranch Nature Reserve. The park will include open space, boardwalks, three parking areas, gathering areas, restrooms, overlooks, river access areas, environmental education and programming, road improvements, and a bridge across the Deschutes River.

The Oregon Department of Fish & Wildlife (ODFW) supports public enjoyment of the State's natural resources especially those opportunities that allow increased understanding of wildlife and their habitats. This property sits along the Deschutes River and supports a diversity of vegetation types and landscape features that, although close to Bend's urban growth boundary, have remained relatively free from human encroachment. Thus, the proposed park offers a unique opportunity for BPRD to balance land stewardship with public enjoyment of the outdoors. Along with this opportunity comes the challenge of avoiding the disturbance to wildlife that results from the public's overuse of natural areas.

Upon reviewing the Riley Ranch Management Plan (Plan), ODFW has identified several proposed policy decisions that will help to reduce disturbance to wildlife on the property: a no dogs policy, a no bicycles policy, and limited development in the riparian corridor. There is a growing body of research showing that domestic dogs can be a source of stress and disease for wildlife (Miller et al. 2001, Lenth et al. 2008, Salb et al. 2008). Excluding dogs from the Riley Ranch property will help to preserve the safety and health of its wildlife, and as a result, will increase the public's wildlife viewing opportunities. Excluding bicycles will have similar benefits. In addition to causing stress to wildlife, bicycles commonly cause increased degradation of wildlife habitat through erosion and widening of trails (Naylor et al. 2009, Vandeman 2014). Due to its size and topography, this property offers relatively little opportunity for biking compared to other areas around Bend. Finally, limiting development to areas away from the riparian corridor will help to reduce wildlife habitat degradation in an area used by a high diversity of species.

In addition to the proposed policies discussed above, ODFW has the following recommendations for the property's development:

- Reduce trail density. The Plan categorizes low density trails as less than 10 linear miles per square mile. Seek opportunities to reduce this density target to 2.5 linear miles per square mile. When possible, use existing trails for public access. This will minimize fragmentation of wildlife habitat and wildlife avoidance of the property.
- Install wildlife friendly (wooden rail) fencing or other barriers where needed along the riverbank to discourage additional social trails to the Deschutes River and Tumalo Creek.
- Explicitly sign river access points along trails and on maps to further discourage establishment of unwanted river access points.
- Maintain all trails at least 200' away from the Deschutes River and Tumalo Creek.
- Remove no riparian vegetation to accommodate structures (e.g. bridge)
- Prioritize education and public outreach regarding wildlife and the sensitive habitats on the property to encourage responsible use.
- Consider closures or reduction in public use of the property on a seasonal basis. During the late winter and early spring wildlife are typically under the most physiological stress. Appropriately timed reductions in human presence will enhance wildlife use of the property.
- In order to achieve the goals of the Plan and to maintain the Riley Ranch as a true Nature Reserve it will be critical to have an employee on site consistently during high public use periods. Finding funding to support this position should be one of the first priorities in the development of the property.

Thank you for the opportunity to comment. If you have questions or want information that ODFW can provide, please contact me.

Sincerely,

Sara Gregory
Wildlife Habitat Biologist
Deschutes Watershed District
sara.c.gregory@state.or.us
541-633-1113

References:

1. Miller, Scott G., Richard L. Knight, and Clinton K. Miller. "Wildlife responses to pedestrians and dogs." Wildlife Society Bulletin (2001): 124-132.
2. Lenth, Benjamin E., Richard L. Knight, and Mark E. Brennan. "The effects of dogs on wildlife communities." Natural Areas Journal 28, no. 3 (2008): 218-227.
3. Naylor, Leslie M., Michael J. Wisdom, and Robert G. Anthony. "Behavioral responses of North American elk to recreational activity." The Journal of Wildlife Management 73, no. 3 (2009): 328-338.
4. Salb, Amanda L., Herman W. Barkema, Brett T. Elkin, RC Andrew Thompson, Douglas P. Whiteside, Sandra R. Black, J. P. Dubey, and Susan J. Kutz. "Dogs as sources and sentinels of parasites in humans and wildlife, northern Canada." Emerging infectious diseases 14, no. 1 (2008): 60.
5. Vandeman, Michael J. "The Impacts of Mountain Biking on Wildlife and People--A Review of the Literature." In Society for Conservation Biology meeting, Columbia University, New York, NY. 2004.

Singletree
ENTERPRISES, LLC

2660 NE Hwy 20 Ste 610 #222 • Bend, OR 97701 • 541-410-9686
john@singletreeconsulting.com • www.singletreeconsulting.com

November 24, 2015

Tia Lewis

Schwabe, Williamson & Wyatt

360 SW Bond St, Suite 400

Bend, OR 97702

Dear Ms. Lewis,

Enclosed please find a hard copy of the Forest Fire-Fuels and Health Evaluation for the specified Coats tax lots that we discussed.

I plan to complete the revised forest management plan for the entire ownership over the next few months.

Please contact for needed information or clarification.

Best regards,

John Jackson

Enclosure

Exhibit J
Page 1 of 7

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john@singletreeconsulting.com • www.singletreeconsulting.com

November 24, 2015

Forest Fire Fuels and Health Evaluation

Landowner: Eric and Robin Coats/Shevlin Sand & Gravel

Subject Tax Lots:

171125 TL200	40ac
171125 TL300	34ac
171123 TL503	40ac
171123 TL502	20ac
171123 TL500	40ac
171124 TL600	40ac
171124 TL700	40ac
171124 TL403	19ac

Summary

At the request of the landowner the above listed area was evaluated for hazardous vegetation treatment and appropriate stand stocking level management. These two parameters are often used to judge overall resilience of dry-site pine forested areas to high intensity, stand replacement wildfire. With the exception of three specific areas (described in more detail below) the above-listed portion of the Coats property can best be described as meeting optimum standards for fire resilience and forest health: stand thinned to appropriate stocking levels with brush and other "ladder fuels" appropriately treated.[1]

Singletree Enterprises provides a variety of consulting services for application to wildland fire, forest resources management and community preparedness planning. John Jackson retired from the Oregon Department of Forestry as a Unit Forester after 28 years of progressive fire management and natural resource related assignments. At the time of his retirement, he was qualified as an Incident Commander (ICT2), Operations Section Chief (OSC1) and Agency Representative. Previous qualifications included Fire Behavior Analyst and Safety Officer and a variety of operations-related positions. John graduated from Oregon State University with B.S. degrees in Biological Science ('69) and Zoology ('70).

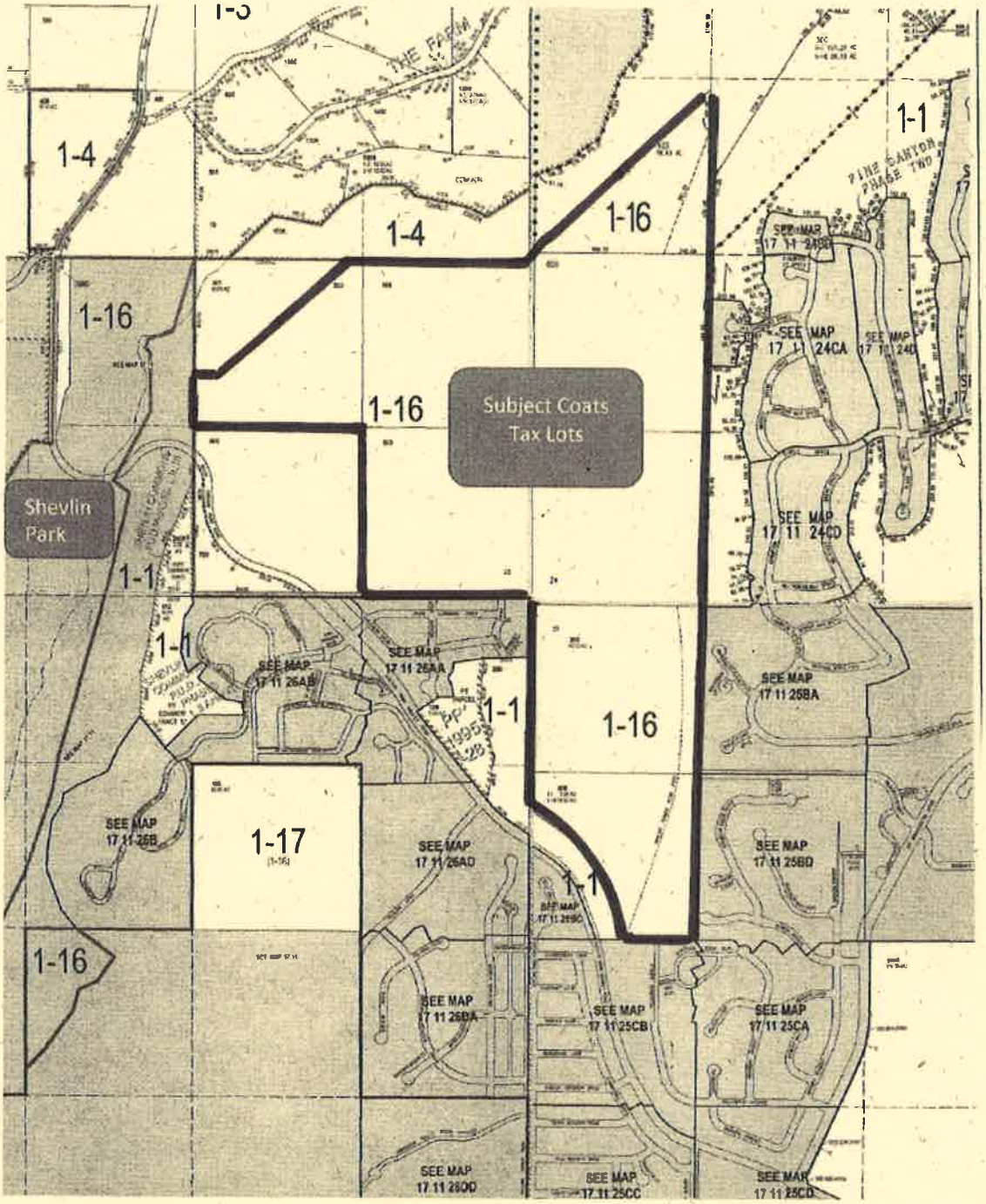


FIGURE 1: Composite Tax Lot Map-Shows subject Coats tax lots and surrounding residential land-use.

Background

The above listed parcels were reviewed with the landowner on October 28 with a follow-up visit on November 4, 2015. Random plot prism measurements were taken to determine general basal area and stand densities present. Condition of brush, ladder fuels and other forest floor fuels were visually evaluated. These data were requested to provide input for consideration of the area for inclusion within the urban growth boundary (UGB).

Observations and Recommendations

- An extensive perimeter fuels treatment and timber stand thinning has occurred adjacent to areas of existing residential development along the east boundary of tax lots 200,700 and 600. A similar perimeter fuel break is present along the west boundary of TL200 and on the south edge of TL 503. This treatment includes tree stand density management, pruning of limbs 15-20 feet above ground level for approximately 200 ft. back from adjoining subdivisions and clean-up of ground fuel concentrations. Widely scattered brush species are present. Please refer to Figure 2, a representative photo of the treatment completed adjacent to residential development.

- Other than the exceptions listed below, the overall forest stand has thinned to optimize growth and forest health consistent with the standards provided in the above-referenced OSU Extension guidelines. These recommended standards are based on size of residual trees present, site class and basal area per acre.

- There are three (3) exceptions to the completed general treatment regime above:

  1. There is an 8 to 10 acre un-mowed brush field area on the west edge of TL 502. This brush field is a portion of the Awbrey-Hall Fire (1990) footprint, with no significant pine reproduction present. Mowing would provide additional protection from ignitions coming out of the Shevlin Park area such as the fire that occurred there this last summer.

  2. There is approximately 40-50 acres of untreated area on the east side of the powerline r/w road, generally located in portions of tax lots 500, 503, 600 and 700. A timber stand improvement thinning with slash treatment similar to that applied on the remainder of the parcel is recommended.

  3. Tax Lot 300 adjoins Shevlin Park Road on the south and has a combination of conditions. A fuel break (tree thinning and ladder fuel removal) similar to that described above along boundaries with subdivisions was originally established along the boundary with Shevlin Park Road. Brush regrowth has occurred to the extent that it would benefit from re-mowing. A treated buffer similar to that described above has been established the TL's east edge adjacent to the subdivision. Additional vegetation treatment has been deferred, in part in favor

of visual and sound buffering between the residential area and the activities of the sand and gravel operation.

Additional fire fuels mitigation treatment is recommended for this area with a prescription that generally retains the visual buffer benefit while mitigating the fire-ladder fuel condition present.

- There is another area with higher fire fuels risk on the adjoining School District parcel, TL 600. This parcel is bound by Shevlin Park Road on its southwest side. No apparent forest management work has occurred on this parcel, at least based on visual review from the adjoining Coats tax lot. Higher intensity fire behavior should be expected in untreated areas such as this due to much heavier fuel loading present including brush, overstocked tree density conditions and ground debris accumulation. Appropriate forest management, such as that completed on the adjacent Coats property, is recommended to reduce the risk of high intensity fire from a road-side related ignition. Please refer to Figure 3 that shows the treated Coats property in the foreground, the property boundary fence and the untreated school district property in the background.

Summary: Observations and Impressions

- While the visual impression from Shevlin Park Road may suggest otherwise, overall the greatest percentage of the ground in these tax lots has been appropriately treated to maximize forest health and minimize risk of high intensity wildfire.

- Additional recommended treatments along Shevlin Park Road and adjacent to adjoining residential development on the east side of tax lot 200 would enhance resilience to fire rates of spread and intensity. This could be accomplished while retaining the majority of the visual and sound buffering between the residential area of development and the ongoing industrial activities on the Coats property.

- The adjoining untreated school district parcel (171123 TL 600) presents the greatest ignition/fire fuels risk to the Coats property.

- This portion of the Coats property is surrounded by residential development and public recreation activities (Shevlin Park) on all sides except to the northeast where their ownership continues. While the Coats family has done a good job in managing the forest fuels on the property, ultimately the overall risk to the surrounding residential areas may best be mitigated by inclusion within the UGB for development. With development comes better access, fire hydrants and further reduction in flammable vegetation. The reality is that this parcel is already a part of the wildland urban interface (WUI) by virtue of the surrounding residential development. A "Fire-wise" development strategy could become part of the solution to the WUI fire issue rather than part of the problem.

Figure 2-Illustrates type of tree density management and ground fuel treatment completed on Coats property adjacent to areas of residential development.

Figure 3 –Shows treated area (Coats) in foreground and untreated school district (TL600) parcel behind property boundary fence.

[i] Ecology and Management of Eastern Oregon Forests-A comprehensive Manual for Forest Managers. Oregon State University Extension Service, pages 52-3.

Coats Property

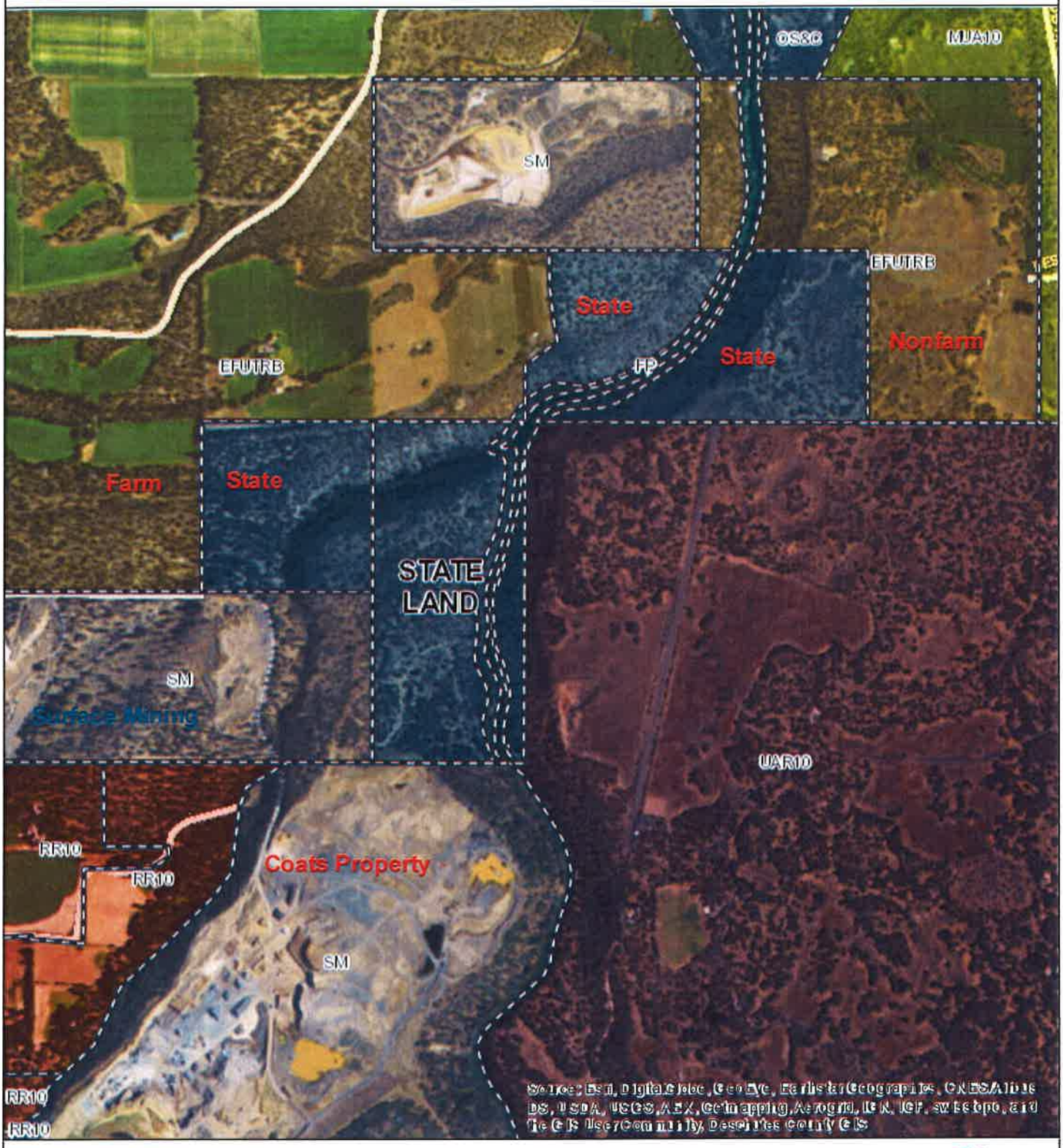
Fire Hydrant Locations

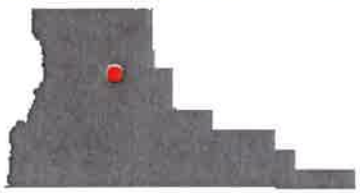
Exhibit K
Page 1 of 1

05643

Coats Property

EFU Lands

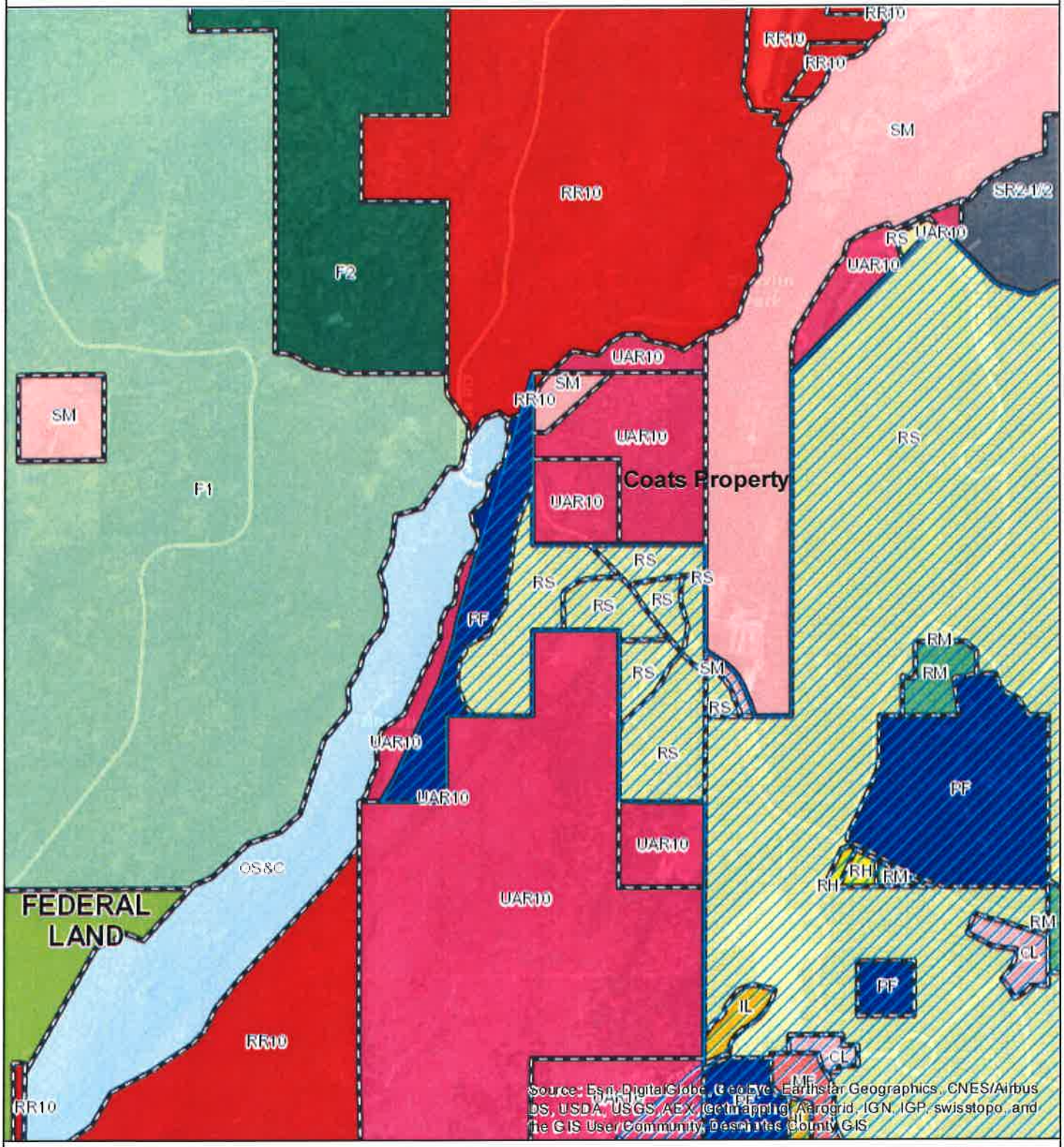


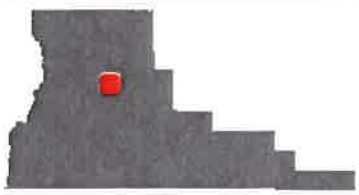


DESCHUTES COUNTY

Coats Property

Forest Lands





DESCHUTES COUNTY

Exhibit M
Page 1 of 1

05645

December 14, 2015 UGB Steering Committee meeting

Public Testimony **received** between 12-13-2015 and 12-14-2015 – Part 4

1. Leslie Koc and Tom O'Brien December 13, 2015 letter

2. Robin Vora December 13, 2015 email

3. Lori Murphy December 14, 2015 letter and attachments

4. Josh Cook December 14, 2015 letter

December 13, 2015

Victor Chudowsky, Chair of Bend's Urban Growth Boundary Steering Committee (USC)
Bend's UGB Boundary Growth and Scenarios Technical Advisory Committee (Boundary TAC)
(Submitted for email distribution by Damian Syrnyk, Sr. Urban Planner, City of Bend)

Chair Chudowsky and Boundary TAC members:

Our names are Leslie Koc and Tom O'Brien and we live at 2071 NW Glassow Drive, Bend 97703.

I, Leslie Koc, have been following with particular interest the rapid advances that Bend has made in determining how and where it will grow. I applied to be on the Boundary TAC, but others apparently had better urban planning qualifications and I was not chosen. A hiking friend, Toby Bayard, was appointed to the Boundary TAC and has been keeping me informed about its progress.

To its credit, Bend chose to approach the State's UGB Remand Order with an open public process that offers a number of opportunities for citizen feedback. The City has hosted public meetings and invested in an online public involvement tool, MetroQuest, that was used to seek (and receive) a surprisingly large volume of citizen feedback. Bend also hired the Portland-based Angelo Planning Group to facilitate the process.

The City elected to create a diverse and inclusive USC that include its City councilors, members of the Planning Commission, Deschutes County Commissioners, and the Director of Community Planning for Deschutes County. The USC will make the final decision on the expansion map to be adopted by Bend's City Council and forward it to the State of Oregon's Department of Land Conservation and Development for acknowledgement. Additionally, Bend elected to put into place three (3) member-diverse TACs. In January 2016, the Boundary TAC will present a final recommended Scenario to the USC for the City's adoption.

At a June 24, 2015 joint meeting, the Boundary TAC and USC approved three UGB Expansion Scenarios for further evaluation (Scenarios 1.2, 2.1 and 3.1). These were evaluated based on their "efficient accommodation of identified land needs", "orderly and efficient provision of public facilities and services", "comparative environmental, social, economic and energy consequences" and "compatibility of proposed urban uses with nearby agricultural activities occurring on farm and forest land outside the UGB".

Based on the body of work captured in a Boundary TAC evaluation report, Scenario 2.1 performed the best of the alternatives overall, regardless of whether and to what degree weighting was applied to distinguish between the more and less important performance measures. Scenario 2.1 was in the "top tier" relative to other alternatives on nearly all community outcomes. Thus, the Boundary TAC elected to go forward and "refine it", after which it would be handed up to the USC for final approval and adoption by the city of Bend.

We and some of our friends used the MetroQuest tool Bend introduced at the end of June, so that citizens could weigh in on the three scenarios. I believe that Scenario 2.1 was chosen by the majority of those who used the tool.

I want to commend the USC for voting to pursue further analysis of the well-vetted Scenario 2.1, despite the fact that the Boundary TAC presented you with an alternative Scenario, 2.3. We were not entirely happy with Scenario 2.1 (our concern centered on the amount of additional dwelling units that were being proposed for Bend's northwest side, and we wanted to see more affordable housing added to the east side), but the process that led up to the selection of Scenario 2.1 seemed to have worked and compromises were part of the process.

We've searched for a better description of Scenario 2.3, but were unable to find anything online. Toby Bayard described it briefly to us, but her travels caused her to miss both the October 8th and October 22nd Boundary TAC meetings. She was unable to find meeting minutes that explained what took place.

We hope that the USC continues to further analyze Scenario 2.1. We like the idea of adding a block of land (I believe that is called the "Perfect Rectangle", located in Bend's northeast quadrant and jointly created through the efforts of a number of small parcel owners.) We would prefer that more dwelling units be built there (perhaps some could be moved from the 750 number now slated for addition to Bend's west side"). We also support the removal of land down in Bend's southeast quadrant, "The Thumb". "The Thumb" was described in an article published in the Bend Bulletin on July 29 of this year (Making Sense of UGB Jargon as Bend Expands UGB). In our opinion, the more compact the growth area remains, the more efficiently Bend will be in providing public services (particularly road and sewer).

To summarize, we are happy that the USC is supporting the work of the Boundary TAC and that it chose not to embrace a Scenario that was not analyzed with the same level of rigor as were Scenarios 1.2, 2.1 and 3.1. We hope that the USC continues to support the process originally put into place, and you continue to move with reasonable speed and efficiency so that the long-awaited expansion of Bend's UGB will become a reality.

Sincerely,

Leslie Koc and Tom O'Brien
2071 NW Glassow Drive
Bend, OR 97703

Damian Syrnyk

From: Robin Vora <robinvora1@gmail.com>
Sent: Sunday, December 13, 2015 8:34 PM
To: CouncilAll; Tony.DeBone@deschutes.org; Bill Wagner; Rex Wolf; Brian Rankin; Damian Syrnyk; Joe Dills; Mike Riley
Cc: Al Tozer
Subject: Request for my replacement on UGB Boundary TAC

To: Bend Urban Growth Boundary (UGB) Steering Committee

I will be retiring and traveling to SE Asia January to mid-March and so will miss the UGB Boundary TAC meetings Jan. 13 and Feb. 3. It is important to maintain a balance of perspective on that committee that I believe is already skewed towards less affordable west-side development. For this reason I request that Al Tozer (Tozer Design, 724 NW Federal, Bend, OR 97701) replace me on the committee, either temporarily while I am out of town, or permanently.

Al has extensive experience in Bend and with city planning, and I suspect many of you know him well. I think he would be a great asset to the committee.

I also urge the UGB Steering Committee to stick with your decision to favor only minor tweaks of Scenario 2.1 and not be swayed by special interests. I urge you to place a priority on affordability, mixed-use development over traditional suburban sprawl, minimizing expansion into areas more prone to wildfire, and protecting natural resources including mule deer habitat.

Thank you for your time and consideration.
Robin Vora
1679 NE Daphne Dr
Bend, OR 97701

MILLER NASH GRAHAM & DUNN LLP
ATTORNEYS AT LAW

1567 S.W. Chandler Avenue, Suite 204
Bend, Oregon 97702

541.383.5857
541.383.3968

Lori K. Murphy
lori.murphy@millernash.com
541.749.3305 direct line

December 14, 2015

VIA HAND-DELIVERY

City of Bend
UGB Steering Committee

Subject: The Perfect Rectangle: Sage Wind Farm LLC

Dear Committee Members:

The "Perfect Rectangle" is the 240 acres of property at the northeast edge of Bend city limits, also known as Butler Market Village. Please include this property in Expansion Scenario 2.1A, as part of the preferred scenario to be approved and adopted.

The Perfect Rectangle is part of the city's existing exception area and is first priority for inclusion in the UGB.

The Perfect Rectangle provides a 240-acre block, allowing the plan for a complete community. It provides the best location for orderly and efficient growth:

1. **Sewer:** The property is directly served by existing sewerage lines: (1) the city's interceptor crosses through the property; (2) the proposed Hamby Road Sewer Interceptor extends along the eastern Butler Market Road boundary line; and (3) a proposed extension of Yeoman Road could include an extension of the sewerage system. The city's main interceptor is deep enough at this site to serve the subject area by a gravity system, the least costly situation. No costly lift stations will be necessary.

   Attached, please find a map showing the availability of sewer and transportation connectivity.

2. **Transportation**: The property is surrounded by major roads allowing access and connected transportation access in all directions. Butler Market Road/Hamby Road serves as an arterial to the Bend Airport, the Bend Sewer Plant, Prineville, and other points east. Deschutes Market Road serves as an

alternate route to points north such as Redmond and Highway 97, further alleviating congestion in the north part of the city. Most of the roads are currently developed to three lanes.

3. **Site Design**: The property is flat with a dirt base, which affords the property to be efficiently developed. Less expensive construction costs will result in affordable homes and affordable commercial sites.

   Attached, please find a map showing the existence of predominately level, flat land.

4. **Schools, Parks**: The property is within walking distance of Pine Nursery Park and other parks and is within close proximity of all three levels of schools.

5. **Water**: Avion Water confirmed service for the entire Perfect Rectangle. Confirmation of that service was provided to the USC in the last written testimony.

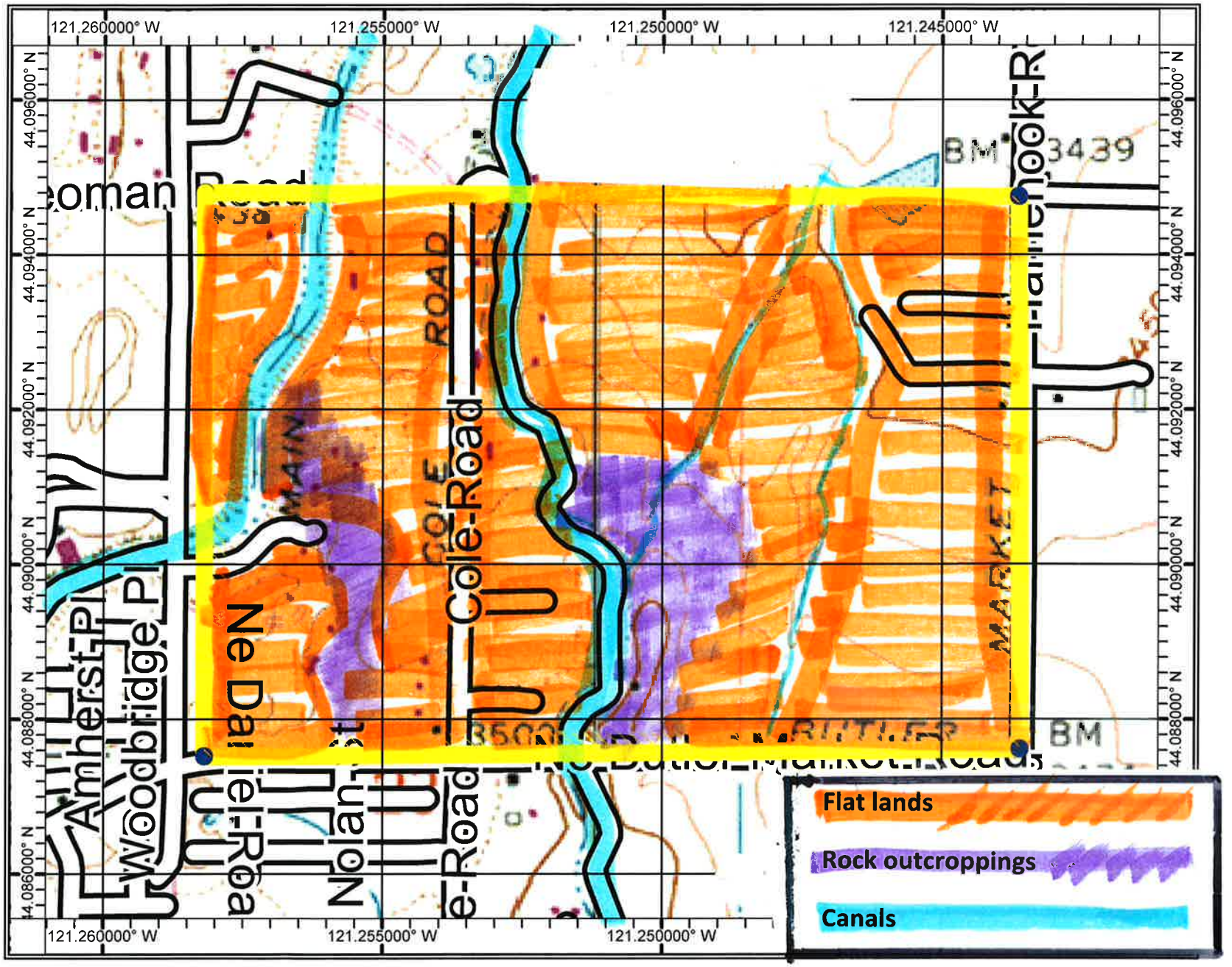
In conclusion, the Perfect Rectangle scores high in all aspects of the urbanization evaluation. It makes the most sense and sound planning to include this property in the UGB due to its location, site makeup, and ability to provide a complete community for planning. We urge you to include the entire 240 acres to the Scenario Map for approval.

Best regards,

Lori K. Murphy

Attachment: Maps

cc: Clients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Amherst Pl
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Flat lands
Rock outcroppings
Canals
SCALE 1:8000
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05652

Connectivity to Deschutes Junction, Redmond, Tumalo, hwy 20 west

City of Bend Sewer Plant

NORTH

SECTION 23 T.17S. R.12E. W.M.
DESCHUTES COUNTY

Map #17-12-23

Yeoman Road

To/from Empire

Proposed extension of Yeoman Road

Proposed extension of sewer system

Butler Market Road

To City of Bend Airport
To City of Bend Sewer Plant
To Prineville

SEE MAP
17 12 23AB
included

Bend Pine Nursery
BPRD Park

Deschutes Market Road

Proposed Hamby Road Sewer Interceptor

Butler Market Road

SEE MAP
17 12 23C

1-17

Butler Market Road

Existing Traffic/Transit Corridor to/from Bend

MAP
2 23CB

SEE MAP
17 12 23DA

To/from Highway 20 east

Existing Road
Proposed Road
Existing Sewer
Proposed Sewer

December 4, 2015
Victor Chudowsky; Chair—Bend UGB Steering
Members of Bend's Boundary Technical Advisory Committee

SUBJECT: Concerns about UGB expansion on Bend's westside

My name is Josh Cook. My wife Susan and I live in Bend's Sunrise Village and are raising our family here.

We have followed the Bend UGB expansion process for some time and have been speaking to friends about its progress. An article in the Bulletin recently stated that in January, 2016 the Bend UGB Steering Committee (USC) will receive a final recommendation from the Boundary Growth and Scenarios Technical Advisory Group (Boundary TAC), one of three such committees formed to advise Bend about how much, and where to grow. According to those I have spoken with, The Boundary TAC is struggling to decide how many acres of land on Bend's west side to bring into the UGB, and how many homes can be built on that land.

I am going to cut to the chase: Susan and I are very opposed to increase growth on Bend's westside, whether it is in the "middle" (close to Century Drive) or in the northwest (between Skyliners Road and Shevlin Park Road). We are particularly concerned about development that occurs close to the Deschutes National Forest.

Our reasons for opposing westside growth are two-fold: Growth to the west will not address Bend's critical need for affordable housing and building hundreds, even thousands of new homes will overwhelms the already overcrowded road infrastructure on the west side.

Today, the Bulletin published an article, "Deschutes County Saw a Drop in Home Ownership, Income". View it here: http://www.bendbulletin.com/business/3764071-151/story.html?referrer=fpblob. It states the obvious. According to numbers released by the U.S. Census Bureau, home ownership and income decreased in Deschutes County between 2010 and 2014 when compared to the previous five-year period, while the percentage of people living in poverty increased. Changes in median household income also decreased. Another Bulletin article, "Bend's Housing Challenge Hits the Middle" makes it even clearer. You don't have to live in poverty, or even be poor, to suffer from Bend's housing crisis. There just isn't enough housing to go around, even if a family is earning a decent income. http://www.bendbulletin.com/localstate/3661297-151/bends-housing-challenge-hits-the-middle.

I'll cite another Bulletin article to make my point: In April 2015, the paper published "East vs. West?, which discussed how life in Bend is dominated by those living west of the Parkway. In it, Victor Chudowsky, UGB Steering Committee Chair is quoted as saying, "After being in office for two years, it is true you start to see the same faces. By a rough guess, I'd say there are about 100 people in Bend who are very engaged and come to the meetings and serve on committees and lobby us for certain reasons. I think to alleviate that we could make more of an effort to reach out to people on the eastside." http://www.bendbulletin.com/localstate/3078773-151/east-vs-west

So true. As a physician working in an emergency room, I see a lot of poverty. There are very few low income or sub-poverty-line citizens who have the time to learn

about, let alone participate in (or have the connections needed to be considered for) policy forums such as the ones you serve on. The poor are not a recognized constituency, and lack the status and voice to advocate for themselves. That means that we (or in this case you, Bend's policy-makers) ought to give them a hand. Being poor isn't a crime or even evidence that someone has made bad choices. It can boil down to bad health or bad luck. And in the case of bad health or bad luck, it is very easy to lose a place to live. But, as the Bulletin's article makes plain, you don't even have to be poor to be faced with the nearly impossible task of finding an affordable place to live if you lose the one you currently own, or are renting.

Adding houses (even condos) on Bend's westside is not going to address the crisis in affordability. Another Bulletin article makes that clear: http://www.bendbulletin.com/localstate/3582696-151/evaluating-possible-bend-ugbexpansions. In this article, "Andrew Parish, a planner from the Angelo Planning Group, noted that Scenario No. 2 would result in relatively cheaper single-family homes being built...based on the fact that the scenario called for more new developments on the city's east side rather than on the west side, where housing costs are higher today." The article continues, "Some advisers questioned both the methodology and importance of measuring housing costs.

I vote to minimize (if possible eliminate) more growth on Bend's westside until we have achieved a better balance between the affordability/availability of housing for Bend's middle and lower income level citizens. I favor growth to the northeast and southeast, particularly if landowners who own parcels in those areas can get together and agree to master plan their land. I think that those looking to buy high-end housing can take care of themselves. Thank you for considering my comments and I wish you all the best in completing this contentious, but very important UGB expansion in a way that reflects the needs of all Bend's citizens.

Sincerely,

Joshua Cook, DO
61092 River Bluff Trail
Bend, OR 97702

URBAN GROWTH BOUNDARY REMAND

MAKING BEND EVEN BETTER

Integrated Land Use and Transportation Plan (ILUTP)

Land Use & Transportation Strategies

Alex Joyce - Fregonese Associates Inc.

12/14/15

What drives VMT?

URBAN GROWTH BOUNDARY REMAND

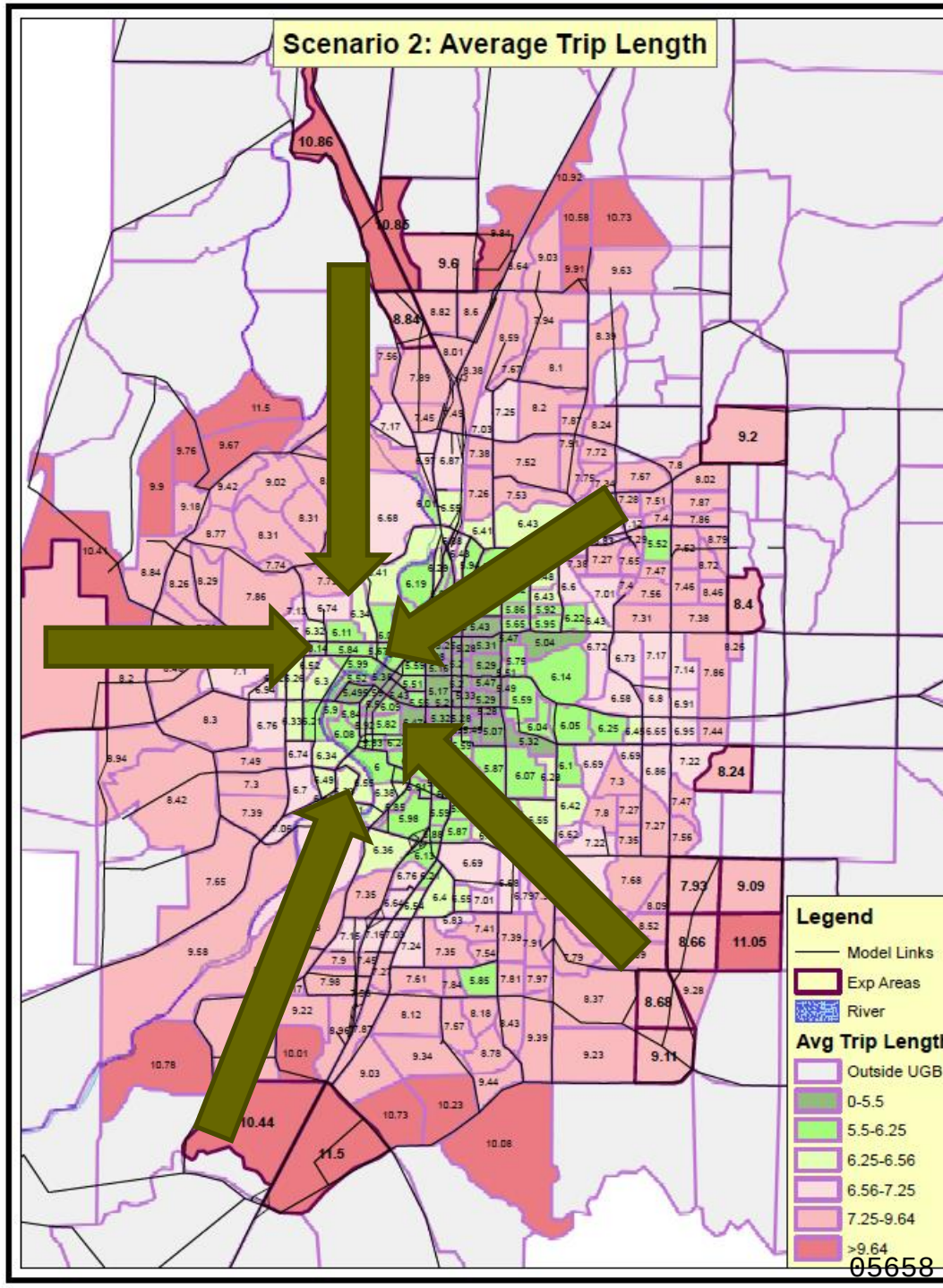
BEND

- “D” Variables
- **Design** of land use and transportation (connectivity)
- **Density** of housing and jobs (not the most imp
- **Destinations** walkable access to jobs and services
- **Diversity** of land uses (“mixed-usiness”)
- **Distance** of households to transit, jobs, services, parks and schools
- **Demographics** income and household size

Possible Land Use Strategies

Consistent with Efficiency Measures

- Focus growth in high performing areas
  - Green areas have lower VMT
- Increase the density and mix of land uses in key central areas of the city that are appropriate for redevelopment
- Transit-supportive land use and design standards in transit corridors
- Right-sizing parking standards in infill and mixed-use areas



Possible Transportation Strategies

Coordinate Transportation and Land Use

Transit

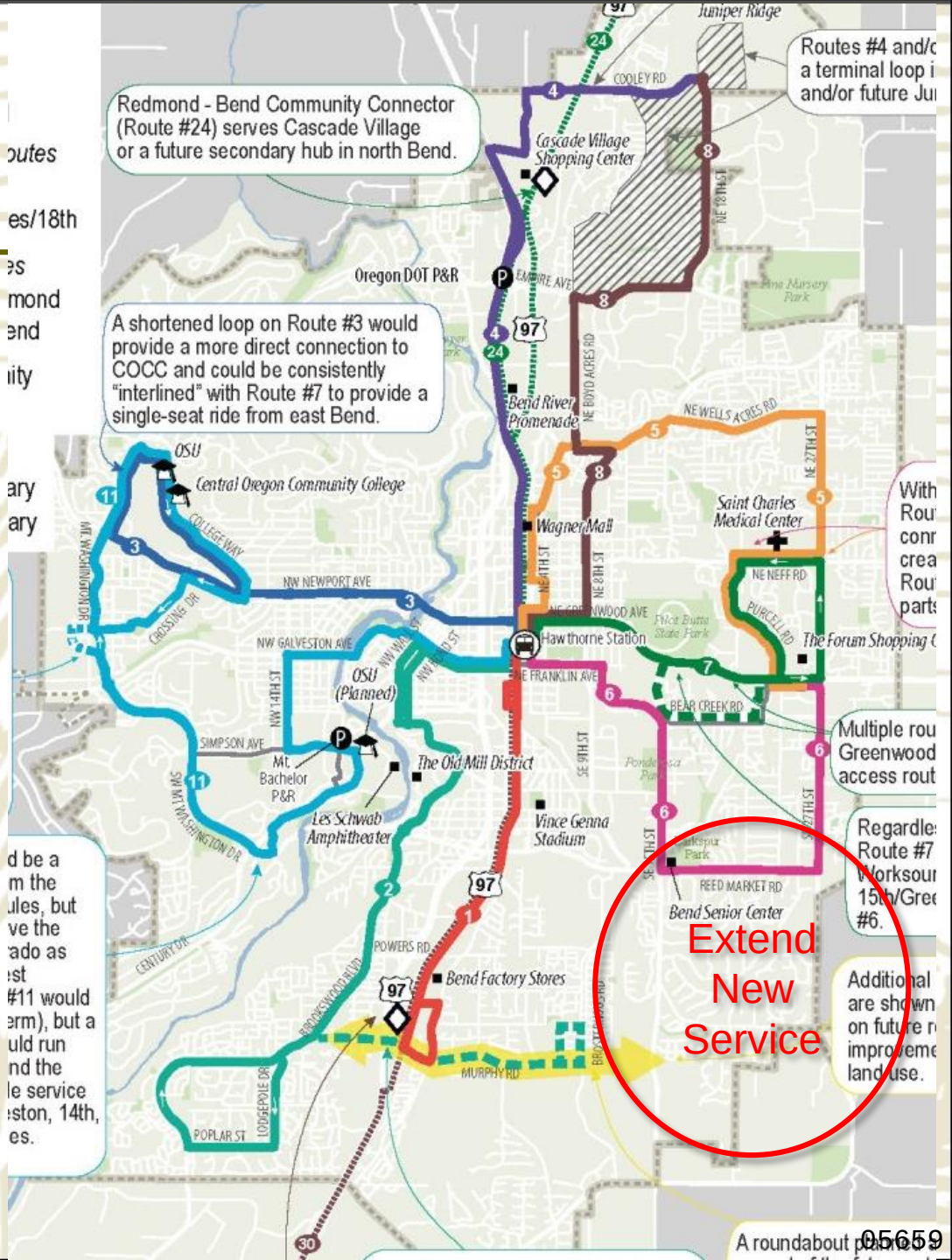
- Implement the MPO's long range plans for primary transit corridors (e.g. shortening headways to 15 minutes)
- Extend bus service to new nodes in Southeast
- Continue to refine and implement specific service areas such as the recent OSU to COCC route

Street Connectivity and Complete Streets

- Increase street, bike and pedestrian connectivity incrementally throughout the City & in master plan areas
- Increase transportation safety and options such as transit, walking, and biking

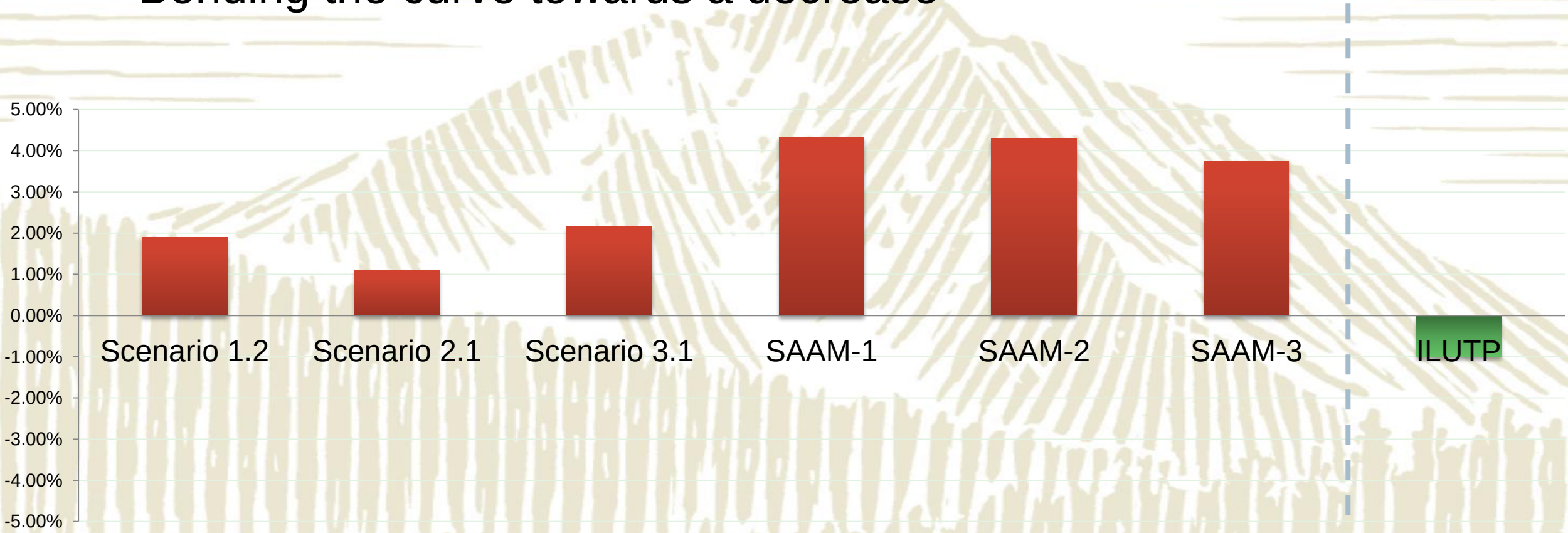
Demand Management

- Implement transportation demand management (TDM) programs that are voluntary and regulatory at major institutions/areas (e.g. OSU, COCC, St. Charles; Juniper Ridge)



We Have Begun to Test Impacts

- Reversal of VMT trends
- Bending the curve towards a decrease



Meeting Agenda

Urban Growth Boundary Steering Committee
Monday, December 14, 2015 1:30-4:30 PM
Municipal Court Hearing Room
Bend Police Department – 555 NE 15th Street, Bend

Purpose of Meeting

The purpose of this meeting is to provide a check-in and directional opportunity for the Urban Growth Boundary Steering Committee (USC). The current project schedule shows Phase 2 of the project concluding in late February-early March, 2016. There will be a large package of project recommendations provided at that time, after which the team will prepare the adoption package for public hearings. The December 14th meeting is the first step in a series of meetings with the USC so that the Committee has ample opportunity to understand and direct the recommendations that will be included in the Urban Growth Boundary adoption package.

1. Welcome and Introductory Items — 1:30 PM

a. Welcome by Victor Chudowsky
b. Agenda overview (Joe Dills) and Opening Remarks (Brian Rankin)
c. Approval of October 22, 2015 Minutes *(See page 5 of 60)*
d. Project schedule and next meetings *(See page 23 of 60)*

Joe Dills, Brian Rankin

2. Adoption Package — 1:50 PM

a. Overview of the adoption package required to support the updated UGB. *(See page 25 of 60)*
b. Briefing and USC discussion/policy check-in on key parts of the adoption package. Please see attached summaries of the adoption documents. The items listed below will be presented and discussed (the USC may choose others at its discretion and as time allows):

Joe Dills, Brian Rankin

For additional project information, visit the project website at http://bend.or.us or contact Brian Rankin, City of Bend, at brankin@bendoregon.gov or 541-388-5584

Accessible Meeting/Alternate Format Notification
This meeting/event location is accessible. Sign and other language interpreter service, assistive listening devices, materials in alternate format such as Braille, large print, electronic formats, language translations or any other accommodations are available upon advance request at no cost. Please contact the City Recorder no later than 24 hours in advance of the meeting at rchristie@ci.bend.or.us, or fax 385-6676. Providing at least 2 days notice prior to the event will help ensure availability.

Please see one-page adoption document summaries starting page 29 of 60). — Project team

- Comprehensive Plan chapter updates: Housing and Economy *(See page 41 of 60)*
- Development Code *(See page 45 of 60)*
- Integrated Land Use and Transportation Plan *(See page 37 of 60)*
- Other items the USC would like to discuss

Action requested: Feedback and policy level guidance:

1. *Map adoption strategy – Plan designations and zones*
2. *Adoption products - "Are the draft products and working recommendations on the right track? Does the USC have policy-level guidance?"*

3. Draft Preferred Scenario – Update and Refinements — 2:40 PM

a. Briefing – overview of Scenario 2.1A as directed by the USC on October 22nd, and, proposed refinements to incorporate the latest efficiency measures, calibrate to Bend development code standards, and capture updated park/school/right-of-way assumptions *(See page 49 of 60)* — Project team

Action requested: feedback on proposed refinements to use as the platform for next steps in the project. Note: approval will follow the Public Comment agenda item.

4. Public Comment — 3:10 PM

Persons wishing to testify should fill out a comment card, located at the welcome table. Testimony will be limited to 2 minutes per person, depending on the number of people wishing to speak. — Public comment will managed by the Chair.

5. Draft Preferred UGB Scenario Direction — 3:40 PM

a. USC action: approval of refinements presented in Agenda Item 3 — Chair

b. USC discussion and action: further direction (if any) to staff regarding the draft preferred scenario

Action requested: approvals and direction as noted above

6. Adjourn — 4:30 PM

Notes to USC for Meeting Preparation and Packet Navigation

Agenda Item	Notes/What to Read	Packet Page Reference
1c. Minutes	October 22, 2015 meeting minutes	5 to 22
1d. Project schedule	See memo and graphic. This is an important item regarding the process, number of meetings, and schedule for finishing the project.	23 to 24
2a. Adoption package and strategy	See memorandum. This item provides an overview of the package of documents intended to be adopted to support the updated UGB. The USC should take particular note of the paragraphs regarding Comprehensive Plan Map and Zoning Map Amendments.	25 to 28
2b. Adoption products summaries	Please see the 1-2 page summaries of the in-process adoption products. These are intended to provide an executive summary to help the USC note policy-level issues. As noted on the agenda, the staff will provide briefings on three products (comprehensive plan chapters, code, and the Integrated Land Use and Transportation Plan (ILUTP)). The ILUTP is a new topic not previously discussed by the USC – this item is an introduction and check-in on the approach to the ILUTP.	29 to 48
3a. Draft preferred scenario – update and refinements	Please see memorandum – review of the 10-page memo is recommended. This is an important check-in on technical and coordination-related updates to Scenario 2.1A. In short, refinements to the USC's selected scenario are proposed to align it with current recommendations for efficiency measures, Central Westside Plan, code implementation, on-going parks and schools coordination, assumptions on constrained sites, and employment mix data. The proposed refinements do not change policy, key growth concepts, or spatial direction for the scenario.	49 to 60
4. Public comment	Please note a packet of testimony received after the October 22nd USC meeting has been compiled and posted.	
5. Scenario direction	No additional materials are in the packet. This item will address the actions listed in the agenda.	

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City of Bend
Urban Growth Boundary Steering Committee
Meeting Minutes
Date: October 22, 2015

The Urban Growth Boundary Steering Committee (USC) held its October 2015 meeting at 2:30 pm on Thursday, October 22, 2015 in the Council Chambers of Bend City Hall (710 NW Wall Street).

Members present: Jim Clinton, Victory Chudowsky (Chair), Doug Knight, Sally Russell (by conference phone), Casey Roats, Nathan Boddie, Barb Campbell, Bill Wagner (Vice Chair), Rex Wolf, and Tony DeBone.

1. Welcome

Chair Victor Chudowsky called the meeting to order at 2:35 pm. He thanked the Boundary TAC for all of their work this morning, and outlined the meeting agenda for the audience. The agenda includes public comment at about 3:20 p.m.

Chair Chudowsky then asked for a motion to approve the minutes from June 25, 2015 USC Meeting. Doug made the motion to approve the minutes, with Casey Roats providing a 2nd to the motion. All members approved the minutes and the motion passed unanimously.

After the approval of the minutes, Chair Chudowsky, turned the meeting over to Joe Dills of the Angelo Planning Group (APG) to facilitate the rest of the meeting.

2. Scenario Evaluation and TAC Recommendations

Joe began this presentation by outlining the goals for this meeting. The main goal is to take a range of alternatives forward to a preferred alternative. Then the team would conduct modeling and evaluation, followed by bringing the results back to the Boundary TAC in December.

Joe then turned the committee's attention to where they left off in June of 2015. He referred to a power point presentation that displayed the "Supplemental Area Analysis Map" recommended by the Boundary TAC and approved by the USC in June 2015. The areas identified in red on the map were already included on one of the three expansion areas. The

areas in blue were approved as "supplemental analysis areas." This concept was recommended by Boundary TAC. The presentation displayed three (3) expansion scenarios and three (3) scenarios that were formed with the supplemental analysis areas or SAAMs. He briefly described the narrowing process through which the project team reduced the size and scope of the amount of land under consideration from 18,000 acres down to about 5,000 acres that included both the land in scenarios and the land in SAAMs. These scenarios included Scenarios 1.2, 2.1, and 3.1 and SAAMs 1, 2, and 3. Each scenario and SAAM has between 1,800 and 2,000 acres each, with one of the goals to make an analysis consistent or "apples to apples" and a comparison consistent between the scenarios and SAAMs. The SAAMs included some of the ideas that came out of the spring workshop.

Joe then turned the TAC's attention to the Scenario Evaluation Criteria. The following summarizes the evaluation criteria as presented to the USC:

- Goal 14 Factors. Four legal factors of statewide planning Goal 14 (Urbanization), including: 1) efficient accommodation of identified land needs; 2) orderly and economic provision of public services; 3) comparative economic, social, environmental, and energy consequences, and; 4) compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.
- Community Outcomes. Eight intended outcomes that state what Bend is trying to achieve with the UGB update.
- Performance Measures. Detailed quantitative and qualitative measures of performance relative to the Community Outcomes.

A total of eight (8) community outcomes were identified, with 1 to three outcomes tied to one of the Goal 14 factors. The community outcomes were presented with their Goal 14 factor as follows:

- Factor 1
  - Complete Communities and Great Neighborhoods
  - Efficient, Timely Growth
- Factor 2
  - Balanced Transportation System
  - Cost Effective Infrastructure
- Factor 3
  - Quality Natural Environment (Environmental and Energy Consequences)
  - Housing Options and Affordability (Social Consequences)
  - Strong Diverse Economy (Economic Consequences)
- Factor 4
  - Compatibility with Farms and Forests

BTAC developed 46 performance measures for each of the community outcomes and were based in part on the Project Goals approved by the USC about a year ago. There was a very strong theme about creating complete communities around the edge of the UGB.

Joe then gave an overview of the Scenario Evaluation Goals. These included determining: 1. Which alternative best meets those criteria, and; 2. How might we refine that scenario to make it even better? He turned the presentation over to several team members, identified below, who provided an overview of the modeling results for each Factor and its corresponding community outcome and performance measures. The following summarizes the presentation of the results for each factor, and identified the Community Outcome related to each factor along with the presentation's overview of the performance measures.

Alex Joyce of Fregonese and Associates started the presentation with the results for the analysis using Factor 1: Efficient Accommodation of Land Need. The team used five (5) performance measures for Complete Communities and Great Neighborhoods and five (5) performance measures for Efficient, Timely Growth. His presentation highlighted how the scenarios and SAAMs performed with respect to proximity to schools, commercial areas, and parks.

Chris Maciejewski of DKS and Associates led the presentation on Factor 2: Orderly and economic provision of public facilities and services. The team evaluated the scenarios and SAAMs against 11 measures focused on a Balanced Transportation System. His presentation touched on vehicle miles traveled (VMT) and Transportation Planning Rule (TPR) directing reduction of reliance on automobile. The results showed the city is moving in right direction; Scenario 2.1 showed the least amount of increase in VMT. His presentation of the transportation related measures also addressed average trip length and congestion. The presentation of these results showed which areas were contributing to VMT increase. With respect to Congestion, the results showed that if an area that is more remote or is less dense, growth can be added and have little impact on congestion.

After the presentation on the Balanced Transportation System community outcome, Chris turned to the Cost-Effective Infrastructure community outcome. There were seven (7) performance measures used to evaluate the scenarios and the SAAMs with respect to water, wastewater, storm water, transportation, and green infrastructure. Three of the performance measures focused on transportation infrastructure, with SAAM-3 performing the best of the scenarios. The evaluation of scenarios and SAAMs against the transportation infrastructure performance measures was significant because these measures addressed the total cost of required transportation improvements, cost per acre of transportation improvements, and new

linear miles of roadway. Regarding the Cost of New Transportation Improvements, the range of costs over the six scenarios started at roughly $150 million and went as high as $200 million.

Following Chris' presentation, Joe asked for any questions from the USC. The committee's questions included whether Scenarios 2.2 and 2.3 had been evaluated yet. The answer was not yet – whatever scenario and recommended changes approved by the USC will be taken forward for the next round of modeling. Regarding vehicle miles traveled or VMT, the measurement of VMT applies to trips to and from destinations in Bend. The team looked at trips to Bend for work because trips are generated from areas from Redmond and LaPine. This data was presented so the USC could consider the regional effects of the decision on the UGB. There was some discussion that the Oregon Department of Transportation (ODOT) needs to do more planning on their state transportation system. The following discussion of the USC on this topic also addressed whether the work we're doing will address people that choose to live in other communities, but work in Bend, and those trips along regional transportation corridors to regional destinations, such as an airport.

The next presenter was Shad Roundy of Murray, Smith, and Associates (MSA), with a focus on the water and sewer infrastructure portion of this analysis. Shad presented the results of the analysis of the three scenarios and three SAAMs against three (3) performance measures based on sanitary sewer infrastructure and one that was developed for drinking water infrastructure.

Scenarios that played out the best; took advantage of infrastructure that would be needed to serve land already in the UGB. Using these four performance measures, Scenario 1.2 did the best, with Scenarios 2.1 and 3.1 also performing well. SAAM 1 and SAAM 3 performed the worst against these criteria. The presentation on the water and wastewater measures results included a brief presentation on the improvements considered in the Collection System Master Plan. These improvements included three key project in the existing CSMP: 1). The first phase of the Southeast Interceptor (SEI); 2) the Colorado Lift Station, and; 3) localized North area Improvements. Shad also presented the sanitary sewer improvements to serve lands in the respective scenarios. The improvements needed to serve land in the SAAMs include a new lift station and force main across the Deschutes River and extension of the Hamby alignment of the Southeast interceptor. Shad concluded this presentation with a comparison of the capital costs of each expansion subarea in each scenario and each SAAM.

Following Shad's presentation, Joe asked if there were any questions from the USC. Casey asked if there were any questions from the TAC. Which interceptors were needed to service which UGB scenarios and subareas? Jim asked about the location of sewer line in Hamby Road.

The CSMP currently identified the alignment of the SEI along 27th Street. He thought it made sense to put the alignment further east to accommodate growth to the east.

Karen Swirsky followed Shad and began the team presentation on Factor 3: Comparative environmental, social, economic, and energy consequences (ESEE). Karen presented the results of the analysis of the three scenarios and three SAAMs against six performance measures addressing a Quality Natural Environment. She focused in particular on development in wildlife areas and wildfire hazard. With respect to wildlife, she presented a map to the USC titled "Wildlife: Big Habitat Winter Range." The map showed habitat mapped in blue (elk), yellow (deer) and green (elk and deer). The map also identified those areas protected by Deschutes County's wildlife area overlay zone. She pointed out that the only scenarios that performed poorly were those that included the Shevlin subarea.

Karen then turned to present the wildfire results. She began with a map titled "Wildfire Hazard" that identified five (5) different categories of wildfire hazard areas around the current UGB. These hazard categories included: Extreme, Mosaic High, Managed High, Managed and Well Managed High, and Well Managed High. She reminded the USC that the team is using the Community Wildfire Protection Plan (CWPP) and a map, and doing field work to assess rick and hazard. The analysis showed that wildfire was not much of a differentiating factor; the results do show we need to do some mitigation, and she referred to the use of new development code language to address wildfire. Nathan Boddie asked about the modality on how hazard was determined. Karen responded that the team is using SB 360 methodology that includes both vegetation and topography.

Once Karen concluded her presentation, Andrew Parrish of APG gave the remaining presentation on Factor 3. He began with a presentation on the Community Outcome of Housing Options and Affordability. His presentation highlighted the results of the analysis that used two performance measures: average cost of new single family housing, and housing mix of new housing (by subarea). The analysis considered the average cost of new single family housing; grouped by neighborhood association, and found that there was a premium on land in the west. After the housing presentation, Andrew concluded his part of the team presentation by presenting the results of the analysis on the Community Outcome of a Strong Diverse Economy. The team used three performance measures to evaluate the scenarios and the SAAMs. All the scenarios were rated as "Good" using the three performance measures.

Andrew continued the team presentation and concluded the presentation of the scenario evaluation with Factor 4: Compatibility with Farm and Forest Lands. The team used three measures to evaluate the scenarios and the SAAMs, and included in the evaluation testimony

from the Swalley and the Arnold Irrigation Districts. Scenario 1.2 performed the best against these measures, and Scenario 3.1 performed the worst.

Following the presentation of the evaluation results, Andrew provided a brief summary of the results of the Metroquest survey. A total of 1,700 people participated, 82% lived in Bend, 72% worked in Bend, a Quality Natural Environment was the most preferred outcome, with a Strong Diverse Economy the second. Scenario 2.1 scored highest among respondents.

Becky Hewitt of APG then presented a high level review of the Scenario Evaluation results. Scenario 2.1 performed the best overall. The scenario was in the top tier on all of the Community Outcomes, and each of the other alternatives and SAAMs evaluated had at least one important weakness.
Becky – Scenario Evaluation (High Level).

3. Public Comment

After the team finished the presentation of the scenario evaluations and Metroquest survey, Chair Chudowsky opened the meeting for public comment. The following lists the parties who testified and summarizes their testimony before the USC.

1. Lori Murphy, an attorney with Miller Nash Graham Dunn. She is representing Sage Wind Farms, group of landowners referring to their property collectively as the Perfect Rectangle. She referred to her testimony, which is the thicker packet handed to the USC. Part of the Rectangle is included in Scenario 2.3; a few parcels were inadvertently left off that abut Butler Market Road including two church properties. She testified that she expects more participants to join in, and asked to have the full Perfect Rectangle in the preferred scenario.

2. Tim Elliottt, an attorney representing Anderson Ranch Holding Company LLC. He referred the USC to a map and testified in support of Scenario 2.3. He noted the support for Map 2.3 at the Boundary TAC meeting. With 14 voting members present; 10 supported Map 2.3. He also supports map 2.3, based on connectivity, and complete communities. He also testified that Skyline Ranch Road runs along his client's property, which provides another north-south route.

3. Myles Conway, an attorney representing Rio Lobo Investments. Submitted comments for the record and testified as to why his client's property should be included. He expressed concern over the remand process, and supported the Boundary TAC's decision. He testified in opposition to the development of expansion scenarios before the Goal 14 process was completed and argued his client was prejudiced by being included in Scenario 3.1.

4. Wayne Purcell. He testified on affordable housing, recommended the USC look to the northeast for expansion. Mixed use can take years to build out and on the developer's schedule. He testified that there is a need for lots of little developers developing housing now. He also described benefits of the northeast, including the (Pine Nursery) Park, Yeoman Road, and Juniper Ridge. He referred to the Perfect Rectangle in his testimony, and mentioned the city's sewer plant is in the northeast.

5. Tia Lewis, attorney representing land owners Eric and Robin Coats. She testified that some of their property is shown on Scenario 3.1 in the Shevlin Area. She concurred with Myles Conway's comments on how her client's property was scored due to it being included in Scenario 3.1. She testified that properties should be studied individually, and cited to testimony already in the record. She recommend the USC look at Expansion Scenario 2.3 and compare it to the Shevlin property. The property itself has eight urban public roadways stubbed to it. She referred to the summary of the 10/8/2015 Boundary TAC minutes and testified that Don Horton of the Bend Metro Parks and Recreation district supported this area coming in the UGB.

6. Dean Wise, of the JL Ward. He recognized the amount of work that went into the scenarios maps, and how the component of complete communities plays in this work. He mentioned Northwest Crossing, and summarized the proportions of different land uses in the development. He testified in favor of including the entire Thumb, and summarized the potential proportions of land uses for the development of this property. He testified on how getting the proportions right was critical to the success of a development.

7. Paul Dewey, Central Oregon Landwatch and on the Boundary TAC. He testified that he appreciated the work of the team, and got detailed information on Scenarios 1.2, 2.1, and 3.1. He testified on his understanding that he was expecting refinements to 2.1. The Boundary TAC did not get refinements, but got something fundamentally different. The TAC was presented with 2.1, 2.2, and 2.3. We have analyses for 2.1, but not for the other new scenarios. He testified that the problem with 2.3 is that includes housing that should be located in east and southside neighborhoods. He testified that residential was taken away on the east and the southeast and moved to the westside. He saw three problems with this scenario. One was wildfire risk issue. The second was transportation and he stated the potential for 1,400 vehicle trips on Galveston and Newport. None of these analyses were completed for 2.2 and 2.3. He recommended that the USC consider 2.1 and variations to it. Third component or problem with 2.3 is affordable housing. He testified that it's more expensive to put housing on the westside. He argued that there are a lot of other east side properties to consider. The Perfect Rectangle

owners got together, but a lot of smaller developers and landowners were left out due to a bias toward large planning units. He concluded by asking the USC look to the northeast.

8. Robin Vora, member of the Boundary TAC. He testified that he agreed with Paul Dewey's testimony. He did not support the recommendation from Boundary TAC. He thought it adds more single family dwellings on the west side that's not affordable; this does not benefit present citizens of Bend. He still struggles with Goal 14 factors and why we would expand to the west due to affordability, wildfire, and wildlife habitat. There are properties on the eastside that don't have these conflicts. He questioned how the city would defend that decision. He supports a mixed development center in the northeast, and thought the Boundary TAC's recommendation a step backward.

9. Deborah McMahon testified on behalf of Curt Baney, Maverick Properties. She showed her client's property on a map; it is located on the west side of Highway 97 and more than 30 acres in size. Her prior testimony showed a master plan for this property that included a school site to donate. The plan further proposed mixed use with affordable housing; city streets abut property to the north, and Rocking Horse Road to the south. She testified that a complete community includes complete neighborhoods. She testified that she learned this morning that the property was not included in Scenario 2.3 due to challenges with sewer and transportation. She recommend the USC look at the record; it includes an analysis from an engineer that shows sewer can be provided to the property and to people inside the city. She urged them to take another look at the Baney property.

Post public comments USC questions and discussion

Chair Chudowsky asked the team to review criteria/performance measures used in the scenario evaluations. Joe started by addressing the issue of availability of sewer service. He then turned the presentation over to Becky and Shad. Shad referred to areas on a map that could be served through the City's gravity sewer collection system.

After the conclusion of public comment, the consultant team responded to several questions raised in public testimony. One question was how sewer service was evaluated. Shad of MSA started with the Westside; this area is served by gravity through a main trunk sewer. He explained the sewer analysis for the northwest area. Bill Wagner asked about whether his (Shad's) comments also applied to Anderson Ranch, Rio Lobo, and Shevlin Sand and Gravel. Becky replied that each area is a little different.

Becky explained what would be needed to provide sewer to the subareas in the north and the west. Shad discussed capacity of Awbrey Glen pump station.

Chair Chudowsky also asked about the Baney and the Purcell properties. Tony DeBone asked about whether issues were topography or capacity. Shad replied that they were mostly topography. With respect to the Baney property, its challenges include both sewer and transportation. One challenge is routing to the Southeast Interceptor (SEI). Large pipe segment for the SEI would be needed. East of 97 is routed to the existing system.

Chris of DKS addressed transportation access limitations; Highway 97 now medianed-off. Baney and Thumb were the worst performing on vehicle miles traveled (VMT). Team was trying to reduce magnitude of increase in VMT.

Joe then addressed Scenario 2.3 – the Northeast. There is land next to existing churches for the perfect rectangle. This area includes a "checkerboard" of properties. The churches are located in the southeast corner of the rectangle. The team's Idea was to leave the churches out due to limited development potential and not an efficient use of land.

Doug asked about whether individual property owners should know why they were not included in a UGB expansion scenario. He referred to Myles Conway's testimony on how Rio Lobo property not properly considered by being grouped together. He asked Mary or Brian to address. Brian responded by stating state law does not require a property by property examination, and does not require a property by property set of findings. State laws in Division 24 directs us to look at lands and expansion areas and we can group parcels. The analysis compares scenarios and subareas within scenarios. He recommended the USC look at part 2 of packet, starting at page 56.

Doug also asked about an alleged large lot bias; is this purposeful for the type of development. Brian responded to how the team looked at potential for master planning. Larger parcels are easier to master plan with one owner. There were two competing concerns: ease of implementation and master planning (schools and parks) versus diversity in ownership in land supply and different development concepts. Scenarios hit one target or another. Team tried to balance consideration of both larger parcels and smaller parcels. Certain scenarios hit one target better than another.

Doug then asked whether larger parcels lend themselves toward more impactful development. Brian responded that the team is learning the scenarios analysis thus far; moving toward larger groupings and moving them to the right location is the right approach.

Casey asked why the entire Thumb was not included. Chris Maciejewski of DKS responded by stating that subarea (including both Baney and Thumb) scored the worst on trip length (VMT). Casey noted the location of Knott Road, China Hat Road and Highway 97. Chris responded that in looking at nearby facilities, the team needs to see where the roads are going. – facilities are nearby – Knott and China Hat. This leads to questions such as where are the roads going, their destinations, and what kinds of improvements are needed. Certain improvements and widening required with full development of the Thumb. Casey responded that the Thumb is closer to Bend than Redmond and LaPine.

Casey then commented that the plan does not go far enough and is not aggressive enough. He wants to consider bringing in the entire Thumb. Doug followed by asking Mary a question he had asked earlier. Mary addressed what the law requires with respect to individual properties. The rules talk about alternative boundary locations. One section talks about the groups and requires extensive findings. The city will have extensive findings on grouped land in scenarios. She cited case law that addresses cities bringing in resource land; city not doing that in this process. We need justification on how the city council is applying the factors. Cases that are helpful talk about weighing and balancing of the (Goal 14) factors.

Barb noted that someone this morning (at the Boundary TAC Meeting) spoke to the lack of services in the south. Do we credit for those people already in the UGB if we put more commercial services in the Thumb? Chris responded by stating that in terms of VMT, with respect to the area in the boundary, the model is affected by those uses you include in the existing boundary. Bringing in all of the Thumb triggers the need for congestion related improvements in the $20 million range. Becky also added that regarding Thumb, the total mitigation costs for bringing in the Thumb totals $20 million; these improvements include both corridor and capacity projects. Chris noted that this is similar to the sewer discussion on the westside.

Jim asked about whether an ad hoc rezoning of Juniper Ridge occurred. It still zoned light industrial. Brian responded that Juniper Ridge is still zoned light industrial. The east side of Juniper Ridge is mixed employment in Scenario 2.1. The accepted master plan for Juniper Ridge and its mix of uses have been points of discussion in UGB process. Jim expressed the desire to have industrial land balanced around UGB, and not all of it located in Juniper Ridge. Brian referred to EDCO (Economic Development for Central Oregon) strongly recommending Juniper Ridge stay an employment area. Brian added that the team is now fine-tuning assumptions inside and outside the boundary. Regarding Juniper Ridge and its mix of employment types, Mary added and clarified that eastern 300 acres is light industrial. She advised the committee

to be aware that we have adopted Employment Subdistrict Overlay based on the master plan and recommendations of Juniper Ridge Management Board.

Victor asked about the Employment TAC recommendation for Juniper Ridge? Mary clarified it's the western 300 acres is Light Industrial and in Employment Subdistrict. In Scenario 2.1 the area in blue is in Employment Subdistrict. The eastern 200 acres is light purple (Light Industrial). Barb asked for clarification that one of the goals was to not have all of the needed industrial land in Juniper Ridge. She was concerned about the lack of industrial land outside of Juniper Ridge. The USC discussed how industrial lands were considered in several subareas. Victor clarified that we didn't want all of the large lot industrial to be in Juniper Ridge, and Becky clarified that a second large lot industrial site is located on the Department of State Lands (DSL) property.

4. Draft Preferred UGB Scenario

Victor started this discussion by asking for an explanation on how we got to 2.3, with Doug asking for clarification on how we got to 2.1, 2.2, and 2.3 down to 2.3. For the remainder of these minutes, the Scenarios 2.1, 2.3 and 2.3 will be referred to by number.

Joe asked Becky to recap process so far. The team presented the scenario evaluations results to the Boundary TAC at their October 8 meeting. This presentation highlighted Scenario 2.1 as the highest performing of the three scenarios and three SAAM's evaluated. In addition, the team recommended a set of refinements to Scenario 2.1, that they then incorporated to develop Scenario 2.2. Scenario 2.2 is 2.1 with the team recommendations from 10/8. The team had presented these refinements as a written list, which the TAC then asked to see on a map. Scenario 2.3 was created based on things the team heard from the Boundary TAC at their October 8, 2015 meeting. Scenario 2.3 started as 2.1, and was then modified with the refinements recommended by the Boundary TAC at their October 8 meeting. Becky further summarized the differences between 2.1, 2.2, and 2.3. In 2.1, a lot of employment outside UGB was industrial jobs. Assuming a light industrial emphasis in Juniper Ridge allows more mixed employment in other areas outside UGB.

Becky then turned the presentation back to Joe to summarize the Boundary TAC recommendation from their meeting in the morning of October 22, 2015. Joe described the TAC's and how they came to recommend 2.3 with their refinements. Scenario 2.1 was one of the alternatives that performed best; the team learned some things from that evaluation. The team also learned some things from the TAC's discussion on 10/8/2015 that led to 2.2. The Boundary TAC's morning meeting included a straw poll and discussion of likes and dislikes with

2.1, 2.2, and 2.3. This discussion led to the starting point being 2.3. Then the TAC went through a next level discussion – issues people had – on how to make 2.3 even better. The Boundary TAC's recommendation is 2.3 plus two refinements. These refinements are: 1) retain same footprint of west area while reducing med/high density units and moving them to the Northeast, DSL, and Elbow, and; 2) put more employment and more medium and high density in the northeast (similar to the first refinement). There were two main thoughts on this – concern over the mix; and need to better balance the mix between west and east.

Doug asked for clarification – we're still retaining the area, but assuming less density (number of housing units). Victor also asked that we're talking roughly the same mix in the west and the northeast, and the 1,450 units originally contemplated will come down to a lower number and move units to the northeast, DSL, and Elbow. Looking at fewer units, but same mix. Brian clarified that this is the direction we're looking for – we don't have a number now.

Nathan asked about the decrease in density on west and moving it to the east. Was there any TAC discussion about east-west gentrification? Don't we want more mixed use? Joe replied that this was not a concern of the TAC. We're still looking at more diversification of housing in the west. Doug asked if the mix still remains the same on westside.

Brian added that there is another concept in play. He described a general perception that this might be the last UGB expansion in this area on the West side due to large lot development under review by the County. There is public land beyond so we could be close to build out on the west. The thinking is different in the northeast. A couple of TAC members thought the city would continue to growth in the direction of the northeast, with a larger employment and housing node in the Northeast. It could become a new anchor for the next expansion.

Victor inquired on the evaluation of how we got here. Was the objection to 2.1 too much on the south and the southeast? Was this corrected in 2.2 by more housing added to the west side? Third iteration – leave footprint on west and balance the mix of housing on both sides. Was 2.3 a compromise?

Barb asked about whether we have created a scenario that includes weaknesses of 3.1. She cited wildfire hazard, transportation connectivity, and affordable housing and asked for clarification that these were weaknesses that led to a new scenario. Why 3.1 did poorly. The closest scenario is really 1.2 – see page 13 of the packet. Brian referred to packet – 2.3 is a hybrid of 1.2 and less than 3.1. Scenario 3.1 had more westside development. We're staying out of riparian areas. Becky added that the most problematic pieces of 3.1 are not included in 2.3.

End of Team Presentation – USC Discussion and Direction

Joe informed the USC that there was no more staff presentation. He added that the team is now looking to USC for direction on 2.3 and the refinements from the Boundary TAC. The second point/refinement was to add more employment and more med/high density to the northeast. This was a generalized recommendation – no direction on where it would come from. A new area of the city is forming in the northeast. The TAC thought it should have some employment and variety of housing. The team will need to take a look at appropriate employment for the northeast; need to study for specific location.

USC discussion on Preferred Scenario

Victor started the USC's discussion. Scenario 2.3 scores well. Balance towards west side and east. Agrees with criticism of too much growth directed toward west. There will be benefits and burdens as the area urbanizes. Need to balance benefits and burdens of urbanization. There would a negative perception if this process was viewed as a process that favored west side land owners who don't want to see more development. Scenario 2.3 has best balance, and was okay with TAC's recommendations. He also recommended we investigate issue Jim Clinton raised regarding Juniper Ridge and what course to take.

Doug referred to Nathan's comments about creating more large lot residential on the west side – leaving west area the same but changing housing - have you contributed to gentrification. Have we asked the southeast to shoulder too much of the burden? If Boundary TAC has not considered the issue is there a further refinement that the USC should consider? Becky clarified that the Boundary TAC did discuss whether to add more multi-family to the west. The motion did not pass, but the conversation did occur.

Nathan acknowledged the work that we've done. Acknowledged Brian, and the advisory committee. Pleased to see choice of 2.1 from an empirical standpoint. The people (through the Metroquest Survey) also supported 2.1. Cited preference of the community for 2.1, though with a non-scientific framework. This scenario also had less wildfire risk. Expressed concern over crown fire risks, risks to put homes, people and send firefighters there. A little bit concerned over refinements – looks to northeast and the south. He recommends staying with 2.1 scenario.

Jim commented that we're heading towards a specific boundary. A particular line on the map. It's a fun exercise to consider the boundary and what could be included, but cautioned that we keep our eye on the ball, which is the urban growth boundary. What is the logical way to draw

the boundary as opposed to what land uses would be nice in certain area? Lauded effort to look at Shevlin canyon and consider its problems. A second important question is what is the infrastructure telling us? We're being asked to go with 2.3 without similar analysis like that behind 2.1. He cited that as a deficiency. He was ready to embrace 2.1, saw advantages to 2.3; can't jump on 2.3 without comparative analysis of these two questions: 1) what is land telling us, and 2) what is infrastructure telling us. He recommended we stick with 2.1.

Doug appreciated the work of the committee. He expressed concern over what he described as such a dramatic shift in housing units from 2.1 to 2.3 without comparative analysis. For reasons Nathan mentioned, wildfire interface, potential perceived gentrification. More inclined to stick with 2.1. Brian recognized that same level of analysis not done; Scenario 2.3 is what we would test to understand the implications. Boundary TAC recommended 2.3 with their refinements for further testing to see what it looks like.

Nathan likes the Northeast – the area identified as the Perfect Rectangle. Doesn't want to change horse mid-stream. Refine 2.1 without changing horse mid-stream.

Doug – suggested refinements to 2.3 in his mind are not really refinements.

Rex commented on and favored 2.1; he thought it was a radical shift to go to 2.3. Elements of 2.3 that we like; elements that we don't like such as Juniper Ridge and the Thumb. How can we take combination of the scenarios to evaluate?

Brian responded - we're asking for more direction on a scenario that becomes a basis for a UGB expansion subject to more refinements.

Doug responded by stating what you're seeing Brian is a further iteration of what the Boundary TAC did. We need to be clear about our direction.

Rex added that we avoid analysis paralysis. He suggested we take best ideas you heard today. Consensus ideas you heard today.

Joe then asked a process suggestion. He asked that the USC set the base scenario for the starting point; then identify specific refinements to it. Essentially what the Boundary TAC did.

Casey asked a question on the lands in the west that are in 2.1 - is there enough land to make the Skyline Ranch Road connection or do you need to get to 2.3. Joe replied that you need 2.3

to make connection of Skyline Ranch Road. Nathan questioned whether we're setting ourselves up for the next UGB expansion. Casey questioned whether we're looking at enough land. Becky and Chris then identified location and the alignment of Skyline Ranch Road.

Casey questioned the perception of traffic congestion on the west side, and asked whether the UGB should include enough land for a westside connection in Skyline Ranch Road. He questioned whether this would take pressure off of Mount Washington Drive and commented that we're not considering a significant UGB expansion.

Jim asked what does Skyline Ranch Road do to resolve traffic problems. Chris responded that from congestion standpoint, Skyline Ranch Road is not required to resolve any congestion issues. The road does help with connectivity and provides a secondary connection, which is a good thing. By itself, is not a major capacity corridor to help the westside.

Bill added that he does not see the Skyline Rand Road link as essential now. There is a real opportunity now to create new emerging nodes of centers. He suggested we look at existing development that will be close to emerging nodes and community centers. These are his preferences and looking beyond this process. He's thinking beyond this process.

Barb thanked committee again. She commented that she likes Scenario 2.1. She added that trying to solve affordability in housing on the westside creates traffic problem on the westside. Likes the little bit of housing in the triangle for Scenario 2.1, and also likes the Rectangle.

Sally (commenting by phone) – said she heard the meeting and conversations. She feels comfortable with work by TACs, consultants, and staff. Will rest on decision you make.

Tony had one question - what were the original acre goals. Joe replied roughly 1,800 to 2,000 acres. Becky added that we have target of numbers of housing units and jobs in UGB and in expansion. There is some flexibility, but not much.

Bill added that he was concerned about one part of 2.1 – it currently leaves out the rectangle. Jim added that there seems to be a majority that supports 2.1; maybe we should recommend the changes we want to see in 2.1. Nathan added that Skyline Ranch Road has one benefit, that of being a fire break.

Victor summarized the choices before the USC. One is 2.3 plus the refinements recommend b the TAC as recommended or 2.1.

Doug recommended the USC take 2.1 as a base and then vote first on scenario then refinements.

Victor asked for a vote on Doug's recommendation of Scenario 2.1. The show of hands was six (6) for Scenario 2.1 and three (3) for Scenario 2.3.

On the topic of adjustments to 2.1, Bill recommended including the entire Perfect Rectangle. He recommended the team figure that out and also a change in Juniper Ridge.

Jim commented that 2.3 had a full sized rectangle with bigger west; with smaller west, you should be able to take in entire Perfect Rectangle. He recommended taking the northeast of 2.3 and including it in 2.1.

Victor confirmed that the USC's direction is 2.1, with Perfect Rectangle. Brian confirmed that we have a balloon of a certain shape. We need direction to work it out.

Jim asked about the section of the Thumb on west side of Highway 97. Becky suggested that the team could drop the Baney property and drop the Bear Creek Road square. Questions on the land and its use. The USC confirmed direction of taking Baney and Bear Creek Road square and adding this to the northeast.

Mary Winters added that we need to consider whether a property has redevelopment potential. Joe clarified we clear direction on the "to" and the "from" moves on where property is moved one location to another. Jim added that's the point with the church property.

Joe added that if we add to the rectangle we need to take it from somewhere. Bill recommended eliminating the Baney Property and the Bear Creek Square. Jim then made a general point about 2.1; there's a lot of orange colored property with an aggressive housing mix with a lot of multi-family. So much emphasis on multi-family. It's worth of re-examining in the expanded Bend. It differs substantially from our history. Victor tried to summarize TAC's discussion of 2.1 and 2.3 and the concerns that TAC considered in selecting 2.3. Victor summarized the Boundary TAC's discussion that led to 2.3.

Doug then asked to call the question: address Bill's idea for 2.1, Support 2.1 with the following refinements - eliminate Baney, and eliminate Bear Creek square, to increase area in Perfect Rectangle. Doug moved approval of this with Bill providing a second. The motion passed with no "no" votes.

Joe then asked if there were any further refinements. Jim commented that if we're finding it difficult to making this work to look at the assigned percentages of different housing types within different areas and see if they can be brought into alignment with the recommendations made by the Boundary TAC. Becky asked clarifying point – there's a housing mix for the future UGB we need to hit. Scenario 2.1 uses the old UGB assumptions. Bill asked if this meant it would work. Becky responded that she thought the team could find a way to make it work. Jim added that we ease up on the housing mix in expansions areas; this will put more pressure on housing mix in the existing UGB. Poor city planning to put high density along the edge of the city.

Joe then summarized the direction - some of the multifamily in the expansion areas should be moved into the UGB. Then we should vote on that as direction.

Victor responded that he was concerned about that direction. We've already done the BLI, housing mix, and what's possible inside the boundary before considering land outside the boundary. It's problematic and too late to do what Jim's proposing. Nathan added that the USC has given a fair amount of guidance. Jim recommended that the team compare 2.1 and 2.3 – compare percentages of multifamily housing in expansion areas.

Joe added that 2.1 includes land uses in OB Riley, North Triangle, DSL, and the Elbow. He asked the USC whether the team understands your (USC) direction is that the land uses in these areas stay as drawn. Brian mentioned that the large lot industrial site (LLI) is located in the OB Riley area in 2.1; moved to DSL in 2.2 and 2.3. Joe also noted the Employment TAC looked to move LLI to DSL.

Jim and then Doug recommended the team locate the LLI on the DSL property. Brian noted this direction, and added that other employment would be displaced and put into the OB Riley Road area.

Doug asked if there was any sentiment to move the LLI to DSL. He then made a motion to approve moving the LLI in the OB Riley area to DSL. Bill seconded this motion and called the question. Before the vote, Casey asked about what's wrong with 2.3? Barb replied that putting too much housing on Westside to address affordability creates new problems, such as traffic. Nathan – asked team if we have enough to go on?

Doug formally moved the approval of moving the LLI from the OB Riley/Gopher Gulch area to the DSL property. Bill seconded this motion. The motion passed on a vote of 8 to 1.

Following this discussion and series of votes, Joe summarized the direction from the USC. The team will use Scenario 2.1 with two specific refinements. One refinement is the land area and uses on the Bany property and in the Bear Creek Road square will be relocated to the northeast. The second refinement is the team will move the LLI from OB Riley/Gopher Gulch to the DSL property. He commented that there is a lot of differences between 2.3 and what's proposed for amended 2.1. Joe checked in and made sure the USC was good with that. He then summarized the roll up package is 2.1, with these two changes (1) Baney and Bear Creek move to northeast; (2) LLI moved to DSL. The final package is Scenario 2.1 with 1) expand perfect rectangle-eliminate Baney property and Bear Creek Road square, and; 2) Move large lot industrial site from OB Riley Road to DSL property. The team will go back to create a Scenario 2.4 or Scenario 2.1A and go through the analysis to verify traffic, water, and evaluations. The results will be brought back in December.

Bill asked for clarification that the purpose for the evaluation is that the scenario works? Brian confirmed this direction and the effect on timeline. This decision becomes a cut off point for the team to start writing findings. This is the start of that point and the team needs time to write findings. We're tying together housing and employment needs with other work. He summarized effect on schedule and work load if committee provides further direction and changes. He asked if there's a need for more iterative steps.

Jim responded that if we find a flaw with what we've directed – then get the committee back together. The rectangle in the northwest – are we clear about how much is included yet? Brian summarized about 70 to 100 acres. Becky advised that we need to verify this. Jim expressed desire of having a complete neighborhood up there.

Joe commented that it was his sense these changes will add some but not all of the perfect rectangle. Brian confirmed direction of don't do 2.3. He stated the importance of checking in was to confirm direction. We heard today that we don't use 2.3 and the team will head into a different direction.

5. Adjourn

Victor adjourned the meeting at 5:34 pm

Memorandum

December 8, 2015

To: Urban Growth Boundary (UGB) Steering Committee
Cc: Brian Rankin
From: Angelo Planning Group Team
Re: Phase 2 Milestones and Schedule – Finishing Phase 2

OVERVIEW

Attached is a milestone-level schedule for finishing Phase 2 of the Urban Growth Boundary (UGB) Remand project. Phase 2's outcomes will include the draft updated Urban Growth Boundary and package of draft adoption products. The completion of Phase 2 will mark the transition to the preparation of adoption-ready products and public hearings. Hearings are tentatively scheduled to begin in April, 2016.

PROCESS HIGHLIGHTS

Highlights of the schedule include:

- Overall, it is ambitious but necessary to achieve the start of hearings in April.
- The USC is included in each of the three meetings remaining after Dec 14th. This is intended to ensure policy direction, as early as possible, regarding the key adoption products.
- Two workshops are included (Jan 13th and February 3rd) so the USC may participate directly with the TACs.
- Each workshop will conclude with a USC meeting, so that the workshop can flow directly into a USC-led summary of policy direction.
- For the Jan 13th and February 3rd meeting processes to work, it is very important that USC members attend both the workshop session and concluding USC meeting (a 4-hour commitment each of the days).
- Public comment opportunities will be included in each meeting.

A CRITICAL PATH NOTE

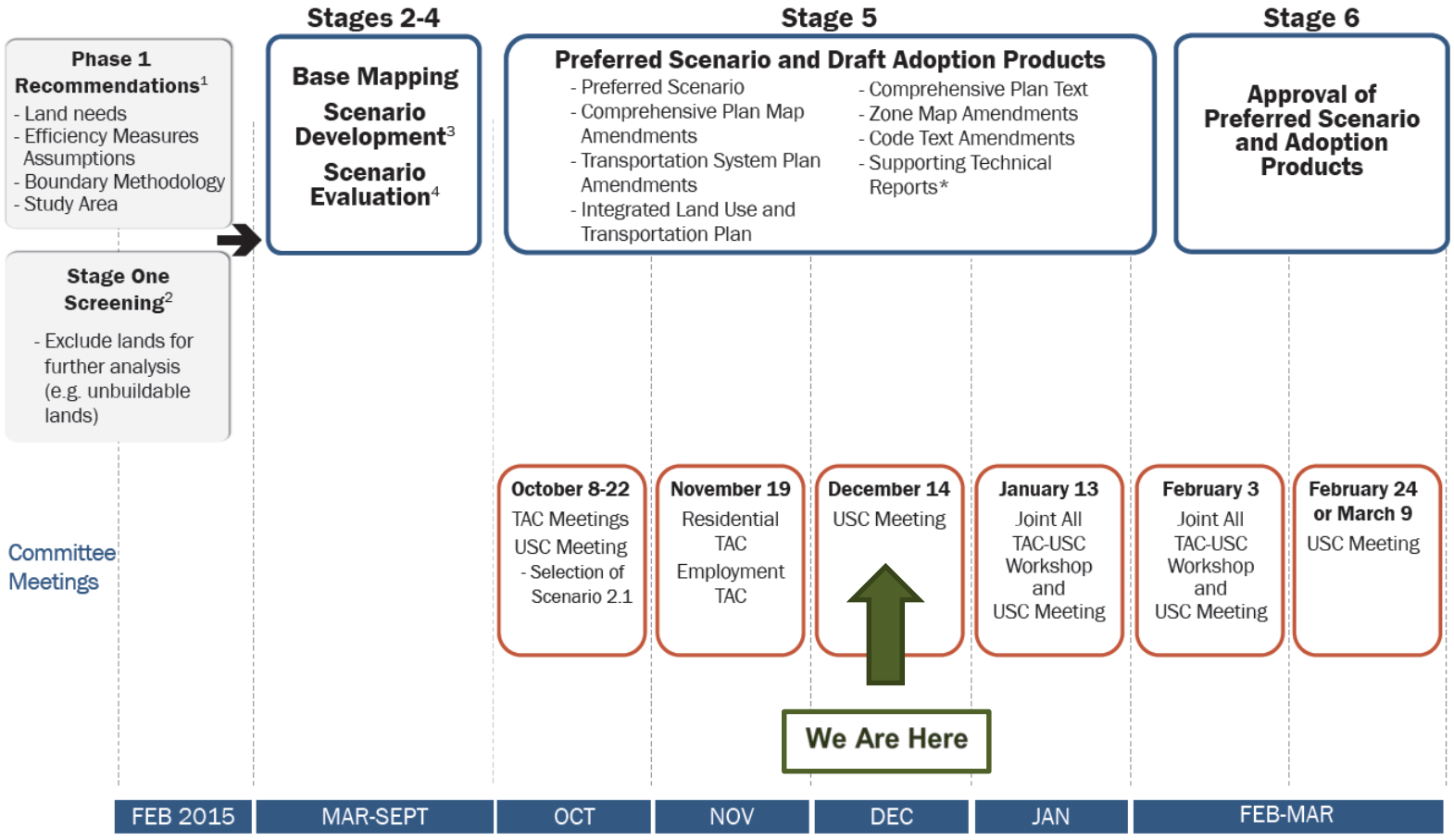
January 13th is considered a critical path milestone for work required to complete the project. At this point, the USC will be asked to approve the preferred scenario for the purposes of a final transportation model evaluation. The modelling is required to support multiple Remand and UGB justification requirements. At the USC's discretion, changes to the preferred scenario can occur after January 13th, but if they are significant, additional technical work will be required that will delay the schedule.

Phase 2 Milestones - Finishing Phase 2

rev. 11/20/2015

Subject to Change

URBAN GROWTH BOUNDARY REMAND
MAKING BEND EVEN BETTER
BEND



Notes:

1- 4: Steps per City Attorney Memorandum, Aug 19, 2014: 1=Step 1; 2=Step 2; 3=Step 3A Preparation; 4=Step 3A(3B if necessary)

*Housing Needs Analysis, Economic Opportunities Analysis, Buildable Lands Inventory, Urbanization Report, Urban Form Report

Memorandum

December 3, 2015

To: Urban Growth Boundary Steering Committee
Cc: Technical Advisory Committees
From: Angelo Planning Group Team
Re: Bend UGB Remand – Draft Adoption Approach and Documents

OVERVIEW AND APPROACH

This memorandum describes a list of "adoption documents", that is, the documents that will be adopted as part of the City's approval of the Urban Growth Boundary (UGB) package. The term "Comprehensive Plan" is used here as a substitute for "General Plan" because it is the new proposed title for the Bend Area General Plan. All adopted documents will be supported by legislative findings.

The overall approach is to adopt what is needed to support the new UGB and comply with the Remand and state law. In some cases, there will be choices as to whether to adopt a document or provision now or at a later date. These determinations will be handled on a case-by-case basis.

ADOPTION DOCUMENTS

The working list of adoption products is provided and described below. It is draft and subject to change. The City is coordinating closely with the Oregon Department of Land Conservation and Development on its options for adoption.

To support the USC's review, attached are concise "one-sheet" summaries for the adoption documents which have been prepared to date. These summaries emphasize key findings and policy implications to help the USC identify policy direction of interest. The summaries will be supplemented in upcoming meetings.

1. Supporting documents to Comprehensive Plan. The reports produced as part of the UGB process will be adopted as "supporting documents" of the Comprehensive Plan. A supporting document is necessary part of the factual base for the plan, but is not regulatory. Together, these represent the factual basis upon which policy is crafted to achieve outcomes related to land use. The existing 2004 Employment Lands Studies will be repealed since they are now being replaced by the Economic Opportunities Analysis. The existing Goal 5 inventory will be retained. The potential supporting documents and their status are:

- Buildable Lands Inventory – provided in the technical materials packet
- Housing Needs Analysis – provided in the technical materials packet
- Economic Opportunity Analysis – provided in the technical materials packet
- Urbanization Report – Part 1 provided in technical materials packet
- Urban Form Report – forthcoming in upcoming meetings
- Integrated Land Use and Transportation Plan – forthcoming in upcoming meetings

State law requires these documents be integrated to be mutually supportive of policies in the Comprehensive Plan (described below). The basic building blocks start with the factual basis of future trends and expected need for employment and housing which reside in the Employment Opportunities Analysis and Housing Needs Analysis, respectively. These represent the "demand" side of the equation. The capacity of the existing UGB without new Efficiency Measures is documented in the Buildable Lands Inventory. This document represent the "supply" side of lands in the current UGB to accommodate anticipated "demands." The Urbanization Report documents how the demand exceeds supply, and the changes to land use patterns inside the current UGB plus the UGB expansion area satisfy the predicted demand for new housing and employment. The Urban Form report will describe the relationships and implications of the resulting changes to land use. The Integrated Land Use and Transportation Plan takes a deeper dive into the relationships between the land use patterns and travel behavior, to address the state's requirements to integrate these in order to reduce reliance on the automobile over time.

2. Updated Comprehensive Plan Text (with new format). The Comprehensive Plan is formatted in chapters by major subject (Economy, Housing, Transportation, etc.) Each chapter contains a brief factual background and then policies which guide future city actions and implementing codes such as the Development Code. Policies in the plan direct future city actions, the form of future development, and also have an aspirational nature. Policies also reflect the factual background contained in some of the supporting documents, with the aim being consistency between facts and policy. An updated Comprehensive Plan document will be adopted. The 1998 format for the plan has been updated to a new template (reviewed by the Technical Advisory Committees (TACs). The updated plan will include:

- Updated Housing and Economy chapters. These chapters (reviewed by the TACs and included in the packet) have been updated to reflect the Housing Needs Analysis and Economic Opportunities Analysis that were prepared as part of the UGB process.
- A new Urbanization chapter (working title: Urban Form and Growth Strategies – forthcoming in upcoming meetings). This chapter will include background text and policies that define Bend's growth management strategies. This chapter will also describe each of the land use designations on the Comprehensive Plan Map, including the proposed new mixed use designations and the Future Urban Area designation, and the implementing zones.
- Other chapters (forthcoming in upcoming meetings). The existing chapters of the General Plan which are not the main focus of the UGB expansion were last created and adopted in the early 1990s. As such, they are often antiquated because the text is focused on what was occurring at that time. However, the policies have served Bend

well, and for the most part, are still pertinent. The working approach for the other Comprehensive Plan chapters is to retain the existing policy content and reformat the underlying text to match the new template while also deleting references which are out of date. Minor, policy-neutral clean-ups to these chapters to remove outdated language may be incorporated if time permits. Outdated text in these chapters may also be deleted or revised to match the less text-intensive style of the new Comprehensive Plan template. The UGB project has not been scoped to do an entirely new update of the whole General Plan at this time, so this approach is proposed to make the plan internally consistent, stylistically consistent, and updated.

3. Comprehensive Plan Map. The Comprehensive Plan map graphically represents the policy direction contained in the Comprehensive Plan, and spatially describes where different types and intensities of land uses will occur in Bend in the future. An updated Comprehensive Plan Map will be adopted in order to implement the policies and findings of the underlying supporting documents and Comprehensive Plan. The map will amend the current General Plan map to reflect: new land use designations in certain Opportunity Areas (East Downtown, Core Pine, the Century Drive area, and the 15th Street area are currently under consideration, as discussed by the Technical Advisory Committees); the revised UGB line, and; a new Future Urban Area designation for uses in the expansion areas prior to annexation and application of specific zoning. For the Future Urban Areas, an additional map and/or text will be adopted that describes the intended land uses and housing/employment types, mix and capacities. Land use designations have been illustrated to date on the Base Case and scenario maps – conversion of these designations to Comprehensive Plan designations is the next step and will be provided in upcoming meetings.

4. TSP Amendments. The Transportation Systems Plan (TSP) refers to transportation policies and a series of maps which show the general alignment and sizing of roadways. The team is still determining the extent of amendments to the TSP associated with the UGB expansion, which will be identified in January, 2016. TSP amendments will likely include policies that support the Integrated Land Use and Transportation Plan.

5. Zoning Map Amendments. The zoning map applies land use districts to specific properties, which is then related to the City's Development Code and its regulations. Changing the zoning map (once the decision on the UGB is final) immediately changes the development regulations on specific properties. In some cases, such an immediate change may be appropriate, and in others where existing land use patterns differ significantly from new designations resulting from the UGB, more work may be required between property owners and the city to address issues related to allowed uses. The team is still determining the range of strategies for where new zoning designations should be applied with the UGB, and will provide updated information at the January 13, 2016 workshop.

6. Development Code Text Amendments. The Bend Development Code will be amended to:

- Adopt efficiency measures that are central to the UGB justification and implementation and to achieving the needed housing and employment capacity and mix. Some

efficiency measures may be deferred if they require further review and/or are not essential to the planned growth capacity of the UGB.

- Adopt text for new Mixed Use Zones. New mixed use zones are needed in Opportunity Areas such as Core Pine and the Central Westside Plan. Note that additional work on the Mixed Use Zones text will occur as part of the Central Westside Plan, Phase 2. The enabling text for these new zones will be adopted, but the zone map amendments may be deferred to post-UGB Acknowledgement, or until a land owner applies for a quasi-judicial rezone to match the new plan designations or initiates a Master Planned Development.

6. Other items as needed for coordination with the County. City staff is coordinating with the County to amend the Joint Management Agreement (1998) and request that the County adopt the updated Agreement and amendments to the County's Comprehensive Plan, Plan Map, and Zoning Map to recognize the UGB amendment and transfer of planning and zoning authority to the City for those areas brought into the Bend UGB.

Adoption Document Summary:

Buildable Lands Inventory

OVERVIEW & KEY POLICY SUPPORT

The Bend Buildable Lands Inventory (BLI) describes the land within the existing Urban Growth Boundary (UGB) that can be developed to accommodate future residential and employment growth. The determination of developable land in the BLI is a key input for the Housing Needs Analysis, the Economic Opportunities Analysis, and the Urbanization Report.

The BLI takes into consideration the following factors:

- **Environmental Constraints.** Slopes over 25% and land within the FEMA 100-year floodplain are considered unbuildable.
- **Vacant Land.** Residential land with no improvements, and employment land with no or few improvements, are identified as vacant.
- **Developed Land**. Land that is developed with the maximum number of dwelling units allowed by the zoning, and where lots cannot further subdivide, are considered developed.
- **Partially Vacant / Lots with Infill Potential.** State statute and the Remand require the BLI to address the development capacity of lots that can further subdivide or add additional units with their existing zoning.
- **CC&Rs.** Where Covenants, Conditions & Restrictions(CC&Rs) restrict further subdivision, capacity is limited to one home per lot.

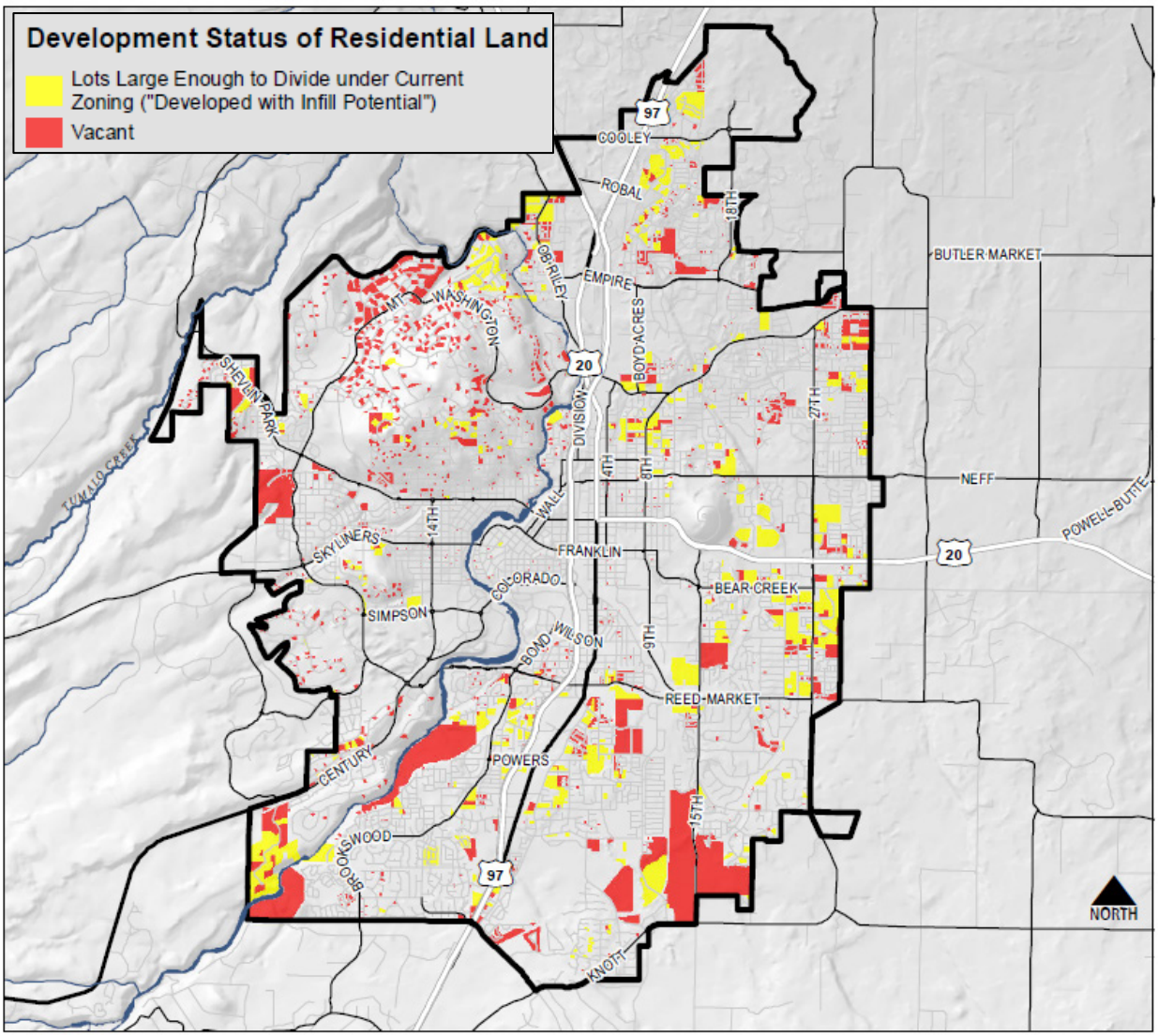
The primary outcome of the Buildable Lands Inventory was a GIS dataset with values for vacant, developed, and constrained acres for each parcel within the City of Bend. These values provide a basis for estimating future development and redevelopment. Notably, the BLI indicates that there are:

- Over 1,000 acres of vacant employment land within the current UGB;
- Over 1,800 acres of vacant residential land within the current UGB; and
- An additional 2,500 acres of residential land within the current UGB that have some infill capacity.

The BLI methodology and results were the subject of several Residential TAC and Employment TAC meetings, and were approved by the USC on March 19, 2015 as a part of the Phase 1 Growth Scenarios. The BLI became a component of the “Base Case” scenario, which describes the capacity of the current UGB, as well as the other development scenarios prepared to date.

Staff Contact: Damian Syrnyk (dsyrnyk@bendoregon.gov)

The map below shows the location of residential land within the UGB with some development capacity.
Note: This map includes parcels restricted to one single family home, such as on Awbrey Butte.



Adoption Document Summary:

Housing Needs Analysis

OVERVIEW

Bend's Housing Needs Analysis (HNA) was locally adopted as part of the 2008 Urban Growth Boundary process. It was only partially acknowledged by the Land Conservation and Development Commission in 2010, and the Remand order identified many elements of the HNA that required revisions.

The HNA was updated during the Bend Urban Growth Boundary (UGB) process to comply with the Remand and establish an adequate factual base to plan for residential land needs to 2028. The Residential Lands Technical Advisory Committee (TAC) reviewed and provided input on key components of the HNA, including forwarding recommendations about trends and needed housing mix to the USC (Summer 2014) and reviewing and recommending the final draft of the HNA to the USC (Summer 2015).

SUMMARY OF KEY FINDINGS

- **Bend's population and housing stock are both growing fast.** Bend's population and housing stock tripled since 1990. Most new housing development from 1990-2008 was single-family detached housing
- **Housing has become less affordable in Bend, especially since 2000.** Housing sales prices more than doubled between 2000 and 2013, while household income (not adjusted for inflation) increased by 18%. Rental costs also increased, with the percentage of households paying $1,000 or more in monthly rent increasing from 9% of households in 2000 to more than 40% of households in 2013.
- **Demographic changes and affordability trends are fueling a need for a wider variety of housing types in Bend.** This includes smaller single-family detached housing, single-family attached housing (such as townhomes) and multifamily housing.
- **The HNA identifies the needed housing mix as 55% single-family detached, 10% single family attached and 35% multi-family.** This housing mix was approved by the USC and informs the type of new housing units the project is planning for, and which manifests through assumptions on Efficiency Measures and housing types in the UGB expansion areas.
- **Bend's current policies and zoning (in the Base Case scenario for the current UGB) is not consistent with the needed housing mix.** Bend's land base, under current policies, would result in a mix of housing similar to the historical mix, with 70% single-family detached housing types.
- **Without changes to housing policies, the HNA found that Bend has a deficit of residential land available for all types of housing, but especially for single-attached housing (such as townhomes) and multifamily housing.**

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Adoption Document Summary:

Economic Opportunities Analysis

OVERVIEW

Bend's Economic Opportunities Analysis (EOA) was locally adopted as part of the 2008 Urban Growth Boundary process. It was only partially acknowledged by the Land Conservation and Development Commission in 2010, and the Remand order identified specific elements of the EOA that required revisions. The EOA is being updated during the Bend Urban Growth Boundary (UGB) process to comply with the Remand and establish an adequate factual base to plan for employment land needs to 2028.

The updated 2015 EOA resulted from extensive review by the Employment Technical Advisory Committee (TAC). The TAC forwarded recommendations related to employment trends, redevelopment and opportunity areas to the USC (Fall 2014) and reviewed and recommended the final draft of the EOA (Fall 2015).

SUMMARY OF KEY FINDINGS

- **The basis of the EOA is Bend's vision for economic development in the future.** The EOA articulates a vision that includes diversifying the city's economy, increasing employment in targeted sectors that provide higher than median wage jobs, ensuing there is enough commercial and industrial land to accommodate future jobs and businesses, and prioritizing infrastructure investment to support economic development.
- **The 2008-2028 employment forecast was upheld in the Remand.** Accounting for job growth from 2008, the EOA forecasts 21,943 new employees between 2013 and 2028.
- **The current UGB includes 1,162 acres of vacant land designated for employment uses.** About one-quarter of this vacant land supply is in sites smaller than 5 acres.
- **Bend meets the state requirement to assure 25% of its total employment land supply qualifies as short-term supply.** Additionally, new policies are proposed for the Employment Chapter of the Comprehensive Plan to monitor and maintain the short-term supply.
- **Bend does not have sufficient employment land to accommodate forecast employment growth.** The EOA analysis shows an overall deficit of land for 10,720 employees. Based on the site needs of forecast employment categories, the EOA finds that Bend has a deficit of 366 sites smaller than five acres and a deficit of 17 sites between 5 and 50 acres. The EOA also finds that Juniper Ridge has infrastructure deficiencies that currently limit full development of the site. The total acres of employment land needed in the UGB expansion will be presented in the Urbanization Report, pending decisions on final efficiency measures that will be implemented within the current UGB.

The revision to the Economy Chapter of Bend's General Plan presents recommended changes to Bend's land use policies to support business growth and diversification of Bend's economy and development of infrastructure necessary to support economic growth. There is also new policy direction to encourage mixed-use development in core areas of the city which, over time, will provide opportunities for more intensive employment and residential uses.

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Adoption Document Summary:

Urbanization Report

OVERVIEW

The Urbanization Report presents an analysis of where and how Bend's future growth will be accommodated, both inside the existing Urban Growth Boundary (UGB) and in expansion areas. The Urbanization Report is one of four related technical reports that contain the City's analysis related to growth. The other three documents are the Buildable Lands Inventory (BLI), Housing Needs Analysis (HNA), and Economic Opportunities Analysis (EOA). All four documents will be adopted as supporting documents to the Bend Comprehensive Plan, and provide the factual base to support the preferred UGB expansion.

Part 1 of the Urbanization Report has been completed and reviewed by the Residential and Employment Technical Advisory Committees (TACs). Part 1 summarizes the role of the Urbanization Report, describes the methodology used to determine land sufficiency and future UGB land need, estimates the capacity of the existing UGB under current policies, and summarizes the residual growth that cannot be accommodated within the existing UGB under current policies. Parts 2 and 3 of the report are in process. Part 2 will summarize the efficiency measures applied and estimate the resulting capacity of the existing UGB; Part 3 will document the evaluation of UGB expansion alternatives and the factual base for including the final preferred expansion areas in the UGB.

SUMMARY OF KEY FINDINGS OF BASE CASE

- **Base Case UGB Capacity.** The "Base Case" is a spatial projection of housing and employment growth through 2028 within the current UGB, based on past trends and current policies. The Base Case represents the current UGB's remaining capacity prior to applying new residential and employment efficiency measures.
- **The Base Case shows that the current UGB can accommodate roughly 8,400 housing units and close to 12,000 jobs.** This represents just over half of both the total housing and total employment needs forecasts for 2028.
- **The estimated capacity under the base case is not evenly distributed across all needed housing types.** The mix of housing units projected under the base case is roughly 70% single family detached, 5% single family attached, and 25% multifamily, because most of the total housing capacity (60%) is in the RS plan designation.
- **The estimated capacity under the base case is not evenly distributed across all needed employment categories.** All of the public employment needs (and more) can be accommodated on existing land inside the UGB; about 60% of the retail/hospitality, half the industrial, and a third of the office needs can be met inside the UGB.
- **The results indicate a need for land use efficiency measures to increase the likelihood that needed housing types will be built inside the UGB, and to make better use of both residential and employment lands inside the current UGB.**

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Adoption Document Summary:

Integrated Land Use And Transportation Plan (ILUTP)

WHAT IS AN ILUTP?

An Integrated Land Use and Transportation Plan (ILUTP) is a locally adopted plan referenced by Oregon's Transportation Planning Rule (OAR 660-012-0035). An ILUTP is required when a City's adopted land use and transportation plan (e.g. Bend's UGB update) is expected to result in an increase in Vehicle Miles Traveled per capita (VMT). The TPR's requirements are mirrored in the Remand, which notes: "An increase in VMT per capita means the city must prepare, submit and obtain DLCD/LCDC approval of an integrated land use and transportation plan as provided in OAR 660-012-0035(5) prior to approval of a revised UGB." (See LCDC Remand Order, pages 120-121). The State requires cities to reduce VMT per capita to help achieve specific planning objectives including congestion reduction, facility cost savings, increase walking and biking, improved mobility, energy conservation, emissions reductions, compact urban form, and improved public health.

The central purpose of the ILUTP is to analyze and describe the City's strategies and policies intended to lessen the increase in VMT per capita over time. Through the ILUTP, the rule and the Remand require Bend to "demonstrate progress towards increasing transportation choices and reducing automobile reliance" (OAR 660-012-0035(5)).

VMT BASELINE AND ANALYSIS TO DATE

As is true with all U.S. cities of Bend's age, urban form, and rapid growth, Bend's VMT per capita has been increasing in recent decades. The Remand cites 2003 as the base line year for measuring Bend's VMT per capita. The project team is also evaluating 2010 because it believes it is a more appropriate benchmark for meeting the law. Preliminary analysis on the scenarios prepared to date indicates Bend will be required to prepare an ILUTP as part of the UGB adoption package because 2003 – 2028 VMT per capita is projected to increase 8-10% (and increase 3-5% for the 2010 – 2028 period). The team is currently preparing an updated analysis using a more complete set of factors for land use and transportation assumptions, therefore, the numbers below may change.

	2003 baseline	2010 baseline	Scenario 1.2	Scenario 2.1	Scenario 3.1	SAAM-1	SAAM-2	SAAM-3
Daily Vehicle Miles Traveled per capita	9.18	9.64	10.11	9.92	9.99	10.13	10.11	10.09
Percent increase relative to 2010	N/A	N/A	4.9%	2.9%	3.6%	5.1%	4.9%	4.7%
Percent increase relative to 2003	N/A	5.0%	10.1%	8.1%	8.8%	10.3%	10.1%	9.9%

WHY VMT MATTERS TO BEND

In addition to being the subject of legal requirements, travel behavior is important to the quality of life in Bend. VMT per capita generally demonstrates the combined reliance on the automobile, proximity between

land uses, and efficiency of the transportation system. Lower VMT can result from short auto trips and/or trips made by other modes such as walking, biking, or transit. Lower VMT values can indicate that the population has access to other travel modes and/or that the desired destinations (such as school, work, or shopping) are close to home and/or well connected. These outcomes are consistent with the City's goals and policies for livability. VMT also impacts transportation emissions, which affect air quality and public health, as well as fossil fuel consumption, greenhouse gas emissions, transportation safety, and travel costs.

POTENTIAL STRATEGIES AND POLICIES TO REDUCE VMT IN BEND

The overarching policy requirement that must be met is that the City of Bend will adopt land use and transportation strategies that will, over the long term, keep growth of VMT per capita at less than 5 percent. Building from that standard, the issues are: (1) what is a reasonable and appropriate level of VMT reduction for the City to strive for; and, (2) what strategies and policies should the City employ to "demonstrate progress toward" that reduction over time – say, by the year 2040? The project team is currently conducting analysis to advise the USC on these two questions.

Based on analysis already conducted for the UGB scenarios and review of best-practice research on the subject, the following strategies show the highest potential for reducing the growth of VMT in Bend over the long term:

- increasing the density and mix of land uses in key central areas of the city that are appropriate for redevelopment;
- implementing the MPO's long range plans for primary transit corridors (e.g. shortening headways to 15 minutes)
- extending bus service to Opportunity Areas identified in the UGB process
- implementing transportation demand management (TDM) programs that are voluntary and regulatory (e.g. parking management, employer-provided transit passes, ridesharing programs, etc.) at major institutions/areas such as Oregon State University, Central Oregon Community College, St. Charles Medical Center; similar to the existing TDM program at Juniper Ridge
- implementing bike, safety and pedestrian priority system improvements that increase walking, biking and transit usage primarily in Opportunity Areas, key central areas, and transit corridors
- Increasing street, bike and pedestrian connectivity incrementally throughout the City
- Transit-supportive land use and design standards in transit corridors
- Right-sizing parking standards in infill and mixed-use areas

The project team is in the process of testing the impacts and feasibility of these strategies, and what policies the USC should consider for the ILUTP.

Policy direction from the Employment and Residential TACs can be summarized as supporting the overall mix of strategies described above. They reviewed a hypothetical scenario where approximately 900 multi-family units were shifted from expansion areas to core areas by 2028. This test showed that directing more multi-family housing to the core, in combination with other strategies, showed promise for reducing the growth of VMT per capita. The TACs did not support this level of redevelopment for the UGB's 2028 timeframe; they were supportive of such redevelopment as a longer term prospect. For 2028, the TACs were open to a more modest inclusion of additional multi-family units for properties that are reasonably likely to develop or redevelop in the shorter term.

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Adoption Document Summary:

Comprehensive Plan Other Chapters

OVERVIEW AND KEY OUTCOME

An updated Comprehensive Plan will be adopted with the UGB package. The term "Comprehensive Plan" is used here as a substitute for "General Plan" because it is the new proposed title. The vintage 1998 format of the General Plan has been updated to a new template and reviewed by the Residential and Employment Technical Advisory Committees (TACs). The updated Housing and Economy chapters reflect the new template for the Comprehensive Plan.

A new Urbanization chapter will include background text and policies that define Bend's growth management strategies. This chapter will also describe each of the land use designations on the Comprehensive Plan Map, including the proposed mixed use designations and the Future Urban Area designation, and the implementing zones.

Beyond these three chapters, the working approach for the other Comprehensive Plan chapters is to retain the existing content and reformat them to match the new template. Minor, policy-neutral clean-ups to other chapters to remove outdated language may be incorporated if time permits. Outdated text in other chapters may also be deleted or revised to match the less text-intensive style of the revised Housing and Economy chapters and the new Urbanization chapter. The primary outcome of the updates to the other chapters will be a consistent format for the Comprehensive Plan document.

The diagram on the following page shows the table of contents for the existing General Plan and the updated Comprehensive Plan.

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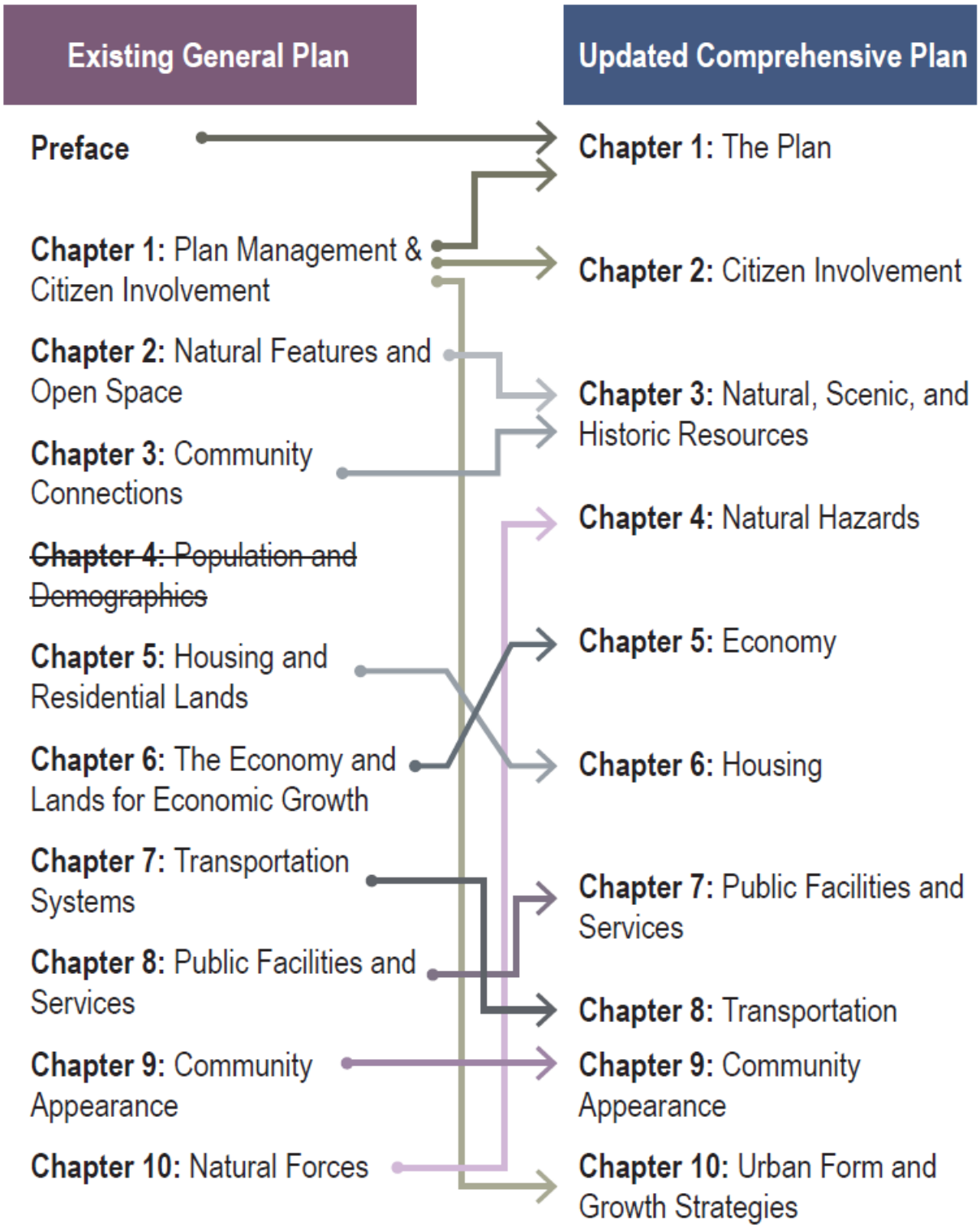
Existing General Plan
Updated Comprehensive Plan
Preface
Chapter 1: The Plan
Chapter 1: Plan Management & Citizen Involvement
Chapter 2: Citizen Involvement
Chapter 2: Natural Features and Open Space
Chapter 3: Natural, Scenic, and Historic Resources
Chapter 3: Community Connections
Chapter 4: Natural Hazards
~~Chapter 4: Population and Demographics~~
Chapter 5: Economy
Chapter 5: Housing and Residential Lands
Chapter 6: Housing
Chapter 6: The Economy and Lands for Economic Growth
Chapter 7: Public Facilities and Services
Chapter 7: Transportation Systems
Chapter 8: Transportation
Chapter 8: Public Facilities and Services
Chapter 9: Community Appearance
Chapter 9: Community Appearance
Chapter 10: Natural Forces
Chapter 10: Urban Form and Growth Strategies

Adoption Document Summary:

Comprehensive Plan Housing Chapter

OVERVIEW

The Housing Chapter of Bend's General Plan was last amended in 1998, and it contains data that is more than twenty years old.[1] The Housing Chapter is being updated as part of the Bend Urban Growth Boundary (UGB) process to reflect new information from the City's updated Housing Needs Analysis (HNA) and policy direction related to the UGB. The overall purpose of the Housing Chapter is to establish Bend's long term vision and policies for housing, consistent with Statewide Planning Goal 10: Housing. Proposed updates to the Housing Chapter (Background and Policies) were discussed at three meetings of the Residential Technical Advisory Committee (July 21, August 25, and November 19, 2015). The new draf reflects multiple rounds of input and refinement from the TAC, and staff from multiple city departments.

SUMMARY OF KEY UPDATES AND POLICY CHANGES

- **Condensed the introductory section from 25 pages to 5 pages.** This was accomplished by adopting the HNA as an Appendix to the Plan rather than including the data in the text of the Housing Chapter.
- **Deleted Chapter 4 (Population and Demographics) from the Plan.** This reflects the shift of responsibility for coordinated population forecasts from Deschutes County to the Population Research Center at Portland State University.
- **Revised or deleted existing policies that are inconsistent with new efficiency measures for Housing.** Examples include:
  - Policy relating to density calculations (more appropriate in Development Code)
  - Policies relating to compatibility standards that provide a barrier to efficiency measures and infill development. (Note: The Planning Commission recently approved amendments to the related code standards)
- **Added new policies to support updated Housing Needs Analysis and new efficiency measures for Housing.** Examples include:
  - New policy to initiate a legislative review for the UGB and/or urban reserve area planning within 5 years after acknowledgement of the current UGB update is final.
  - New policy to create incentives for and remove barriers to development of a variety of housing types in all residential zones.
  - New policy to provide two options for approval of master plans: 1) applying clear and objective standards or 2) applying discretionary standards for more flexibility.
  - New policy to support re-designation of suitable low density areas that are within a 15-minute walk to transit corridors for medium-density development.
  - New policy to monitor parking needs for residential uses and reduce parking requirements as appropriate.
  - New policy to monitor and regularly report on performance of new efficiency measures.

[1] The Housing Chapter was updated in 2008 as part of the initial UGB proposal. However, the updated chapter was not acknowledged by LCDC.

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Adoption Document Summary:

Comprehensive Plan Economy Chapter

OVERVIEW

The Economy Chapter of Bend's General Plan was last amended in 2006, and it contains some data that is more than twenty years old.[1] The Economy Chapter is being updated as part of the Bend Urban Growth Boundary (UGB) process to reflect new information from the City's updated Economic Opportunities Analysis (EOA) and policy direction related to the UGB. The overall purpose of the Economy Chapter is to establish Bend's long term vision and policies for the economy, consistent with Statewide Planning Goal 9: Economic Development. Proposed updates to the Economy Chapter (Background and Policies) were discussed at two meetings of the Employment Technical Advisory Committee (July 21 and August 25, 2015). The chapter incorporates multiple rounds of edits from the TAC and multiple city departments and also aligns with the new Economic Development department's emerging strategic plan.

SUMMARY OF KEY UPDATES AND POLICY CHANGES

- **Condensed the introductory section from 13 pages to 5 pages.** This was accomplished by adopting the EOA as an Appendix to the Plan rather than including the data in the text of the Economy Chapter.
- **Added new general policy statements to support the updated EOA and comply with remand directives.** The new policies support Bend's role as a regional job center.
- **Included policies to maintain a competitive short-supply of employment lands.** These policies were part of the updates approved by the City in 2008.
- **Revised policies relating to Juniper Ridge.** Deleted policy that was drafted before Juniper Ridge was included in the UGB. Include new policy to reinforce that the portion of the Juniper Ridge District inside the UGB will be used to help meet long-term needs for industrial and other employment uses.
- **Revised or added new policies to support new Mixed Use Zone(s) and other efficiency measures for employment lands.** Examples include:
  - New policy to support plan designations and zoning districts to encourage a mix of employment uses, or a mix of employment and residential uses.
  - New policy to encourage vertical mixed use development in commercial and mixed use zones, especially along transit corridors and in the Central Area.
  - Revised policy relating to strip commercial development. The wording is modified to reinforce support for the concept of mixed-use development in centers (and potentially along transit corridors).
  - New policies to limit the amount of ground-floor residential development in the commercial and mixed employment zones, to preserve employment land for employment purposes, and to set parking requirements at the lowest level to encourage walkable commercial development while providing for adequate parking.

[1] The Economy Chapter was updated in 2008 as part of the initial UGB proposal. However, the updated chapter was not acknowledged by LCDC.

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Adoption Document Summary:

Development Code

OVERVIEW

Certain portions of the Bend Development Code are being updated as part of the Bend Urban Growth Boundary (UGB) process to ensure efficient use of land within the current UGB prior to expanding the boundary. The UGB adoption package approved by the City in 2008 proposed minimal Development Code amendments or "efficiency measures." The 2010 LCDC Remand order identified a range of efficiency measures that the City *must* consider on remand to address the requirements of Goal 10 and ORS 197.296.[1]

The Residential and Employment Technical Advisory Committees (TACs) considered and discussed a robust package of efficiency measures over a series of meetings. The efficiency measure concepts were approved by the USC in the Phase 1 package. The TACs focused on efficiency measures that are proposed to be implemented through code text amendments packaged with the adoption of the UGB. Additional measures have been or will be implemented through other processes, including code amendment work by the Community Development Department (CDD) with the Planning Commission and the Parking Study, which are both underway.

HIGHLIGHTS OF PROPOSED CODE AMENDMENTS

Approach to Minimum Density

LCDC concluded that the City's densities for housing were, in their view, low. The Residential TAC reviewed densities and made the following recommendations:

- increase the maximum density in the RL zone from 2.2 to 4.0 units per gross acre;
- increase the minimum density in the RS zone from 2.0 to 4.0 units per gross acre; and
- retain the existing range of 7.3 to 21.7 units per gross acre in the RM zone.

The TAC did not support the idea of creating an additional zone, and was uncomfortable with having a density gap between the maximum density in the RS zone and the minimum density in the RM zone. Instead of increasing the minimum density in the RM zone, the TAC recommended removing barriers to development of a broader range of housing types in the RS and RM zones (see below). These changes are intended to create a greater mix of housing types generally within the currently allowed density ranges. The overall set of changes focus on requiring more mixing of units rather than dramatic increases to density levels.

[1] The Remand Order referenced consideration of: 1) raising minimum densities, particularly in RS and RM zones; 2) potential plan/zone changes for larger sites that are vacant or partially vacant; 3) rezoning areas long transit corridors and in neighborhood centers; etc.

The proposed amendments also revise some aspects of how the density standards apply:

- Replacement of an existing single-family home in any zone and development on a vacant platted lot consistent with an approved land division are exempt from density standards
- Sensitive lands (wetlands, significant trees, steep slopes, floodplains and other natural resource areas designated for protection or conservation) are excluded from minimum, but not maximum, density calculation

Ensuring Housing Mix

In order to ensure that housing mix targets are met without increasing the minimum density in RM, the project team proposed additional code amendments targeted at facilitating the needed housing mix in the RS zone and ensuring the needed housing mix in the RM zone. In the RS zone, the Residential TAC recommended making additional housing types permitted rather than conditional, including: 1) single family attached townhomes; 2) courtyard housing (detached housing with modified side setbacks); and 3) duplexes and triplexes. These proposed amendments build on work that has already been done by the Community Development Department and Planning Commission to allow a greater housing mix in the RS Zone.

In the RM zone, the Residential TAC supported the proposal to require at least half of the units in developments between 3 and 20 acres (large enough for a mix of housing, but smaller than the master plan threshold) be something other than single family detached housing. This is intended to help that zone achieve the needed mix of housing units without changing the minimum density.

Master Plan Density and Mix Requirements

The current code requires a flat minimum percentage of the maximum density (60%) for master planned sites. The draft code amendments tailor the requirements to each of the residential zones in order to create a greater mix of housing types. The Residential TAC recommended the following minimum density for master planned sites in each zone:

- RS: 80% of maximum (5.84)
- RM: 60% of maximum (13.02)
- RH: base zone minimum (21.7)

In addition to a higher minimum density standard for master plan sites, the draft code amendments included the following maximum percentages of housing units that may be single family detached (SFD) in order to ensure that housing mix is met. Consensus was not reached; a minority of the TAC did not agree with the proposal to limit the number of SFD units in the RS zone because it was overly complicated and possibly duplicative of other efficiency measures. The proposed amendments have been revised to raise the percentage of units that may be SFD in the RS zone from 80% to 90% in response to TAC concerns.

- RS: no more than 90% SFD
- RM: no more than 30% SFD
- RH: no more than 10% SFD

Minimum Lot Size Requirements

Reductions to minimum lot sizes for certain housing types in certain residential zones are proposed in order to allow more opportunities to build at the higher end of the allowed gross density range. Proposed changes to minimum lot area include:

- Single Family Detached Housing in the RM zone: from 3,000 square feet (sf) to 2,500 sf
- Multifamily housing in RM zone: from 2,500 sf for the first unit and 2,000 square feet for each additional unit to 2,500 sf for the first unit and 1,500 square feet for each additional unit
- Townhomes in the RH zone: from 2,000 sf per unit to 1,600 sf per unit

New Mixed Use Zones

The proposed code amendments include two new mixed use plan designations and corresponding implementing zones: urban-scale (Mixed Use – Urban or MU-U) and neighborhood-scale (Mixed Use – Neighborhood or MU-N). The new zones are intended to accommodate a range of residential and commercial uses in pedestrian-oriented mixed use centers and corridors. The scale of uses in the MU-N zone (primarily building heights) is less intense than the MU-U zone.

The Employment TAC recommended including the new mixed use zones in the Development Code and designating specific opportunity sites with the new Mixed Use plan designation(s). Zone map amendments to apply the Mixed Use Zones outside of the opportunity sites may be deferred, but enabled through new plan designations where appropriate.

Revisions to Parking Standards

Targeted revisions to parking standards are proposed as part of the draft package of code amendments adopted with the UGB.

- Reductions to parking requirements for residential and commercial uses in the MU-U zone, similar to those in place for the CBD (e.g. 1 space per housing unit, regardless of size and type; 1 space per 500 square feet of commercial for all commercial uses).
- Provide automatic 5% reduction to minimum parking requirements for mixed use development.
- Provide automatic 10% reduction to minimum parking requirements for development adjacent to transit.
- Apply existing parking reduction for affordable housing (1 space per housing unit) regardless of location, rather than limiting it to locations within 660 feet of transit.
- Reductions to parking for 1-bedroom duplexes and triplexes (from 2 to 1 space per unit)

More comprehensive revisions to parking standards will be considered through the Parking Study.

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Memorandum

December 10, 2015

To: Bend Urban Growth Boundary Steering Committee
Cc: Technical Advisory Committees
From: Angelo Planning Group
Re: Proposed Refinements to Scenario 2.1A

INTRODUCTION

The purpose of this memorandum is to describe a set of proposed refinements to the draft preferred Urban Growth Boundary (UGB) Expansion Scenario -- "Scenario 2.1A", for consideration by the Urban Growth Boundary Steering Committee (USC). Scenario 2.1A is the scenario directed by the USC at its October 22nd, 2015 meeting. The refinements, which affect land both inside and outside the current UGB, fall into five broad categories:

1. Refinements to better reflect current recommendations for proposed efficiency measures and changes to plan designations, including those in the Central Westside;
2. Refinements to better capture current code standards that are not proposed to be modified through the efficiency measures (e.g. parking and landscaping for certain uses);
3. Refinements to land needs for parks and schools to better reflect coordination with the park and school districts;
4. Refinements to capacity assumptions on constrained sites; and
5. Refinements to better match the needed employment mix.

The refinements are important to ensure that the modeling work is consistent with the set efficiency measures that the city intends to implement as part of the UGB Remand adoption process. The refinements also capture clarified land needs for parks, right-of-way, and other uses. It is worth noting that the Phase 1 assumptions used for Scenario 2.1 and 2.1A were always intended to be further refined during Phase 2, with exactly the type of adjustments that are currently proposed.

These refinements have a limited impact on total land need outside the current UGB but do affect the number and mix of housing units and jobs needed outside the current UGB somewhat. Some adjustments to the assumed land uses in UGB expansion areas will be needed in order to ensure that the proposed boundary will be able to accommodate the identified housing and employment needs.

The refinements discussed in this memorandum do not change the policy direction set by the UGB Steering Committee (USC) in endorsing Scenario 2.1 as the starting point for the preferred

UGB expansion scenario. They do not change the degree of emphasis in each of the expansion areas, and they do not significantly change the total amount of land needed for expansion.

ASSUMPTIONS BUILT INTO SCENARIO 2.1 AND 2.1A

The UGB expansion scenarios and Supplemental Analysis Area Maps that were evaluated by the project team, including Scenario 2.1, were based on an estimate of the capacity of the current UGB approved in March, 2015. That estimate built on assumptions about the average density and mix of uses of new development in each zone / general plan designation with an assumed set of "efficiency measures"[1] that would be implemented as part of the UGB process. It also reflected assumptions about the amount of land consumed for right of way, parks, schools, and other uses.

The efficiency measures built into the assumptions for Scenario 2.1 reflected development code concepts that were presented to the Residential and Employment TACs in January 2015, refined based on feedback from those TACs, and approved by the UGB Steering Committee (USC) in March 2015 as a starting point for further work. At that time, two "packages" were presented and tested for their impacts. "Package B" emphasized increasing flexibility to allow, but not require, more efficient development; "Package C" included both provisions for increased flexibility and measures to require higher residential densities. These packages were presented as a way to estimate "bookends" of UGB capacity after policy and regulatory changes. For the purposes of the scenarios, the team started from a set of assumptions most similar to "Package C", but with less reliance on reduced parking requirements. In addition to the packages of development code changes, the efficiency measures include changes to land use designations for nine "opportunity sites" that also reflected Residential and Employment TAC recommendations and which were part of the USC approval in March 2015.

PROPOSED REFINEMENTS

As noted in the Introduction above, the proposed refinements to Scenario 2.1A fall into five broad categories. Additional information and explanation for each of the five types of refinements is provided below.

1. Refinements for Efficiency Measures

In the year since the efficiency measure packages were developed and approved by the USC, there have been multiple and continuing discussions with the Residential and Employment TACs to move from concepts to actual proposed text and map amendments. For example, proposed development code text that impacts capacity was recently discussed at the last set of Residential and Employment TAC meetings on November 19th, 2015. Some of the key refinements that affect development assumptions in the model include:

[1] The term "efficiency measures" refers to changes to the development code and/or changes to general plan and zoning designations to make more efficient use of land and increase the capacity of the existing UGB.

- Increasing the minimum density in the RS zone, but not in the RM zone
- Increasing the maximum density in the RL zone
- Allowing duplexes, triplexes, and townhomes outright rather than conditionally in the RS zone (subject to current lot size and development standards)
- Increasing the minimum density for master planned neighborhoods in the RS zone relative to current standards (which require 60% of the maximum density for all zones), but not in the RM or RH zones
- Setting housing mix standards for the RM zone and for all master planned neighborhoods
- Increasing the maximum net density of multifamily development in the RM zone
- Creating two new mixed use zones (one urban-scale, one neighborhood-scale)
- Targeting parking reductions to the new mixed use zones and minor changes for certain housing types
- Refining recommendations about rezoning opportunity areas to new mixed use zones or other zones

In addition, the Central Westside Plan (CWP) has considered alternatives and selected a preferred alternative. The southern portion of this area (roughly between Commerce and Reed Market) is included as an opportunity area for the UGB work. The capacity assumptions for this area are proposed to be updated to align with the preferred alternative from the CWP, adjusted to the 2028 planning horizon.

2. Refinements to Better Reflect Existing Code

Capacity estimates for the UGB use prototypical buildings that approximate the forms of development that can occur in a given zone. As the team has worked to refine and improve the accuracy of our capacity estimates, we have identified technical refinements to the building prototypes that better reflect current standards (where those are not proposed to be amended by efficiency measures). These include more accurately reflecting nuances in the development standards such as parking standards (e.g. capturing the linkage to the number of bedrooms for multifamily housing), landscaping requirements by use, lot coverage maximums by zone, net density limitations for certain housing types in certain zones, and street standards for each zone (which affect right-of-way set asides). These refinements give a more accurate picture of what the development code currently allows, and, when combined with the refinements for efficiency measures, provide an accurate picture of what the proposed development code will allow.

The assumptions for Juniper Ridge have also been refined to better reflect the allowed uses and standards of the Employment Sub-District in the western portion of the site. On the eastern portion, a similar mix of jobs was assumed, but at a somewhat lower intensity. This is consistent with the direction from the TACs and USC to date to keep this area employment-focused. It is also generally consistent with the existing Light Industrial plan designation. The assumptions for Juniper Ridge as a whole have been calibrated to stay within the total amount

of employment growth that would be supported by the transportation improvements that have been identified as reasonably likely and programmed into the transportation model.[2]

3. Refinements to Land for Parks and Schools

The project team has continued coordination with the Bend Park and Recreation District (BPRD) and the Bend-La Pine School District (BLPSD).

Park Land

Through discussions with BPRD, the land need for neighborhood parks, community parks, and other park land has been refined and updated to reflect changes since the need was originally projected in 2008. In 2008, a park land need of 362 acres (77 acres for neighborhood parks, 193 acres for community parks, and 92 acres for trails) was calculated based on BPRD's adopted Level of Service (LOS) standards. That need is updated as follows:

- BPRD applies the LOS to developed acres of park land. Thus the original land need should be thought of as a need for acres of developed parks, not necessarily a land acquisition need. BPRD's undeveloped land holdings may be used to meet some or all of that need (this was not accounted for in the 2008 UGB proposal, and was raised in the Remand).
- BPRD has developed additional park land since 2008, which can be subtracted from the original need, updating to the remaining need as of 2014 as was done with housing and jobs.
- BPRD has revised downward its neighborhood parks LOS standard in its adopted 2012 Master Plan from 2.0 acres per 1000 population to 1.5 acres per 1000 population.
- BPRD does not include a land acquisition need for trails in their own LOS calculations or System Development Charge (SDC) methodology. Very little BPRD land is currently used exclusively for trails. Most trails are either in street right-of-way, parks, or easements across private property, meaning that they are already largely or fully accounted for in other land needs.
- BPRD has standards for access to parks of different types. The primary need for parks at this point is based on geographic distribution and accessibility rather than an aggregate level of service total acreage.

With these revisions, the remaining total land need for parks as of 2014 is roughly 20 to 40 acres for neighborhood parks (20 using the new standard, 40 using the old standard, with some potential variability based on geographic needs), with little or no land need for trails (for reasons described above) or for community parks (because of extensive available undeveloped land holdings plus existing community parks). The neighborhood park land need is assumed to be largely met through the 10% open space set aside required for master planned neighborhoods.

[2] An agreement with ODOT identifies "trip caps" – maximum peak hour vehicle trips that can be generated by development – for the Employment Sub-district within Juniper Ridge, with specific transportation investments identified in order to allow greater amounts of development and traffic generation.

Taken together, these updates better reflect BPRD input received since June and provide an updated and defensible basis for the park allocation used in the UGB analysis. The 20 to 40 acre need estimate is a significant decrease relative to what was previously assumed.

School Land

Coordination with BLPSD has identified planned and desirable locations for future schools. The original land need estimate for schools was 192 acres. As with parks, the current approach focuses more on need driven by geographic distribution than on a set acreage need. The schools need includes one new high school, one new middle school, and three to five new elementary schools (depending on school size and location of need). BLPSD already owns land in the southeast inside the UGB for a high school and a middle school site, so the primary question is where new elementary schools will be needed. There are some locations already in BLPSD ownership that may be appropriate to meet that need. However, because elementary schools are intended to serve their local area, their siting is tied to where growth is expected, making identifying appropriate locations an iterative process that requires detailed analysis by the school district. Further refinements to location of schools will be needed as the school district undertakes a more detailed evaluation of projected growth within each attendance boundary; however, the change to total acreage is expected to be limited.

4. Refinements to Assumptions for Capacity on Constrained Sites

State Administrative Rules regarding preparation of a buildable lands inventory (BLI) limit the categories of development constraints that can be considered "unbuildable" land.[3] These include steep slopes, floodplains, and adopted Goal 5 resources (note that the City's Areas of Special Interest are not adopted Goal 5 resources and therefore are not eligible for exclusion from the BLI). The City can assume that development will occur at a lower density due to other constraints if there is sufficient evidence. Certain areas of the current UGB have development constraints that are not part of the definition of buildable land, including the southwest corner of the city. The team has made an effort to more accurately reflect the realistic capacity of this area (as well as limited other areas with similar issues), but is still working to obtain additional evidence that supports updates in the estimated capacity for these limited areas.

5. Refinements to Better Achieve the Projected Employment Mix

Scenario 2.1 provided capacity for approximately the needed number of total jobs.[4] However, because it relied on past trends for employment mix in each plan designation, and because the mix of employment remaining in the 2008 to 2028 projection is somewhat different than the current mix, it was not possible to hold past trends constant and reach the correct mix of

[3] OAR 660-008-0005(2)

[4] The 2028 employment forecast, which identifies projected jobs by general sectors, was upheld in the Remand, and has been retained. It has been updated to 2013 – the most recent available employment data – to identify the remaining employment growth in each sector needed to reach the original 2028 projected totals.

employment types. This is largely due to the losses of retail and industrial jobs that occurred between 2008 and 2013, compared to job gains in office and public sectors. In order to account for those jobs returning, a slightly different employment mix will be needed in the commercial and industrial plan designations. Because many of the zones allow a variety of employment uses, the existing zoning regulations provide flexibility for the market to produce the needed employment mix. The proposed refinements to Scenario 2.1A include adjustments to the assumptions for employment land to account for these factors as well as some changes to the type of employment land (e.g. Mixed Employment vs. Light Industrial) applied in some of the expansion areas to ensure that it is reasonably likely that the city can accommodate the projected employment growth to 2028.

IMPLICATIONS FOR TOTAL LAND NEED AND UGB EXPANSION

Implementing the proposed refinements described above results in a modest shift in the amount and type of housing and jobs that can be accommodated inside the existing UGB and the nature of the land need remaining for UGB expansion areas. In order to show the USC what this will mean, the project team has created a map that reflects the proposed refinements, which is identified in the maps and tables that follow as “Scenario 2.1B”.

The tables below summarize the acreage by general plan categories and the estimated capacity in terms of housing units by type and jobs by broad sector for Scenario 2.1, 2.1A, and 2.1B (estimates are rounded to the nearest 10). Note that jobs and housing numbers and mix are based on projections of buildable land and development trends. While they have been calibrated to be consistent with existing and proposed development regulations as discussed above, and while they provide a reasonable estimate of capacity, they do not represent regulatory minimums or maximums for the plan and zoning designations.

Table 1: Acres of UGB Expansion by Land Use Category and Subarea[5]

	Scenario 2.1	Scenario 2.1A	Scenario 2.1B
West Area			
Residential Acres	120	120	110
Employment Acres	40	40	40
Civic Acres	20	20	0
Total Acres	**170**	**170**	**150**
OB Riley / Gopher Gulch			
Residential Acres	0	0	0
Employment Acres	110	120	100
Civic Acres	20	20	10
Total Acres	**130**	**140**	**120**
North "Triangle"			
Residential Acres	80	80	70
Employment Acres	90	90	100
Civic Acres	20	20	0
Total Acres	**190**	**190**	**180**
Northeast Edge			
Residential Acres	100	100	100
Employment Acres	30	30	30
Civic Acres	0	0	0
Total Acres	**130**	**130**	**130**
DSL Property			
Residential Acres	140	140	130
Employment Acres	110	120	140
Civic Acres	110	100	90
Total Acres	**360**	**360**	**360**
"The Elbow"			
Residential Acres	90	90	100
Employment Acres	280	280	260
Civic Acres	60	60	70
Total Acres	**430**	**430**	**440**
"The Thumb"			
Residential Acres	100	70	60
Employment Acres	170	170	160
Civic Acres	40	40	0
Total Acres	**310**	**270**	**220**
UGB Expansion Total			
Residential Acres	630	600	570
Employment Acres	830	850	830
Civic Acres	270	260	170
Total Acres	**1730**	**1690**	**1600**

[5] Acreage estimates have been rounded to the nearest 10 acres. As a result, the sum of the acres by category or by subarea may not match the total acres exactly.

Table 2: Housing Units in UGB Expansion Areas by Type[6]

	Scenario 2.1	Scenario 2.1A	Scenario 2.1B
West Area			
Single Family Detached	250	250	330
Single Family Attached	150	150	90
Multifamily	400	370	300
Total Units	**770**	**770**	**730**
OB Riley / Gopher Gulch			
Single Family Detached	0	0	0
Single Family Attached	0	0	10
Multifamily	10	10	0
Total Units	**10**	**10**	**10**
North "Triangle"			
Single Family Detached	170	170	180
Single Family Attached	50	50	50
Multifamily	320	350	140
Total Units	**570**	**570**	**380**
Northeast Edge			
Single Family Detached	280	280	250
Single Family Attached	30	40	70
Multifamily	60	230	210
Total Units	**380**	**560**	**530**
DSL Property			
Single Family Detached	410	410	410
Single Family Attached	140	140	90
Multifamily	390	370	360
Total Units	**910**	**910**	**860**
"The Elbow"			
Single Family Detached	260	260	230
Single Family Attached	110	110	190
Multifamily	470	450	530
Total Units	**820**	**820**	**950**
"The Thumb"			
Single Family Detached	290	210	160
Single Family Attached	80	50	40
Multifamily	270	90	120
Total Units	**650**	**360**	**320**
UGB Expansion Total			
Single Family Detached	1660	1580	1560
Single Family Attached	560	540	540
Multifamily	1920	1870	1660
Total Units	**4110**	**3990**	**3780**

[6] Housing unit estimates have been rounded to the nearest 10 units. As a result, the sum of the units by type or by subarea may not match the total units exactly.

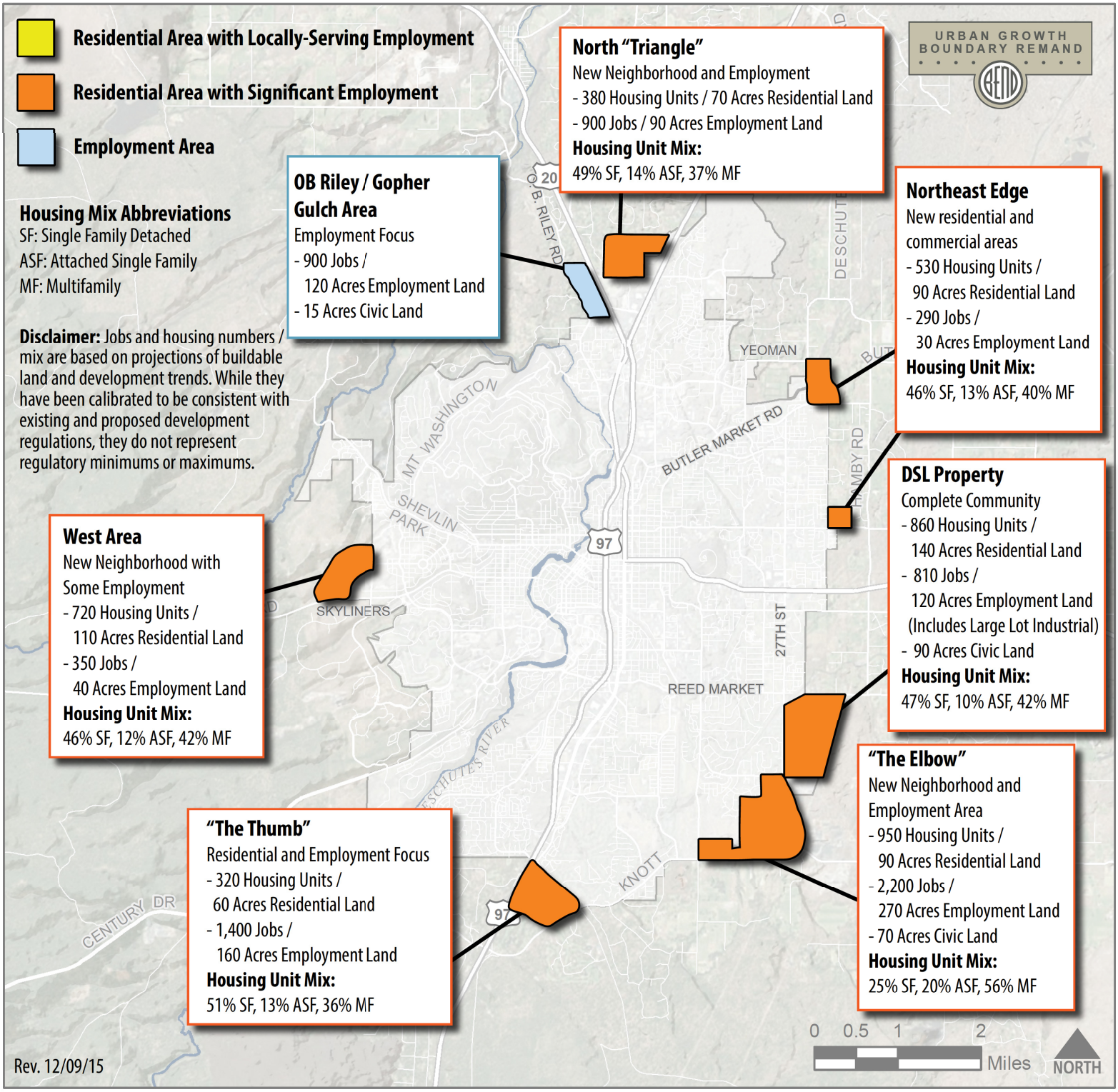
Table 3: Employment in UGB Expansion Areas by Broad Sector[7]

	Scenario 2.1	Scenario 2.1A	Scenario 2.1B
West Area			
Industrial Jobs	240	240	100
Retail & Hospitality Jobs	120	120	170
Office & Service Jobs	320	320	80
Public Jobs	0	0	0
Total Jobs	**680**	**680**	**350**
OB Riley / Gopher Gulch			
Industrial Jobs	260	780	300
Retail & Hospitality Jobs	100	130	340
Office & Service Jobs	140	480	260
Public Jobs	0	0	10
Total Jobs	**500**	**1390**	**910**
North "Triangle"			
Industrial Jobs	500	500	200
Retail & Hospitality Jobs	150	150	530
Office & Service Jobs	320	320	180
Public Jobs	0	0	0
Total Jobs	**970**	**970**	**910**
Northeast Edge			
Industrial Jobs	10	20	0
Retail & Hospitality Jobs	160	180	230
Office & Service Jobs	90	110	60
Public Jobs	0	0	0
Total Jobs	**260**	**310**	**290**
DSL Property			
Industrial Jobs	680	270	260
Retail & Hospitality Jobs	270	260	320
Office & Service Jobs	530	300	220
Public Jobs	0	0	10
Total Jobs	**1480**	**830**	**810**
"The Elbow"			
Industrial Jobs	1090	1090	670
Retail & Hospitality Jobs	590	590	970
Office & Service Jobs	830	830	530
Public Jobs	0	0	10
Total Jobs	**2510**	**2510**	**2180**

[7] Job estimates have been rounded to the nearest 10 jobs. As a result, the sum of the jobs by sector or by subarea may not match the total jobs exactly.

	Scenario 2.1	Scenario 2.1A	Scenario 2.1B
"The Thumb"			
Industrial Jobs	730	730	430
Retail & Hospitality Jobs	430	380	670
Office & Service Jobs	630	540	310
Public Jobs	0	0	0
Total Jobs	**1790**	**1650**	**1410**
UGB Expansion Total			
Industrial Jobs	3510	3630	1960
Retail & Hospitality Jobs	1820	1810	3230
Office & Service Jobs	2860	2900	1640
Public Jobs	0	0	30
Total Jobs	**8190**	**8340**	**6860**

Expansion Scenario 2.1B

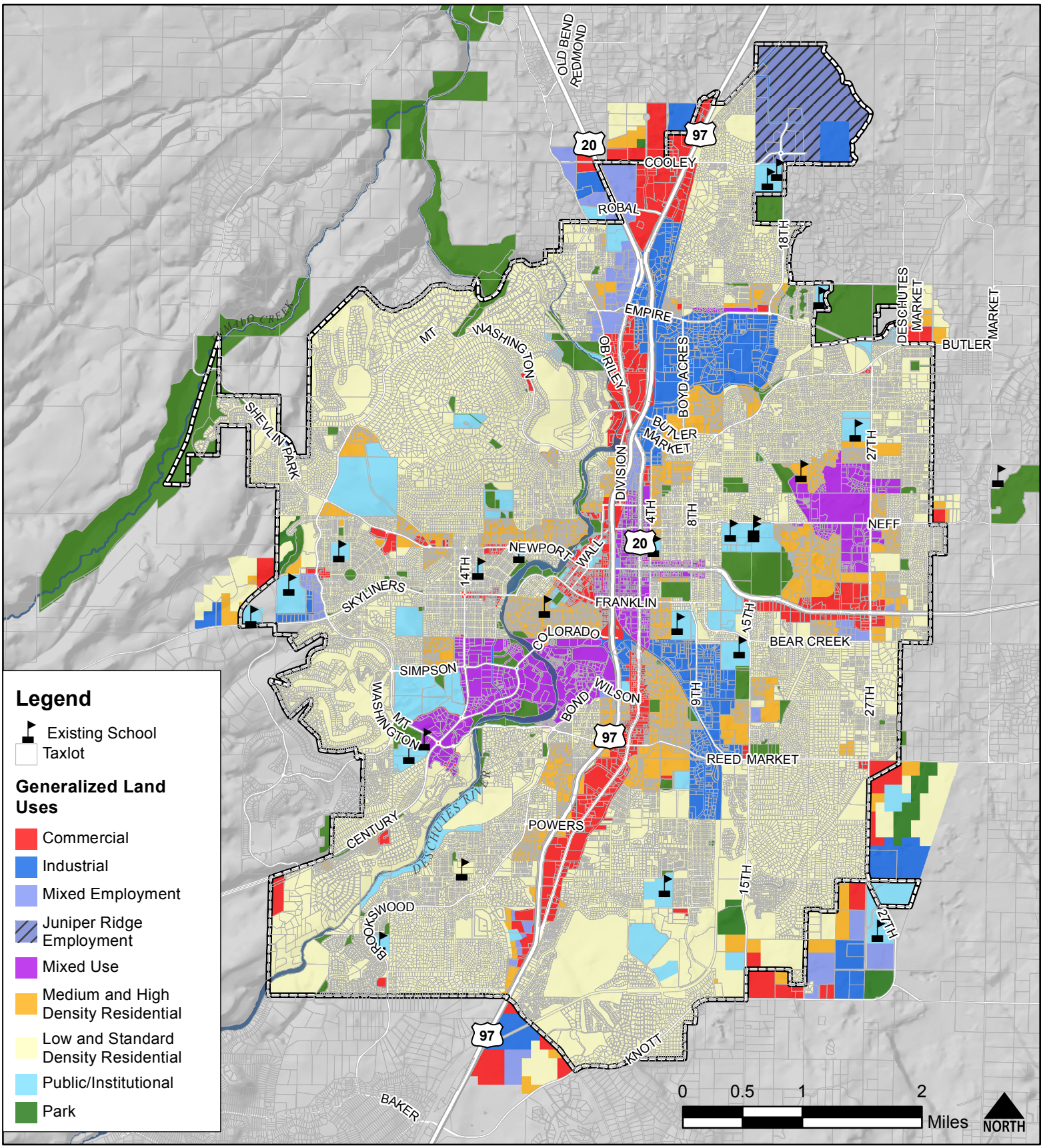


Bend UGB

Draft Revisions to Scenario 2.1

"Scenario 2.1B Draft"

Prepared 12/10/2015



Legend

- Existing School
- Taxlot

Generalized Land Uses

- Commercial
- Industrial
- Mixed Employment
- Juniper Ridge Employment
- Mixed Use
- Medium and High Density Residential
- Low and Standard Density Residential
- Public/Institutional
- Park

URBAN GROWTH BOUNDARY REMAND

Disclaimer: This map represents land use assumptions for modeling purposes only. This is not a proposal for specific comprehensive plan designations. Generalized Land Uses are based on groupings of comprehensive plan designations. MDOZ is identified as "Mixed Use"

Service Layer Credits: Deschutes County GIS (2014)

- Streams/Rivers
- Roads/Highways
- Urban Growth Boundary

URBAN GROWTH BOUNDARY REMAND

BEND

Sign in Sheet

Meeting: USC Meeting

Date: 12/14/2015

Location: Munn Court

Name	Organization	Email Address
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BILL GALAWAY	SEBNA	BGALAWAY@BENDBROADBAND.COM
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URBAN GROWTH BOUNDARY REMAND

BEND

Sign in Sheet

Meeting: USC MTG

Date: 12/14/2015

Location: Mune Court

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Jerry Curl		
Toby Bayard	Self	tobybayard@hotmail.com
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URBAN GROWTH BOUNDARY REMAND

Sign in Sheet

Meeting: UGB

Date: 12/14/15

Location: Municipal Court

Name	Organization	Email Address
Don Senecal	HLC	dons@bendbroadband.com
Tom Kemper	Hardy Works	
ANN MARIE COLUCCI		ANNMARIE@BENDPATRICK.COM

BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF THE REVIEW OF THE URBAN GROWTH BOUNDARY EXPANSION FOR THE CITY OF BEND; & RELATED ACTIONS OF THE CITY AND DESCHUTES COUNTY	**)**	**REMAND AND PARTIAL ACKNOWLEDGEMENT ORDER 10-REMAND-PARTIAL ACKNOW-001795**

This matter concerns certain ordinances adopted by the City of Bend and Deschutes County relating to a legislative amendment of the city's urban growth boundary (UGB). This matter came before the Land Conservation and Development Commission (Commission or LCDC) on March 18 and 19, April 22 and 23, and May 12, 2010, as an appeal of a decision of the Director of the Department of Land Conservation and Development (Director) Order 001775 dated January 8, 2010, pursuant to ORS 197.626, ORS 197.633, ORS 197.644(2) and OAR chapter 660, division 25. The Commission fully considered the City of Bend's submittals; Deschutes County's submittals, the objections to the submittals, Order 001775; the appeals of that order, the Department's Report on the Appeals, exceptions to the Department's Report, and the oral argument of the parties to the appeal.

To the extent that there is any conflict between the analysis in this order and the conclusions set forth in the order, the conclusions will control. In addition, any objection to the submittals not expressly addressed herein is deemed denied for the reasons set forth in Order 001775. Similarly, and basis for appeal of Order 001775 not expressly addressed herein is deemed denied for the reasons set forth in the Department's Report on the Appeals.

The organization of this order is shown in the following table of contents:

Table of Contents

I.	**Background and Procedural History**	**3**
II.	**Procedural Matters**	**6**
III.	**Scope of Review**	**7**
IV.	**Standard of Review**	**8**
V.	**Procedural Issues**	**9**
	1. Jurisdiction	**9**
	2. Adequacy of Local Public Notice of Facilities Plans	**13**
VI.	**Substantive Objections and Appeals**	**13**
	1. Adequacy of Findings for Review	**13**
	2. Residential Land Needs	**17**
	3. Capacity of the Existing UGB & Efficiency Measures	**48**
	4. Other (Non-Employment) Land Needs	**57**
	5. Employment Land Needs	**64**
	6. Natural Resources and Hazards	**86**
	7. Public Facilities Planning	**96**
	8. Transportation Planning	**114**
	9. Location of the UGB Expansion Area	**123**
	10. Other Issues	**138**
VII.	**Compliance with the Goals, Rules and Statutes**	**147**
VIII.	**Conclusions**	**148**

I. Background and Procedural History

The submittals before the Commission for review are three City of Bend Ordinances: NS 2111 (Public Facility Plans), NS 2112 (Urban Growth Boundary (UGB)), and NS 2113 (Bend Development Code); and two Deschutes County Ordinances: 2009-001 (Urbanization Code, UGB Comprehensive Plan Map and Transportation System Plan (TSP) Map) and 2009-002 (Urban Holding Zones, UGB Zoning Map).

The history of these submittals is as follows:

1. On June 11, 2007, the City submitted a notice of a proposed 4,884-acre UGB expansion to the Department through a 45-day post-acknowledgement plan amendment notice. The notice also included a 14,775-acre urban reserve proposal, which was withdrawn from further consideration shortly thereafter. Following joint public hearings by the city and county planning commissions, it was decided locally that further work was needed on the UGB.

2. On October 8, 2008 the city submitted notice of a revised 8,943-acre UGB expansion proposal, along with related amendments to its public facilities plan, other elements of its comprehensive plan, and its development code. A joint planning commission hearing occurred on October 27, 2008 (with the Deschutes County Planning Commission). The Bend City Council and Deschutes County Board of Commissioners held a joint public hearing on the proposal on November 24, 2008 and considered certain changes to it. The written public hearing record remained open until December 1, 2008. After deliberation during December 2008 the City adopted the proposal (consisting of three ordinances as described above) on January 5, 2009.

3. The Deschutes County Board of Commissioners co-adopted the UGB amendment and related amendments to the county comprehensive plan and county zoning code (consisting of two ordinances as described above) on February 11, 2009.

4. The City provided local notice of its adoption, and submitted ordinances NS-2112 and NS-2113 to the Department for review on April 16, 2009. The submittal did not include Ordinance NS-2111, which adopted an amended public facilities plan, although a copy of Ordinance NS- 2111 was included in the April 16, 2009 submittal materials.

5. The 21-day objection period for the April 16, 2009 submittal ended on May 7, 2009, with 27 parties filing objections. Also on May 7, 2009, the Department sent the City notice that the submittal was incomplete. The City responded to the department's notice on June 5,

2009.

6. On June 12, 2009, the City provided local notice of its adoption of Ordinance NS-2111 (public facility plan amendments), and submitted that ordinance to the Department for review. This submittal started a second 21-day objection period. This second objection period ended on July 6, 2009 with nine objecting parties, including some who had objected to the UGB submittal, objecting.

7. The department determined that the city's submittals were complete on August 28, 2009, and consolidated the submittals for review in the manner of periodic review. This began the 120-day review period for the director's decision on the consolidated submittal.

8. The 120-day review period was extended to January 8, 2010 by agreement of the City and the Department. On January 8, 2010 the Director issued his Director's Decision, remanding the city's three ordinances, and providing notice to the City and County and all objectors. The Director's Decision held that the objections of two objectors were not valid under the Commission's rules (Simpson and Spencer). Director's Decision, at 11.

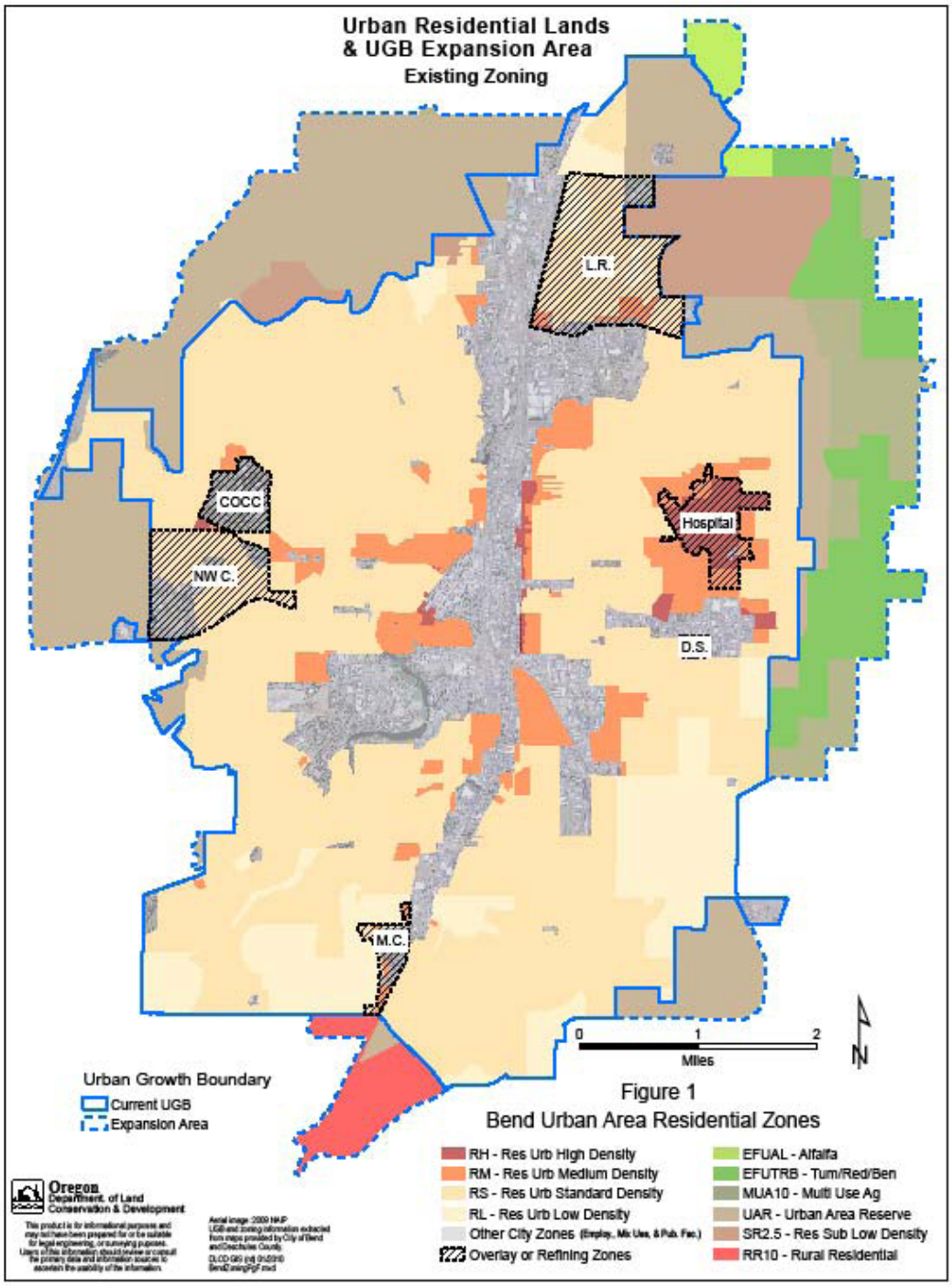
9. Appeals of the Director's Decision were timely filed on or before January 29, 2010 by: the City of Bend (the "City" or "Bend"); the Bend Metropolitan Parks and Recreation District; the Bend-La Pine School District; Swalley Irrigation District (Swalley); Newland Communities (Newland); Shevlin Sand and Gravel Inc. (Shevlin); Rose & Associates, LLC (Rose & Associates); Toby Bayard (Bayard); Central Oregon LandWatch (COLW); Hunnell United Neighborhoods (Hunnell); Terry Anderson (Anderson); and Hilary Garrett (Garrett). Simpson and Spencer did not appeal the Director's Decision holding that their objections were not valid.

10. The Department issued a report on the appeals (Department Report on Appeals) on February 25, 2010.

11. The City; Bend Metro Park & Recreation District; Bend-LaPine School District No. 1; Swalley; Newland Communities; Bayard; COLW filed timely exceptions to the Department's Report, on or before March 8, 2010.

12. The Commission held three public hearings over five days to hear oral argument from the City, objectors and appellants, and to deliberate. The public hearings on March 18 and 19, and May 12, 2010, were held in Bend. The public hearings on April 22 and 23 were held in Lincoln City.

13. The city's UGB expansion area, together with the zoning designations that existed prior to the UGB expansion, are shown in the following figure (taken from the Director's Decision):



II. Procedural Matters

1. Commission Tour

By memorandum dated February 25, 2010, the Department notified appellants and objectors of the commission meeting to consider appeals of Order 001755. The Department also notified appellants and objectors that the Commission requested new evidence or information from the City of Bend pursuant to OAR 660-025-0085, in the form of a tour of the areas affected by the expansion of the Bend UGB. By memorandum dated March 9, 2010, the Department provided supplemental notice to appellants and objectors concerning the tour and tentative meeting schedule and procedures.

On March 17, 2010, prior to the start of the Commission hearings on the appeals of DLCD Order 001775, the Commission toured the area. All appellants and objectors were allowed to participate in the tour. On the tour, the City of Bend distributed three maps: Bend Urban Area Framework Plan Map (R 1235), Suitable/Available Lands in UGB Expansion Study Area by Priority Class (R 155), and Bend Urban Area Roadway System Plan (R 1371), each of which had the tour route and stops indicated.

At the start of the Commission hearing on March 18, 2010, Commissioner Jenkins described what the commissioners observed on the tour, so as to give all parties an opportunity to rebut the information. Other commissioners concurred with Commissioner Jenkins' description. Appellants were given the opportunity to present visual and other materials in response to the tour, and Toby Bayard provided such a presentation to the Commission.

2. Extension of Time

On March 19, 2010, pursuant to ORS 197.633(5)(b), the Commission extended the time for taking action on the appeal, finding that the appeal raised both new and complex issues of fact and law that made it unreasonable to give adequate consideration to the issues within the 90-day limit provided in ORS 197.633(5) and OAR 660-025-0085(2)(b).

3. Official Notice

The Commission took official notice of the 1981 acknowledgment order of the city's Urban Area Reserve as an exception area pursuant to OAR 660-025-0085(5)(e)(B).

4. Oral Argument

Pursuant to OAR 660-025-0085(5)(c), the Commission allowed oral argument. The Commission allowed persons who submitted objections or an appeal to address only those issues raised in their objections or appeal.

III. Scope of Review

The Commission has exclusive jurisdiction to review certain UGB amendments pursuant to ORS 197.626 and OAR 660-025-0040(1)(a). ORS 197.626 provides, in pertinent part, that:

> "a city with a population of 2,500 or more within its urban growth boundary that amends the urban growth boundary to include more than 50 acres * * * shall submit the amendment * * * to the Land Conservation and Development Commission in the manner provided for periodic review under ORS 197.628 to 197.650."

In addition, ORS 197.825(2) provides that:

> "The jurisdiction of the board [the Land Use Board of Appeals]:
> (a) Is limited to those cases in which the petitioner has exhausted all remedies available by right before petitioning the board for review;
> (b) Is subject to the provisions of ORS 197.850 relating to judicial review by the Court of Appeals;
> (c) Does not include a local government decision that is:
> (A) Submitted to the Department of Land Conservation and Development for acknowledgment under ORS 197.251, 197.626 or 197.628 to 197.650 or a matter arising out of a local government decision submitted to the department for acknowledgment, unless the Director of the Department of Land Conservation and Development, in the director's sole discretion, transfers the matter to the board * * *."

Where the Commission reviews an urban growth boundary amendment under ORS 197.626, it does so "in the manner of periodic review." That review is to determine whether the decision(s) amending the urban growth boundary (or urban reserve designation) and any matters arising out of that decision, comply with the applicable statewide planning goals, their implementing rules, applicable state statutes, and applicable local comprehensive plan and land use regulations. OAR 660-025-0175(1); *City of West Linn v. LCDC*, 201 Or. App. 419 (2005) (reviewing LCDC order on review of Metro's UGB decision for compliance with Metro's code).

ORS 197.825 was amended in 2005. According to LUBA:

> "It is fair to characterize the 2005 amendments to ORS 197.825(2)(c) as attempting to eliminate some of the confusion created by shared jurisdiction over the same land use

> decisions by requiring local government decisions amending a UGB to be submitted to DLCD, after which certain matters may potentially be transferred to LUBA by DLCD.
>
> After the 2005 amendments were enacted, DLCD [*sic*] adopted administrative rules to govern its review of UGB amendments and to govern transfers under ORS 197.825(2)(c)(A) to LUBA. OAR 660-025-0175(1) requires that land use decisions amending a UGB must be submitted to DLCD "for review with the statewide planning goals and related statutes and rules * * *." OAR 660-025-0250 specifies which matters that are raised in an appeal of a UGB expansion may be transferred to LUBA under the statute."

Swalley Irrigation Dist. v. City of Bend, __ Or LUBA __ (slip. op., 5/8/2009) (Final Order dismissing LUBA Nos. 2009-012, 2009-013, 2009-031 and 2009-032).

IV. Standard of Review

As described above, the Commission reviews the submittal for compliance with the applicable statutes, goals and administrative rules. OAR 660-025-0040. For periodic review submittals under ORS 197.628 to 197.650, "compliance with the goals" means the submittal "on the whole, conform[s] with the purposes of the goals and any failure to meet individual goal requirements is technical or minor in nature." ORS 197.747.

In determining compliance with Goal 2, the Commission considers whether the submittal is supported by an adequate factual base. The city's and county's decisions on the UGB and related plan and code amendments are legislative decisions. The Goal 2 requirement for an adequate factual base requires that a legislative land use decision be supported by substantial evidence. *1000 Friends of Oregon v. City of North Plains*, 27 Or LUBA 372, 376-378, *aff'd* 130 Or App 406, 882 P2d 1130 (1994), *DLCD v. Douglas County*, 37 Or LUBA 129, 132 (1999). Substantial evidence exists to support a finding of fact when the record, viewed as a whole, would permit a reasonable person to make that finding. ORS 183.482(8)(c) and *Dodd v. Hood River County*, 317 Or 172, 179, 855 P2d 608 (1993). Where the evidence in the record is conflicting, if a reasonable person could reach the decision the city made in view of all the evidence in the record, the choice between the conflicting evidence belongs to the city. *Mazeski v. Wasco County*, 28 Or LUBA 178, 184 (1994), *aff'd* 133 Or App 258, 890 P2d 455 (1995).

Because the UGB amendment and related submittals embody both basic findings of fact and inferences drawn from those facts, substantial evidence review involves two related inquiries: "(1) whether the basic fact or facts are supported by substantial evidence, and (2)

whether there is a basis in reason connecting the inference to the facts from which it is derived." *City of Roseburg v. Roseburg City Firefighters*, 292 Or 266, 271, 639 P2d 90 (1981). Where substantial evidence in the record supports the adopted findings concerning compliance with the goals and the Commission's administrative rules, the Commission nevertheless must determine whether the findings lead to a correct conclusion under the goals and rules. *Oregonians in Action v. LCDC*, 121 Or App 497, 504, 854 P2d 1010 (1993).

V. Procedural Issues

1. Whether the Department and Commission Have Jurisdiction Over the City's Submittal

a. Summary of Issue and Objectors/Appellant

Swalley Irrigation District (Swalley) objected that the Land Use Board of Appeals (LUBA or the Board), and not the Department (or, presumably, the Commission) has jurisdiction over the city's submittal. Swalley based its objection on (1) the "tardiness" of the city's submittal, and (2) the contention that the submittals are not and do not arise from UGB amendments within the department's jurisdiction under ORS 197.825(2)(c)(A). Swalley objected that in order to invoke the exception to LUBA jurisdiction under ORS 197.825(2)(c)(A), a local government submittal to the Department must occur closer to the time of adoption than occurred in this matter (five months after adoption). Swalley objected that the city's submittal is not timely for purposes of ORS 197.825(2)(c)(A) because it occurred after the time for filing a LUBA appeal or intervention. Swalley contended this is because transfers to LUBA can only occur within certain statutory limits, citing ORS 197.830(9). Swalley argued that under ORS 197.825(2)(c)(A), the Director can only transfer a matter to LUBA within the 21-day period in which a notice of intent to appeal a land use decision may be filed under ORS 197.830(9). Swalley argued "DLCD director's transfer authority is only exercisable and thus necessarily must occur in the LUBA 21 day appeal period." Swalley Objection 1, at 14.

b. Legal Standard

Under ORS 197.825, LUBA has exclusive jurisdiction to review any land use decision of a local government with specific statutory exceptions.[1] One exception to the exclusive

[1] ORS 197.825(1) provides:

jurisdiction of the board is for certain matters submitted to the Department. ORS 197.825(2) provides in part:

> "The jurisdiction of the board:
>
> * * * * * *
>
> (c) Does not include a local government decision that is:
>
> (A) Submitted to the Department of Land Conservation and Development for acknowledgment under ORS 197.251, 197.626 or 197.628 to 197.650 or a matter arising out of a local government decision submitted to the department for acknowledgment, unless the Director of the Department of Land Conservation and Development, in the director's sole discretion, transfers the matter to the board[.]"

ORS 197.825(2)(c)(A) excludes submittals pursuant to ORS 197.626, which provides:

> "[A] *city with a population of 2,500 or more within its urban growth boundary that amends the urban growth boundary to include more than 50 acres* or that designates urban reserve under ORS 195.145, or a county that amends the county's comprehensive plan or land use regulations implementing the plan to establish rural reserves designated under ORS 195.141, *shall submit the amendment or designation to the Land Conservation and Development Commission in the manner provided for periodic review under ORS 197.628 to 197.650.* (Emphasis added.)

This Commission adopted OAR 660-025-0040[2] to implement its exclusive jurisdiction under the statute and OAR 660-025-0250[3] to provide for transfers of matters to LUBA.

> Except as provided in ORS 197.320 and subsections (2) and (3) of this section, the Land Use Board of Appeals shall have exclusive jurisdiction to review any land use decision or limited land use decision of a local government, special district or a state agency in the manner provided in ORS 197.830 to 197.845.

[2] OAR 660-025-0040 provides:

> (1) The commission, pursuant to ORS 197.644(2), has exclusive jurisdiction to review the evaluation, work program, and all work tasks for compliance with the statewide planning goals and applicable statutes and administrative rules. Pursuant to ORS 197.626, the commission has exclusive jurisdiction to review the following land use decisions for compliance with the statewide planning goals:
> (a) If made by a city with a population of 2,500 or more inside its urban growth boundary, amendments to an urban growth boundary to include more than 50 acres;
> (b) If made by a metropolitan service district, amendments to an urban growth boundary to include more than 100 acres;
> (c) plan and land use regulations that designate urban reserve areas.
> (2) The director may transfer one or more matters arising from review of a work task, urban growth boundary amendment or designation or amendment of an urban reserve area to the Land Use Board of Appeals pursuant to ORS 197.825(2)(c)(A) and OAR 660-025-0250.

[3] OAR 660-025-0250 provides:

> (1) When the department receives an appeal of a director's decision pursuant to OAR 660-025-0150(4), the director may elect to transfer a matter raised in the appeal to the Land Use Board of Appeals (board) under ORS 197.825(2)(c)(A).

c. Summary of Local Actions, Director's Decision and Appeal(s)

The City submitted notice of the city's and county's adoption of four ordinances to the department on April 16, 2009. Those four ordinances were the city's ordinances adopting the amended UGB and amending the city's development code in certain respects (Ordinances Nos. NS-2112 and NS-2113), and the county's ordinances co-adopting the amended UGB and making certain amendments to the county's comprehensive plan map and text for the lands within the UGB expansion area. R. at 1050-1051 (city ordinance NS 2112 - UGB); R. at 1836-1844 (city ordinance NS 2113 – development code); see R. at 1854 and county ordinance 2009-1 (UGB map and DCC and TSP map); see R. at 1860 and county ordinance 2009-2 (zoning map and certain DCC amendments). The City did *not* submit ordinance NS 2111, amending the city's Public Facilities Plan element of its General Plan, to the department on April 16, 2009 (although the City included a copy of this ordinance, which the City adopted immediately before the UGB amendment ordinance, in the record for the submittal of the UGB ordinance (NS 2112), and the City submitted a separate notice of adoption of the Public Facilities Plan on January 9, 2009). On June 12, 2009, following LUBA's decision in *Swalley Irrigation District v. City of Bend,* 59 Or LUBA 52 (2009) and order in *Swalley Irrigation District v. City of Bend,* __ Or LUBA __ (LUBA Nos. 2009-010, 2009-011, and 2009-020, May 8, 2009) suspending the appeal of the Public Facilities Plans.[4] The City separately submitted ordinance NS 2111 to the Department for review under ORS 197.626, and provided notice to the objectors, as required by OAR 660-025-0175(3) and (4) and OAR 660-025-0130 and -0140.

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(2) Matters raised in an appeal may be transferred by the director to the board when:
(a) The matter is an urban growth boundary expansion approved by the local government based on a quasi-judicial land use application and does not require an interpretation of first impression of statewide planning Goal 14, ORS 197.296 or 197.298; or
(b)(A) The matter alleges the work task submittal violates a provision of law not directly related to compliance with a statewide planning goal;
(B) The appeal clearly identifies the provision of the task submittal that is alleged to violate a provision of law and clearly identifies the provision of law that is alleged to have been violated; and
(C) The matter is sufficiently well-defined that it can be separated from other allegations in the appeal.
(3) When the director elects to transfer a matter to the board, notice of the decision must be sent to the local jurisdiction, the appellant, objectors, and the board within 60 days of the date the appeal was filed with the department. The notice shall include identification of the matter to be transferred and explanation of the procedures and deadline for appeal of the matter to the board.
(4) The director's decision under this rule is final and may not be appealed.

[4] LUBA determined that under ORS 197.825(2)(c)(A), it did not have initial jurisdiction to review a decision by a city with a population over 2,500 to amend its urban growth boundary to add more than 50 acres of land where that decision is submitted to the Department of Land Conservation and Development (DLCD) for review under ORS 197.626. LUBA may later acquire jurisdiction over certain matters addressed in the decision if the director of DLCD transfers those matters to LUBA. Swalley Irrigation District v. City of Bend, 59 Or LUBA 52 (2009).

The Director denied Swalley's objection, and did not transfer any of the decisions to the Board, and issued his decision remanding all five of the city and county decisions on January 8, 2010.

d. Analysis

Nothing in ORS 197.830(9) addresses Department transfers to LUBA. Nothing in ORS 197.825(2)(c)(A) or its statutory context prescribes a time frame in which the Director must act to transfer some or all of a local government submittal to LUBA. In construing ORS 197.825(2)(c)(A), the Department may not insert what the legislature has omitted – in this circumstance a 21-day time frame that constrains the director's statutory authority to otherwise transfer a matter to LUBA. ORS 174.010. Nor may the Commission read ORS 197.830(9) as context in such a manner as to give no effect to ORS 197.825(2)(c)(A) in the circumstances presented here. *Id*. In *Swalley Irrigation District,* LUBA held:

> "ORS 197.825(2)(c)(A) and ORS 197.626, and the implementing rules adopted by [LCDC] * * * make clear that after the City of Bend submitted NS-2112 and NS-2113 to DLCD for review under the statutes governing periodic review, LUBA ceased to have jurisdiction over those submitted decisions *or over matters arising out of those submitted decisions* unless the director of DLCD transfers matters to LUBA pursuant to OAR 661-025-0250(2)." 59 Or LUBA at 58-59.[5]

In this case, the city's findings for its amendments to its public facilities plans state that the amendments are intended to address both lands within the (then) existing UGB and lands proposed for the UGB expansion. R. at 211. The City relied on its amendments to its public facilities plan in justifying some aspects of its UGB decision. Director's Decision, at 15. As a result, the Commission concurs with the Director that Ordinance No. NS-2111 is a "matter arising out of" the city's submitted decisions, including its UGB amendment.

e. Conclusion

The Commission concludes that the Director correctly denied this objection. Consistent with LUBA's decisions and orders regarding jurisdiction over the City and county submittals, unless and until the matters are transferred to LUBA pursuant to OAR 661-025-0250(2), jurisdiction over all three of the city ordinances (and the two county ordinances) lies with the Department and not the Land Use Board of Appeals.

[5] The Board also dismissed challenges to County Ordinances 2009-01 and 2009-02 submitted to the Department on April 16, 2009. *Swalley Irrigation District v. City of Bend,* 59 Or LUBA 192 (2009).

2. Whether the City Provided Adequate Public Notice of its Amended Public Facilities Plans

Swalley and several other objectors submitted objections relating to the process the City followed for adoption of the amendments to its Public Facilities Plans (Ordinance No. NS-2111). These objections are addressed below, as issues 10.3 and 10.4, under substantive objections.

VI. Substantive Objections and Appeals

1. Whether the City's Findings Are Adequate for Review

a. Summary of Issue and Objectors/Appellants

The Director remanded the city's and county's decisions in a number of instances on the basis that their findings were inadequate. *See, e.g.*, Director's Decision at 21 (no findings); 22 (findings lack explanation of how standard is met); 26 (findings do not explain how the City determined which lands are vacant or redevelopable); 28 (findings do not relate capacity analysis to statutory factors). The City appealed, arguing that detailed findings are not required for a legislative decision (such as this one). City Appeal, at 8-9.

b. Legal Standard

There is no statute, statewide planning goal or administrative rule that generally requires that legislative land use decisions be supported by findings. *Port of St. Helens v. City of Scappoose*, 58 Or LUBA 122, 132 (2008). However, there are instances where the applicable statutes, rules or ordinances require findings to show compliance with applicable criteria. In addition, where a statute, rule or ordinance requires a local government to consider certain things in making a decision, or to base its decision on an analysis, "there must be enough in the way of findings or accessible material in the record of the legislative act to show that applicable criteria were applied and that required considerations were indeed considered." *Citizens Against Irresponsible Growth v. Metro*, 179 Or App 12, 16 n 6, 38 P3d 956 (2002). The Commission's standard of review is further described above, at pages 7-8.

c. Summary of Local Actions, Director's Decision and Appeal(s)

The submittal consists of legislative land use decisions adopted by the City of Bend and Deschutes County. The City points to findings addressing the many applicable standards at R. 1052 *et seq.* City of Bend's Exceptions at 3.

The Department decided that the submittal was deficient and directed that on remand the City must adopt findings that first identify the applicable legal standard, second identify the evidence in the record that is relevant to the identified legal standard, and third explain why that evidence shows that the City has complied with the standard. The City agrees

> "that it must adopt findings to show how its legislative action complied with the statewide goals, statutes and administrative rules. The City also agrees that the findings must allow the Department and the Commission to review whether there is substantial evidence in the record to support the findings." *Id.* (City of Bend's Exceptions at 3.)

The City seeks clarification regarding the nature and extent of the findings required.

d. Analysis

The relevant periodic review statutes place the Department and the Commission in the role of assuring that local land use legislation complies with the statewide goals, applicable statutes and rules. *Oregonians in Action v. LCDC*, 121 Or App 497, 501, 854 P2d 1010 (1993). Legislative decisions are subject to review for adequate support in the record. *City of West Linn v. LCDC*, 201 Or App 419, 428, 119 P3d 285 (2005). The parties agree that the standard of review, derived from the Goal 2 requirement for an adequate factual base, is "substantial evidence." *DLCD v. Douglas County*, 37 Or LUBA 129, 132 (1999). The Commission applies the substantial evidence standard of review to determine whether the local land use legislation complies with the statewide goals, applicable statutes and rules.

With regard to the nature and extent of findings required for the city's legislative decision, the Oregon Supreme Court described the importance of findings in establishing that a land use decision serves established objective and polices:

> "Findings are important only insofar as they relate to the objectives and policies to which the planning government is committed by its plan or by state law, goals or guidelines. Consequently findings must make clear what these objectives or polices are as applied in the concrete situation. Thereafter, findings must describe how or why the proposed action will in fact serve these objectives or polices."

Sunnyside Neighborhood v. Clackamas Co. Comm., 280 Or 3, 22-23, 569 P2d 1063 (1977).

The Court of Appeals further described the obligation of the legislating local government to articulate its thinking. In rejecting an appellant's position that the court should review portions of a record identified by the parties and their arguments to determine whether a criterion was met (in the absence of findings), the Court of Appeals explained:

> "Ryland Homes argues that 'the findings taken as a whole adequately explain why Metro determined, balancing all consideration and impacts,' that expanding the UGB at this location was a better alternative than expanding at other locations. Ryland Homes then points to certain evidence throughout the record and findings under portions of Metro's decision concerning other Goal 14 factors, as well as other portions of its decision, and contends that we should essentially put the pieces of the puzzle together and conclude that Metro did adequately address the ESEE consequences under factor 5. As discussed above our function on review is to determine if LUBA correctly assessed whether the local government has satisfied all applicable legal requirements in making its decision. Metro has an obligation to consider each of the locational factors and to articulate its thinking regarding the factor and the role that each factor played in its balancing of all of the factors."

1000 Friends of Oregon v. Metro, 174 Or App 406, 415-416, 26 P3d 151 (2001); *see also, 1000 Friends v. LCDC* (Woodburn), __ Or App __ (No. 135375, 9/8/10)(requiring that *LCDC* orders set out the Commission's reasoning in disposing of objections to a UGB decision).

To be clear, parties before the Commission are free to cite material in the record that demonstrates applicable criteria were applied. *Port of St. Helens v. City of Scappoose*, 58 Or LUBA at 132. However, for purpose of Department and Commission review, it is essential that the submitting jurisdiction, in the first instance, explain its decision in written findings that connect the applicable standards with the relevant evidence. Findings should (1) identify the relevant approval standards, (2) set out the facts which are believed and relied upon, and (3) explain how those facts lead to the decision on compliance with the approval standards. *Mountain Gate Homeowners v. Washington County*, 34 Or LUBA 169, 173 (1998).

Adequate findings serve additional purposes. By demonstrating that the legislating body considered the applicable criteria, the risk that LCDC or the Department will substitute its own judgment in review of the record is diminished. Findings also help assure that subsequent land use decisions applying the city's urban growth boundary expansion decision will be consistent with state standards. See *Oregonians in Action*, 121 Or App at 502 ("Moreover, as LCDC contends in its brief, its ability to require that local legislation contain particular provisions or that it spell out with particularity how it complies with statewide standards can be essential to assuring that, after acknowledgment or periodic review, the local legislation will be interpreted and applied by the local government in a manner that is consistent with the state standards.")

e. Conclusion

The Commission concludes that the Director correctly determined that the submittals under ORS 197.626 must be supported by substantial evidence and present adequate findings. The city's findings must:

- articulate the applicable standard that the City is showing it met;
- explain why the city's decision complies with the standard; and
- identify substantial evidence in the record to support its explanation.

The Commission also concludes that in reviewing submittals under ORS 197.626, it will uphold findings that fail to identify the evidence in the record that support them *if* the City on appeal identifies that evidence, *and* the evidence clearly supports the finding. This is *not* intended to (and cannot) alter the Commission's standard of review. Instead it provides a substitute for inadequate evidentiary findings under Goal 2 – analogous to the express authority that the Land Use Board of Appeals has under ORS 197.835(11(b).

2. Residential Land Needs

2.1. Whether the Director Applied the Correct Version of the Commission's Goal 10 and Goal 14 Rules to the City's Decision.

a. Summary of Issue and Objectors/Appellants

No objection was filed concerning this issue. The issue arises from the way in which the Director analyzed one aspect of the city's decision, and the city's subsequent appeal of that aspect of the director's decision.

b. Legal Standard

OAR 660-024 contains specific provisions relating to when particular versions of that rule is applicable to particular decisions.

c. Local Actions, Director's Decision, and Appeal

The City applied the version of OAR 660-024 in effect on April 5, 2007 in making its UGB decision. The Director reviewed the city's decision using a subsequent version of OAR 660-024 (the one in effect at the time of the city's decision). The director's decision determined that the City of Bend failed to comply with the current versions of the commission's rules implementing Goal 10 and Goal 14. The City appealed, arguing that its decision was subject to the earlier version of the Goal 14 implementing rules (OAR 660-024).

d. Analysis

The city's UGB expansion and related decisions are not the approval or denial of a permit or a zone change. As a result, the "goal post" statute, ORS 227.178, does not apply. The city's decision is subject to the version of the commission's rules in effect at the time of its decision, *unless* the rules specifically provide otherwise.

The Commission last amended its Goal 10 rules, OAR chapter 660, division 8, on April 18, 2008. Division 8 does not include a special applicability provision, and the current version applies.

The Commission last amended its Goal 14 rules, OAR chapter 660, division 24, on April 8, 2009. OAR 660-024-0000 contains an applicability provision that provides that the applicable version of the rule is tied to the date a city initiates its UGB amendment. Under the rule, the date the city initiated its UGB amendment is the date it sent 45-day notice of the proposed amendment to the Department. The City initiated the UGB amendment after April 5, 2007.

Following the director's decision, the Department and the City agreed that the version of

OAR 660-024 in effect on April 5, 2007 applies to the city's decision. The Commission concurs.

e. Conclusion

The Commission concludes that the April 2007 version of the commission's Goal 14 rules apply to the city's decision, and affirms the city's appeal. The current version of the commission's Goal 10 rules apply to the city's decision. On remand, the City may need to apply the current version of the Goal 14 rules, depending on the application of OAR 660-024-0000 to its actions on remand.

2.2. Whether the City's Buildable Lands Inventory (BLI) is Adequate for Review. Whether the City Correctly Determined what Lands are "Vacant" and What Lands are "Redevelopable. Whether the City's Estimate of the Development Capacity of those Lands Complied with the Needed Housing Statutes and the Commission's Rules.

a. Summary of Issue and Objectors/Appellants

Swalley objected to the city's buildable lands inventory (BLI), arguing that the City failed to distinguish between vacant and redevelopable lands as required by state law. Swalley Objection, at 63-64. The Director agreed, and determined that the city's BLI was not adequate for review due to an inadequate map of vacant and redevelopable lands, due to the city's use of criteria for categorizing lands as vacant and redevelopable that were inconsistent with the Commission's rules and state statutes, due to inadequate findings concerning what lands were categorized as vacant and redevelopable and why (including an inadequate factual basis for the determinations), and due to inadequate findings concerning the projected capacity of vacant and redevelopable lands over the planning period. Newland also objected to the city's decision, arguing that the city's estimates of residential development capacity on buildable lands *underestimated* the amount of land needed to be added to the UGB by not properly accounting for land needs for schools and parks, by not reflecting infrastructure constraints, and by not considering the location of dwellings on lots. Newland Objection, at 25-26. The Director denied Newland's objection. Director's Decision, at 42.

The City and Newland appealed the director's decision on this subissue. City Appeal, at 18-20.

b. Legal Standard

The statutory requirement for a map of buildable lands is found in ORS 197.296. ORS 197.296(4)(c) provides that:

"Except for land that may be used for residential infill or redevelopment, a local

government shall create a map or document that may be used to verify and identify specific lots or parcels that have been determined to be buildable lands."

In other words, the BLI map must show specific lots and parcels that have been determined to be "buildable." As detailed below, those lands include: (a) vacant lands planned or zoned for residential use; (b) partially vacant lands planned or zoned for residential use; and (c) lands that may be used for a mix of residential and employment uses under the existing planning or zoning. However, lands that may be used for residential infill and redevelopment do not have to be shown on the map.

The statutory requirement for a buildable lands inventory (the determination of the *amount* of buildable land within the existing UGB), along with some direction concerning what lands are to be inventoried as "buildable," is contained in ORS 197.296(3), which provides in pertinent part that:

"* * * a local government shall:

(a) Inventory the supply of buildable lands within the urban growth boundary and determine the housing capacity of the buildable lands;

* * *

(4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, “buildable lands” includes:

(A) Vacant lands planned or zoned for residential use;

(B) Partially vacant lands planned or zoned for residential use;

(C) Lands that may be used for a mix of residential and employment uses under the existing planning or zoning; and

(D) Lands that may be used for residential infill or redevelopment.

The Commission's rules further define what lands are "buildable" for purposes of the buildable lands inventory. OAR 660-008-0005(2) and (6) state that:

(2) “Buildable Land” means residentially designated land within the urban growth boundary, including both vacant and developed land likely to be redeveloped, that is suitable, available and necessary for residential uses. Publicly owned land is generally not considered available for residential uses. Land is generally considered “suitable and available” unless it:

(a) Is severely constrained by natural hazards as determined under Statewide Planning Goal 7;

(b) Is subject to natural resource protection measures determined under statewide Planning Goals 5, 15, 16, 17, or 18;

(c) Has slopes of 25 percent or greater;

(d) Is within the 100-year flood plain; or

(e) Cannot be provided with public facilities.

* * *

(6) “Redevelopable Land” means land zoned for residential use on which development has already occurred but on which, due to present or expected market forces, there exists the strong likelihood that existing development will be converted to more intensive residential uses during the planning period.

The Commission's division 24 rules also clarify certain aspects of how the BLI must be carried out. OAR 660-024-0050 (2007 version) provides that:

"(1) When evaluating or amending a UGB, a local government must inventory land inside the UGB to determine whether there is adequate development capacity to accommodate 20-year needs determined in OAR 660-024-0040. *For residential land, the buildable land inventory must include vacant and redevelopable land, and be conducted in accordance with* OAR 660-007-0045 or *660-008-0010*, whichever is applicable, *and ORS 197.296* for local governments subject to that statute.* * *

(2) As safe harbors, a local government, except a city with a population over 25,000 or a metropolitan service district described in ORS 197.015(14), may use the following assumptions in inventorying buildable lands to accommodate housing needs:

(a) The infill potential of developed residential lots or parcels of one-half acre or more may be determined by subtracting one-quarter acre (10,890 square feet) for the existing dwelling and assuming that the remainder is buildable land;

(b) Existing lots of less than one-half acre that are currently occupied by a residence may be assumed to be fully developed.

****." OAR 660-024-0050 (emphasis added).

Finally, OAR 660-008-0010 requires that: "* * * the local buildable lands inventory must document the amount of buildable land in each residential plan designation."

Together, the statutes and the Commission's rules make it clear that for purposes of the BLI, vacant land is distinguished from land that is already developed. Vacant lands are further broken down into two subcategories: completely vacant, and partially vacant. ORS 197.296(3). Both types of vacant land, if they are planned *or* zoned for residential use, must be included in the BLI unless one or more of the screens listed in OAR 660-008-0005(2) is present.

Like "vacant" lands, "developed" lands also are further broken down into subcategories: lands with infill potential, lands that are redevelopable, and lands that are developed and that do not have a strong likelihood of redevelopment during the planning period. The context provided by OAR 660-024-0050(2) (2007) shows that developed lands with infill potential are lots or parcels that have one or more existing dwellings on them, but where there is enough land

remaining that one or more additional dwellings could be developed. Redevelopable lands are lots or parcels where there is a strong likelihood that existing residential development is likely to be converted to a more intensive form (more units) during the planning period. OAR 660-008-005(6). For example, a lot with an existing dwelling that is projected to be converted into a duplex would fall into the redevelopment subcategory.

These categories and subcategories matter, because for "redevelopable" lands (unlike vacant and partially vacant lands) the local government must show that there is a strong likelihood of more intensive residential development during the planning period due to present or expected market forces in order to include additional future capacity from this element in determining the residential capacity of the existing UGB over the planning period.. OAR 660-008-0005(6). That is not the case for vacant and partially vacant lands.

c. Local Actions, Director's Decision, and Appeal

The City adopted a map of buildable lands and included that map in the record. However, the map transmitted to the Department by the City as part of the local record was not at a scale sufficient to determine what lots and parcels had been inventoried as buildable. R. at Supplement 1257.

The city's findings state that it assigned each tax lot within the four primary residential plan designations within the Bend UGB to one of the several categories of development status, including vacant acres (platted lots), vacant acres with minimal improvements, vacant acres with physical constraints, and redevelopable acres. R. at 1071. The city's findings also summarize the development capacity it projects over the planning period by several subcategories of vacant lands and redevelopable lands. R. at 1071 (Table III-4). However, these subcategories differ both from the types described under statute and Commission rule, and from the narrative summary in the city's findings.

The Director determined that the BLI map the City provided to the department was not adequate to comply with ORS 197.296, because it did not show specific lots and parcels that have been determined to be "buildable," and more specifically lots and parcels that are: (a) vacant lands planned or zoned for residential use; (b) partially vacant lands planned or zoned for residential use; and (c) lands that may be used for a mix of residential and employment uses under the existing planning or zoning. Director's Decision, at 26.

The Director also determined that the city's BLI was inconsistent with the categories

established by state statute and commission rule, and that the city's findings failed to explain what criteria the City used to determine that specific lots and parcels fell under the particular subcategories of buildable lands. Director's Decision, at 25-26.

The City and Newland appealed the Director's Decision on this subissue. In addition to disagreeing with the Director that state statute and commission rules require the City to document what lands are included in its BLI by categories other than those used by the City, the City and Newland also argued that state law allows a BLI to be organized by comprehensive plan designation (rather than zoning designations).

On appeal, the City provided a map at a sufficient level of detail (by tax lot) to show what lands it inventoried as buildable (copies of this map were provided to the other parties and to the commission as Exhibit 1 to the department's Report). The City also clarified in its appeal that its 2005 BLI was updated with data from 2005 to 2007. City Appeal, at 18. The data were not included in the record submitted to the department, however. City Appeal, at 19-20.

d. Analysis

The mapping the City provided (on appeal) of buildable lands is sufficient to comply with ORS 197.296(4)(c), because it shows what lands the City inventoried as buildable on a tax lot basis (generally, while not all tax lots are necessarily lots or parcels, all lots or parcels typically have a separate tax lot). In addition, the city's BLI is properly based on plan districts rather than zoning districts, as permitted by OAR 660-008-0010.[6]

The city's findings, however, do not adequately explain its determination of what lands are "vacant" (including lands that are "partially vacant") and what lands are "redevelopable" as those terms are used in ORS 197.296 and in OAR 660 divisions 8 and 24. The City inventoried three types of "vacant" land: vacant acres (with platted lots); vacant acres with minimal improvements, and vacant acres with physical constraints. R. at 1071. However, those categories do not correspond to the categories used in Table III-4 of the city's findings, and it is not clear how the City considered the three types of vacant lands.

For example, it is not clear whether vacant lands with "minimal improvements" were treated as "vacant" lands or as "redevelopable" lands. This matters because, as described above,

[6] However, ORS 197.296(4)(a), requires that lands be included in the inventory whether they are planned *or* zoned for residential use. In other words, although the BLI may categorize buildable lands by plan designation, it must include all lands that are planned *or* zoned for residential use. If land is zoned for residential use, but in a non-residential plan designation, it still must be included in the BLI.

under the commission's rules “redevelopable” lands are considered “buildable” only if there is a strong likelihood that they will be converted to a more intensive residential use during the planning period, while “vacant” lands are not subject to this additional test (and are generally considered “suitable and available”). It is not clear why the City distinguished between different types of vacant lands.

Table 5-4 of the city’s Housing Element, which the City identifies as the summary of its final BLI (R. at 1288), uses the terms: “vacant acres,” “vacant acres - pending land use,” and “vacant acres - platted lots.” The city’s findings do not describe how these types are defined or how they relate to the statutory and rule definitions.[7]

There also are several problems with the city’s approach to physical constraints. OAR 660-008-0005 provides that:

> "(2) Land is generally considered 'suitable and available' [for inclusion in the BLI] unless it:
> (a) Is severely constrained by natural hazards as determined under Statewide Planning Goal 7;
> (b) Is subject to natural resource protection measures determined under statewide Planning Goals 5, 15, 16, 17, or 18;
> (c) Has slopes of 25 percent or greater;
> (d) Is within the 100-year flood plain; or
> (e) Cannot be provided with public facilities.

The City excluded lands from its BLI as “constrained” if the lands had physical constraints over 50 percent or more of the lot. R. at 2042; Director's Decision at 26. The commission’s rule does not authorize a local government to exclude vacant lands from a BLI on the basis that more than half of a lot or parcel is constrained.[8] While that approach *might* be justified for small lots, with larger lots it would potentially exclude a significant amount of land that is in fact buildable over the planning period.

The City also excluded lands within the city's “areas of special interest.” These are lands protected by the City for natural resource values, but which the City has not inventoried or

[7] The city's findings under OAR 660-008-0005 state that: "The city has relied on these definitions to develop the foregoing findings, and the subsequent findings, to demonstrate compliance with Goal 10." However, the findings do not explain how the categories and subcategories the city uses related to the provisions of OAR 660-008-0005 or ORS 197.296. R. at 1097.

[8] OAR 660-024-0050 (2007) does contain a safe harbor authorizing local governments with a population within the UGB of less than 25,000 to assume that one-quarter acre of a lot or parcel over half an acre with an existing dwelling is developed for purposes of calculating the infill potential of the lot or parcel. The City of Bend is not authorized to use this safe harbor, however, as its population is greater than 25,000.

protected as containing significant natural resources under statewide land use planning Goal 5. The commission's rule authorizes a city to exclude lands that are protected under Goal 5, but not lands that the city is protecting under its own local code provisions. OAR 660-008-0005(2)(b).

Additional findings also are necessary to clarify how the City considered "redevelopable" lands. Despite some argument to the contrary,[9] there is not any disagreement about how these lands are defined. Lands that are fully developed are "redevelopable" and included in an inventory as "buildable" only if there is a strong likelihood that the existing development will be converted to more intensive residential uses during the planning period. OAR 660-008-0005(6). The City excluded parcels that contain less than 0.5 acres from its inventory of "redevelopable" lands if they have a land value exceeding improvement value. While this *may* be a reasonable application of OAR 660-008-0005(6), the city's findings do not identify what the factual basis for this assumption is. For instance, the City does not identify whether lands with these characteristics have seen little or no redevelopment since the city's last periodic review.

The City also excluded some lands from its inventory on the basis of covenants, conditions, and restrictions (CC&Rs) imposing restrictions on future development. However, the City's findings do not explain why the CC&Rs make redevelopment less than highly likely, or why they preclude future development of vacant lands covered by the CC&Rs.

The city's summary of its BLI in Table 5-4 of its Housing Element, R. at 1288, shows that it counted about five percent of its lands in its residential plan districts as being "redevelopable" and another five percent were counted as "vacant." *Id.* On remand, the City must analyze the development capacity of the vacant and redevelopment lands in light of the actual trends in redevelopment of developed properties and infill of vacant properties. Those trends include the fact that the city's 2007 Residential Lands Study reported that 12,800 building permits were issued for lands within the prior UGB between 1998 and 2005. R. at 1807. While the Commission understands that this development may have utilized much of the vacant and redevelopable land within the prior UGB, to the extent the City projects that it will deviate from those past trends significantly in the future, the City needs to explain why in its findings. It also appears that some of the redevelopment and infill activity during the 1998-2005 period occurred as a result of significant annexations and subsequent plan and zone changes that provided an increase in the residential capacity of the prior UGB of between 4,259 and 5,950 units. R. at

[9] City Appeal at 20-22, Newland Appeal at 3-7.

1827. It is unclear, however, whether this is the case and, if so, whether this trend is expected to continue, or whether the potential for additional up-zoning within the prior UGB is limited.

The city's findings state that:

> "* * * the city is assuming that development in the RL, RS, and RM designations will meet minimum densities for vacant lands; development in the RH designation will occur at lower than minimum densities because of the parcelized pattern of RH lots in the current UGB. The density of redevelopment will be lower than minimum as well because of the parcelized pattern of redevelopable lots within the current UGB." R. at 1071.[10]

The City also assumed that already platted lots would not further divide. R. at 1071. The city's minimum densities are: RL – 1.1 dwellings per gross acre; RS – 2.2 dwellings per gross acre, RM 6.0 dwellings per gross acre; and RH – 22 dwellings per gross acre. R. at 1287. Most vacant and redevelopable land in the prior UGB was in the RS plan district (2,410 acres out of 2,909 total). R. at 1071 (Table III-3). In other words, the City is projecting that much infill and redevelopment will occur at relatively low densities – an average of about 3 units per acre. Without additional explanation, the Commission finds that this assumption is not justified, either in terms of what has happened in the City in the past, or in terms of what is likely to occur within the UGB in the future.

Without a BLI and findings that follow state statutes and the Commission's definitions of "vacant" and "redevelopable," and that explain the city's projections and policy choices, the commission is left with the summary BLI table in Chapter 5 of the comprehensive plan, the city's findings (which contain no explanation of how the City determined whether lands were vacant or redevelopable), and the BLI map. The commission finds that there is not an adequate explanation in the city's findings, nor an adequate factual basis in the record to determine how the City compiled its buildable lands inventory. Without that key baseline, the Commission is not able to evaluate the city's projections for the residential capacity of its buildable lands over

[10] In its appeal, Newland notes that the City calculated capacity based on plan districts rather than current zoning, which (according to Newland) resulted in the city's determination of capacity being "aggressive." Newland Appeal, at 4-5. However, it is not clear from the city's findings that when it used minimum densities for each plan district, exactly which minimum densities it used. See, e.g., Table 5-3A of the city's Housing Element. R. at 1287 (reporting density ranges by plan district). For the plan district containing the most lands (RS), the City found there are 2,410 acres of vacant or redevelopable lands, and that those lands have a capacity for 7,458 potential units (R. at 1071, Table III-3 and III-4) – an average gross density of about three units to the acre. That figure is very close to the average actual density of single-family housing city-wide at present, R. at 1289. The Commission also notes that the city's findings concerning the capacity of buildable lands for additional residential units (10,059 units plus 1,100 units through measures, R. at 1071) do not match what the City adopted in its Housing Element (10,789 units plus 1,100 units through measures, R. at 1303).

the planning period. This latter issue is addressed further in connection with the requirement in Goal 14 to "reasonably accommodate" future land needs within the existing UGB prior to expanding onto new lands, beginning at page 50, below.

e. Conclusion

The Commission denies the city's and Newland's appeals on this subissue, upholds the Director's Decision, including the director's disposition of objections (for the reasons set forth in the Director's Decision) and remands the city's decision with instructions for it to develop a record and adopt a buildable lands inventory supported by findings that are consistent with state law. The city's findings must explain what criteria it uses (based on ORS 197.296, OAR 660-024 and 660-008) to determine whether particular lands are vacant or redevelopable, examine the amount and type of development that has occurred on the vacant and redevelopable lands since its last periodic review, and project the capacity of the city's buildable lands (prior to additional measures being implemented) based on that analysis (and as further detailed in connection with Goal 14, below). If the amount of redevelopment and infill within the city's UGB is projected to differ significantly from past trends, the City must explain why, and provide an adequate factual and policy basis to support that change.

The city's buildable lands inventory may not exclude lots and parcels smaller than 0.5 acres with no improvements without specific findings consistent with OAR 660-008-0005. Similarly, the City may not exclude lots and parcels subject to CC&Rs unless it adopts specific findings, supported by an adequate factual base, that show why the lands are not available for development or redevelopment during the planning period. In addition, the City has agreed to reexamine lands it identified as "constrained" to determine whether the lands are buildable under OAR 660-008-0005.

Finally, the Commission denies the objection of Newland for the reasons set forth in the Director's Decision, which are incorporated herein by this reference. Director's Decision, at 42-43.

2.3. Whether the City's Housing Needs Analysis and Comprehensive Plan Identify Needed Housing as Required by Goal 10 and the Needed Housing Statutes. Whether the City is Required to Analyze Housing Need by Tenure, Given that it Does Not Regulate Tenure (OAR 660-008-0040). Whether ORS 197.296 Requires an Analysis of Housing Needs for Owner-occupied and Rental Housing?

a. Summary of Issue and ObjectorsAppellants

Newland objected to the City's housing needs analysis, arguing that it must be based only on the factors of ORS 197.296(5), and that the City's use of its "Housing Needs Model" in developing its projections is "outside the scope" of that statute. Newland Objection, at 27-29. DSL objected to the City's housing needs analysis, arguing that it did not comply with ORS 197.296(3)(b) or 197.303. DSL Objection, at 1-2. DSL objected that the City was required to analyze housing need by tenure. *Id.* DSL also objected that the City had failed to show that it planned for needed housing in locations appropriate for needed housing types, or zoned in density ranges likely to be achieved by the market, as required by ORS 197.296(9). *Id.*[11] Swalley also objected to the City's housing needs analysis. Swalley Objection, at 65-68.

The Director found that the City's housing needs analysis failed to comply with Goal 10 and the needed housing statutes (Director's Decision at 32-37), and the City and Newland appealed. City Appeal, at 22-23. Newland Appeal, at 9.

b. Legal Standard

ORS 197.296(2)-(3) and (5) state that:

> "(2) At periodic review pursuant to ORS 197.628 to 197.650 or at any other legislative review of the comprehensive plan or regional plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use, a local government shall demonstrate that its comprehensive plan or regional plan provides sufficient buildable lands within the urban growth boundary established pursuant to statewide planning goals to accommodate estimated housing needs for 20 years. The 20-year period shall commence on the date initially scheduled for completion of the periodic or legislative review.
>
> (3) In performing the duties under subsection (2) of this section, a local government shall:
>
> (a) Inventory the supply of buildable lands within the urban growth boundary and determine the housing capacity of the buildable lands; and
>
> (b) Conduct an analysis of housing need by type and density range, in accordance with ORS 197.303 and statewide planning goals and rules relating to housing, to determine the number of units and amount of land needed for each needed housing type for the next 20 years. (5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of housing capacity and need pursuant to subsection (3) of this section must be based on data relating to land within the urban growth boundary that has been collected since the last periodic review or five years, whichever is greater. The data shall include:
>
> (A) The number, density and average mix of housing types of urban residential development that have actually occurred;
>
> (B) Trends in density and average mix of housing types of urban residential development;

[11] This specific objection is addressed separately, as part of the next issue area.

(C) Demographic and population trends;

(D) Economic trends and cycles; and

(E) The number, density and average mix of housing types that have occurred on the buildable lands described in subsection (4)(a) of this section.

(b) A local government shall make the determination described in paragraph (a) of this subsection using a shorter time period than the time period described in paragraph (a) of this subsection if the local government finds that the shorter time period will provide more accurate and reliable data related to housing capacity and need. The shorter time period may not be less than three years.

(c) A local government shall use data from a wider geographic area or use a time period for economic cycles and trends longer than the time period described in paragraph (a) of this subsection if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to paragraph (a) of this subsection. The local government must clearly describe the geographic area, time frame and source of data used in a determination performed under this paragraph.

(5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of housing capacity and need pursuant to subsection (3) of this section must be based on data relating to land within the urban growth boundary that has been collected since the last periodic review or five years, whichever is greater. The data shall include:

(A) The number, density and average mix of housing types of urban residential development that have actually occurred;

(B) Trends in density and average mix of housing types of urban residential development;

(C) Demographic and population trends;

(D) Economic trends and cycles; and

(E) The number, density and average mix of housing types that have occurred on the buildable lands described in subsection (4)(a) of this section.

(b) A local government shall make the determination described in paragraph (a) of this subsection using a shorter time period than the time period described in paragraph (a) of this subsection if the local government finds that the shorter time period will provide more accurate and reliable data related to housing capacity and need. The shorter time period may not be less than three years.

(c) A local government shall use data from a wider geographic area or use a time period for economic cycles and trends longer than the time period described in paragraph (a) of this subsection if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to paragraph (a) of this subsection. The local government must clearly describe the geographic area, time frame and source of data used in a determination performed under this paragraph."

ORS 197.303 provides, in pertinent part, that:

"(1) As used in ORS 197.307, until the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing" means housing

types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing" also means:

(a) Housing that includes, but is not limited to, attached and detached single-family housing and multiple family housing for both owner and renter occupancy;

(b) Government assisted housing;

(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490; and

(d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions."

Goal 10 provides that:

"Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density."

* * *

"Needed Housing Units – means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing units" also includes government-assisted housing. For cities having populations larger than 2,500 people and counties having populations larger than 15,000 people, 'needed housing units' also includes (but is not limited to) attached and detached single-family housing, multiple-family housing, and manufactured homes, whether occupied by owners or renters."[12]

OAR 660-008-0040 provides that:

Any local government that restricts the construction of either rental or owner occupied housing on or after its first periodic review shall include a determination of housing need according to tenure as part of the local housing needs projection.

Finally, OAR 660-024-0040(7)(2007) provides that:

[12] Guideline 1 for Goal 10 provides that:

1. In addition to inventories of buildable lands, housing elements of a comprehensive plan should, at a minimum, include: (1) a comparison of the distribution of the existing population by income with the distribution of available housing units by cost; (2) a determination of vacancy rates, both overall and at varying rent ranges and cost levels; (3) a determination of expected housing demand at varying rent ranges and cost levels; (4) allowance for a variety of densities and types of residences in each community; and (5) an inventory of sound housing in urban areas including units capable of being rehabilitated.

The following safe harbors may be applied in determining housing needs under this division:

(a) Local government may estimate persons per household for the 20-year planning period using the persons per household for the urban area indicated in the most current data for the urban area published by the U.S. Census Bureau.

(b) If a local government does not regulate government-assisted housing differently than other housing types, it is not required to estimate the need for government-assisted housing as a separate housing type.

(c) If a local government allows manufactured homes on individual lots as a permitted use in all residential zones that allow 10 or fewer dwelling units per net buildable acre, it is not necessary to provide an estimate of the need for manufactured dwellings on individual lots.

(d) If a local government allows manufactured dwelling parks required by ORS 197.475 to 197.490 in all areas planned and zoned for a residential density of six to 12 units per acre, a separate estimate of the need for manufactured dwelling parks is not required.

c. Summary of Local Actions, Director's Decision, and Appeal(s)

The City of Bend completed three housing needs analyses: an analysis based on past trends since its last periodic review (a "HB 2709 or Trend Forecast"), an analysis of expected future housing needs (a "Housing Needs Forecast"), and a "Transition Forecast" that projects that the City will move from a 77/23 single-family/multi-family mix (during the 1998 to 2007 period) to a 55/45 mix over a period longer than 20 years (and to a 65/35 mix over the 20-year planning period). R. at 1078. Under all three forecasts, the City analyzed its projected housing need for single family housing in one category (combining single family attached and detached housing). In some of the forecasts, the City also analyzed the need for manufactured homes, plexes (2, 3 & 4 units); and multi-family (5 or more unit buildings). R. at 1075.

d. Analysis

The City has carried out much of the analysis required by the commission's rules and the needed housing statutes. In particular, the City has provided an analysis of needed housing based on actual development trends since its last periodic review. That analysis is provided in the most detail in the City of Bend Residential Lands Study (2007). R. at 1798-1835. Some analysis based on actual development trends (the so-called HB 2709 analysis) is also included in the 2005 City of Bend Housing Needs Analysis, R. at 1742-1797, and is summarized in the city's findings. R. at 1075.

With regard to whether the City must separately analyze housing need for rental and owner-occupied housing types, the Commission agrees with the City that its rules do not require

such an analysis in this case. OAR 660-008-0040 provides that such an analysis is required *if* a local government "restricts the construction of either rental or owner occupied housing on or after its first periodic review." The City argued in its appeal that it does not regulate housing according to tenure and, as a result, is not required to analyze housing types by tenure. The Commission agrees, and upholds the city's appeal on this issue based on the wording of OAR 660-008-0040.

However, the needed housing statutes do require the City to identify housing need by *at least* three categories of housing types: single-family detached, single-family attached, and multi-family (a city *may* identify additional types). In turn, the commission's rules define these three basic types of needed housing as follows:

- "Attached Single Family Housing" means common-wall dwellings or roughhouses where each dwelling unit occupies a separate lot. OAR 660-008-0005(1).
- "Detached Single Family Housing" means a housing unit that is free standing and separate from other housing units. OAR 660-008-0005(3).
- "Multiple Family Housing" means attached housing where each dwelling unit is not located on a separate lot. OAR 660-008-0005(5).

While the city's 2007 Residential Lands Study contains much, if not all, of the required *data* concerning these housing types, the city's analysis and findings (including chapter 5 of its comprehensive plan) use different categories of housing types and collapse multiple categories. For instance, the city's findings analyze the amounts of new housing built in the City since its last periodic review by single family dwellings (combining both attached and detached single-family housing into one category), and "plexes" and "multi-family" (more than 5 units) (separating out what the commission's rules define as multi-family into two categories). R. at 1074. While the City is free to *separate* the three basic housing types required to be analyzed by statute into subcategories, it may not *combine* categories as this effectively makes it impossible to do the analysis required by statute.

Goal 10, the Goal 10 implementing rule, and the needed housing statutes also require that the City analyze needed housing types at particular price ranges and rent levels commensurate with the financial capabilities of present and future residents of area residents. The city's record contains much information on projected population and income levels, but neither its adopted plan policies nor its findings clearly tie together how the types and amounts of housing that it is planning for will be affordable for future residents of the area. This issue is addressed in more

detail in the next subsection.

Newland argues that the City *only* may consider past housing trends in its housing needs analysis. Newland Objection at 27-29. The Commission does not agree. ORS 197.296(3)(b) directs local governments to determine the amount of land needed for each housing type for the next 20 years in accordance with ORS 197.303 and the statewide planning goals and rules relating to housing. OAR 660-024-0040(4) provides that:

> "[t]he determination of 20-year residential land needs for an urban area must be consistent with the adopted 20-year coordinated population forecast for the urban area, and with the requirements for determining housing needs in Goal 10, OAR 660, division 7 or 8, and applicable provisions of ORS 197.295 to 197.314 and 197.475 to 197.490.

OAR 660-008-0005(4) defines the "Housing Needs Projection" required by Goal 10 and ORS 197.296 as:

> "* * * a local determination, justified in the plan, of the mix of housing types and densities that will be:
>
> (a) Commensurate with the financial capabilities of present *and future area residents* of all income levels *during the planning period.*

While past development trends are clearly one required part of a local government's housing needs projection, ORS 197.296(5)(a), under Goals 10 and 14 the City also must consider the *future* housing needs of area residents during the (twenty-year) planning period. The purpose of the analysis of both past trends and future needs is that -- if there is a difference – the local government must show how it is planning to alter those past trends in order to meet the future needs. Specifically, if the *future* needs require a different density or mix of housing types than has occurred in the past, then ORS 197.296(7) requires the local government to show how new measures demonstrably increase the likelihood that the needed density and/or mix will be achieved.

e. Conclusion

Based on the foregoing reasons, the Commission upholds the appeals of the City and Newland with regard to whether the City was required to analyze housing need by tenure. Based on the foregoing reasons, the Commission denies the appeals of the City and Newland with regard to the remaining subissues under this section, affirms the Director's Decision with regard

to those other subissues (including the Director's disposition of objections for the reasons set forth in the Director's Decision), and remands the city's decision for it to revise its findings and chapter 5 of its comprehensive plan consistent with the preceding analysis.

2.4. Whether the City Has Planned for an Adequate Land Supply for Needed Housing Types as Required by Goal 10 and the Needed Housing Statutes.

a. Summary of Issue Objectors/Appellants

DSL and Bayard objected that the City had failed to plan for an adequate amount of buildable lands to meet its identified housing needs. DSL Objection, at 1-2. Bayard Objection, at 63. The Director found that the City failed to plan for an adequate amount of land in appropriate plan designations to meet its future housing needs as shown in its housing needs projection. The City of Bend appealed the Director's Decision on this issue. The City asserted that it has already set ambitious targets for multi-family and higher density housing, by planning for housing types that have a higher density than housing that has been built in the City since its last periodic review. City Appeal, at 23-26.

b. Legal Standard

ORS 197.307 and Goal 10 require that when a need has been shown for housing at particular price ranges and rent levels, needed housing shall be permitted in one or more zoning districts with sufficient buildable lands to satisfy that need. ORS 197.307(3)(a).[13]

c. Local Action, Director's Decision and Appeals

As described above, the City carried out three different analyses of housing needs, adopting the third "Transition Forecast." R. at 1077-1081. The Transition Forecast essentially acknowledges that the City will not meet its projected housing needs under Goal 10 and ORS 197.307(3)(a). The Director remanded this aspect of the city's decision because he found it did

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[13] ORS 197.307(3)(a) provides that:

> "(3)(a) When a need has been shown for housing within an urban growth boundary at particular price ranges and rent levels, needed housing, including housing for farmworkers, shall be permitted in one or more zoning districts or in zones described by some comprehensive plans as overlay zones with sufficient buildable land to satisfy that need."

Goal 10 provides that:

> "Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density."

not comply with ORS 197.296, 197.307 or Goal 10, and because he found that the city's findings were inadequate. The City appealed this aspect of the director's decision. City Appeal at 23-26.

d. Analysis

The department found that the city failed to comply with the requirement in ORS 197.307 and Goal 10 to permit needed housing in one or more zoning districts with sufficient buildable lands to satisfy housing needs at particular price ranges and rent levels. The city's findings, studies and the Housing Element of its General Plan show a significant need for housing for low and moderate income households, along with a need for workforce housing. R. at 1072-1079 (findings); R. at 1305-13 (Housing Element of the city's General Plan). The city's Transition Forecast of housing needs is intermediary between its analysis of past trends (HB 2709 forecast) and its analysis of needed housing based on expected future population and incomes (HCS Housing Needs Model). R. at 1075-1078 (describing the different models). The Transition Forecast is based on a planned housing mix of 65 percent detached and 35 percent attached for the new housing produced during the planning period. R. at 1078.

The city's findings do not explain how its policy choice to adopt a 65/35 housing mix relates to the housing needs analyses it has prepared. The first paragraph of Bend's Housing Element states:

> "While residents enjoy a variety of housing choices, they also face significant challenges in finding affordably priced housing in Bend as land and housing prices have increased significantly in the past decade, leaving fewer realistic housing options for many Bend residents and workers." R. at 1281.

The city's Housing Element also states:

> "The inadequate supply of land [in the UGB] has led to a lack of multi family units, as high land costs have forced developers to build luxury townhomes rather than more affordable apartments or condominiums. The rapid increase in population has resulted in growth in demand for workforce housing that has outpaced the production of workforce housing units. Between 2000 and 2005, job growth created a demand for 9,057 units of workforce housing while only 8,230 units were produced.
>
> * * *
>
> Affordable housing for service workers, both for individuals and families, is in short supply in Bend. Rapid increases in home prices have combined with growth in the (low wage) service sector to make it difficult for much of Bend's workforce to live in the city." R. at 1282.

The City must (under Goal 10 and the needed housing statutes) plan for an adequate supply of buildable land for affordable housing, including workforce housing (whether that land is inside the prior UGB, on lands in a UGB expansion area, or both). The City has seen a shift away from development of multi-family housing and toward a higher proportion of single-family units over the 1998-2007 period. The City acknowledges the need for more affordable and multi-family housing (including the need for affordable workforce housing as a Goal 9 issue, R. at 1156), but does not state how maintaining its current planning allocations of land or other actions will influence that trend or meet its projected housing needs. The city's findings acknowledge that one reason for the shortage of affordable housing is the "dwindling supply" of land planned for multi-family use. R. at 1075. The city's adopted Housing Element (Chapter 5 of its General Plan), contains repeated references to the shortage of affordable housing in Bend, as a result of an inadequate supply of land planned for multi-family residential use. R. at 1282, 1283. This shortage is, at least in part, a result of the city having planned 87 percent of its residential lands within the prior UGB for its either its low density(1.1 to 2.2 dwellings per gross acre) or standard density (2.2 to 7.3 dwellings per gross acre) plan districts. Housing Element, at 5-9. Similarly, for the UGB expansion area, the city has planned 85 percent of the residential land in the UGB expansion area (based on its Framework Plan) for its low density or standard density plan districts.

In addition, as noted by DSL, ORS 197.296(9) and Goal 10 require the City to show that land planned for needed housing is located in areas that are appropriate for the housing types identified in its housing needs projection. On remand, the City also must explain why it believes particular areas planned to meet the future housing needs of residents are appropriate for the expected housing types.

e. Conclusion

The Commission affirms the Director's Decision, including the Director's disposition of objections for the reasons set forth in the decision, and remands the city’s decision for it to revise its analyses and findings consistent with the foregoing analysis. The City must plan lands within its existing UGB and any expansion area so that there are sufficient buildable lands in each plan district to meet the city's anticipated needs for particular needed housing types. To the extent that the City continues to determine that there is a current and projected future shortage of land for affordable housing that translates into a need for more multi-family housing, the City must

show how it's planning for lands within the exiting UGB and lands in any expansion area will provide sufficient buildable lands in plan districts that are designed to meet that need. If the City continues to project a future housing mix of 65% single-family and 35% multi-family, it must explain why that housing mix will provide sufficient buildable lands to meet its projected future housing needs over the planning period, and that projection and explanation must be supported by an adequate factual base.

2.5. Whether Second Homes are a "Needed Housing Type" for the City of Bend. Is the City Required to Coordinate with Deschutes County Concerning the Regional Need for this Form of Residential Use. Whether the City Adequately Justified its Projected Density for Second Home Development, and Whether the City is Required to Coordinate with Deschutes County on the Regional Demand for Second Homes.

a. Summary of Issues and Objectors/Appellants

Bayard and COLW both objected to how the City addressed land for second homes. Bayard Objection, at 53; COLW Objection, at 11 (arguing that the City should have considered the effect of the Tetherow development on this land need). The Director remanded the city's decision, finding that the City failed to comply with Goal 10 and 14 in its determination of the amount of land needed for this use and the proportion of the use that would occur within the prior UGB. The City of Bend (City Appeal at 36), Central Oregon LandWatch (COLW) (COLW Appeal at 5-6) both appealed the Director's Decision, raising issues related to how second homes were considered in the city's housing needs analysis.

b. Legal Standard

In *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139, 152-53 (1998), *aff'd* 158 Or App 1, 970 P2d 685 (1999), LUBA determined that:

> Under ORS 197.303(1), the first inquiry is whether a local government has identified a need "for housing within an urban growth boundary at particular price ranges and rent levels." If a local government does so, any housing types the local government determines to be necessary to meet the identified need is considered "needed housing."

In that case, the City of Ashland identified (in its comprehensive plan) a need for "highcost" housing. LUBA held that such housing was a "needed housing type" under both 197.303 and Goal 10 because the lists of needed housing types in those provisions is nonexclusive, and the city had identified high-cost housing as needed in its plan.

Goal 14 provides that the:

Establishment and change of urban growth boundaries shall be based on the following:

(1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and

(2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection (2).

c. Summary of Local Actions, Director's Decision, and Appeal

The City identified a need for 500 acres of land for second home residences, R. at 1058. It included this use as part of its summary of residential land need. *Id.* The quantity of land was based on the city's estimate of the number on new units of housing that the market would demand for this use, which it found would be eighteen percent (18%) of the total number of new residential units needed during the planning period. R. at 1087. The City based its projected land need for this use on an average density of six units to the net acre. *Id.* The City also determined that this use does *not* provide needed housing, R. at 1086 (as that term is used in the needed housing statutes). However, the City found that because this use consumes lands planned for residential use, the City must provide land for it if the City is to assure a 20-year land supply for needed housing. R. at 1088.

The Director's Decision treated second home development as an other use of land (other than needed housing). Director's Decision, at 48. The Director found that while there was substantial evidence to support the city's determination regarding the number of second home units needed over the planning period, the City had not adequately justified the projected density of such development, nor explained why *all* of those units would be built within the expansion area rather than split between the existing UGB and the expansion area. *Id.* The Director also found that the City was required to coordinate consideration of how to satisfy the need for second home development with Deschutes County. The Director remanded the city's decision for it to:

- "Coordinate with the county specifically concerning the need for second-home housing, and where this need should be satisfied regionally;
- Evaluate whether this need can reasonably be accommodated on lands within the existing UGB; and
- To the extent that additional lands are required, establish a reasonable, specific density of development for this housing type for the next 20 years." Director's Decision, at 48.

The City and COLW appealed the Director's Decision. City Appeal at 35; COLW Appeal at 2, 5-6. The City clarified that (as with its residential land need generally) two-thirds of the demand for second homes would be met on vacant and redevelopable lands within its existing UGB. City Appeal, at 35. See also, R. at 1071-1072 (table III-4 and accompanying text). The City also argued that there is no evidence in the record that second homes will develop at a density different from other housing in the City. City Appeal, at 35.

COLW argued that the city's estimate of needed second home units was not supported by an adequate factual base, and that the analysis should include an examination of second homes being provided by destination resorts in the area (Tetherow). COLW Appeal, at 6.

d. Analysis

The first question under this issue is whether the City did, in fact, consider second homes as a type of needed housing. The city's findings on this point are not clear, as it both lists second homes under its summation of all residential land needs (findings at 6), and then describes second homes as a use other than needed housing, but one that consumes land planned for residential use. R. at 91. Presumably, past second home development also was included in the city's "2709 Forecast"[14] based on building permits issued since its last periodic review.

Nevertheless, based on the city's findings, R. at 1086, the Commission concurs with the City (and the Director) that the City did not identify second homes as a needed housing type.[15] The Commission also concurs with the City and the Director that there is an adequate factual base for the number of second-home units that the City projects for the planning period (3,002). R. at 1087. The City was presented with conflicting evidence concerning future demand for second homes, R. at 1087, and decided to base its estimate on a percentage of the demand for first homes, rather than on the amount of land estimated to be used for this use in the recent past. There was evidence in the record that a reasonable person could rely on, and that is all that the Goal 2 provisions for an adequate factual base require.

With regard to the projected density of second-homes, the City states that second-home purchasers and renters will seek both attached and multi-family housing, and that there is no

[14] The city's "2709 Forecast" is in response to the requirements of HB 2709 (1995), now codified (primarily) at ORS 197.296.

[15] The commission reserves for the future the question of whether a city may include second homes as a needed housing type under Goal 10. The commission notes that unlike other residential uses, the need for second homes may not be tied to the projected population of a community.

evidence in the record that a separate density projection is warranted. Appeal at 36. The Department agreed, after further review, that there was an adequate factual basis for the City to use a density of six units per net acre, and the Commission concurs.

Finally, with regard to the interplay between the city's decision to consider land need for second homes, and destination resort development in the region, COLW argues that the City was required to consider resort development occurring elsewhere, but did not identify a legal basis for its argument. The Department argued that the coordination provisions of Goal 2 and Goal 10 required the City to coordinate its estimate of land need with Deschutes County. The Commission agrees that the County must coordinate with the City on this issue. To the extent that the County amends its comprehensive plan provisions relating to second homes or destination resorts in the future, it must consider the city's planning for this land use within the proposed Bend UGB. On remand, the city's findings also will need to address whether the amount of land need for this use is altered by any of the changes it makes to its estimate of the number of housing units or density for residential uses generally.

e. Conclusion

The Commission upholds the city's appeal and denies the appeal of COLW, for the reasons set forth above, except that the County is directed to consider the extent to which the City has planned for second-home development in any future planning for second homes or destination resorts within the County.

2.6. Whether the City's Decision to Include 2,987 Acres of Land in its UGB that it Determined Were Not Suitable for Urbanization Complies with Goals 10 and 14, and Related State Statutes.

a. Summary of Issue and Related Objections

The City of Bend determined that almost three thousand acres of land adjacent to its urban growth boundary were not suitable for urbanization. Most of these lands contain existing rural residential development, and are planned by Deschutes County as exception lands (UAR and rural residential). The City nevertheless included these lands within its UGB expansion area even though it also determined that they were not suitable for urbanization. Bayard objected to the inclusion of these lands. Bayard Objection, at 43-46.

b. Legal Standard

ORS 197.298 provides that lands planned as an exception area or as non-resource lands are a higher priority for inclusion in an urban growth boundary than resources lands (lands planned for agricultural or forest uses). Goal 14 provides that "land within urban growth boundaries shall be considered available for urban development consistent with plans for the provision of urban facilities and services." Under the Goal 10 implementing rule, OAR 660-008-0005(2), land for general residential needs (as opposed to specific identified land needs) is generally considered to be "buildable" and "suitable and available" unless it meets certain criteria specified in that rule or is shown to be unlikely to develop during the planning period based on an analogous specific reason.

c. Summary of Local Actions, Director's Decision, and Appeal

The City included 2,987 acres of land in its UGB expansion that it determined were not suitable for urban development. The Director found that:

> The city has provided no justification or explanation for the inclusion of these lands [in the UGB expansion] in its findings. As a result, the director remands the city and county decisions, with direction to remove the approximately 3,000 acres of lands from the UGB expansion area that the city has found are not suitable for urbanization, or explain with specificity why their inclusion is justified under Goal 10 and Goal 14." Director's Decision, at 51.

The City appealed, arguing that:

> "These 2,987 acres are comprised of entire parcels that were deemed unsuitable, unsuitable portions of otherwise suitable parcels, and existing rights-of-way. Unsuitable land includes developed land that is not likely to be redeveloped within the 20-years planning period and other land that is not suitable for residential or employment use, such as schools and park land. It also includes land covered by steep slopes and those within the 100-year floodplain. The record adequately justifies the location of the unsuitable land and provides sufficient justification for its inclusion. * * * * [The] maps show how extensively unsuitable land is interspersed with suitable lands, making it impossible to exclude the unsuitable land." City Appeal, at 37-38.

d. Analysis

The City relies on *Hummel v. LCDC*, 152 Or App 404 (1998) for the proposition that a city may include unbuildable lands in its UGB if those lands are necessary to provide urban services to buildable lands, and where excluding the lands would create an illogical boundary. City Appeal at 38. The commission does not agree that the City has shown that these lands are not "buildable" or "suitable" as those terms are used in Goals 10 or 14. Further, even if the lands

were not "buildable" or "suitable" the City has failed to show that inclusion of almost 3,000 acres of such lands is necessary to provide urban services to lands that are buildable.

When a city analyses lands for suitability for a specific identified land need, it may identify characteristics, such as parcel size, topography or proximity, necessary for the land to be suitable for that identified need. Goal 14, OAR 660-024-0060(5). Bend's analysis of expansion lands included a criterion that all parcels smaller than three acres with an existing home are unsuitable to meet any of the city's 20-year residential land needs. In the Director's Decision, the Department determined that this criterion is not consistent with state law, and the Commission agrees. While not all rural exception areas with developed suburban uses are likely to develop at target urban densities during the 20-year planning period, some portion of these parcels will. A city may not include large suburban parcels in its UGB and assume that no further development will occur over a 20-year period.

The Commission also agrees with the Department that a city may not include lands that it has determined are unsuitable for urbanization within its urban growth boundary, except in very limited cases. In this case, the City has made a generalized decision to include lands that it determined to be unsuitable because those lands are mixed with lands it determined are suitable.

Existing rural subdivisions on the periphery of a city always will include a mix of large and smaller parcels, with some developed parcels and some not. State law (ORS 197.298) makes inclusion of such areas a high priority for cities in order to avoid urbanization of resource lands, and in order to address public facility and land inefficiency issues associated with such development. A city may not parse existing rural subdivisions into suitable and unsuitable parcels (portions of parcels) in order to avoid efforts to urbanize such subdivisions when they are added to an urban growth boundary or in order to avoid counting any future development capacity in such lands. A city *may*, with the appropriate factual basis, determine that the quantity of residential land need that is likely to be met on such lands over the 20-year planning period is low due to the existing development patterns. But a city may not determine both that such lands are unsuitable, and then include them in its UGB while determining that they will provide no residential land supply.

The Oregon Court of Appeals addressed this issue directly in *Milne v. City of Canby*, 195 Or App 1 (2004). In that case, the City of Canby amended its UGB to include 30 acres of land that was entirely surrounded by lands already within the UGB. The city did not determine that

the land was needed, but instead included the land in its UGB because it found that the land was committed to urban uses by the surrounding urban development.

The *Milne* court began by noting that under Goal 14, a local government must apply the "need" factors of Goal 14 and establish a need for land before it may amend its UGB to include that land. *Baker v. Marion County*, 120 Or App 50, 54, *rev den* 317 Or 485 (1993). The City of Canby (and the applicant below) argued, however, that the "unneeded but committed" doctrine justified its decision to add the 30 acres to its UGB. That doctrine originated in LCDC's acknowledgment of the City of Salem's UGB, where the commission approved inclusion of an area that was not shown to be needed, but that was shown to be committed to urban use. *City of Salem v. Families for Responsible Govt.*, 64 Or App 238 (1983), *rev'd and rem'd* on other grounds, 298 Or 574 [on remand, 73 Or App 620 (1985)]. That doctrine was again noted with regard to the acknowledgement of a city's *initial* UGB in *Collins v. LCDC*, 75 Or App 517 (1985). There, the City of Jacksonville projected a need of 96.49 acres for planned development, but its UGB contained 792.9 acres. The court rejected the generalized inclusion of large lot rural residential lands that the city had found were not suitable for urbanization in the UGB, and held that the "unneeded but committed" doctrine requires a *property-specific* showing of commitment to urbanization.

In *Milne*, the Court of Appeals was directly confronted with the question of whether the "unneeded but committed" doctrine extends to *amendments* of an urban growth boundary (as opposed to the initial establishment of a UGB). The court held that the text of Goal 14 did not allow it to extend the doctrine to UGB amendments, overruling two prior cases.[16]

As noted below, the Court of Appeals decision in *Hummel* did uphold an LCDC order approving a UGB expansion for the City of Brookings that included a substantial amount of unbuildable land that the city determined must be included within the UGB in order to provide urban services to more distant lands that were suitable for urbanization. The facts of the Bookings case are unusual, however, and Bend has made no similar showing that specific lands cannot be developed without including other specific lands that are unsuitable in order to provide urban services. Instead, the city's decision is more analogous to the efforts of Jacksonville and Salem to include rural subdivisions in their UGBs without a need showing and while ascribing

[16] The two cases that the court overruled are *Halvorson v. Lincoln County*, 82 Or App 302, 305 (1986), and *Baker v. Marion County*, 120 Or App 50 (1993).

no future development potential to them.

Milne was decided by the Court of Appeals in 2004, and the text of Goal 14 was amended in 2006. However, the Commission finds that the amendments did not alter the law on this issue. If anything, the more recent text of Goal 14 is more explicit that the change of urban growth boundaries shall be based on "* * * [d]emonstrated need to accommodate long range urban population, consistent with a 20-year population forecast * * *," e.g., that Goal 14 does not authorize the inclusion of "surplus" lands.

The Commission has previously remanded a city's inclusion of unbuildable lands within a 100-year floodplain for reconsideration. In its partial approval and remand order 04-WKTASK- 001645, the commission remanded to the City of McMinnville for further consideration of the portions of certain UGB expansion areas that lie within the 100-year flood plain in light of *Milne.*

e. Conclusion

The Commission affirms the Director's Decision on this issue (including the Director's disposition of objections, for the reasons set forth in the Director's Decision), denies the appeals, and remands the city's urban growth boundary amendment for it to address the 2,987 acres of land it included within its expansion area. On remand, the City may continue to include these lands in its UGB expansion area if it determines that, in fact, the lands in question are "buildable" (e.g., "suitable and available" under OAR 660-008-0005) and will meet *some part* of the city's land needs over the planning period. As part of this determination, the City could, with an adequate factual base (such as evidence of development trends within other rural subdivisions added to the Bend UGB in recent years), determine that the amount of residential or other future land need that these lands are likely to meet is limited.

2.7. Whether the City's Inclusion of 500 Acres of Land in its UGB in Addition to the Total Land Supply that it has Determined are Needed for Urbanization Complies with Goal 14 and State Statutes.

a. Summary of the Issue and Related Objections

In addition to the 2,987 acres that it found unsuitable, the City also included over 500 acres of "suitable and available" land in its UGB expansion beyond its estimated total need. Rec. at 1058 (4,956 acres of land needed to accommodate forecast growth, and 5,475 acres of suitable

and available land included (in addition to the 2,987 acres of unsuitable land)). Rec. at 1058. Bayard, Swalley and COLW filed objections, arguing that state law does not allow a 519-acre surplus. Bayard Objection at 46; COLW Objection at 11; Swalley Objection at 63.

Newland filed an objection arguing that the "theoretical" surplus of 519 acres was needed to fulfill land needs, and to provide for effective delivery of infrastructure and complete communities.

b. Legal Standard

Goal 14 provides that:

> "Establishment and change of urban growth boundaries shall be based on the following: (1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments * * *."

OAR 660-024-0040(1), the commission's rule implementing Goal 14, provides that:

> (1) The UGB must be based on the adopted 20-year population forecast for the urban area described in OAR 660-024-0030, and must provide for needed housing, employment and other urban uses such as public facilities, streets and roads, schools, parks and open space over the 20-year planning period consistent with the land need requirements of Goal 14 and this rule. The 20-year need determinations are estimates which, although based on the best available information and methodologies, should not be held to an unreasonably high level of precision.

c. Summary of Local Actions, Director's Decision, and Appeal

As noted above, the City included 519 acres of suitable and available land in its UGB expansion area beyond the amount it estimated as needed. Rec. at 1058. This amount of land represents half of the land need the City estimated over a twenty-year period for new housing units. Rec. at 1054, 1058, Table I-1.

The Director found that once the City *makes* its estimate, state law does not allow the City to simply add a cushion. Instead, state law requires the City to makes its best effort to arrive at a reasonable estimate of land need and then stick with that number. The inclusion of a specific amount of land in the UGB in addition to estimated need appears to be driven by its desire to include particular properties in the expansion area. Director's Decision, at 49.

The City agreed, on appeal, to substantially reduce the amount of surplus land. City Appeal, at 38.

d. Analysis

The Commission concurs with the Director's Decision on this issue. OAR 660-024-0040(1) recognizes that local government estimates of land need for housing, employment and other urban uses are just that, estimates. However, the rule does not allow a local government to make estimates based on an adequate factual base, and consistent with the specific requirements for such estimates, and then add a "modest cushion against the possibility that the total estimate * * * is too conservative." R. at 39.

The Court of Appeals addressed the surplus land issue under Goal 14 in *Milne*, as described at some length above, and (most recently) in *1000 Friends v. City of Woodburn*, __ Or App __ (slip op, Sept. 8, 2010). In *Woodburn*, the court again discussed Goal 14 in terms of a limit on the size of an urban growth boundary, based on a 20-year land supply. *Hummel* (relied on by the City in its appeal) stands for a different proposition, that a city may include specific lands within its UGB that are *not* suitable for urbanization, if the City shows that such lands are necessary to provide urban services to other lands that are suitable for urbanization. The City does not argue that the 500 acres are not suitable and, in any event, has not made that showing in its decision. There are no specific findings showing why the 500 acres are needed to provide services to particular lands or why they are necessary to provide a logical boundary.

As to Newland's appeal, the city's findings do state that "these additional acres are the by-product of the City's desire to configure the expanded UGB in a manner that is logical, provides the best opportunity for cost-effective and efficient provision of public services, and excludes high value farmland to the maximum extent feasible." R. at 39. The findings point to one specific area, Area 6 on the Alternative 4-A map, as an example of lands needed "to facilitate the development of complete neighborhoods * * *." R. at 39. These conclusory findings do not explain why specific lands are necessary for these purposes, or why the one area that is identified as desirable for a complete community must be added to the UGB *in addition* to the quantity of lands the City determined are needed to meet its housing and employment needs. Without such findings, the Commission finds that the City has not made the showing required under Goal 14 and ORS 197.296 to include land for these purposes.

e. Conclusion

For the reasons stated above, the Commission affirms the Director's Decision on this issue (including the Director's denial of Newland's objection and the Director's disposition of

other objections, for the reasons set forth in the Director's Decision), denies the appeals, and remands the city's Ordinance No. NS-2112 for the City to reduce the acreage of the UGB expansion area by 519 acres. The City may include lands to avoid splitting parcels or to create a logical boundary, but those amounts would then be included in the overall acreage added, and result in corresponding reductions elsewhere unless the amount of surplus is very small.

2.8. Whether the City's UGB Expansion Is Consistent with Certain Housing Policies of the Bend Area General Plan.

a. Summary of Issue and Objectors/Appellants

The Director found that the city's decision was inconsistent with policies 4, 17 and 21 of Chapter 5 of its comprehensive plan.

b. Legal Standard

Goal 2 and ORS 197.175 require that the city's decision be in compliance with its comprehensive plan. Policies 4, 17 and 21 of chapter 5 of the city's housing element provide:

> "4. Implement strategies to allow for infill and redevelopment at increased densities, with a focus on opportunity areas identified by the City through implementation strategies associated with this policy.
>
> * * *
>
> 17. Implement changes to the City's code that facilitate the development of affordable housing for very low, low and moderate-income residents, as determined by appropriate percentages of Area median Family income, consistent with recent updates to the City's development code and/or new strategies identified in this Plan.
>
> * * *
>
> 21. In areas where existing urban level development has an established lot size pattern, new infill subdivision or PUD developments shall have a compatible lot transition that compliments the number of adjoining lots, lots size and building setbacks of the existing development while achieving at least the minimum density of the underlying zone. New developments may have similar lots or varying housing types internal to the development." Rec. at 1312-1313.

c. Summary of Local Actions, Director's Decision, and Appeal

No objections were received concerning consistency of the action with Bend's General Plan. However, the Director found that the city's limitation of its efficiency measures to the

Central Plan Area and undefined areas along some transit routs was inconsistent with its plan policy to support higher-density residential use in proximity to commercial services, parks and schools. In addition, the Director determined that the city's findings failed to explain how its decision complied with the policies set forth above. The City appealed, arguing that the Director applied the wrong legal standard, and that its decision was not inconsistent with the identified plan policies. City Appeal at 41-44.

d. Analysis

Upon further review, including review of the city's appeal, the Department agreed with the City that its decision could be found to be consistent with the identified policies of its comprehensive plan. The Department continued to argue, however, that the city's findings on this issue were conclusory, and that the decision should be remanded for the City to provide an explanation of why its decision is consistent with the plan policies. The City agreed to adopt findings clarifying why its decision is consistent, and the Commission concurs that this issue can be resolved by the adoption of findings explaining why the city's decision is consistent with its plan policies.

e. Conclusion

The Commission denies the city's appeal for the reasons stated above, but also clarifies that its remand is solely for the lack of adequate findings by the City. The Commission has not determined that the city's decision fails to comply with the identified policies of the city's comprehensive plan – that question is for the City to address in the first instance through adequate findings.

3. The Capacity of the Prior UGB to Reasonably Accommodate Future Residential Land Needs, and the City's New Efficiency Measures -- Goal 14 and ORS 197.296

3.1. Whether the City's Findings for its Urban Growth Boundary Amendment Adequately Explain How it Met the Requirement in Goal 14 to Determine that it Has "Reasonably Accommodated" its Projected Need for Future Residential Land Uses Over the Planning Period Within It's Existing UGB, Rather than Expanding onto New Lands

a. Summary of Issue, Objectors and Appellants

State law generally requires the city to "reasonably accommodate" as much of its future growth as possible within its existing UGB. The Director found that the City's findings were inadequate with regard to this issue. Director's Decision, at 38-45. The City of Bend, Newland Communities, Bayard, COLW, and Swalley appealed the Director's Decision regarding this issue or filed related objections to the city's decision with regard to this issue. City of Bend Appeal, at 26-33; Newland Appeal at 8-11; Bayard Objections, at 56-57; COLW Objections, at 9, and Swalley Objections, at 63-65, 72, and 77-78.

b. Legal Standard

Before expanding the UGB, Goal 14 and OAR 660-024-0050(4)[17] require the City to establish that its projected needs for future land uses cannot reasonably be accommodated on land within its existing UGB. One of the main ways that the City establishes how much of its future residential land need will be accommodated within its existing UGB is through its estimate of the future development capacity of the vacant and redevelopable lands in its buildable lands inventory. As described previously, beginning at page 26, the city's determination of that capacity must include an analysis of development trends since the city's last period review. ORS 197.296(5). The requirement in Goal 14 to "reasonably accommodate" projected needs for future land uses within the existing UGB before expanding the UGB places

[17] OAR 660-024-0050(4)(2007) provided that:

> (4) If the inventory demonstrates that the development capacity of land inside the UGB is inadequate to accommodate the estimated 20-year needs determined under OAR 660-024-0040, the local government must amend the plan to satisfy the need deficiency, either by increasing the development capacity of land already inside the city or by expanding the UGB, or both, and in accordance with ORS 197.296 where applicable. *Prior to expanding the UGB, a local government must demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the UGB.* Changes to the UGB must be determined by evaluating alternative boundary locations consistent with OAR 660-024-0060. (Emphasis added).

an additional gloss on the determination of future capacity. The city's determination of its capacity based on its existing planning and land use regulations cannot be unreasonably conservative in the sense of underestimating capacity in order to increase the amount of land added to the UGB.

A second way that the City may accommodate its future residential land need within its UGB is through the adoption of *new* efficiency measures. ORS 197.296(6)(b). Again, Goal 14 applies in addition to this statutory provision, to require the City to consider additional, reasonable, efficiency measures.

Goal 10 and ORS 197.296(9) also require that the City "ensure that land zoned for needed housing is [planned] in locations appropriate for [needed] housing types * * * ." These locational requirements depend on the nature of the City's housing needs, and are in addition to the "efficiency" provisions of Goal 14.

c. Summary of Local Actions, Director's Decision, and Appeals

The City found that under its existing plan designations, the City would accommodate two-thirds of its projected future (2008-2028) need for housing within its existing urban growth boundary. R. at 1071-1072. As noted above, this finding was based on the city's projection that residential development on vacant and redevelopable lands in the RL, RS, and RM plan districts would occur at the minimum densities allowed by the city's code, and that development in the RH plan district would occur at less than the minimum density allowed due to existing parcelization patterns. R. at 1071-1072 (including Table III-4). The total number of housing units that the City estimated could be accommodated within its prior UGB for the twenty-year period from 2008-2028 (including the two new efficiency measures) was 11,159. R. at 1071.[18] The City also reported, however, that the total number of housing units that were built within the same area during the seven-year period (after its last periodic review) from 1998 to 2005 was 12,798. R. at 1074. Nonetheless, the City found that its estimate of "* * * 11,159 new housing units [assumed] that all vacant and redevelopable residential land (2,909 net acres) is developed for housing at recent built densities." R. at 1072.

[18] The estimate for the residential capacity of the prior UGB in the city's findings, of 11,159, differs from the estimate in the city's comprehensive plan, which is 10,789 (R. at 1303, Table 5-20, and R. at 1307, Table 5-26). This results in a difference between the projected future need for residential units (beyond what can be accommodated in the prior UGB) of 5,892 in the comprehensive plan (R. at 1303 and 1307) and 5,422 in the city's findings. R. at 1071-1072. This discrepancy should be resolved by the City on remand.

With regard to efficiency measures, the City stated that under ORS 197.296, it has the option either to expand its UGB, or to adopt efficiency measures (or do both). R. at 1082. The city then described two new efficiency measures that it adopted as amendments to the housing element of its comprehensive plan. R. at 1085. The two new comprehensive plan policies called for the City to: (a) plan for and zone for an unspecified area and amount of "long-term redevelopment along main transit corridors," and (b) complete a two-part, long-term land use and transportation plan for the Central Area ***, [with] special attention *** to redevelopment of the 3rd St. corridor in this area to promote higher-density housing and mixed-use development to strengthen the Central Area's role as the economic and cultural hub of the community." R. at 1311-1312. The measures were described in more detail in the city's *findings* as planning for an additional 500 units of housing in the Central Area Plan, and to plan for up-zoning in areas along transit corridors for another 600 units. R. at 1082-1085.

The Director determined that the City failed to explain adequately how its decision complied with ORS 197.296, Goal 14 and OAR 660-024-0050(4) with regard to the requirement that the City show that it's future residential needs could not be reasonably accommodated within the prior urban growth boundary before expanding the UGB. Director's Decision, at 38-45. The City and Newland appealed the Director's Decision. City Appeal, at 26-33; Newland Appeal, at 8-11.

d. Analysis.

In terms of the projected capacity of the prior UGB for additional residential development, the Commission concurs with the Director's conclusion that the city's findings are inadequate in light of the record and other aspects of the city's decision for the following reasons. First, as determined above, the City must reexamine its buildable lands inventory to assure that it complies with state statutes and rules concerning what lands are vacant and what lands are redevelopable. To the extent that the city's BLI is revised with regard to what lands are included, those revisions will affect the projected development capacity of lands within the prior UGB and the amount of development that can be reasonably accommodated.

Second, with regard to the *capacity* of the lands inventoried as vacant or redevelopable, and as found above in connection with ORS 197.296, Goal 14 also requires that in light of the city's data concerning the amount of residential development that occurred in the *seven*-year period between 1998 to 2005 within the prior UGB (12,798 units) (R. at 1074) the City must

explain why it is projecting *less* development (11,159 units) in the same area over the *twenty*-year period from 2008 to 2028. R. at 1072. This explanation also must address the city's findings that the density of redevelopment and infill was *increasing* during the 1998-2005 period. R. at 1083, 1308. The Commission understands that a likely reason for diminished residential capacity within the prior UGB is that the rapid rate of development during 1998-2005 utilized much of the vacant and redevelopable land, but the extent to which this is the case is not clear, and improved findings would assist in clarifying this point.

Third, Goal 14 and OAR 660-024-0050(4)(2007) require the City to show that it cannot reasonably accommodate future projected land uses and their accompanying land needs within it's prior UGB before expanding the UGB to add lands for urban development. The city has described steps it took in 2008 revisions to its development code to increase the capacity of its prior UGB, and summarized those steps as:

- "Removal or easing of approval standards or procedures;
- Establish minimum density ranges;
- Authorize housing types not previously allowed by the plan or regulations."

R., at 1084 (see also Table III-13, describing those measures in more detail). These measures are laudable, but in spite of them (as described above) the City is projecting that lands in 3 of 4 plan districts will meet minimum densities (which are relatively low), and that lands in the RH district will develop *below* the minimum allowed density. R. at 1071-1072. The city's minimum density levels in its plan districts are low, and (as noted above) most of its residential lands are in low density plan districts. More specifically, 87 percent of the lands within the prior UGB planned for residential use are planned for low-density, single family residential use (either the RL plan district (1.1 dwelling per gross acre minimum density) or the RS plan district (2.2 dwellings per gross acre minimum density)). Multi-family housing (buildings with more than 3 units) is not allowed outright within the RL and RS plan districts (duplexes and triplexes are allowed as conditional uses in the RS district). [Bend Code section 2.1.200, R. 1287-1288].

The City indicates in its Housing Element that it elected not to change allowed densities in the residential districts because its BLI shows recent development is already occurring at higher densities than it did prior to 1999, and because of its new minimum density provisions. R. at 1308. Given that the city's findings show that development is occurring at levels well above its minimum densities (*average* residential density within the City for single family dwellings

has risen to 5 units to the acre, R. at 1083), while minimum density in the predominant single-family (RS) district is 2.2 units per acre, the Commission finds that the City has not shown that it is complying with the requirement in Goal 14 to reasonably accommodate its future land needs for residential uses within its prior urban growth boundary. On remand, the City must address both prior trends (as required by ORS 197.296(5)) and recent existing steps it already has taken to increase density and meet its housing needs. The requirement of Goal 14 to reasonably accommodate future land needs within its UGB does not allow the city to use an unreasonably conservative projection of future development capacity.

Fourth, under Goal 14, the city must *consider* taking additional steps to plan for its projected future residential land needs within its urban growth boundary *and* show that such steps are not reasonable before expanding its boundary, particularly in light of the record and its own findings concerning actual development trends in the 1998-2005 (or 1998-2007) period and its description of its future housing needs. For example, during the period between 1998 and 2007 Bend saw 1,823 acres of residential land within its prior UGB subject to a plan or zone change to increase allowed density. R. at 1827. Much of this increase appears to have been for lands annexed into the city and then planned for the city's standard residential zone (RS). Another 145 acres of land was up-zoned from RS to RM or RH. The Commission understands that the city's projected capacity is based on its plan designations and not its zoning (and that, as a result, upzoning is not directly relevant to projected capacity). Nevertheless, given the apparent market demand for increasing density relative to existing planning and zoning designations, the City must explain why increasing the density allowed, particularly for large blocks of vacant land outside of existing established neighborhoods, is not reasonable during the 20-year planning period.[19] The Director's Decision identifies a number of other efficiency measures that the City should consider (drawn from the city's own Residential Lands Study[20]), but that list is not intended to be exclusive or directive; it is up to the City to determine in the first instance what is reasonable to accommodate its future housing needs within its UGB.

[19] The city's BLI map depicts several areas where there are substantial blocks of vacant lands.

[20] The city's 2007 Residential Lands Study identified other efficiency measures. R. at 1825-1835. One of these, the adoption of refinement plans, appears to have been a successful tool in planning for additional needed housing and providing for higher densities in a form that the market has been responsive to. R. at 1828. On remand, the City should address this and other existing and potential future measures in determining the projected residential capacity of lands within its prior UGB in order to assure that it is complying with the Goal 14 "reasonably accommodate" standard.

The City and Newland argued on appeal that ORS 197.296(3) gives the City the choice of whether to accommodate future need for residential land by expanding its UGB or adopting new measures. The Commission does not agree. The City determined that its UGB will accommodate less development than it has since its last periodic review, that there will be no upzoning except (possibly) in two areas. At the same time, the City found that it has a significant need for affordable multi-family and workforce housing. Under those circumstances, Goals 10 and 14, and ORS 197.307(3), require the city to consider and explain why its determination of capacity based on existing measures is reasonable, and why other, new, measures are not reasonable.

While the Commission agrees with the Director's determination that the City has made the case that a significant expansion of the Bend UGB for future residential growth is justified, the Commission also wants the City to understand that it was not persuaded that the City is meeting its obligations under Goals 10 and 14, and ORS 197.307(3) to plan for an adequate amount of land for needed housing, particularly for land in plan districts that authorize multi-family housing. The Commission is *not* asking the City to amend its plan and zoning designations in established residential neighborhoods; the City has several areas of vacant and redevelopable residential lands where it could consider planning for more multi-family housing.

e. Conclusion

The Commission affirms the Director's Decision on this issue, including the Director's disposition of objections, for the reasons set forth in the Director's Decision. The Commission concludes that the City must reconsider the projected capacity of lands within its prior UGB for residential development during the planning period in light of its revised BLI, recent development trends, and existing and potential new measures to increase that capacity. The measures the City considers must include, but are not limited to, evaluating the infill capacity (including plan and zone changes) of residential lands with more than five acres that are vacant or partially vacant. The City also should consider the measures as listed in the Director's Decision, at 45-46, that are related to efficiency measures. While the Commission concludes that the City's decision does not comply with the "reasonably accommodate" requirement of Goal 14, it also notes that there is no fixed standard under this aspect of Goal 14. The requirement is read in light of the provisions of ORS 197.296(5)-(9), and the unique factual situation of Bend. *It is up to Bend to determine in the first instance what is reasonable to*

accommodate its future housing needs within its own UGB. It will make this determination in the context of prior trends, projected needs, and adopted policies.

3.2. Whether the City's Findings Show that it's Two New Efficiency Measures "Demonstrably Increase the Likelihood that Residential Development will Occur at the Housing Types and Density and at the Mix of Housing Types Required to Meet Housing Needs Over the Next 20 Years."

a. Summary of Issue and Appellants/Objectors

For *new* measures to increase the capacity of buildable lands within its urban growth boundary, ORS 197.296(5) requires that the City show that the measures "* * * increase the likelihood that residential development will occur at the housing types and density and at the mix of housing types required to meet housing needs over the next twenty years." Bayard objected that the efficiency measures that were adopted lacked documentation to assure that they will be effective. Bayard Objection, at 57. The Director upheld the objection. Director's Decision, at 41. And the City and Newland appealed. City Appeal, at 27; Newland Appeal, at 10.

b. Legal Standard

To the extent that the City elects to meet its future need for residential land by adopting *new* measures to promote infill and/or redevelopment, ORS 197.296(7) requires that it demonstrate that such measures "demonstrably increase the likelihood that residential development will occur at the housing types and density and at the mix of housing types required to meet needs over the next 20 years." In addition, ORS 197.296(9) provides that:

> "(9) In establishing that actions and measures adopted under subsections (6) or (7) of this section demonstrably increase the likelihood of higher density residential development, *the local government shall at a minimum ensure that land zoned for needed housing is in locations appropriate for the housing types identified under subsection (3) of this section and is zoned at density ranges that are likely to be achieved by the housing market using the analysis in subsection (3) of this section.* Actions or measures, or both, may include but are not limited to:
>
> (a) Increases in the permitted density on existing residential land;
>
> (b) Financial incentives for higher density housing;
>
> (c) Provisions permitting additional density beyond that generally allowed in the zoning district in exchange for amenities and features provided by the developer;
>
> (d) Removal or easing of approval standards or procedures;
>
> (e) Minimum density ranges;
>
> (f) Redevelopment and infill strategies;
>
> (g) Authorization of housing types not previously allowed by the plan or

regulations;

(h) Adoption of an average residential density standard; and

(i) Rezoning or redesignation of nonresidential land [to residential uses]."

c. Summary of Local Action, Director's Decision and Appeals

The city's submittal included two new efficiency measures. As described above, the two new efficiency measures were adopted as amendments to the housing element of its comprehensive plan. R. at 1085. The two new comprehensive plan policies called for the City to: (a) plan for and zone for an unspecified area and amount of "long-term redevelopment along main transit corridors," and (b) complete a two-part, long-term land use and transportation plan for the Central Area ***, [with] special attention *** to redevelopment of the 3rd St. corridor in this area to promote higher-density housing and mixed-use development to strengthen the Central Area's role as the economic and cultural hub of the community." R. at 1311-1312. The measures were described in more detail in the city's *findings* as planning for an additional 500 units of housing in the Central Area Plan, and to plan for up-zoning in areas along transit corridors for another 600 units. R. at 1082-1085. However, the city's adopted plan policies do not include any description of or commitment to particular amounts or specific types or locations of housing. The plan policy for transit corridors does state that this planning will be completed "prior to 2012." R. at 1311.

The Director determined that the city's two new measures were too indefinite to meet the requirements of ORS 197.296(7) and (9). The Director noted that the measures as adopted did not anticipate or commit the City to any particular outcome, and that the City did not provide a timeframe for completing its planning for the Central Area Plan. Director's Decision, at 38-39. The City and Newland appealed. City Appeal, at 27; Newland Appeal, at 10. In its appeal, the City stated that "[t]he City has determined, based on evidence in the record, that these measures will be effective. (Rec.1084-85.)" City Appeal at 27. Newland stated in its appeal that "the City committed to adopt these measures during the planning period." Newland Appeal, at 10.

d. Analysis

Goal 10, ORS 197.296, and OAR chapter 660, division 8 require the City to ensure it has provided a 20-year supply of buildable residential land for needed housing in locations appropriate for the needed types of housing. If the City relies on new measures, they must do more than merely adopt policies encouraging future planning for the development of needed

housing. Under Goal 10 and ORS 197.296 the City must adopt definitive measures and find, based on an adequate factual base, that those measures demonstrably increase the likelihood that residential development will occur at the housing types and density and at the mix of housing types required to meet housing needs over the next 20 years.

Although the City and Newland argued that the city had determined that the measures would be effective, there are no findings relating to the requirements of ORS 197.296(7) and (9), and the measures themselves are commitments to a planning process, not to any outcome, let alone any outcome tied to the city's housing needs analysis. The City agreed, on remand, to include provisions in the General Plan requiring adoption and implementation of the Central Area Plan and rezoning of lands along transit corridor as described in its findings. City of Bend's Exceptions at 12.

e. Conclusion

The Commission affirms the Director's Decision on this issue, including the Director's disposition of objections for the reasons set forth in the Director's Decision, and directs the City on remand to address the requirements of ORS 197.296(7) and (9) with respect to any new efficiency measures that it relies on. The City may do this by adopting specific timelines for initiation and completion of efficiency measures, including detail about the outcomes that will be achieved as part of the Housing Element of its comprehensive plan. The City also must adopt findings that show why those outcomes are more likely to occur as a result of the measure(s), and how they relate to needed housing types and locations. In addition, in coordination with its Work Plan for Outstanding Metropolitan Transportation Planning Work (issue area 8), if the City continues to rely on these two particular measures, it must:

1. Within two years following acknowledgement, complete and adopt the Central Area Plan. The Plan must include provisions that plan for at least 500 additional medium-density and high-density housing units over the planning period.

2. Within two years following acknowledgement, complete and adopt provisions of its comprehensive plan that authorize at least 600 additional medium-density and high-density housing units on lands abutting or within ¼ mile of existing or planned transit routes.

4. Other (Non-employment) Land Needs – Goal 14

4.1. Whether the city adequately justified inclusion of an additional 15 percent factor for all "other lands" in its identified need.

a. Summary of Issue and Related Objections and Appeals

Central Oregon LandWatch objected that the City did not establish that its identified need for land for institutional or private rights-of-way and private open space is a need under Goal 14, when land for public parks (and streets) is already included in the city's estimate of future land needs. COLW objected that:

> "There is no showing that these uses are <u>needed</u> for residential purposes over and above the public rights of way, parks and institutions already counted. Just because such private uses may exist due to past policies and decision does not mean that they are needed over and above what is considered needed in a true needs analysis." Central Oregon LandWatch Objections at 10.

The Director sustained this objection. Director's Decision, at 53. The City appealed. City Appeal, at 36-37.

b. Legal Standard

The Commission concluded above that submittals under ORS 197.626 must be supported by substantial evidence and present adequate findings. Goal 14 requires that change of an established UGB be based on *demonstrated* need. OAR chapter 660, division 24 provides clarification of procedures and requirements of Goal 14. OAR 660-024-0000(1). Regarding land need, the rule requires that land need be based on the adopted 20-year population forecast and "provide for needed housing, employment and *other urban uses* such as public facilities, streets and roads, schools, parks and open space over the 20-year planning period." OAR 660-024-0040(1).

c. Summary of Local Action, Director's Decision and Appeal

The City applied a fifteen percent factor to its projected net residential, school, park and employment lands need to reflect the amount of land that is not for housing, employment, public facilities or rights-of-way. R. at 1091. The application of the fifteen percent factor led the City to include 442 acres for other land uses (institutional, private open space, private rights-of-way). R. at 1092. The City testified that it analyzed the present UGB parcel by parcel and determined that 12.8 percent of the land is utilized for uses that it does not categorize as either for housing,

employment opportunities, public facilities, or rights-of-way. The City then determined that 12.8 percent for other land uses was reasonable going forward. In addition, the City sought to account for land that would be utilized for stormwater facilities by increasing the factor to fifteen percent. The "institutional" uses accounted for in this factor include "churches, fraternal/benevolent organizations, utilities, cemeteries, golf courses, and irrigation districts properties." City Appeal at 37.

The Director remanded the city's decision with direction to either remove the fifteen percent factor for private open space and private rights-of-way as categories of land need, or to provide findings to establish that private open space and private rights-of-way are needed within the UGB expansion area in addition to land needs for public parks and public rights-of-way. Director's Decision, at 49. The Director determined the submittal lacked findings to explain why prior development patterns that involved a relatively large amount of private open space are needed in the expansion area, concluding "[s]imply adopting past development patterns is not a sufficient basis to demonstrate a land need under Goal 14 or under ORS 197.296." *Id.*

The City appealed, arguing that the inclusion of the fifteen percent factor is necessary to achieve the overall goal of maintaining Bend as a high-quality, desirable place to live and work. City Appeal, at 36-37; City Exceptions, at 17. The City argues that if the "other land" factor is not added, then land for residential uses will be displaced by these uses. Appeal at 37.

d. Analysis

OAR 660-024-0040(1) requires the City to provide for needed housing, employment and other urban uses such as public facilities, streets and roads, schools, parks and open space over the 20-year planning period consistent with the land need requirements of Goal 14 and division 24. The City opted not to use the safe harbor at OAR 660-024-0040(10).[21] Absent the safe-harbor, the City must demonstrate that the identified need for institutional, private open space and private rights-of-way is an urban need that must be accommodated within the expansion area. The City states that the fifteen percent factor is based on an analysis of the prior UGB, and an increase for future surface stormwater management. Recognizing that the 20-year need

[21] OAR 660-024-0040(10) provides:

> "As a safe harbor during periodic review or other legislative review of the UGB, a local government may estimate that the 20-year land needs for streets and roads, parks and school facilities will together require an additional amount of land equal to 25 percent of the net buildable acres determined for residential land needs under section (4) of this rule, and in conformance with the definition of "Net Buildable Acre" as defined in OAR 660-024-0010(6)."

determinations are estimates that (although based on the best available information and methodologies) are not be held to an unreasonably high level of precision, the City's findings must explain why the City believes that the increase from 12.8 percent to fifteen percent is justified.

e. Conclusion

The Commission remands the city's UGB decision for the City to adopt findings that explain why an increase in the amount of land required for these uses from 12.8 percent to fifteen percent is justified. To the extent the City is basing its estimate on the need for stormwater facilities, it should explain why such facilities can't be located within open space and right-of way areas. While this amount of land need for these uses may well be reasonable, the city's findings should not be based only on past trends, but should include consideration of *future* conditions and needs (and explain why the trend will continue or change over the future planning period).

4.2 Whether the submittal includes adequate findings to support the amount of land identified as needed for parks and schools

a. Summary of Issue and Related Objections

The City of Bend added land to its identified need to provide for parks and schools as required by OAR 660-024-0040(1). Central Oregon LandWatch objected that the City did not justify the projected 192 acres for schools or the projected 474 acre land need for parks. COLW argued that the parks projection was based on plans that have not incorporated into the city's comprehensive plan, and that the city's estimate failed to account for the amount of the identified park need that could be met on lands outside the UGB. COLW Objections, at 10.

b. Legal Standard

The Commission concluded above that submittals under ORS 197.626 must be supported by substantial evidence and adequate findings that explain the city's reasoning connecting the evidence in the record with the legal standard(s). OAR 660-024-0040(1) requires the UGB to include land for needed urban uses, including schools and parks. ORS 195.110 requires large school districts to prepare and adopt a school facility plan in consultation with affected cities and counties. ORS 197.296(6)(a) requires a city to include sufficient lands for new public school

facilities the need for which is derived from a coordinated process between the affected public school district and the city and county that adopt the UGB.

c. Summary of Local Action, Director's Decision and Appeal

The City estimated land need for several uses related to residential use. The City estimated a land need of 192 acres for schools. R. at 1089. The City estimated a land need of 474 acres for parks and trails. R. at 1090. The City based the estimates of land need for public schools and parks on per-capita service standards recommended by the school district and the parks district. The school district facilities plan under ORS 195.100 had not been adopted at the time of the city's decision.

The Director remanded to the city to adopt findings related to whether the identified need could be accommodated within the existing UGB, discussed below. Director's Decision, at 47. The Director also remanded for the City to adopt findings relating the facts relied upon to the city's conclusions concerning the amounts of land needed for these uses. *Id.*

The Bend-La Pine School District No. 1 filed an exception to the director's report. The District has a Sites and Facilities Plan that identifies the need for schools. The District relied on that plan to develop the calculations that it summarized in memo to the City on school land requirements. R. at 10560. The District stated the importance of having flexibility in location and an ample land supply for schools.

The Bend Metropolitan Parks and Recreation District filed an exception. The District adopted a 2005 Parks and Recreation and Green Space Comprehensive Plan, incorporated by reference into the Bend Urban Area General Plan, which includes target standards for providing parks and trail facilities based on acres and miles per one thousand residents. Based on estimated population growth, the District applied the target standard of seven acres per one thousand for combined neighborhood and community parks to estimate a future park need of 362 acres. The District revised its estimate of land need during the planning period to 474 acres, based on providing a distribution of community parks service to specific quadrants of the District. R. at 2724-2727.

d. Analysis

The Commission determined that there is an adequate factual basis supporting the City's determination of the *overall amount* of land needed for parks and schools, but that the City's

findings need to be revised to explain clearly what evidence the city relied on for types of projected school and parks needs and siting criteria and the relation to the districts plans. In addition, to satisfy the requirements of ORS 197.296(6)(a), the city's findings should explain how the City has coordinated with the Bend-La Pine School District. As the school district had not adopted a facilities plan under ORS 195.110 at the time of the city's UGB decision, the City may, but is not required to, consider any such plan subsequently adopted by the school district.

e. Conclusion

The Commission remands the decision to the City to adopt revised findings explaining what evidence it relied on in determining the amount of land needed for parks and schools, and how that evidence relates to the districts plans and analyses. The City may, but is not required to, consider any school district plan adopted under ORS 195.110.

4.3. Whether the submittal includes adequate findings concerning whether the need for land for parks and schools may be accommodated within the prior UGB and (for parks) on lands outside of the UGB.

a. Summary of Issue and Related Objections and Appeals

The Director's Decision remanded the submittal because it lacked findings to establish that the identified need for land for parks and schools could not be accommodated (in part or in whole) within its prior UGB, and (for parks) whether some portion of the need (rural facilities) could be located on lands outside of the UGB. There were no objections on this issue. The City appealed. City Appeal, at 34.

b. Legal Standard

The Commission concluded above that submittals under ORS 197.626 must be supported by substantial evidence and present adequate findings. Goal 14 and OAR 660-024-0050(4) require that prior to expanding a UGB, local government must demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary. *1000 Friends of Oregon v. City of North Plains*, 27 Or LUBA 372, 390, *aff'd* 130 Or App 406, 882 P2d 1130 (1994).

c. Summary of Local Action, Director's Decision and Appeals

The City estimated land need for several uses related to residential use. The City estimated a land need of 192 acres for schools. R. at 1089. The City estimated a land need of

474 acres for parks and trails. R. at 1090.

The Director determined that city's estimated land need, based on per-capita service standards recommended by the school district and the parks district, assumes that all new school and park facilities to serve new residents in Bend will be located on expansion lands *outside* of the prior UGB, even though a major of future housing needs are projected to be met within the prior UGB. The Director found:

> "The findings do not address whether the estimated land needs for schools can reasonably be accommodated within the UGB, as required by OAR 660-024-0050(4). Similarly, the findings for parks do not address whether the estimated need can be met within the UGB, or the extent to which the need may already be met by existing or planned facilities outside of the UGB (some types of park facilities are allowed outside of UGBs; *see* OAR chapter 660, division 34)." Director's Decision, at 47.

The Director remanded the city and county decisions, with direction to determine whether the need for land for public schools could reasonably be accommodated within the existing UGB; and whether the need for land for public parks (including trails) could reasonably be accommodated within the existing UGB, and whether this need is already met in whole or in part by facilities planned or existing outside of the UGB. *Id.* at 47-48.

The City appealed the Director's Decision, contending that it had adequately addressed whether the need for additional land for parks and schools could be met within the existing UGB. Appeal at 34. The Bend Metro Park and Recreation District filed an unrelated objection regarding OAR 660-023-0160 addressed below, but appealed the Director's Decision contending that the need for lands for public parks, including trails could not reasonably be accommodated in the existing UGB, and disagreed that the need for additional parks is already met in whole or in part by facilities planned or existing outside the UGB. The Bend-La Pine School District likewise filed an unrelated objection regarding Goal 2 coordination,[22] but appealed the Director's Decision contending that the need for land for public schools and related facilities could not reasonably be accommodated in the existing UGB and disagreed that the need for additional public school facilities is already met in whole or in part by facilities planned or existing outside the UGB.

[22] The Director determined that the City complied with coordination requirements of Goal 2. Director's Decision, at 152.

d. Analysis

Cities must provide for schools and parks needed over the 20-year planning period consistent with the requirements of Goal 14 and OAR 660-024-0040. OAR 660-024-0040(1). In providing for the identified need for schools and parks, cities must demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the UGB. OAR 660-024-0050(4). Submittals under ORS 197.626 must be supported by substantial evidence and present adequate findings. The City and appellants all provide reasons why the identified need for parks and schools cannot be reasonably accommodated in the existing UGB, but neither the city nor the appellants point to any findings that establish the school and park uses cannot be accommodated in the existing UGB at all. Given that much of the city's future housing and population growth is projected within its prior UGB, the city's findings should explain how it will meet its future needs for these uses.

e. Conclusion

The Commission concludes that the City must make findings to address OAR 660-024-0050(4), regarding the extent to which the estimated need for future parks and schools can reasonably be accommodated inside the existing UGB. The required findings must address how the needs analysis accounts for lands already owned by the districts that are outside of the prior UGB, particularly if those lands were determined to not be suitable for urbanization.

5. Employment Land Needs -- Goals 9 and 14

5.1. Whether the Submittal Establishes that the City Estimated its 20-year Employment Land Need in the Manner Required by OAR 660-009-0015, OAR 660-024-0040 and OAR 660-024-0050.

a. Summary of Issue, and Objectors and Appellants

The Director's Decision concluded that the City had not established that it followed the required analytical steps in determining the amount of employment land need. Swalley Irrigation District, Brooks Resources, and Central Oregon LandWatch had challenged whether the submittal provides an adequate factual basis for the findings and conclusions drawn in the City's Economic Opportunities Analysis (EOA). Swalley Irrigation District Objection, at 47-53, Brooks Resources Objection, at 2-9, and Central Oregon LandWatch Objection, at 11-12. The City appealed, contending the 2008 EOA follows the "main steps" in satisfaction of the rule requirements. City Appeal, at 51. Toby Bayard and Terry Anderson appealed, concurring with the Director's Decision, and asserting in particular that the City did not analyze developed employment land likely to redevelop during the planning period. Bayard Appeal, at 5-7; Anderson Appeal, at 5 and 9-11.

b. Legal Standard

Statewide Planning Goal 9 is "[t]o provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity." The goal requires that comprehensive plans for urban areas provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses. OAR chapter 660, division 9 implements Goal 9. Cities develop an economic opportunities analysis (EOA) that compares the demand for land for industrial and other employment uses to the existing supply of such land. OAR 660-009-0015. In general, an EOA includes an analysis of trends that influence the long-range economic conditions of the city and its competitive advantages in terms of types of employment that it is most likely retain or attract; a description of the characteristics of suitable sites needed for employment activities; an inventory of existing suitable sites, and an evaluation of economic development potential. OAR 660-009-0015. The EOA provides the basis for the determination of 20-year employment land need for an urban area as required by OAR 660-024-0040(5) and provides the inventory of suitable vacant and developed land designated for industrial or other employment use required by OAR 660-024-0050.

c. Summary of Local Action, Director's Decision and Appeal

The Director's Decision describes the city's EOA submittal:

"The EOA is included in the record as Appendix E. [R. at 1498] The EOA includes a discussion of the community's objectives, including target industries. [R. at 1516] The Executive Summary highlights the steps of the complete analysis including demographic trends, historic and expected employment trends, inventory of the current land supply, determination of new employment, land need through 2028, which is reported in the summary as a table [R. at 1503-1506].

"Section 3 of the EOA contains the review of trends used for estimating future employment land uses, as required by OAR 660-009-0015(1). [R. at 1519-1566] It provides a detailed report and analysis of trends, including population and demographics, coordinated population projection, educational attainment, household income, wages and benefits, labor force and unemployment, changing economic markets, current covered employment, employment shifts and land needs, the economic outlook, local economic trends, expectations of disproportionate employment growth, land supply as a threat to employment growth, education's role in the economy, and a need for a large university campus.

"Other sections of the EOA detail characteristics of Bend's employment lands, discuss the employment projection methodology, and the results of the projections. [R. at 1567-1578]. The EOA includes a discussion of the use of employment categories instead of the more common employment sectors. [R. at 1583-1584]

"The EOA includes a note that the analysis and conclusions were modified by the city [R. at 1585]. The modifications, based on input from the planning commission, UGB technical advisory committee, and stakeholders, are discussed in appendices A-H [R. at 1642-1727].

"Appendix A presents the modified employment projections per industrial sector classification as a spreadsheet. [R. at 1642]

"Appendix B is a memo outlining staff recommendations of modifications to economic variables relative to consultant work completed for the city. [R. at 1649-1651] To account for uncovered workers, the employment projection is increased by 11.5 percent, based on interpolation of national and state census data. No local employment data were gathered for this analysis. The memo includes a comment by the Oregon Employment Department regional economist that no analysis exists to suggest how land needs for uncovered workers should be calculated, and suggested a rule-of-thumb instead. The memo also makes recommendations regarding modifications to the employment forecast for employment on residential and public facilities lands.

"The submittal includes findings in support of the UGB expansion for employment lands. [R. at 1103-1165] These findings include: policy direction, incorporation by reference of a 2008 EOA, trend analysis, employment projection, employment land inventory, employment land need, discussion of how to satisfy the requirements of Goal 9, identification of required site types, assessment of economic development potential, meeting the requirement of MPOs for short-term supply, economic development policies,

designation of employment lands, and findings related to uses with special siting requirements.

> "In summary, the EOA says there is need for 1,008 acres of commercial land and between 100 and 250 acres of land for each of the following use categories: industrial and mixed employment, public facilities, economic uses in residential zones, medical, new hospital site, a university site, and two 56-acre industrial sites. The total employment land need shown is 2,090 acres. [R. at 1114] This compares to the "Scenario A" conclusion that there is a 1,380-acre need, which was the result of a relatively simplistic formula of dividing employment projections by employment densities." Director's Decision, at 60-61.

The Department determined that the analysis for the EOA did not follow the methodology of division 9, and that the record is unclear and confusing regarding how the City determined the amount of land needed for employment. Director's Decision, at 62. The Department could not identify any analysis in the submittal that distinguishes developed employment land likely to be developed during the planning period from that not likely to redevelop. *Id*. at 63. The Director remanded, in order for the City, based on factual evidence, to determine the 20-year supply of employment land; inventory existing employment land categorized into vacant, developed land likely to redevelop within the planning period, and developed land unlikely to redevelop within the planning period; identify required site types that are not in the inventory of either vacant or likely to redevelop sites; identify serviceable land; and reconcile need and supply. *Id*. at 64.

The City appealed, contending that it had indeed followed the "main steps" required by law in the 2008 EOA. The Department ultimately agreed. Department Report on Appeals, at A-24. The report states:

> "The city's appeal clarifies the bases for its determination of needed employment lands. The city's 2008 EOA is incorporated by reference into its findings for this part of its decision. R. at 1106, 1137, 1138. The findings and the 2008 EOA contain both an analysis of trends and a projection of employment in 2028 by industry sectors. The city projects 22,891 employees in 2028. R. at 1108, 1139 (findings), R. at 1588 (2008 EOA). The department agrees that the city's projection of employment in 2028 complies with Goal 9 and OAR chapter 669, division 9." *Id*. at 25-26.

The Department recommended that the Commission find that the city followed the main rule requirements, with specific exceptions, discussed below. However, the Department suggested that the City clarify its findings to state that its determination of employment land need is based on scenario B from the 2008 EOA.

d. Analysis

The Department's Report summarizes the "main steps" for determining the amount of employment land supply needed for the 20 year planning period:

> "Determine the total 20-year employment land supply need by reviewing trends (OAR 660-009-0005(13), 660-009-0015(1) and 660-009-0025(2));
>
> "Subtract existing sites that are defined as vacant (OAR 660-009-0005(13))
>
> "Subtract existing sites that are defined as "developed" (e.g., developed, but likely to redevelop) (OAR 660-009-0005(13))
>
> "Add needed sites not available in the inventory of vacant or likely to redevelop (OAR 660-009-0025(2))." Director's Report at A-25.

The 2008 EOA compares the demand for land for industrial and other employment uses to the existing supply of such land as required by OAR 660-009-0015. The EOA contains an analysis of trends and a projection of employment by industry sectors. The Director's Report explains the steps the City took to convert the projection of employment in the year 2028 into a projection of employment land need. *Id.* at A-26. While the City followed the main requirements of Goal 9 and division 9, as discussed below, the Commission is sustaining objections and appeals related to the factual basis for projecting redevelopment of developed lands, and the inclusion of a "market choice" factor.

e. Conclusion

The Commission concludes that the City established that it has followed the steps required under OAR 660-009-0015 for estimating land need. The submittal is remanded for the City to clarify in adequate findings that it is utilizing its 2008 EOA, scenario B, as the basis for estimating employment land needs.

5.2. Whether the City's Use of a 10 percent Factor to Estimate the Amount of Employment Need that Will be Met through Redevelopment of "Developed" Lands is Supported by an Adequate Factual and Policy Base, and Justified by Adequate Findings.

a. Summary of Issue, Objectors and Appellants

This issue is whether the submittal includes an adequate factual base to support use of a 10 percent factor for the amount of employment need that the City estimates will be met through redevelopment of developed lands. Swalley Irrigation District, Brooks Resources, and Central

Oregon LandWatch had challenged whether the submittal provides an adequate factual basis for the findings and conclusions drawn in the City's EOA. Swalley Irrigation District Objection, at 47-53, Brooks Resources Objection, at 2-9, and Central Oregon LandWatch Objection, at 11-12. The Bayard and Anderson appeals assert that the city did not properly analyze whether employment land needs would be met on "developed" lands (e.g., redevelopment) within the city's prior UGB during the 20-year planning period.

b. Legal Standard

Pursuant to OAR 660-009-0015(3) and 660-024-0050(1), the city must determine the amount of land within the prior UGB that is likely to be redeveloped for employment uses during the planning period. OAR 660-009-0015(3) provides the requirements for what a city must included in an EOA with regard to an inventory of "vacant" and "developed" lands:[23]

> "Inventory of Industrial and Other Employment Lands. Comprehensive plans for all areas within urban growth boundaries must include an inventory of vacant and developed lands within the planning area designated for industrial or other employment use.
>
> "(a) For sites inventoried under this section, plans must provide the following information:
>
> "(A) The description, including site characteristics, of vacant or developed sites within each plan or zoning district;
>
> "(B) A description of any development constraints or infrastructure needs that affect the buildable area of sites in the inventory; and
>
> "(C) For cities and counties within a Metropolitan Planning Organization, the inventory must also include the approximate total acreage and percentage of sites within each plan or zoning district that comprise the short-term supply of land."

The OAR 660-009-0015 inventory of land inside a UGB, which must include suitable vacant and developed land designated for industrial or other employment use, is a prescribed step in amending a UGB. OAR 660-024-0050(1). The inventory facilitates the analysis of whether the development capacity of land inside the UGB is able to accommodate the estimated 20-year need, including by increasing the development capacity of such land. Ultimately, the city must

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[23] The Goal 9 rule provides definitions for the terms "vacant" and "developed." OAR 660-009-0005(14) defines the term "vacant" to mean "a lot or parcel:

"(a) Equal to or larger than one half-acre not currently containing permanent buildings or improvements; or

"(b) Equal to or larger than five acres where less than one half-acre is occupied by permanent buildings or improvements."

OAR 660-009-0005(1) defines "developed land" as "non-vacant land that is likely to be redeveloped during the planning period."

demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the UGB prior to expanding the UGB. Goal 14, OAR 660-024-0050(4).

The Commission concluded above that submittals under ORS 197.626 must be supported by substantial evidence and present adequate findings.

c. Summary of Local Action, Director's Decision and Appeal

The City decided that redevelopment of "developed" lands will accommodate 10 percent of the projected future employment, thus, the 2008 EOA simply adopts a 10 percent factor for "developed land." The EOA states that this factor is based on research by Metro, and other EOAs. R. at 1611. The 2008 EOA notes that the chosen factor is well below the amount of redevelopment for employment that other jurisdictions have determined is likely. Record at 1611. The City also added 119 acres to its UGB as a component of residential land need to account for future employment that would be provided on lands in residential plan districts. ("Economic Uses in Residential Zones" – 119 acres. R. at 1114 (Table 4-3)).

The Department concluded that the City had not adequately justified employing a 10 factor for the amount of employment land need that will be met through redevelopment. Director's Report at A-24-A-25. The Department also questioned whether the factor satisfies the requirement of Goal 14 to demonstrate that land needs cannot reasonably be accommodated on lands within the existing UGB. *Id.* at A-27.

d. Analysis

The City based its redevelopment factor on analyses prepared for the Portland metro region. The City argued that it used the Metro infill/refill factor due to difficulty of predicting what is likely to redevelop in the planning period. The City contends that the 10 percent redevelopment factor is based on best available and readily collectible information in compliance with OAR 660-009-0010(5). The Metro materials the city referred to data collected between 1999 and 2002. However, the City did not explain through findings both how the Metro factor is current and why it is applicable to Bend. The redevelopment factor is not supported by findings examining how the selected rate accounts for differences in commercial redevelopment near the downtown compared to the edge of the UGB or differences between commercial and industrial redevelopment. Additionally, where a premise of the EOA is that some future employment will occur within residential zones, the findings should establish the factual and policy base that

produce a 10 percent factor for the City. This is particularly the case where EOAs for other cities referenced in the city's EOA use a factor of "15 percent or more."

The 10 percent redevelopment rate does not derive from the factual basis required by the rule. As the Department recommended:

> "If the city employs a city-wide factor rather than analyzing particular sites, it *at least* needs to document what the trend has been for the proportion of new employment within the city that has been met through redevelopment, and must project whether that trend is likely to continue. If the city wishes to alter that trend, it must adopt some policy basis for why doing so is consistent with applicable state and local requirements. Those requirements include the Goal 14 requirement that before expanding its UGB, the city demonstrate why its land needs cannot reasonably be accommodated within the prior UGB." *Id*. at A-27.

The City has agreed to provide more detailed findings related to the redevelopment factor. City of Bend's Exceptions at 19.

e. Conclusion

The Commission remands the UGB decision to the City to provide an adequate factual base to support use of a 10 percent redevelopment factor, including an analysis of the amount of redevelopment that has occurred in the past and a reasoned extension of that analysis over the planning period. Alternatively, the City may satisfy Goal 9 and division 9 by other means, for example through a site-by-site redevelopment analysis. However, a site-by-site analysis is not required; the Commission determines that using a factor is acceptable where findings explain evidentiary basis and address the Goal 14 requirement to reasonably accommodate development within the existing UGB.

5.3. Whether the City Must Update its EOA to Reflect More Recent Trends Resulting from the Current Recession.

a. Summary of Issue, Objectors and Appellants

Central Oregon Land Watch argues that the Commission must require the City to update its trends analysis to reflect the more recent downturn in economic conditions. COLW objected that the findings and EOA are outdated, so there is no basis for need demonstrated. COLW Objection, at 11–12. The Director's Decision did not sustain this objection.

b. Legal Standard

OAR 660-024-0040(2) provides that the 20-year planning period for a UGB amendment commences either on the date initially scheduled for final adoption of the amendment specified

by the local government in the initial notice of the amendment required by OAR 660-018-0020, or (if the beginning date for the city's coordinated population forecast is more recent) the beginning date for the population forecast. Regarding what constitutes an adequate planning effort by a city in developing an EOA, OAR 660-009-0010(5) provides that a "jurisdiction's planning effort is adequate if it uses the best available or readily collectable information to respond to the requirements of this division."

c. Summary of Local Action, Director's Decision and Appeal

The city's 45-day notice for its UGB amendment stated that the date initially scheduled for final adoption was November 24, 2008. The city's coordinated population forecast also begins in 2008.

Central Oregon LandWatch objects that the EOA is based on trend analysis that is based on a market bubble that popped two years before the City adopted the EOA and UGB expansion. COLW argues that the Commission must require the City to update its trends analysis to reflect the more recent downturn in economic conditions. COLW objected that the findings and EOA are outdated, and that as a result there is no basis for need demonstrated.

d. Analysis

Applying OAR 660-024-0040(2) to the facts here, the city's 45-day notice for its UGB amendment stated that the date initially scheduled for final adoption was November 24, 2008. The City's coordinated population forecast also begins in 2008. As a result, the Commission's rules do not require the City to review trend or forecast data that became available after that time.

Turning to whether Goal 9 as implemented by division 9 *requires* the City to review the EOA to reflect current downturn in economic conditions, the Department determined that the trend analysis was not so out of date that the City could not rely on it. Director's Report at A-29. The Department stated the "intent" of division 9 provisions requiring review is "to ensure that the local jurisdiction investigates, considers and makes policy decisions regarding significant influences on *long-range* economic and employment conditions." *Id.* Although a local government is certainly not prohibited from revisiting its EOA trends analysis to reflect changing economic conditions, nothing in the Commission's rules requires a local government to continually update an EOA or its estimate of land need to reflect changing economic conditions. If a trend analysis became so out of date that a local government would not reasonably rely on it, the adequate factual base requirement of Goal 2 would then require the City to update the

analysis, but the Department determined that neither the objection nor the appeal established that the City's 2008 EOA is at that point yet.

e. Conclusion

The Commission concludes that although the City may update its EOA to reflect current economic trend data, nothing in the Commission's rules require it to do so under the circumstances presented here.

5.4. Whether the City Established Adequate Factual and Policy Bases for its Decision to Increase its Estimate of Employment Land Need for Commercial, Medical, Residential and Public Facility Plan Districts by FiftyPercent (Except its CG plan (Commercial General) District, which it Increased by 25 percent). Whether the City may Include Additional Employment Lands Beyond What it Shows are Needed Over the Planning Period to Allow for "market choice."

a. Summary of Issue, Objectors and Appellants

Central Oregon LandWatch and Swalley Irrigation District filed objections that the EOA impermissibly adds surplus employment land to the inventory and as a result the UGB was expanded to include more employment land than the City has established a need for. The Director upheld the objections.

The City of Bend appealed, noting that OAR 660-009-0025(2) provides "* * * the total acreage of land designated [for employment land need] must *at least* equal the total projected land need for each industrial or other employment use category identified in the plan during the 20-year planning period." City Appeal, at 53 (emphasis added). The City argues that this language means that it is allowed to include an amount of land in addition to its projected land need for the 20-year period. The City also argues that it is allowed to include additional lands to provide for market choice during the 20-year planning period and that this is, in essence, an element of its 20-year need. City Appeal, at 54.

Toby Bayard and Terry Anderson also appealed on this issue, arguing that the expansion includes more employment land than is justified. Bayard and Anderson argue that in order to justify a need for employment land within the UGB to provide for efficient market functions or to respond to market conditions, the record must contain an adequate factual base and policy directives to support such a decision. Bayard Appeal at
5-7; Anderson Appeal at 5-7.

b. Legal Standard

Goal 14 requires cities to plan for and include in their urban growth boundaries an amount of land estimated to meet the need for a 20-year supply of land for residential, employment and other land uses. Goal 9 does not alter that basic provision of Goal 14. *Volny v. City of Bend,* 37 Or LUBA 493, *aff'd* 168 Or App 516, 4 P3d 768 (2000).[24] The Court of Appeals recently stated that:

> "In other words, even if a local government designates a needed supply of industrial land for use over the 20-year planning period consistently with Goal 9, an amendment to the UGB cannot be accomplished without demonstrating compliance with the requirements of Goal 14."

1000 Friends of Oregon v. LCDC, __ Or App __, __P3d __ (A135375) (September 8, 2010) slip op at 3. The Commission's Goal 9 rule states that the amount of land included in the expansion area must "at least" equal the total projected land need over a 20-year period..[25]

OAR 660-009-0005(13) defines "total land supply" as "* * * *the supply of land estimated to be adequate* to accommodate industrial and other employment uses *for a 20-year planning*

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[24] "* * * To the extent petitioners argue that Goal 9 itself requires that the city and county designate enough industrial and commercial lands to meet the identified shortfall over the 20-year planning period, Goal 9 merely requires that local governments provide for 'an adequate supply of sites' for industrial and commercial uses, without imposing, as the Goal 9 rule does, any requirement that the supply of sites be adequate over a particular planning horizon." *Volny*, 37 Or LUBA at 518.

[25] OAR 660-009-0025 provides in part:

> "(1) Identification of Needed Sites. The plan must identify the approximate number, acreage and site characteristics of sites needed to accommodate industrial and other employment uses to implement plan policies. Plans do not need to provide a different type of site for each industrial or other employment use. Compatible uses with similar site characteristics may be combined into broad site categories. Several broad site categories will provide for industrial and other employment uses likely to occur in most planning areas. Cities and counties may also designate mixed-use zones to meet multiple needs in a given location.
>
> "(2) Total Land Supply. Plans must designate serviceable land suitable to meet the site needs identified in section (1) of this rule. Except as provided for in section (5) of this rule, the total acreage of land designated must at least equal the total projected land needs for each industrial or other employment use category identified in the plan during the 20-year planning period.
>
> "* * *
>
> "(5) Institutional Uses. Cities and counties are not required to designate institutional uses on privately owned land when implementing section (2) of this rule. Cities and counties may designate land in an industrial or other employment land category to compensate for any institutional land demand that is not designated under this section."

period." The Commission's rule governing a city's determination of land need, OAR 660-024-0040(1), provides:

> "*The UGB* must be based on the adopted 20-year population forecast for the urban area described in OAR 660-024-0030, and *must provide for needed housing, employment and other urban uses such as public facilities, streets and roads, schools, parks and open space over the 20-year planning period consistent with the land need requirements of Goal 14 and this rule*. The 20-year need determinations are estimates which, although based on the best available information and methodologies, should not be held to an unreasonably high level of precision."

In considering the land supply within a UGB, the applicable goals and rules all provide for a 20-year planning period.

A local government is authorized to include employment lands in a UGB expansion for market choice, but only in order to meet the requirements of the commission's rules. This certainly includes lands required for a competitive short-term supply of employment lands. OAR 660-009-0005(10) defines "Short-term Supply of Land" as

> "suitable land that is ready for construction within one year of an application for a building permit or request for service extension. * * * 'Competitive Short-term Supply' means the short-term supply of land provides a range of site sizes and locations to accommodate the market needs of a variety of industrial and other employment uses."

OAR 660-009-0005(13) defines "Total Land Supply" as

> "the supply of land estimated to be adequate to accommodate industrial and other employment uses for a 20-year planning period. Total land supply includes the short-term supply of land as well as the remaining supply of lands considered suitable and serviceable for the industrial or other employment uses identified in a comprehensive plan. Total land supply includes both vacant and developed land."

In short, the Commission's rules do allow the city to plan for a "competitive short-term supply" of employment land that includes a "market choice" element. Whether a local government may include a market choice factor as part of its overall total employment land need over a 20-year planning period is not clear after the court's decision in *Woodburn*, but if it is permissible the local government must establish the policy and factual basis for it.

c. Summary of Local Action, Director's Decision and Appeal

The City included market choice adjustment factors ranging from 25 to 50 percent to increase its determination of the amount of employment land need. *Id.* at A-25. The inclusion of

a redundant supply for market choice added 421 acres to the UGB. R. at 1622. The Director sustained the objections and remanded. Director's Decision, at 66. The City appeal argues "The rules make it clear that plans must at least provide a 20-year supply, but are not limited to a 20-year supply." City Appeal, at 53.

d. Analysis

While OAR 660-024-0040(1) does not require precision in estimates of land need, that recognition does not authorize cities to plan for more than a 20-year employment land need, as the City's decision in this case effectively did for commercial and certain other uses (through its use of adjustment factors). The city may be able to establish a factual and policy basis why it needs more employment land in order to assure that it meets its projected need for employment uses over a 20-year period, but that analysis is not contained in the record at present.

State policy is to require periodic review of comprehensive plans and land use regulations in order to respond to changes and to ensure adequate provision for economic development. ORS 197.628(1). Every ten years, a city the size of Bend must review whether the UGB complies with Goal 9 by revising its plans to provide a 20-year supply of land for economic needs. ORS 197.629(1)(b). Thus, the periodic review process is designed to determine whether the 20-year supply in fact exists on a regular basis. In this context, it will be more difficult to justify the inclusion of lands to provide market choice.

The Department determined that the City's findings and 2008 EOA establish an adequate factual basis and policy rational for including lands beyond the "minimum" (*e.g.* 20-year) estimate based on projected employment in Scenario A. The report stated:

> "For industrial lands, the city documented a need for two large industrial sites. R. 1124-1125. The city notes that without including these additional sites, the only newly-added industrial lands to its UGB would be at the city-owned Juniper Ridge site at the north end of the city. The city also documents a particular need for a new hospital site (112 acres in the south of Bend), and for a new university site (225 acres at Juniper Ridge). R. at 1122-1124. These site needs are based on factual information in the record, as described in the city's findings and the 2008 EOA. The department concurs with these components of the city's decision on employment lands, which together comprise 449 acres (112 acres for new hospital site, 225 acres for university site, and 112 acres for two large industrial sites). R. at 1114, Table 4-3. As noted in the Director's Decision, however, the city does not identify whether there are sites that could reasonably accommodate these particular site needs within the prior UGB. Director's Decision at 69. The department believes that it is highly unlikely that suitable sites are available for these uses within the

prior UGB; however, the city needs to document this aspect of its decision and adopt findings explaining its determination.

"For medical land uses (other than a new hospital site) the city identifies a land need of 252 acres, which is more than double the amount indicated in Scenario A. R. at 1120; R at 1114, Table 4-3. The city's explanation in its findings simply assumes two 100-acre sites, one adjacent to a new hospital site, and the other to the north. R. at 1120. Given the degree to which the size of the sites exceeds the city's employment forecast based estimate, the department believes additional justification is needed for the amount identified as new MDOZ land. Unlike the hospital site, which the city justifies in some detail (R. at 1122-1123), there is little information provided in the findings or the 2008 EOA regarding why particular site needs for medical offices should be added to the city's overall employment projection based estimate of land need. See also, Bayard and Anderson Appeals. Bayard Appeal at 6; Anderson Appeal at 11." Director's Report at A-32 – A-33.

The Department recommended that the Commission remand the submittal, directing the City to eliminate the 50 percent and 35 percent factors used to increase the amount of commercial and industrial land (25 percent for CG) need over the 20-year planning period. *Id.* Appellant Bayard pointed to conflicting acreage (225 and 175) related to identification need for a university site and the City agreed to clarify acreage on remand. The City also agreed to make findings under Goal 14 that particular employment land needs could not reasonably be accommodated on vacant or developed land within the prior UGB.

On September 8, 2010, after the Commission heard this matter, the Court of Appeals issued it decision in *1000 Friends of Oregon v. LCDC,* __ Or App __, __P3d __ (A135375). The court reiterated that a local government may not amend an UGB to include more land than it needs for the planning period. *Id*. at slip op 3. The court described "market choice" as "an infinitely pliable and elastic term," and remanded the case to the Commission for it to explain how market choice is considered under Goals 9 and 14. *Id*. at slip op 7. As a result, in this case, to the extent that the city continues to base some portion of its employment land need on market choice, it must explain how doing so in the factual context provided by the record for the Bend UGB expansion is consistent with the requirements of Goal 9, OAR 660-009-0025, and the "need" factors of Goal 14.

e. Conclusion

The Commission concludes that the City may not include *more* land than is estimated as needed over the 20-year planning period. The City's determination should be based on a

description of past and projected future trends, long-term employment needs, and other policy bases articulated in its findings. On remand, the City must make findings addressing applicable law, including addressing consistency with Goals 9 and 14 as required in *1000 Friends of Oregon v. LCDC,* __ Or App __, __P3d __ (A135375) (September 8, 2010).

5.5. Whether the City adopted adequate plan policies to manage the short-term supply of employment land.

a. Summary of Issue, Objectors and Appellants

The Director's Decision concluded that the short-term land supply management plan does not include detailed strategies for preparing the total land supply for development and for replacing the short-term supply of land as it is developed, as required by OAR 660-009-0020(1) and (2). The City of Bend appealed.

b. Legal Standard

OAR 660-009-0020(2) requires that comprehensive plans for cities within a Metropolitan Planning Organizations (MPOs) "include detailed strategies for preparing the total land supply for development and for replacing the short-term supply of land as it is developed." The "Short-term Land Supply" includes a "Competitive Short-term Land Supply" that provides a range of site sizes and locations to accommodate the market needs of a variety of industrial and other employment uses." OAR 660-009-0005(10).

c. Summary of Local Actions, Director's Decision, and Appeal

The City adopted economic development policies in chapter 6 of the Bend Area General Plan. R. at 1339. The policies accept the 2008 EOA and associated land needs, establish the short-term supply management plan, establish emphasis on large-lot industrial, and established mixed-use and commercial development guidance.

d. Analysis

Division 9 is flexible, but for MPOs, there is a requirement that certain lands be ready in the short term. Under OAR 660-009-0015(3)(a)(C), the EOA Inventory of Industrial and Other Employment Lands for cities and counties within a Metropolitan Planning Organization, must include the approximate total acreage and percentage of sites within each plan or zoning district that comprise the short-term supply of land. This short-term supply analysis required for jurisdictions within MPOs is in addition to the EOA inventory requirements applicable to all comprehensive plans for areas within urban growth boundaries. OAR 660-009-0015(3)(a).

Furthermore, division 9 requires that comprehensive plans for cities such as Bend "include detailed strategies for preparing the total land supply for development and for replacing the short-term supply of land as it is developed." OAR 660-009-0020(2). These policies must describe dates, events or both, that trigger local review of the short-term supply of land.

e. Conclusion

The Commission concludes that the Goal 9 rule requires the City to include policies for maintaining a short-term supply. The City must plan for required infrastructure and have identified the funding mechanisms, although it is not required to have money "in the bank" to fund required infrastructure.

5.6. Whether the record supports the conclusion that Bend will experience a fifteen percent vacancy rate in its employment lands over the 20-year planning period.

a. Summary of Issue, Objectors and Appellants

The Department commented by letter dated November 21, 2008, that the use of a fifteen percent vacancy rate as a component of the 20-year land supply would require "additional factual evidence supporting its projected vacancy rate based on an evaluation of local conditions." R. at 3765-3766. The Department commented that a fifteen percent vacancy rate may be justifiable for the short-term. *Id.* The City appealed.

b. Legal Standard

Cities are required to conduct an Economic Opportunities Analysis to determine demand for land for industrial and other employment uses and the existing supply of such land. OAR 660-009-0015. As described above, under OAR 660-009-0015(3)(a)(C), the City's EOA Inventory of Industrial and Other Employment Lands, must include the approximate total acreage and percentage of sites within each plan or zoning district that comprise the short-term supply of land. Division 9 requires that the City's comprehensive plans "include detailed strategies for preparing the total land supply for development and for replacing the short-term supply of land as it is developed." OAR 660-009-0020(2). The "Short-term Land Supply" includes a "Competitive Short-term Land Supply" that provides a range of site sizes and locations to accommodate the market needs of a variety of industrial and other employment uses." OAR 660-009-0005(10). A "vacancy rate" can be a component of "market needs" under the competitive short-term land supply. The Goal 2 requirement of an adequate factual base applies to identification of the "vacancy rate" and requires that the record, viewed as a whole,

would permit a reasonable person to make the finding. Here, because the vacancy rate involves both basic findings of fact and inferences drawn from those facts, substantial evidence review involves two related inquiries: "(1) whether the basic facts or facts are supported by substantial evidence, and (2) whether there is a basis in reason connecting the inference to the facts from which it is derived." *City of Roseburg v. Roseburg City Firefighters*, 292 Or 266, 271, 639 P2d 90 (1981).

c. Summary of Local Actions, Director's Decision, and Appeal

In calculating the gross employment land need during the planning period, one of the three factors that the City applied to convert the anticipated employment land demand into gross acres for economic use is a 15 percent vacancy rate. R. at 1615, 1616 and 1111-1112. The City identified the vacancy rate for office and industrial land between 1993 and 2005. R. at 1562, Figure 23. During that time, the identified vacancy rate for industrial fluctuated between four and nine percent; the identified vacancy rate for office ranged from four to 13 percent. R. at 1562, 1616. The City acknowledged that a 15 percent vacancy rate is higher than Bend has experienced, but reasons that the rate is only slightly higher than historic and current conditions. R. at 1616. Further, the City decided the higher rate is warranted to both "lower land and rent prices for business" and "the desire of the Planning Commission and the City Council to increase land supplies in the expanded UGB." R. at 1617. The City determined that a vacancy rate of 15 percent would account for 1,587 acres of land. R. at 1618, Table 40.

The Director determined that the City had not established an adequate factual base for the assumed 15 percent vacancy rate. Director's Decision, at 63. The order decided:

> "The findings state that the local vacancy rates have been approximately half this amount. The city justifies the higher long-term rate on a desire to drive industrial and commercial land rents down. That cannot be a basis for inflating trend data because, taken to its extreme, it would have no limit in terms of the acreage assumed to be committed as a result of commercial and industrial vacancies. While employment land availability, and the effects of availability on rents and land prices, are legitimate considerations in planning for growth, assigning an across the-board vacancy rate that is significant above trends [R. at 1562] does not comply with the Goal 9 rule." *Id.*

The City appealed, contending the vacancy rate is supported by substantial evidence. The Director found the rationale for varying from the trend data unpersuasive. Director's Report at A-34. The Department determined that the short-term evidence cited by the City, some of which was not in the record, does not demonstrate that vacancy rates will ever reach, much less be

sustained at 15 percent. *Id.* The Department recommended that that Commission remand with instructions to utilize a long-term vacancy rate that is consistent with available trend data.

d. Analysis

The City's assumed 15 percent vacancy rate is neither consistent with either the historic or current conditions trend data in the record nor has the City established that it is otherwise based on substantial evidence in the record. Under that circumstance, the City must establish a basis in reason connecting the inference that the planning period will present higher vacancy rates for industrial and office than historic and current conditions to the trend data from which it is derived. The City points in part to the rate range stated in the Department's "Industrial and Other Employment Lands Analysis—Advanced Guidebook 2005 (Guidebook)." In determining long-term demand analysis, the guidebook states:

> "Vacancy rates also apply to built space. As they tend to be cyclical, the assumption should reflect a long-term average and provide a range of choices. For efficient market operation, a minimum vacancy rate for built space is between 5% and 15%. The estimate of total acres of demand should be increased by this percentage as the market often requires more options than the employment estimates seem to require." Guidebook at 2-32.

In commenting on the daft EOA, the Department clarified for the City that the five to 15 percent vacancy rate range applies only to the short-term supply of built commercial and industrial lands. R. at 3765-3766 n 5. However, because a "vacancy rate" can be a component of "market needs" under the competitive short-term land supply, the City may pursue a mechanism to make industrial and commercial rents affordable under the competitive short-term supply, but not by inflating the long-term need beyond what may be supported by substantial evidence in trend data or reasoned inferences there from.

e. Conclusion

The Commission concluded that under division 9, the long-term vacancy factor should be based on past and projected future trends over the planning period. The City has not established that a 15 percent vacancy factor is based on substantial evidence.

5.7. Whether an Urban Expansion Must Consider the Impact on Displaced non-Urban Industries, such as Agriculture and Agricultural Irrigation.

a. Summary of Issue, Objectors and Appellants

Swalley Irrigation District objected and filed an appeal asserting *inter alia* that a provision of Goal 9 requires the City to analyze the impacts of the UGB expansion on Swalley,

and in turn protect Swalley's existing operations. Swalley Irrigation District Appeal at 2; Swalley Objection at 48. Swalley contends that the submittal significantly adversely impacts an existing industry – the industry of providing irrigation water – an agricultural/utility type of industry. Significantly adversely impacting an agricultural water provider likewise impacts the dependent agricultural industry, an impact which Swalley argues the City failed to address in its findings. *Id*.

b. Legal Standard

Statewide Planning Goal 9 provides planning guidelines. Guideline A(4) provides "Plans should strongly emphasize the expansion of and increased productivity from existing industries and firms as a means to strengthen local and regional economic development."

c. Summary of Local Actions, Director's Decision, and Appeal

The Director's Decision denied the objection on this matter, treating it as a locational issue, citing OAR 660-024-0060(8)[26] that specifies how cities apply the Goal 14 boundary location factors to the land in a statutory priority category in order to select the parcels to fulfill the city's 20-year land need for a particular urban use. The Director's Decision did not address the issue as a Goal 9 compliance issue, the position that Swalley initially made in its written appeal. The City agreed with the Department's recommendation and analysis. City of Bend's Exceptions at 26. At the LCDC hearing, Swalley waived this argument.

[26] This rule provides:

> "The Goal 14 boundary location determination requires evaluation and comparison of the relative costs, advantages and disadvantages of alternative UGB expansion areas with respect to the provision of public facilities and services needed to urbanize alternative boundary locations. This evaluation and comparison must be conducted in coordination with service providers, including the Oregon Department of Transportation with regard to impacts on the state transportation system. 'Coordination' includes timely notice to service providers and the consideration of evaluation methodologies recommended by service providers. The evaluation and comparison must include:
>
> "(a) The impacts to existing water, sanitary sewer, storm water and transportation facilities that serve nearby areas already inside the UGB;
>
> "(b) The capacity of existing public facilities and services to serve areas already inside the UGB as well as areas proposed for addition to the UGB; and
>
> "(c) The need for new transportation facilities, such as highways and other roadways, interchanges, arterials and collectors, additional travel lanes, other major improvements on existing roadways and, for urban areas of 25,000 or more, the provision of public transit service."

d. Analysis

OAR 660-009-0020(3) and (4) provide that local governments, as part of their Goal 9 responsibilities, *may* adopt policies and take other actions to maintain and encourage the expansion of existing industries. Such industries could include agricultural industries. However, in this case, neither the city nor the county have adopted comprehensive plan policies that require them to manage the urban growth boundary in a manner that maintains or expands agricultural operations. To the extent that Goal 14 and ORS 197.298 require local governments to maintain agricultural industries, those requirements are addressed under those provisions and not generally under Goal 9.

e. Conclusion

The Commission concludes that neither the objection nor the withdrawn appeal present a basis for remand of the submittal and they are rejected.

5.8. Whether the City justified the inclusion of 119 acres of residential land for employment uses

a. Summary of Issue, Objectors and Appellants

The City identified a need for 119 gross acres to accommodate employment uses taking place on residentially zoned land (RH, RM, RS), but not in residential structures. Record at 1113-1114, table 4-3. Objectors questioned the factual basis for the identified need and argued that the City should retain the land for high density residential use. Swalley Irrigation District Objection at 53; Central Oregon Land Watch Objection, at 11. The City appealed.

b. Legal Standard

OAR chapter 660, division 9 requires that a city determine the need for employment land by preparing an EOA. OAR 660-009-0015. Determination of 20-year employment land in an urban area must comply with Goal 9 and division 9. OAR 660-024-0040(5).

OAR 660-009-0005(3) defines industrial use. OAR 660-009-0005(6) defines "other employment uses" as:

> "All non-industrial employment activities including the widest range of retail, wholesale, service, non-profit, business headquarters, administrative and governmental employment activities that are accommodated in retail, office and flexible building types. Other employment uses also include employment activities of an entity or organization that serves the medical, educational, social service, recreation and security needs of the community typically in large buildings or multi-building campuses."

OAR 660-009-0025 requires local governments to adopt measures adequate to implement economic development policies and appropriate implementing measures include amendments to plan and zone map designations. Goals 10 and 14 and OAR chapter 660, divisions 8 and 24 establish the requirements for designation of residential land and UGB expansion considerations for residential uses.

c. Summary of Local Actions, Director's Decision, and Appeal

The City determined that it was appropriate to consider employment uses in residential zones because such uses, which are encouraged by the development code, consume residential land. Record at 1113. To account for neighborhood commercial and other uses that the code permits outright or conditionally, the City identified a need for 119 gross acres to accommodate employment uses taking place on residentially zoned land. Record at 1114.

The Director sustained the objections and remanded the inclusion of 119 acres of residential need for employment land need. Order 001775, at 66-67. The Department decided:

> "It is appropriate to define the portion of projected employment that is expected to take place on residential land in order to gain an accurate approximation of how much will locate in employment zones. However, OAR 660, division 9 does not permit designation of residential land for employment use. Residential land is designated according to the standards of OAR 660, division 8, which permits adjustments to the residential buildable lands inventory to account for non-residential uses." Order 001775 at 67.

The City appealed, reasoning "Where the city has accurately estimated employment taking place in residential general plan designations, the "appropriate implementing measure" is to add small supplies of residential land to the proposal to account for such uses." City Appeal at 55.

d. Analysis

The Department clarified that it had misunderstood the method the city used to determine the need for the 119 acres of residential land. Director's Report on Appeals, at A-35. The City's appeal clarified that a certain percentage of other employment uses (other than home-based employment) is allowed and takes place within its residential zones, and that this percentage is higher in Bend than in most other communities. The City based the forecasted need on an analysis of the demonstrated use at a point in time. Record at 1609. The Department agreed that the acreage at issue represents a small percentage of the overall employment land need and did not necessitate an in-depth analysis in order to make an adequate finding. *Id.* at A-35.

The Department rejected the City's contention that the absence of an express prohibition of designating residential land for employment uses in Goal 9 or division 9 means that it is allowed. *Id.* The Department determined:

> "The entire context of OAR chapter 660, division 9 involves lands designated for industrial or other employment use. Because the rule does not repeat this term at every opportunity does not change the overall framework of the rule. That said, nothing prevents a city from permitting employment uses within residential zones; the statewide planning program in fact promotes mixed-use development. (Although most jurisdictions do this within mixed-use zones, Bend has chosen to allow such development through permitting, rather than planning, decisions.) In order to ensure an adequate supply of residential land, non-residential uses must be accounted for.
>
> "The land need for employment uses in residential zones should be considered within the context of the residential land needs analysis. Accommodation of this neighborhood employment is not part of the city's economic development strategy, but rather a recognition of an existing land use pattern that the city wishes to maintain. There appears to be no strategy regarding where or how many of these uses should be established, since the city does not plan for them; again, the EOA simply recognizes and accounts for them.
>
> "While the EOA is the appropriate location for the analysis of future need for these uses, the need should be demonstrated based on data and analysis in the city's housing needs analysis under Goal 10. This would provide the proper accounting and put these non-residential uses in the context of other residential land needs." *Id.*

The City agreed that on remand it would move the analysis and calculation to the residential/other lands analysis and calculation. City of Bend Exceptions at 26.

e. Conclusion

The Commission remands the submittal to incorporate analysis of land needs for employment uses within residential zones in the City's housing needs analysis.

5.9. Whether the City's decision on employment lands, including its Framework Plan designations, is consistent with Policy 27 and Policy 28 of Chapter 6 of the Bend General Plan.

a. Summary of Issue and Related Objections

Rose & Associates, LLC contend that the submittal did not follow policies of the Bend Area General Plan that prohibit extending commercial development along specific street corridors.

b. Legal Standard

The Bend General Plan includes policies that are statements of public policy, and are used to evaluate any proposed changes to the General Plan. Chapter 6 of the Bend Area Plan

relates to *The Economy and Lands for Economic Growth.* It includes polices on Commercial Development, two of which provide:

> "The existing pattern of commercial designations shown on the Plan Map along Highway 97 and Highway 20, and along arterial streets such as Newport Avenue, Galveston Avenue, SW 14th Street, 27th Street and O.B. Riley Road shall not be extended farther along the street corridors.
>
> "No new strip commercial development or extensions of the commercial designations shall be permitted along arterial or collector streets."[27]

The Commission must review objections, appeals, and exceptions that contend that a local government did not explain how an analysis complied with its local provisions. *City of West Linn v. LCDC,* 201 Or App at 447.

c. Summary of Local Actions, Director's Decision, and Appeal

The Director's decision did not address these policies. Rose & Associates, LLC appealed, maintaining that the City failed to address certain policies of the Bend Area General Plan. The Department agreed that the findings did not address the policies cited by Rose & Associates.

d. Analysis

The City designated a substantial amount of land as Commercial General along Highway 20 in the expansion area. The City concedes that it did not make findings related to the General Plan policies cited by appellant, but agrees to develop findings addressing the policies on remand.

e. Conclusion

The Commission remands the submittal to the City to allow it to address Commercial Development Policy 27 and 28 contained in Chapter 6 of the Bend Area Plan.

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[27] Following the January 5, 2009– Ordinance NS-2112 amendments to the General Plan, this provision now states:

> "The city shall discourage long continuous strips of primarily commercial development along expressways, principle arterials, arterials or collector streets."

The objection was based on the previous policy language.

6. Natural Resources and Hazards -- Goals 5 and 7

6.1. Whether prior to or contemporaneously with its UGB expansion the city must comply, and to what extent, with the requirements of Goal 5 and OAR chapter 660, division 23.

a. Summary of Issue, Objectors and Appellants

The Department received objections based on Goal 5 generally asserting either that the City failed to apply Goal 5 to the UGB expansion area or that the City identified land within the proposed expansion areas as protected land without adequate justification for the designation. The objections of Central Oregon LandWatch, Swalley Irrigation District, Bayard, Bend Metro Park and Recreation District, Elkins, Department of State Lands, and Tumalo Creek Development, LLP are described in the Director's Report. Director's Decision, at 141-142. The Director's remand of the UGB amendment and the public facility plan submittals was appealed. City of Bend appeal at 98-99, Toby Bayard appeal at 15-17, Terry Anderson appeal at 22-24.

b. Legal Standard

Statewide Planning Goal 5 and OAR chapter 660, division 23 address protection of significant natural, scenic and historic resources and open space. Division 23 specifies the resource categories that local governments must protect in comprehensive plans and which are subject to local discretion and circumstances; the rules establish procedures and criteria for completing inventories and protection programs, and when the rule requirements apply. Division 23 requires cities to inventory significant riparian areas, wetlands and wildlife habitat.

For certain Goal 5 resources the rule authorizes cities to rely on inventories compiled by other agencies, and for other resources the local government must complete their own resource inventory. For all inventoried significant Goal 5 resources, a local government must complete a process to develop and implement appropriate protection measures. If a local Goal 5 resource protection program includes development restrictions, a city must account for any resulting loss of buildable land from such restrictions when determining the amount of land need.

OAR chapter 660, divisions 23 and 24 both specify that a UGB expansion triggers applicability of Goal 5. OAR 660-023-0250(3)(c) and OAR 660-024-0020(1)(c). At a minimum, a local jurisdiction expanding its UGB must complete the following for the expansion

area when factual information is submitted that a Goal 5 resource or the impact area of a Goal 5 resource is included in the UGB expansion area:

- Conduct required Goal 5 resources inventories for which the rule does not rely on state or federal inventories. These are riparian corridors, wetlands, and wildlife habitat
- Adopt local state and federal inventories for resources that require inventories, specifically: federal Wild and Scenic Rivers, Oregon Scenic Waterways, state-designated critical groundwater areas and restrictively classified areas, approved Oregon Parks and Recreation Commission recreation trails, Oregon State Register of Natural Heritage Resources sites, federally designated wilderness areas, and certain specific energy sources.
- Develop a local protection programs for all significant Goal 5 resources that are identified in an inventory, as required by the rule specific to the resource category.

Local jurisdictions have the option of conducting inventories and developing protection programs for historic resources, open space, and scenic views and sites. When using this option at the time of a UGB expansion, the Goal 5 process for these resources must be complete before land can be designated unbuildable or limitations on building can be considered in sizing the expansion area. OAR 660-023-0070. The Goal 5 process is complete for these resources when the local government:

- Collects existing and available information about Goal 5 resource sites. OAR 660-023-0030(2).
- Determines the information on the location, quantity, and quality of the resource is adequate. OAR 660-023-0030(3).
- Determines the significance of resource sites. OAR 660-023-003(4).
- Adopts a list of significant resources as part of the comprehensive plan. OAR 660-023-0030(5).
- Completes an analysis of the economic, social, environmental and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use. OAR 660-023-0040.
- Develops and adopts a program to achieve Goal 5 based on the conclusions of the ESEE analysis. OAR 660-023-0050.

c. Summary of Local Action, Director's Decision, and Appeal

The City's findings state that the proposed UGB expansion and Public Facilities Plan element of the city's General Plan satisfy Goal 5 because, "it avoids to the extent practicable lands with county-inventoried Goal 5 resources." The findings for Goal 5 further state that Deschutes County's Goal 5 program "does not identify any acknowledged riparian corridors, wetlands, wildlife habitat or other Goal 5 resources within the proposed urban growth boundary." R. at 1215. The findings also state that review of the National Wetlands Inventory shows no wetlands within the proposed expansion area, and this serves to satisfy Goal 5 requirements.

The findings describe the county's knowledge of wildlife habitat within its jurisdiction, and explain that the proposed expansion area does not include any lands in the Wildlife Area Combined Zone, "applied to Goal 5 wildlife habitat," and does not include county-mapped deer winter range or elk habitat. R. at 1216. The findings do not state when the county's inventories were last updated.

The findings identify two significant riparian corridors within the proposed expansion area and explain that they are protected through the county's plan and code. The findings also state that "approximately 22 additional [riparian] acres are located in the proposed UGB expansion area outside of the Deschutes River and Tumalo Creek." R. at 1216. The findings also consider the possibility that additional Goal 5 resources will be identified through future planning efforts. The record states that existing city code implementing its Waterway Overlay Zone and its areas of special interest will apply to newly identified Goal 5 resources. R. at 1216.

New policies commit the city to perform "a complete Goal 5 inventory once the new UGB is acknowledged." Other policies prevent urbanizable land from becoming urban until the Goal 5 inventory is complete and protection measures are in place. R. at 1217. The findings apparently use the term "Goal 5 resource" only to refer to resources that have, or will at some point, be identified as significant Goal 5 resources.

The findings do not include information about the approach to areas of special interest (ASI), a city classification described in the Bend General Plan. The ASI classification includes Goal 5 scenic, open space and habitat resources. R. at 1247. Some discussion of the city's intention to identify and manage impacts to ASIs is presented in the findings on the UGB locational analysis. R. at 159. Although the term "Areas of Significant Interest" is not used, the

findings state that about 299 acres will not be available for urban uses, "because of their significance as scenic or natural resource." R. at 159. The bulleted list of evidence for these resources in the proposed expansion area describes landscape features that fit the ASI classification. These include: the presence of the Deschutes River viewshed; presence of the Deschutes River Canyon State Scenic Waterway; and past surveys documenting prominent rock outcroppings, which are potential scenic resources.

Bend has included the Bend Area General Plan as amended January 5, 2009 in the record. Chapter 2, "Natural Features and Open Space," provides some information on riparian areas, wetlands and wildlife habitat, and the city's commitment to protecting these resources. The preservation of water resources, riparian areas and wildlife habitats is identified as one of the goals necessary to ensure Bend's livability by provide long term protection of open space and natural features. R. at 1244. In several places, the Natural Features and Open Space chapter recognizes that the Deschutes River and Tumalo Creek provide important habitat for a variety of aquatic life, birds, reptiles and mammals, both big and small. On page 1251 of the record, it is stated that all of the significant wetlands identified for the local wetland inventory, conducted in 2000, are located along the Deschutes River.

The plan includes several policies for natural features and open space. Policy 4 states:

> Prior to the completion of the Goal 5 inventory, analysis and ordinance by the city, properties seeking annexation shall conduct a Goal 5 inventory pursuant to OAR 660-023. Where a significant Goal 5 resource is identified, amendments to the Bend Area General Plan and the Bend Development Code shall be proposed and adopted, consistent with inventory findings and OAR 660-23, to ensure appropriate protection of the resource, prior to approval of any land use action.

The Director surmised that Policy 4 is one of the policies the City mentioned in the findings. R. at 1217. It would allow development to proceed and provide for a property-by-property approach to the inventory and protection of Goal 5 resources.

The "Natural Features and Open Space" chapter of the plan explains that the identification and preservation of ASIs and natural features is part of an effort to "retain and conserve the natural character of Bend as the community grows and changes." R. at 1247. ASIs are identified as "features typical of Central Oregon, or represent important wildlife areas." R. at 1247. The association of river canyons with wildlife habitat is recognized in this section.

The analysis for UGB amendment alternative 4A includes information on the

environmental consequences of selecting the alternative, and discusses Goal 5 resources for each quadrant. It appears that the term "Goal 5 resource" is used to refer to a resource that has already been identified as significant and placed on the Deschutes County inventory of significant resources, or that may be identified by the city as significant in the future. There are findings of no Goal 5 resources for the northeast priority 2 and priority 4 quadrants and the southeast priority 2 and priority 4 quadrants. It is stated that the southeast priority 4 quadrant is near Townsend bat habitat and has features that could qualify as an ASI. The northwest priority 2 quadrant is described as having one Goal 5 resource, a 200-acre aggregate site, and potential Goal 5 resources within the Tumalo Creek corridor. It is also stated that a State Scenic Waterway designation is recognized for portions of the Deschutes River that run through this quadrant. R. at 2460-2461.

There are findings of "no naturally occurring wetlands" for four of the six quadrants, presumably based on the National Wetlands Inventory. The analysis states that the southwest quadrant "contains some soils that have characteristics that may be indicative of potential areas of special interest," and that the northwest quadrant contains a band of lowlands along the canyon bottom of the Deschutes River and Tumalo Creek which is in the 100-year floodplain. R. at 2430-2462.

Appellants Bayard and Anderson contend that Goal 5 requires the City to inventory wetlands, riparian corridors, and wildlife habitat as part of its UGB expansion. Bayard and Anderson argued that neither the City nor the County have inventoried Goal 5 resources in the 3,196 acres of areas designated Urban Area Reserve. The City of Bend contended that its plan policies commit the City to perform a complete Goal 5 resource inventory and protection program prior to development or annexation.

d. Analysis

OAR 660-023-0250(3) provides, in part:

> "Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:
>
> "* * *
>
> "(c) The PAPA amends an acknowledged UGB *and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area*."

The rule requires the city to evaluate the expansion area where resources are identified and evaluate them for significance and possible protection. The resource sites at issue in this rule are not only sites that have already been identified by the county as significant. The city may use the county's inventory as a starting point, but it must also evaluate other information and make its own determination of significance.

e. Conclusion

The Commission understands that the Department and the City negotiated a resolution to Goal 5 issues. The Commission concludes that the resolution establishes a manner for the City to comply with Goal 5 as implemented by division 23 on remand and, consistent with that resolution, orders as follows:

- State scenic waterway – Should a revised UGB expansion area include any areas within the Middle Deschutes River Scenic Waterway as described in OAR 736-040-0072, the city must adopt local requirements to implement the state plan for protecting the Middle Deschutes Scenic Waterway, including a setback from the canyon rim for structures.

- Riparian protection – Should a revised UGB expansion area include areas along the Deschutes River, Tumalo Creek, or both, the city must prepare and adopt an inventory of the significant riparian area that either: 1) finds that the topography along the river does not restrict the use of the safe harbor inventory under OAR 660-023-0090(5)(d) and apply the 75 feet upland from top of each bank safe harbor width provided in OAR 660-023-0090(5)(a); or 2) apply the standard inventory methodology, used within the current UGB, to the expansion area. In either case, the significant riparian area will fall within the canyon walls. For a protection program the city will adopt the county measures that serve to protect the scenic waterway and add restrictions for vegetation removal within the significant riparian area. The City must develop the protection program to meet the safe harbor protection measure standards.

- Wildlife habitat – Should a revised UGB expansion area include areas along the Deschutes River, Tumalo Creek, or both, the city must apply OAR 660-023-0110, the Goal 5 wildlife habitat rule, by conducting a safe harbor inventory under OAR 660-023-0110(4). The rule allows the city to limit consideration of significant habitat to the five habitat categories specified in subsections (a)-(e). The Commission understands that the City anticipates that ODFW will provide the City a letter stating that the agency does not have information that any of the five habitat categories are documented, identified or mapped within the portion of the Deschutes River or Tumalo Creek corridors that pass through the expansion area.

- Tumalo Creek – Should a revised UGB expansion area include Tumalo Creek in the final expansion area, the city must apply the Goal 5 safe harbor inventory and protection measures for riparian areas along the creek.

The City has identified areas of special interest (ASIs) – mainly areas of rock outcropping). The City established that such areas are *not* inventoried as Goal 5 resources. Therefore, the Commission concludes that the City may not exclude identified ASIs from its BLI (if they are already inside the prior UGB), or excluded ASIs from inclusion in the expansion area. The Commission understands that this may result in a 299-acre adjustment to expansion area.

6.2. Whether the City is Required to Address Wildfire Risk in Evaluating Alternate UGB Expansion Areas. Whether Goal 7 Requires the City and County to Include Wildland Fire Safety Planning as a Consideration in Planning for its UGB Expansion. Whether Other State Laws Would Implicate an Action through Goal 7.

a. Summary of Issue, Objectors and Appellants

Central Oregon LandWatch, joined by Swalley Irrigation District, objected that the submittal neither describes the risk of wildfire nor acknowledges the recent catastrophic fire near the proposed westside expansion area. COLW Objection, at 17-18. After the Director suggested that the City and County ***should consider*** the information in the Community Wildfire Protection Plan for the Greater Bend Area even though compliance with Goal 7 is not a requirement of a UGB expansion, the City of Bend appealed, arguing that Goal 7 does not require the City to do anything more than it has done. City Appeal, at 100. COLW appealed, arguing that the Director erred in rejecting its objection and determining that Goal 7 did not require the City to address the threat of catastrophic wildfire. COLW Appeal at 4-5.

b. Legal Standard

Goal 7 is to "protect people and property from natural hazards." For purposes of Goal 7, "natural hazards" include "wildfires."

c. Summary of Local Action, Director's Decision and Appeal

Pursuant to the federal Healthy Forests Restoration Act (2003), Deschutes County adopted a Community Wildfire Protection Plan for the Greater Bend Area (2006) that identifies significant wildfire risks for the area and outlines the priorities, strategies and action plans for fuels reduction treatments in the greater Bend wildland urban interface. It also addresses special areas of concern and makes recommendations for reducing structural vulnerability and creating defensible spaces in communities at risk. The Bend City Council and Deschutes County both adopted the Greater Bend Community Wildfire Protection Plan by resolution in 2006. Citing staff meetings with state and county staff to discuss provisions of the Community Wildfire

Protection Plan for the Greater Bend Area and how to incorporate the provisions into annexation agreements and implementing development plans, the City responds that it has taken wildfire risks into consideration in evaluating boundary locations for the UGB expansion. City of Bend's Exceptions at 28.

d. Analysis

COLW contends that the Community Wildfire Protection Plan for the Greater Bend Area (2006) is the type of new data that should trigger natural hazard planning. Goal 7 provides a specific process for addressing new hazard inventory information. When federal and state agencies provide the department with new hazard information, the department reviews such information with affected state and local representatives. Thereafter, the department notifies local governments if the new hazard information requires a local response, which must transpire within three years. Central Oregon LandWatch does not contend that the department notified the City of new wildfire hazard information, thereby triggering a city obligation to respond. As a matter of fact, the department has not done so. Under those circumstances, Goal 7 does not *obligate* the City to respond to the wildfire hazard inventory information in the Community Wildfire Protection Plan for the Greater Bend Area.

Goal 2 requires that city actions related to land use are consistent with *inter alia* county comprehensive plans. Goal 2 also requires that plan and implementation measures be coordinated with the plans of affected local governments, which include those local governments that have programs or responsibilities within the area included in the plan. Deschutes County has not adopted the Community Wildfire Protection Plan for the Greater Bend Area (2006) as part of its comprehensive plan. Under that circumstance, Goal 2 does not *obligate* the City to respond to the wildfire hazard inventory information in the Community Wildfire Protection Plan for the Greater Bend Area.

e. Conclusion

The Commission concludes that under these circumstances, neither Goals 2 nor 7 requires the City to address wildfire risk. This conclusion does not imply that the City should not explain in its findings how it has addressed wildfire risk. It is entirely appropriate and permissible for the City to consider relative risk of wildfire in alternate UGB expansion candidate areas in considering the environmental, energy, economic and social consequences of the alternatives under locational factor 3 of Goal 14.

6.3. Whether the Surface Mining Plan Map Designation for the Shevlin Sand and Gravel Property is Supported by an Adequate Factual Base.

a. Summary of Issue, Objectors and Appellants

Shevlin Sand and Gravel, Inc.[28] owns about 700 acres of land in Bend Urban Reserve Area that the City included in the proposed UGB. Shevlin operates an aggregate extraction and processing facility on a portion of the 700 acres. Shevlin filed an objection and subsequent appeal pertaining to the designation of a portion of its property.

b. Legal Standard

Goal 2 requires an adequate factual base for the establishment of land use plans. Goal 5 requires local governments to adopt programs to protect natural resources and requires that local governments inventory specific resources, including mineral and aggregate resources. Goal 5 provides in part: "In conjunction with the inventory of mineral and aggregate resources, sites for removal and processing of such resources should be identified and protected." OAR chapter 660, division 23 establishes procedures and criteria for inventorying and evaluating Goal 5 resources. OAR 660-023-0000. OAR 660-023-0180 provides specific procedures and criteria for inventorying and evaluating mineral and aggregate resources.

c. Summary of Local Action, Director's Decision and Appeal

A 280-acre portion of the Shevlin property is designated surface mining on the Bend Area General Plan Map dated December 12, 2008. R. at 1226. The Director's Decision presumed the Deschutes County had designated the site a significant Goal 5 resource under OAR 660-023-0180. Order 001775 at 144-145. Shevlin appealed Order 001775, contending that Deschutes County had not designated the property a significant Goal 5 resource and that the Director erred in not sustaining Shevlin's Goal 2 objection that the submittal lacked an adequate factual base to designate a specific 280-acre portion of the property for surface mining. Shevlin appeal at 1. Shevlin argued "the 280 acres designated Surface Mining on the Bend Urban Area General Plan Map (R. 1226) should include only portions of the SSG property that are legally capable of being used as part of SSG's mining operation." Shevlin appeal at 4. Shevlin proposed that the City and County resolve its objection by changing the boundaries of the 280-acre Surface Mining area to include only land subject to DOGAMI Permit 09-0018. *Id.* The

[28] Jon Skidmore appeared as an authorized representative on behalf of the appellant pursuant to ORS 183.457(1)(j).

City agreed that on remand it will reconsider the plan designation for the site. City of Bend exceptions at 28.

d. Analysis

The appellant's property includes an area permitted by Department of Geology and Mineral Industries (DOGAMI) for surface mining and an area that is not on the county's inventory of significant natural resources sites. As in *Urquhart v. Lane Council of Governments*, 80 Or App 176, 179-80, 721 P2d 870 (1986), here, the area raised in the appeal, was not included in the inventory before the amendment was enacted, and the amendment does not affect the county's inventory. The Commission effectively codified the holding in *Urquhart* in OAR 660-023-0250(3) and (4). *Johnson v. Jefferson County (A138263),* 221 Or App 156, 165, 189 P3d 30 (2008), *rev dismissed* 347 Or 259 (2009). Goal 5 does not provide for land use plans to limit development on property based on potential or actual presence of natural resources without having first completed the inventory, significance determination, conflicting use analysis, and program development process provided in OAR chapter 660, division 23. Because the area subject to the appeal is not on the county's inventory, and no factual information has been submitted to demonstrate the presence of a resource site, there is not an adequate factual basis for placing the SM designation on property outside of the area subject o DOGAMI permit 09-0018.

e. Conclusion

The Commission concludes that the submittal does not comply with Goal 2, Goal 5, and OAR chapter 660, division 23. On remand, if the City includes the property in the revised UGB expansion area, the City should only plan for surface mining that portion of the property within the DOGAMI permit 09-0018 area, as the site is not on the county's acknowledged surface mining inventory. The City agrees to reconsider the plan designation on remand.

7. Public Facilities Planning – Goal 11

7.1. Whether the PFPs Submitted by the City Comply with Goal 11 and the Goal 11 Rules as to Lands Within the City's Prior UGB. Should the Commission Acknowledge the PFPs as to Lands Within the Prior UGB, Even if the PFPs Must be Remanded as to the UGB Expansion Area? May the City, on Remand, First Adopt Amended PFPs for the Lands Within the Prior UGB, and then (later) Amend the PFPs to Address Land Uses Within the Revised UGB Expansion Area?

a. Summary of Issue, Objectors and Appellants

The City submitted amendments to its public facilities plans to the Department for review in connection with its UGB amendment. R. at 35-36. The amendments pertain to facilities needed to serve lands both within the prior UGB of the City, and lands in the UGB expansion area. R. at 211. On appeal, the City asked the Commission to acknowledge the PFP amendments with respect to lands within the prior UGB, and (in the alternative) asked for clarification from the Commission concerning whether it could serially amend its PFPs to address lands within the prior UGB first, and then (at a later date) amend the PFPs to address lands within any proposed UGB expansion area.

b. Legal Standard

Goal 11 and ORS 197.712(2)(e) require cities with a population greater than 2,500 to prepare and adopt public facilities plans for water, sewer and transportation services within the city's UGB. Public Facilities Plans (PFPs) are required primarily to assure that local governments plan for timely, orderly and efficient arrangement of public facilities and services, and to serve as a framework for future urban development. Timely, orderly and efficient arrangement "refers to a system or plan that coordinates the type, locations and delivery of public facilities and services in a manner that best supports existing and proposed land uses." Goal 11 and OAR 660-011-0000.

The required contents of a public facility plan are set forth in OAR 660-011-0010(1). At a minimum, public facility plans must include plans for water, sewer and transportation facilities that contain:

> "(a) An inventory and general assessment of the condition of all the significant public facility systems which support the land uses designated in the acknowledged comprehensive plan;

(b) A list of the significant public facility projects which are to support the land uses designated in the acknowledged comprehensive plan. Public facility project descriptions or specifications of these projects as necessary;

(c) Rough cost estimates of each public facility project;

(d) A map or written description of each public facility project's general location or service area;

(e) Policy statement(s) or urban growth management agreement identifying the provider of each public facility system. If there is more than one provider with the authority to provide the system within the area covered by the public facility plan, then the provider of each project shall be designated;

(f) An estimate of when each facility project will be needed; and

(g) A discussion of the provider's existing funding mechanisms and the ability of these and possible new mechanisms to fund the development of each public facility project or system." OAR 660-011-0010(1)

For a UGB amendment, OAR 660-024-0060(8) requires that the Goal 14 boundary location determination include evaluation and comparison of the relative costs, advantages and disadvantages of alternative UGB expansion areas with respect to the provision of public facilities and services needed to urbanize alternative boundary locations. This evaluation and comparison must be conducted in coordination with service providers, including the Oregon Department of Transportation with regard to impacts on the state transportation system. "Coordination" includes timely notice to service providers and the consideration of evaluation methodologies recommended by service providers.

The evaluation and comparison for the UGB amendment must include:

(a) The impacts to existing water, sanitary sewer, storm water and transportation facilities that serve nearby areas already inside the UGB;

(b) The capacity of existing public facilities and services to serve areas already inside the UGB as well as areas proposed for addition to the UGB. * * *" OAR 660-024-0060(8).

In addition, under Goal 11 itself, the City must find in connection with a UGB expansion that the expansion area can be adequately served in terms of water, sewer and other public facilities identified under OAR 660-011. ***1000 Friends v. City of North Plains***, 27 Or LUBA 372 (1994), *aff'd* 130 Or. App. 406 (1994).

c. Summary of Local Actions, Director's Decision, and Appeal

Immediately before it adopted a UGB expansion, the City repealed its 1996 Utilities System Master Plan, and adopted certain specific utilities plans as amendments to the Public Facilities Element of the city's comprehensive plan. R. at 35. Those plans address current and future land uses both within the prior UGB and within the proposed UGB expansion area. R. at 211. The public facility plans adopted by the City are the public facility plans for water and sewer service under Goal 11. R. at 211. The water facility plans are:

- The Water System Master Plan (WSMP) Update – Final Report (2007). Murray, Smith, and Associates;
- The Airport Water System Master Plan (2007). Murray, Smith, and Associates. R. at 211.

The sewer facility plans are:

- Collection System Master Plan (CSMP) Final Report (2007). MWH
- CSMP Addendum #1: Final Executive Summary and "Alternative Technical Analysis; North East Bend" (2007) prepared by MacKay & Sposito, Inc.
- CSMP Addendum #2: Collection System CIP Analysis and Report (2008). Murray, Smith, and Associates.
- CSMP Addendum #3: Technical Memorandum 1.5 – Hamby Road Sewer Analysis (2008). CAMES and CH2M Hill.
- Water Reclamation Facilities Plan (2008), Carollo Engineering. Including technical memoranda nos. 1-10. R. at 211.

The Director reviewed the plans to determine whether they could be acknowledged, either with regard to land uses in the proposed UGB expansion area, or independently with regard to land uses in the area within the prior UGB. The Director found that the plans could not be acknowledged for either purpose because the plans were based on assumptions relating to the location and intensity of future development both inside and outside of the prior UGB that the Director had remanded and that were likely to change as a result. According to the Director, these issues had to be resolved before the public facilities plans could be acknowledged either with regard to the prior UGB or with regard to the proposed expansion. The Director also found that the City must complete its public facility plan for water by including information called for in OAR 660-011-0010 for areas served by the Avion Water Company and Roats Water Company, consistent with the city's urban growth management agreement with each water company. OAR 660-011-0015. As a result, the Director determined that he could not partially

acknowledge the city's public facilities plan based on the current submittal. Director's Decision, at 82.

The city's appeal argued that the Director's Decision confused: (1) the acknowledgement of the city Public Facilities Plans (PFPs) for the area within the current (prior) UGB; and (2) whether the PFPs provide an adequate basis for adoption of the UGB expansion. City Appeal at 61, 67. The City asked the Commission to acknowledge the PFPs for areas within the prior UGB. City's Appeal, at 61, 67.

d. Analysis

As a factual matter, with two exceptions, all of the city's facilities plans address either planned development in the UGB expansion area or development within the prior UGB, or both. The levels and locations of planned future development in these areas may change significantly as a result of the Commission's remand and, as a result, the Commission finds that the "land uses designated in the [city's] comprehensive plan" may change as well, necessitating corresponding changes in the city's facilities plans. OAR 660-011-0010(1). As one example, the "Collection System Master Plan (CSMP) Final Report (2007). MWH" assumes that future development will occur in areas that are not consistent with either the final UGB expansion decision that the city made (the CSMP was based on extending service to areas planned by the City and County as Urban Area Reserve), or with this order in terms of the amount and location of future residential and other development that the city has planned for within the prior UGB (to the extent that the City plans for additional infill or redevelopment).

OAR 660-011-0010(1) requires the public facility plan to include "* * * an inventory and general assessment of the condition of all of the significant public facility systems which support land uses designated in the acknowledged comprehensive plan." And OAR 660-011-0010(2) requires that the plan include a list of significant public facility projects which are to support land uses designated in the acknowledged plan. The City argues that its plans only need address land uses within its prior UGB, because land uses within the expansion area are not acknowledged. That *may* be true,[29] but because its plans do, in fact, address land uses in its expansion area it is impossible for the Commission to determine separately whether the public

[29] Although, as noted above, when the City amends its UGB Goal 11 requires it to address the adequacy of public services to serve development planned within the UGB expansion area. Exactly how that is done and at what level of detail will depend on how the City plans for lands within the expansion area. ***1000 Friends v. City of North Plains,*** 27 Or LUBA 372 (1994).

facility systems described in the plans support the land uses designated within the acknowledged (prior) UGB.

In addition, the city notes that the Department has advised the City that it should not rely on amendments to its public facilities plans that are not adopted and incorporated as elements of its comprehensive plan. City Appeal, at 61 (fn 23). That is correct, and results from the Goal 2 requirement for consistency and from the Goal 2 requirement that the comprehensive plan provide the basis for land use actions. ***See, e.g.***, ***1000 Friends of Oregon v. City of Dundee***, 203 Or App 207, 216 (2005) (an acknowledged comprehensive plan and information integrated into that plan must serve as the basis for land use decisions); ***Lengkeek v. City of Tangent***, LUBA No. 2006-076 (9/11/2006)(same). In this case, the City repealed its 1996 Utilities System Master Plan, requiring that it adopt some form of valid public facility plan prior to amending its UGB. If the city had repealed the Utilities System Master Plan and adopted a public facility plan that *separately* addressed facilities and projects needed for development under its acknowledged comprehensive plan for its existing, acknowledged UGB, and then separately addressed those additional or different facilities needed for planned land uses as a result of its UGB expansion, that approach would have been consistent with Goal 11 and Goal 2. However, that is not what the City did.

Two of the master plans adopted by the City do not depend on or concern planned land uses within the UGB expansion area. These plans are independent of the city's UGB expansion decision. They are the: "Airport Water System Master Plan (2007);" and the "Water Reclamation Facilities Plan (2008), Carollo Engineering. Including technical memoranda nos. 1-10." These two master plans concern facilities outside of the city's UGB that are required regardless of the configuration of the UGB. The City has withdrawn the Airport Water System Master Plan (2007), and (as a result) that plan is not addressed in this order. The Water Reclamation Facilities Plan (2008), contains the elements required by OAR 660-011-0010, and the plan shows that the facilities addressed in it are required regardless of the amount of land added to the city's UGB and regardless of the location of the UGB. As a result, the Commission finds that the Water Reclamation Facilities Plan complies with applicable goals and implementing rules, and acknowledges that plan.

e. Conclusion

The Commission denies the appeal of the City in part, except with regard to the Water Reclamation Facilities Plan, which it acknowledges. Otherwise, the Commission affirms the Director's Decision on this issue. The City may adopt public facilities plans as needed for acknowledged land uses within its prior, acknowledged UGB on remand. The city may then, subsequently, adopt revisions to its public facilities plans for any revised UGB expansion proposal and any other related amendments to its acknowledged comprehensive plan.

7.2 May the city's sewer plans include facilities and capacity intended to serve lands outside the UGB, so long as the plans provide that no service will be permitted or provided until such lands are located inside the UGB and urbanized (rezoned to urban designations)?

a. Summary of Issue, Objectors and Appellants

In connection with its appeal, the City has raised the question of whether it may adopt new or amended public facility plans that include facilities and projects to serve land uses outside of its prior UGB (before it amends its UGB or before its UGB expansion is acknowledged). COLW objected that the city's sewer and water plans impermissibly allowed facilities outside of the UGB. COLW Objection, at 16.

b. Legal Standard

Goal 11 requires local governments to adopt public facility plans and to coordinate the type, locations and delivery of public facilities and services in a manner that best supports the existing and proposed land uses. ORS 197.712(2)(e) and OAR 660-011-0000 and 660-011-0010 require local governments to develop and adopt public facility plans for areas *within* an urban growth boundary.

c. Summary of Local Actions, Director's Decision, and Appeal

The City adopted public facility plans for land uses both within its existing, acknowledged urban growth boundary, and for land uses within its UGB expansion area. The Director remanded the city's decision adopting the public facility plans for a number of reasons, including that the plans were premised on locations and levels of future development both within and outside of the acknowledged UGB that would likely change as a result of the Director's remand of the city's UGB expansion decision. The City appealed, arguing that it's decisions to amend its public facilities plans should be reviewed independently of its UGB decision, and that

it could and should consider anticipated future development outside of its acknowledged UGB in its public facilities plans.

d. Analysis

Goal 11 and ORS 197.712(2)(e) require cities and counties to develop and adopt public facility plans for areas *within* an urban growth boundary. However, there is no prohibition in these authorities on a city planning for public facilities on lands that it anticipates adding to its UGB in the future,[30] and (as noted above) if a city is relying on public facility planning in making a UGB expansion decision, the plan may be updated to reflect the proposed expansion and incorporated into the city's or county's comprehensive plan. However, such planning, if adopted into a comprehensive plan, must be consistent with the applicable urban growth management agreement (OAR 660-011-0015), and be coordinated with the appropriate county(ies), any adjoining city(ies), and other service providers. *Id., Goal 11, Guideline A.1.*

e. Conclusion

The City may adopt a public facility plan that plans for future facilities and capacity to serve lands outside its UGB. If the City does so, must follow the applicable provisions of its urban growth management agreement, coordinate with other service providers, and may not authorize sewer systems outside of its acknowledged UGB (except as provided in OAR 660-011-0060 or by exception).

7.3. Whether the City's Public Facilities Plans Were Improperly Used to Determine the Location of the UGB Expansion?

a. Summary of Issue, Objectors and Appellants

Swalley, COLW, Bayard, Anderson, Rose & Associates, and Hunnell United objected that the city's public facilities plans were improperly used to determine the location of the UGB. Swalley Objection, at 25-26; COLW Objection, at 16; Bayard Objection, at 10; Rose & Associates, at 3. Hunnell United Objection, at 2.

b. Legal Standard

Under ORS 197.298(3)(b), exception lands such as lands zoned rural residential may be excluded from a UGB expansion if: "[f]uture urban services could not reasonably be provided to the higher priority lands due to topographical or other physical constraints." ORS 197.298(3)(b).

30 LUBA has noted that "[t]he first sentence of Goal 11 simply requires planning for 'a timely, orderly and efficient arrangement of public facilities and services.' That language does not prohibit providing public facility capacity that exceeds current or planned demand." *SEIU v. City of Happy Valley*, 58 Or LUBA 261 (2009).

In effect, the appellants argue that the City is attempting to use its public facilities plans to make the showing required by the statute, and that this is improper.

c. Summary of Local Actions, Director's Decision, and Appeal

The city's water and sewer master plans primarily analyzed lands planned as urban area reserve (UAR) that were proposed for inclusion in the expanded UGB in 2007. For the most part, the city did not prepare revised public facilities plans for water or sewer to address the additional exception (rural residential) or resource (EFU) lands added to its UGB expansion study area in 2008. R. at 450-453. Exception lands and agricultural lands to the east that are included in the UGB expansion area are not analyzed in the sewer system collection master plan, while other lands that were dropped from the expansion (such as the DSL lands) are included in the analysis. Exception lands to the south of the city are not analyzed. The water system master plan only examined Tetherow and Juniper Ridge outside of the prior UGB. R. at 249.

The Director remanded the public facility plans due to their inconsistency with the proposed UGB expansion, and due to his finding that they failed to contain the comparison of relative costs, advantages, and disadvantages of alternative UGB expansion areas required by OAR 660-024-0060(8). Director's Decision, at 78-79. The Department noted, however, that "[t]he fact that both the city's water and sewer facilities plans include areas that are outside of the UGB expansion area suggests that the plans were not coordinated as closely with the UGB expansion analysis as appellants suggest." Department Report on Appeals, at A-44.

Swalley, Bayard, Anderson and Hunnell United appealed the Director's Decision on this issue. Bayard Appeal, at 7; Anderson Appeal, at 2-3 and 13-15; Hunnell United, at 1-3.

d. Analysis

According to Bayard and Anderson:

> "The City's Water System Master Plan (WSMP) and Collection System Master Plan (CSMP) appear designed to support pre-existing biases as to which land to include in the expanded UGB rather than to serve the public facilities needs of Bend's existing and future residents. Not all serviceable exception areas are included in the PFPs and there are lands included in the PFPs but not included in the UGB proposal. The City's Goal 11 findings state that it has "based the proposed expansion of the UGB in part on the development of three (3) new sewer interceptors that are located beyond the city's current UGB." However, the Record does not support this finding. The CSMP included an analysis of planned sewer interceptors, but the location of said interceptors is almost entirely on UAR lands or within the existing UGB). Moreover, the CSMP's analysis of what lands will be served in the future is not correlated with the lands in the UGB expansion area. The UGB expansion area includes lands that are evaluated in the master

plans, creating an internal conflict in the city's General Plan contrary to Goal 2 as well as Goals 11 and 14." Bayard Appeal, at 7.

As noted above, the City may rely on provisions of its public facility plans in evaluating where to expand its UGB. In order to exclude high priority lands (such as rural residential, urban area reserve, or other exception lands) from consideration for a UGB expansion on the basis of public facilities, the City must determine that "[f]uture urban services could not reasonably be provided to the higher priority lands due to topographical or other physical constraints." ORS 197.298(3)(b). The legal standard for an exception to the normal statutory priorities regarding which lands must be included within an urban growth boundary expansion is intended to be exacting, as addressed in more detail under Issue 9, below. However, there is nothing wrong with a city using its public facilities plan to examine whether services can reasonably be provided to a particular area as long as the city's analysis compares areas as required by Goal 14 and OAR 660-024-0060(8). For the reasons set forth with regard to the preceding subissue, the City may address lands outside of its current UGB in its public facilities plans.

e. Conclusion

The Commission affirms the Director's Decision on this issue. If the City utilizes its public facilities plans as the basis for the comparative analysis required by Goal 14 and OAR 660-024-0060(8), it must analyze lands in a manner consistent with the priorities established in ORS 197.298. The role of public facility costs and feasibility in determining the location of a UGB expansion is addressed in connection with issue area 9, below.

7.4. Whether the City's Public Facility Plans Must be Consistent with Proposed Land Uses, Including Measures to Provide Land for Needed Housing.

a. Summary of Issue, Objectors and Appellants

The city maintains that it does not have to examine measures intended to plan for needed housing as part of an effort to gain acknowledgment of its public facility plans for the prior UGB. City Appeal at 62, 66.

b. Legal Standard

Goal 2 requires internal consistency in comprehensive plan provisions, and that comprehensive plans provide the basis for land use actions.

c. Summary of Local Actions, Director's Decision, and Appeal

The city's public facility plans do not consider additional development within the prior urban growth boundary that may be required in order to provide needed housing. The Department agreed with the City on appeal that if the City limits its public facilities plans to acknowledged land uses within its prior UGB, it is not required to address the timing and availability of public facilities for infill and redevelopment or other measures to provide needed housing associated with the City's evaluation of a UGB expansion.

d. Analysis

As noted above, the City could have amended its public facility plans to address only land uses within its existing, acknowledged urban growth boundary. However, the city elected to address areas outside of its prior UGB in connection with its proposed UGB expansion. R. at 211. In order to have an internally consistent, coordinated comprehensive plan that complies with Goal 2, if the city amends its public facility plan to address lands in a proposed UGB expansion area, the facilities plan also must address other measures that the city proposes to comply with ORS 197.296.

Conversely, the City may adopt a public facility plan to meet the requirements of Goal 11 and the Goal 11 rule for land uses only within the prior UGB if it does so prior to acting on its UGB amendment on remand. If it limits its plan to existing acknowledged land uses, it is not required to examine measures intended to meet needed housing at that time. The requirement to consider land uses related to needed housing occurs when the City undertakes a legislative review of its UGB pursuant to ORS 197.296 and OAR 660, div. 24.

e. Conclusion

The city may adopt public facilities plans for its prior UGB only. If it does so, those plans must consider current and potential future land uses allowed under its acknowledged comprehensive plan.

7.5. What Are the City's Obligations Under ORS 195.065 and OAR 660-011-0010(2), if any, with Regard to Coordination with Private Water System Providers?

a. Summary of Issue, Objectors and Appellants

The City of Bend argues that it is not obligated to secure urban service agreements with two private water districts that provide services within the prior UGB and portions of the UGB expansion area. City Appeal at 65. However, the City has agreed to include existing plans of

private water companies in its public facilities plan, and to consider the adequacy of those systems in its revised facilities plan on remand.

b. Legal Standard

ORS 195.065 provides that "units of local government and special districts that provide an urban service to an area within an urban growth boundary that has a population greater than 2,500 persons * * * shall enter into urban service agreements" that specify their respective responsibilities for providing urban services, including future service areas.

OAR 660-011-0010(1)(e) provides that the public facility plan must include: "(e) Policy statement(s) or urban growth management agreement[s] identifying the provider of each public facility system. If there is more than one provider with the authority to provide the system within the area covered by the public facility plan, then the provider of each project shall be designated." OAR 660-011-0010(1)(g) provides that the plan must include: "(g) A discussion of the provider's existing funding mechanisms and the ability of these and possible new mechanisms to fund the development of each public facility project or system." Finally, OAR 660-011-0015 provides that:

> "(1) Responsibility for the preparation, adoption and amendment of the public facility plan shall be specified within the urban growth management agreement. * * *
>
> (2) The jurisdiction responsible for the preparation of the public facility plan shall provide for the coordination of such preparation with the city, county, special districts and, as necessary, state and federal agencies and private providers of public facilities. * * * *"

c. Summary of Local Actions, Director's Decision, and Appeal

The Public Facilities and Services element of the city's comprehensive plan identifies that there are no remaining special districts or private service providers for sanitary sewer systems within the City. R. at 215 (findings), and 1482 (plan).[31]

The Public Facilities and Services element of the city's comprehensive plan identifies that there are three water suppliers within the City and the UGB expansion area. R. at 215 (findings), and 1484 (plan). The city's 2007 Water System Master Plan Update addresses water facilities

[31] Chapter 8 of the city's comprehensive plan does not state whether there are other service providers for sanitary sewer services within the UGB expansion area. When the City addresses its UGB expansion on remand, it should address whether there are other providers within the expansion area and, if so, comply with the coordination requirements of OAR 660-011-0010(e) and (g).

and projects required to serve the city's service territory within the prior UGB. R. at 1484, 1486. Avion Water Company and Roats Water Company also provide water service within the prior UGB, to approximately 30 percent of the customers in this area. R. at 1486.

The city's findings for Ordinance NS-2111 state that "[t]he water system master plan covers those areas already inside the Bend UGB, and areas outside the current Bend UGB that are not already served by Avion Water Company or another private water utility." R. at 211. The findings also state that the sewer master plans include a Collection System Master Plan (CSMP) that covers those areas inside the existing Bend UGB, areas identified under the Bend Area General Plan as urban reserves, and areas east of Bend under consideration for expansion of the UGB. *Id.*

The Director determined that:

> "The WSMP does not contain any public facility plan components for the Avion Water Company or Roats Water System, as required by OAR 660-011-0005 and -0010 and OAR 660-024-0020(1). The WSMP does not appear to contain composite service maps of the UGB service areas or illustrations of the proposed principle water distribution system operated by the Avion Water Company or Roats Water System.
>
> The UGB expansion proposal includes areas served by the city, Avion Water Company, and Roats Water Company. However, there is no evidence that the WSMP includes plans for these expansion areas, as required by the Goal 11 and 14 rules. The WSMP also does not appear to satisfy the coordination requirements in Goals 2 and 11." Director's Decision, at 81.

The City of Bend appealed the Director's Decision on this issue, arguing that:

> "The coordination requirements of Goal 2 do not apply here because Avion Water Company and Roats Water Company are private utilities, not special districts that provide water service. Both Avion and Roats are regulated by the PUC, and they answer to the PUC for their ability to meet water quality and service criteria within their service areas.
>
> The Water PFP does identify the areas served by each system, thereby providing sufficient information for the City to plan for water service. (Rec. 249, 261, 315.) The City relied on the city's Water System Master Plan and Avion Water Company's master plan to evaluated potential areas for UGB expansion, based on whether the City or Avion would service these areas. (Rec. 6318, 6400-21.) The City included sufficient information about the private water systems to meet the standards of OAR 660 Division 11 and coordinated sufficiently with the two private water system providers." City Appeal, at 66.

The City also argued that the urban service agreement and coordination requirements of ORS 195.065 do not apply to Avion and Roats.

d. Analysis

The Commission concurs with the City that the coordination and urban service provider and agreement provisions of ORS 195.065 do not apply to Avion Water Company or to Roats Water Company. These companies are private water companies, rather than special districts as that term is defined in ORS 195.065 and 195.060.[32]

However, the provisions of OAR 660-011-0010(1)(e) and (g) and 011-015 clearly require the city's public facility plan to designate who the service providers are within the area addressed by the plan, and to include an inventory and assessment of significant systems and projects needed to support the land uses in that area as provided in OAR 660-011-0010(1)(a)-(d) and (f), including systems and projects which are the responsibility of other providers including Avion and Roats.

e. Conclusion

ORS 195.065 (requiring agreements with urban service providers for future urban service areas) does not apply to Avion and Roats water companies. However, the Commission finds that the City must identify what areas are served by these companies within the area it is planning for, and provide the existing plans of these companies and consider those plans in developing its revised public facility plan elements relating to water supply for these areas.

7.6. What Was the City's Obligation to Provide Notice to DLCD of Amendments to its Public Facilities Plans as Part of its October 8, 2008 Supplemental Notice of a Revised UGB Amendment?

The City has agreed to provide new 45-day and adoption notices of its Public Facilities Plan amendments on remand. As a result, the Commission finds that any defects in the city's notices of its plan amendments under ORS 197.610 to 197.625 will be remedied.

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[32] ORS 195.060 states that: "[a]s used in ORS 195.020, 195.065 to 195.085 and 197.005, unless the context requires otherwise:

(1) "District" has the meaning given that term in ORS 197.010. In addition, the term includes a county service district organized under ORS chapter 451."

In turn, ORS 197.010 defines "district" as a variety of types of districts, but does not include private water companies.

7.7. Whether the City's Wastewater System Collection Master Plan and Water System Master Plan Must Cover All Areas in the UGB Expansion Area?

a. Summary of Issue, Objectors and Appellants

The city's wastewater system collection master plan and water system master plan did not address all areas in the UGB expansion area despite the fact that the city's findings for its public facilities plan adoption state that they do. R. at 211. Several objections raised this as an issue, and the Director remanded the city's Ordinance NS-2111 on this basis. Director's Decision, at 79-80.

b. Legal Standard

Goal 2 requires that the different elements of the city's comprehensive plan be internally consistent. Goal 2 also requires that the city's comprehensive plan be founded on an adequate factual base. And, both Goal 14 and Goal 11 require that the City determine that public facilities can adequately serve the lands and land uses proposed for a UGB expansion area. ***1000 Friends v. City of North Plains***, 27 Or LUBA 372, aff'd 130 Or App 406 (1994); ***Smith v. Douglas County***, __ Or LUBA __ (2000) (Goal 14, Factor 3 (now locational factor 2) requires a local government to demonstrate that public facilities and services can reasonably be provided to the expansion area over the planning period, without leaving the area already within the UGB with inadequate facilities and services). Neither OAR 660-011-0010 nor 660-024-0060 *require* that the City make this determination through an amendment of its public facilities plan to address urbanizable lands within a UGB expansion area at the time of the expansion (that normally will occur later), although that approach is one permissible means of addressing Goal 11 and Goal 14 location factor 2 as they relate to the UGB expansion.

c. Summary of Local Actions, Director's Decision, and Appeal

The City adopted new water and sewer plans as amendments to the city's public facilities plan in Ordinance NS-2111. R. at 35. Those plans replaced the city's 1996 Utilities System Master Plan. *Id.* The city's findings state that the plans cover both the acknowledged (prior) UGB and the expansion area. R. at 211. The Director remanded the city's adoption of the plans, partially on the basis that the plans, in fact, did not cover the entire UGB expansion area. Director's Decision, at 79-80. The City appealed, arguing that its plans were not required to address the UGB expansion area.

d. Analysis

As described above, the Commission agrees that the City could have adopted public facility plan amendments addressing only land uses in the area within the prior (acknowledged) UGB. However, that is not what the City did. It purported to amend its public facility plan to address the entire UGB expansion area as well as the area within its prior UGB. However, as found by the Director, the amendments did not address the entire expansion area, and included some areas outside of the expansion area. This created an internal conflict between the city's public facilities plan and the UGB expansion that it subsequently adopted, violating the Goal 2 requirement for internal consistency in the city's comprehensive plan as well as the requirement under Goal 11 and Goal 14 locational factor 2 to show that the UGB expansion area can be adequately served. [33]

The City was not required to address Goal 11 and Goal 14 locational factor 2 as they applied to its UGB expansion through amendments to its public facilities plans, but the City chose to do so. Having elected to use its water and sewer system master plans in this fashion, the plans were required to address the entire expansion area.

e. Conclusion

On remand, the City must address the entire expansion area under Goal 11 and Goal 14, locational factor 2. The City is not required to do so through amendments to its public facilities plan, although it may do so. If the City elects to carry out the analysis(es) of the feasibility of serving the expansion area independently of its public facilities plan, it should nevertheless

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[33] Goal 11, Guidelines 4 and 5 clarify how the Commission intends public facility planning and services to apply to areas that are included in a UGB expansion, but that are not yet urbanized.

> "4. Public facilities and services in urbanizable areas should be provided at levels necessary and suitable for existing uses. The provision for future public facilities and services in these areas should be based upon: (1) the time required to provide the service; (2) reliability of service; (3) financial cost; and (4) levels of service needed and desired.
>
> 5. A public facility or service should not be provided in an urbanizable area unless there is provision for the coordinated development of all the other urban facilities and services appropriate to that area."

Public facility plan amendments to address the area within a UGB expansion in the detail required by OAR 660-011-0010 normally are adopted at the time such lands are rezoned with urban zoning designations. Often, this will be at the time such lands are annexed. ORS 197.752(1) provides that: "[l]ands within urban growth boundaries shall be available for urban development concurrent with the provision of key urban facilities and services in accordance with locally adopted development standards."

formally adopt the analysis and incorporate it into the city's comprehensive plan (and the analysis must not conflict with existing provisions of the public facilities plan).

7.8. Whether Swalley Irrigation District is a "Rural Irrigation System" or a "Service Provider" Under OAR 660-024-0060(8), Such that There Is an Additional Coordination Obligation (in Addition to Goal 2) to Evaluate the Relative Costs, Advantages and Disadvantages of Alternative UGB Expansion Areas with Respect to Swalley Irrigation District. Whether the City is Required to Compare the Costs, Advantages and Disadvantages of Alternative UGB Expansion Areas with Respect to Public Facilities and Services Regardless of Whether it is Including Particular UGB Expansion Areas on the Basis of Such Costs.

a. Summary of Issue and Related Objections

Swalley filed objections to the city's decisions, arguing that Swalley is a "service provider" under OAR 660-024-0060(8) and that, as a result, the City was required to evaluate and compare alternative UGB expansion areas with respect to public facilities and services with Swalley (as a service provider). Swalley Objection, at 74; Swalley Appeal, at 8.

b. Legal Standard

OAR 660-024-0060(8) provides that:

> "(8) The Goal 14 boundary location determination requires evaluation and comparison of the relative costs, advantages and disadvantages of alternative UGB expansion areas with respect to the provision of public facilities and services needed to urbanize alternative boundary locations. This evaluation and comparison must be conducted in coordination with service providers, including the Oregon Department of Transportation with regard to impacts on the state transportation system. "Coordination" includes timely notice to service providers and the consideration of evaluation methodologies recommended by service providers. The evaluation and comparison must include:
>
> (a) The impacts to existing water, sanitary sewer, storm water and transportation facilities that serve nearby areas already inside the UGB;
>
> (b) The capacity of existing public facilities and services to serve areas already inside the UGB as well as areas proposed for addition to the UGB; and
>
> (c) The need for new transportation facilities, such as highways and other roadways, interchanges, arterials and collectors, additional travel lanes, other major improvements on existing roadways and, for urban areas of 25,000 or more, the provision of public transit service."

c. Summary of Local Actions, Director's Decision, and Appeal

The City states that Swalley is not a service provider as that term is used in OAR 660-024-0060 and that, as a result, the City was not required to coordinate with Swalley under that rule. The City also states that it did coordinate with Swalley as that term is used in Goal 2. The

Director denied Swalley's objection, treating it as a locational issue, and determining that an "irrigation system" is not a "water system," based on the definition of that term in Goal 11 as a piped system for human consumption. Director's Decision, at 126. The Director's Decision determined that Swalley Irrigation District is a "rural irrigation system" and therefore is not a "service provider" for purposes of OAR 660-024-0060(8). Swalley appealed, continuing to argue that it is a service provider for purposes of OAR 660-024-0060(8). Swalley Appeal, at 12.

d. Analysis

OAR 660-024-0060(8) concerns the application of Goal 11 to urban growth boundary amendments, and must be read in context with Goal 11. Goal 11 defines "water system" as "a system for the provision of piped water for human consumption subject to regulation under ORS 448.119 to 448.285." (emphasis added). Swalley provides water for irrigation purposes, and therefore is not a water system under Goal 11. As a result, OAR 660-024-0060(8) does not apply to Swalley, and the City was not required to coordinate with Swalley as specified in that rule.

The City has agreed, however, to coordinate its planning on remand with Swalley, in the sense that coordination is used in Goal 2.

e. Conclusion

The Commission concurs with the Director that the City is not required to coordinate with Swalley as a service provider under OAR 660-024-0060(8). However, the City has agreed to coordinate further with Swalley generally as it considers its options on remand.

7.9. Whether the City's Analysis of Public Facilities and Services Underestimates the Cost of Providing Such Facilities and Services to the UGB Expansion Area and, if so, Must the City Revise both its Goal 11 Analysis and its Housing Needs Analysis to Evaluate Whether it is Planning for Needed Housing in Locations Appropriate for the Needed Housing Types.

a. Summary of Issue, Objectors and Appellants

Swalley argues that in evaluating alternative UGB expansion areas, the city's analysis of the relative costs and availability of public facilities and services is inaccurate, and therefore the City fails to comply with ORS 197.296(6) and(9) and 197.752(1). Swalley Appeal at 1-2.

b. Legal Standard

ORS 197.296(6) provides that: "[i]f the housing need determined pursuant to subsection (3)(b) of this section is greater than the housing capacity determined pursuant to subsection

(3)(a) of this section, the local government shall take one or more of the following actions to accommodate the additional housing need: [expand the UGB and/or adopt measures to increase the capacity of the existing UGB]."

ORS 197.296(9) requires that:

> "In establishing that actions and measures adopted under subsections (6) or (7) of this section demonstrably increase the likelihood of higher density residential development, the local government shall at a minimum ensure that land zoned for needed housing is in locations appropriate for the housing types identified under subsection (3) of this section and is zoned at density ranges that are likely to be achieved by the housing market using the analysis in subsection (3) of this section."

c. Summary of Local Actions, Director's Decision, and Appeal

The city analyzed the relative costs of providing public facilities and services to the alternative expansion areas. The adequacy of that analysis is addressed under issue 9 in this order.

d. Analysis

ORS 197.296(6) and (9) are concerned (in this context) with measures to increase the residential development capacity of buildable lands within an existing UGB, not with a UGB expansion area. As a result, these statutes do not provide a basis for the type of analysis that Swalley appears to seek.[34] To the extent that Swalley is arguing that the city's analysis of public facility and service costs is inadequate because it underestimates those costs for the expansion areas relative to infill or redevelopment, Swalley's arguments are not sufficiently developed to be capable of review.

e. Conclusion

Under both Goal 11 and Goal 14, the city will need to reevaluate the relative public facility costs of alternative UGB expansion areas. ORS 197.296 and 197.752 do not provide a legal basis for Swalley's appeal, and as a result the Commission denies the appeal and affirms the Director's Decision.

[34] The requirements for analysis of the feasibility of serving a UGB expansion area stem from Goal 11, Goal 14 locational factor 2, and OAR 660-024-0060(8), as described in more detail above.

8. Transportation Planning – Goal 12

8.1. Whether the City's Findings Adequately Explain the Relative Costs of Providing Transportation Improvements to Serve Alternative UGB Expansion Areas.

a. Summary of Issue, Objectors and Appellants

The Director found that the city had analyzed the relative costs of transportation improvements needed to serve individual UGB expansion areas at the transportation analysis zone (TAZ) level. Department Report on Appeals, at 51. However, the Director determined that the city's findings failed to aggregate these data to allow comparison between different areas in the same priority class under ORS 197.298. The city appealed the Director's decision, arguing that its analysis was adequate.

b. Legal Standard

ORS 197.298 prioritizes which lands a local government must include in a UGB expansion. If there are more lands in a particular priority category than needed, however, the local government must use the locational factors of Goal 14 to compare "alternative UGB expansion areas." OAR 660-024-0060(8). The comparison must include the relative need for new transportation facilities, including existing roadways, and including public transit. OAR 660-024-0060(8)(c). In addition, OAR 660-024-0060(6) provides that:

> "The adopted findings for UGB adoption or amendment must describe or map all of the alternative areas evaluated in the boundary location alternatives analysis. If the analysis involves more than one parcel or area within a particular priority category in ORS 197.298 for which circumstances are the same, these parcels or areas may be considered and evaluated as a single group."

c. Summary of Local Actions, Director's Decision, and Appeal

The city analyzed the relative costs of required transportation improvements of lands it studied for possible inclusion in its UGB expansion area at the TAZ level. City Appeal, at 72. The costs included only costs of required facilities within each TAZ. The city then aggregated the data into ten UGB subareas, which contain lands in a variety of priority classes. City Appeal, at 72. This analysis could be re-aggregated to compare lands in the same priority category under ORS 197.298, but this was not done.

d. Analysis

The city is required to compare lands in the same priority classes under ORS 197.298,

Goal 14 and OAR 660-024-0060 (except when lower priority lands are included as necessary to serve higher priority lands under ORS 197.298(3)(b)). The city may aggregate its underlying data, by TAZs and priority category, and address the results in revised findings.

e. Conclusion

The Commission denies the city's appeal, and upholds the Director's decision. On remand, the city must analyze the relative costs of lands in the same priority category, rather than aggregating its analysis into subareas without regard to the priorities under ORS 197.298.

8.2. Whether the City Must Provide More Detailed Analysis or Findings Regarding the Extent to Which the Costs of Improvements for Major Roadway Improvements in the North Area (Including Proposed Improvements to Highways 20 and 97) Are a Result of and Should be Assigned to Development in the North Area Rather than the City as a Whole. Whether the City's Analysis and Evaluation Assess Whether the Extent of Improvements in the North Area Might be Avoided or Reduced in Scale or Cost if the UGB Was Not Expanded in this Area or if the Extent of the UGB Expansion Was Reduced?

a. Summary of Issue, Objectors and Appellants

According to the City, several major transportation improvements are required in the future regardless of which lands are added to its UGB. In particular, the City identified improvements to Highway 97 north of Colorado Avenue, as improvements that will be needed regardless of the amount or location of lands added to the UGB. City Appeal, at 73. The Director found that the city's findings did not explain why the City was not analyzing the relative costs of these improvements for different areas being evaluated for possible addition to the city's UGB. Several objectors filed objections concerning this issue. Swalley Objection, at 75-76; DSL Objection, at 5; Rose & Associates, Newland Objection, at 21-22; see generally, Director's Decision, at 87-88 (summarizing objections concerning this issue).

b. Legal Standard

As noted above, ORS 197.298, Goal 14 and OAR 660-024-0060 require a local government to compare the relative costs of public facilities and services of alternate areas in the same priority category of lands (under ORS 197.298) proposed for addition to a UGB.

c. Summary of Local Actions, Director's Decision, and Appeal

The city did not compare the relative costs of alternate areas in the same priority category for the costs of major transportation facilities because the city's analysis showed that these costs

would be required regardless of which lands were included. City Appeal, at 73-74. The Director remanded the city's decision for the city to carry out the required comparative analysis. Director's Decision, at 88. The City appealed, and identified some evidence in the record that supported its argument that these costs will be required regardless of what areas are added to the city's UGB. City Appeal, at 74, 77.

d. Analysis

Although the city has identified analysis in the record that supports its argument that there will not be any relative cost differential between areas for improvements required to Highways 97 and 20, the city's findings do not rely on or describe this analysis in determining which lands to include within the UGB expansion area.

e. Conclusion

The Commission denies the appeal and upholds the Director's Decision. On remand, the city must revise its findings to address this issue. If the city chooses to rely on existing analysis that there is no cost differential between alternate lands in the same priority category, that decision must be supported by substantial evidence in the record as a whole. While no specific method or outcome is required, the city must explain its basis(es) for assigning the costs of extraordinary improvements to expansion areas in the same priority category, and consider whether changes in the extent or location of the UGB expansion would reduce the need for major improvements in this area.

8.3. Whether the City Must Provide Comparable Estimates for the Costs of Needed Roadway Capacity for Areas that (Because of Topographic Constraints) May Need to be Served by Different Types of Roadway Networks.

a. Summary of Issue, Objectors and Appellants

The City found that the cost of providing transportation facilities on the west side of the UGB would be lower than on the east and south sides, and justified its inclusion of lands on the west side, in part, on that basis. The Director questioned the city's conclusion, and found that the city's findings were inadequate on this point.

b. Legal Standard

As noted above, OAR 660-024-0060(8) requires a comparison of the relative costs, advantages and disadvantages of lands being evaluated for inclusion in a UGB. The city's findings need to describe these comparisons (of lands in like priority categories) in a manner that

shows that the required factors were considered by the decision-maker.

c. Summary of Local Actions, Director's Decision, and Appeal

The Director's Decision found that the city's analysis of transportation costs of serving different expansion areas was incomplete, because lower costs are assigned to Westside expansion areas – where a complete grid of streets cannot be provided – while higher costs were assigned to other areas where topography and other factors would allow a more complete grid of streets. Director's Decision, at 89. Rose & Associates Objection, at Exhibit 2. The Director questioned whether additional improvements would be needed to adequately serve the Westside areas to compensate for the sparser grid of streets available in that area.

The city's appeal provided further explanation of its analysis of street improvements needed to serve different potential expansion areas. City Appeal at 76-77. The City indicated that during work sessions the planning commission was advised that Westside roads were an exception to the city's street grid spacing due to several factors including existing development pattern, the limited density of the adjacent land uses in the areas the roads would serve, and the lack of future development potential farther west (i.e., the Forest Service lands) and topographic barriers. City Appeal at 76. Topography was considered at a scale that was appropriate to prepare rough cost estimates. City Appeal at 76-77.

The city's response partially addressed the department's concern. Several factors led the city to conclude that a sparser network was appropriate to serve proposed land uses on the west side, and that topographic factors were considered. However, while these factors were apparently presented to and discussed with the planning commission, they were not fully reflected in the city's adopted findings.

d. Analysis

It appears that the city has completed the required analysis, although (again) that analysis must compare areas in the same priority category. However, the results of the city's analysis are not explained in the city's findings as a basis for favoring lands to the west of the city over lands to the east and south.

e. Conclusions

The Commission denies the appeal and upholds the Director's Decision. On remand, the city must revise its findings to address this issue including not only the relative cost of required transportation improvements, but the relative advantages and disadvantages as well. OAR 660-

024-0060(8) (which may include the relative amount of development capacity the city can support for a particular unit of cost). On appeal, at oral argument, the city agreed to strengthen its findings in this area to the extent that lands on the west of the city are included in the UGB expansion area on remand.

8.4. What is the Planning Status of the Deschutes River Bridge? Is Removal of the Proposed Deschutes River Bridge from the City's TSP Sufficient to Resolve the Planning Status of this Facility, Consistent with OAR 660-012-0025(3)?

The city clarified, on appeal, that the bridge is not anticipated or planned during the 20-year planning period. The city agreed to clarify its findings regarding expansion areas on the west of the city (to the extent that they are included in a revised UGB expansion area) to indicate clearly that the bridge is not an improvement or project that is planned within the planning period, and to evaluate the adequacy of the planned transportation system without the bridge.

8.5. Whether the City's Findings Are Sufficient to Show that its Transportation Analysis for Goal 14 is Consistent with City Policies That Restrict Widening of Newport and Galveston Streets Beyond Three Lanes?

a. Summary of Issues, Objectors and Appellants

The Director's Decision upheld objections from Central Oregon Landwatch that asserted that proposed UGB expansions in the northwest area would trigger need for expansion of Newport and Galveston streets from three to five lanes and that such a widening would violate a city plan policy which restricts widening of these streets. Director's Decision, at 88 - 89.

b. Legal standard

The city's UGB expansion must comply with applicable policies in its comprehensive plan. ORS 197.175.

c. Summary of Local Actions, Director's Decision, and Appeal

The city's appeal identified a traffic study included in the record that analyzed potential impacts of inclusion of certain UGB expansion areas on Westside streets, including Newport and Galveston. That traffic analysis, prepared by DKS and Associates, concludes that neither street needs to be widened to accommodate expected traffic from the areas in question. City Appeal, at 75, R. at 2624-2626.

d. Analysis

The city has identified evidence in the record that clearly supports that the UGB expansion complies with the specified plan policy. The city's traffic analysis shows that the UGB expansion would not violate its adopted plan policy concerning Newport and Galveston streets.

e. Conclusion

For the foregoing reasons, the Commission affirms the City Appeal on this issue. On remand, the city's findings should address the DKS analysis if these lands continue to be included in the proposed expansion area.

8.6. What Must the City of Bend do to Comply with the Transportation Planning Rule (TPR) Requirements for Metropolitan Planning Organization (MPO) Areas in Conjunction with its UGB Amendment?

a. Summary of Issues and Related Objections

The Director's Decision found that:

- The metropolitan planning requirements of the TPR are applicable to Bend at this time;
- Bend has not complied with provisions of the TPR applicable to metropolitan areas for adoption of standards and benchmarks to reduce reliance on the automobile; and
- The metropolitan area planning requirements in the TPR must be met prior to a significant amendment of the UGB. Director's Decision, at 96-103.

The City appealed this aspect of the Director's Decision, arguing that it is not required to comply with these requirements before amending its urban growth boundary. City Appeal, at 79-80. The City did not dispute that the requirements are applicable, or that it had not complied with those requirements. Its appeal was limited to the question of whether it may amend its UGB without first complying. The City argued that its obligations are limited by OAR 660-024-0060(8), which only requires an "evaluation and comparison of relative costs, advantages and disadvantages of alternative expansion areas with respect to the provision of public facilities and services [including transportation facilities]."

b. Legal standard

OAR 660-024-0060(1) states that:

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

* * *

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

This rule clearly states that *all* goals and rules apply to a UGB amendment, except for the listed exceptions. The listed exception for the TPR is limited to "the requirements under OAR 660-012-0060." There is no exception for the metropolitan area planning requirements specified in OAR 660-012-0035. Those requirements include provisions requiring Transportation System Plans (TSPs) to include standards and policies to increase transportation choices and to reduce reliance on the automobile. OAR 660-012-0035(3)-(7).

In addition, OAR 660-012-0055 specifies when the requirements of 0035 must be met (within one year of adoption of the regional transportation plan). OAR 660-012-0055(1)(b). The rule provides for an extension, but only under certain specific circumstances. OAR 660-012-0055(1)(d).

c. Summary of Local Actions, Director's Decision, and Appeal

As noted above, the city agreed that it has not completed the required elements of its transportation systems plan, but argued on appeal that it was not required to at this time. City Appeal, at 79-80.

d. Analysis

OAR 660-012-0055 allows a local government that is subject to the metropolitan area planning requirements of OAR 660-012-0035, but that is not in compliance with them, to amend its comprehensive plan or land use regulations only under the conditions set forth in OAR 660-012-0055(1)(d). Alternatively, the City could come into compliance with the requirements of OAR 660-012-0035 if it can show that "* * * adopted plans and measures are likely to achieve a five percent reduction in VMT per capita over the 20-year planning period [and adopts interim benchmarks]." OAR 660-012-0035(6).

At oral argument, the City agreed that on remand it will comply with OAR 660-012-0035 through one of three alternative methods, as specified in the conclusions below.

e. ***Conclusions***

The City is required to comply with OAR 660-012-0035 before it may complete its UGB

expansion. The City has agreed to prepare analyses of its baseline VMT per capita in 2003 (with VMT as defined in OAR 660-012-0005), along with an analysis of projected VMT per capita over the planning period with proposed "packages" of land use and transportation measures to reduce VMT per capita. If the City demonstrates that its revised UGB expansion, along with proposed land use and transportation measures, results in an estimated change in VMT per capita:

(a) of a decline of 5% or more per capita, then the City is in compliance with this aspect of the TPR under 0035(6);

(b) of a decline of between 0% and 4.99 percent per capita, then the City may proceed by preparing for DLCD/LCDC review and approval concurrently with the revised UGB, a work program/plan to achieve a reduction of 5% or more over the planning period; or

(c) of an increase in VMT per capita, then the city must prepare, submit and obtain DLCD/LCDC approval of an integrated land use and transportation plan as provided in OAR 660-012-0035(5) prior to approval of a revised UGB.

The Commission concludes that these methods will assure that the city's UGB expansion will comply with the applicable requirements of OAR 660-012-0035 and 0055.

8.7. May the City of Bend rely on its Partially-Acknowledged Transportation Systems Plan (TSP) for its UGB Amendment?

a. Summary of Issues, Objectors and Appellants

Swalley filed an objection asserting that the city's transportation systems plan (TSP) has not been acknowledged and that, as a result, the city could not rely on its TSP in its UGB expansion. Swalley Objection, at 57. Swalley argued that the commission must direct the city to complete an acknowledged TSP before the city may expand its UGB. Swalley Appeal, at 8-9.

b. Legal standard

OAR 660-012-0015(3) provides that:

"Cities and counties shall prepare, adopt and amend local TSPs for lands within their planning jurisdiction in compliance with this division:

(a) Local TSPs shall establish a system of transportation facilities and services adequate to meet identified local transportation needs and shall be consistent with regional TSPs and adopted elements of the state TSP;

(b) Where the regional TSP or elements of the state TSP have not been adopted, the city or county shall coordinate the preparation of the local TSP with the regional transportation planning body and ODOT to assure that regional and state transportation needs are accommodated."

c. Summary of Local Action, Director's Decision and Appeal

According to the city's findings:

"The city of Bend and Deschutes County comply with OAR 660-012-0015(3) because the city of Bend and Deschutes County have adopted coordinated Transportation System Plans that address the proposed Urban Growth Boundary (UGB). The City's TSP was adopted by the City Council when they approved Ordinance No. NS-1756 on October 11, 2000, and subsequently amended the TSP by approving Ordinance Nos. NS-1852, NS-1912, NS-1915, NS-1953, NS-2013, NS-2026, NS-2032, NS-2038, NS-2043 and NS-2047 to address DLCD remanded items. Deschutes County adopted a TSP for the Urban Reserve Area, on August 26, 1998, by adopting Ordinance No. 98-044." City of Bend, Exhibit E, TPR Findings, at 2.

d. Analysis

The Bend TSP, adopted in 2000, was *partially* acknowledged. The commission's approval of the TSP itemized a number of relevant TPR requirements with which the City had not fully complied**.** However, notwithstanding this remaining work, the existing TSP is partially-acknowledged and the City may rely upon it. The TSP complies with Goal 12 and OAR 660-012-0015 for the reasons stated in the city's findings, and the objection does not identify any specific areas of remaining work required by the remand that render the TSP inadequate as a basis for the city's evaluation of its UGB expansion.

e. Conclusions

The City has a substantially complete, commission-approved TSP. The objector has not identified specific TPR provisions that require additional work by the City that affect the city's evaluation of its UGB. As a result, the Commission denies the appeal, and upholds the Director's Decision.

9. Location of the UGB Expansion Area

9.1. Whether the City's Use of Suitability Criteria to Determine What Lands to Include Within Its UGB Expansion Area Complied with State Statutes, Goal 14 and the Commission's Goal 14 Implementing Rules

a. Summary of Issue and Appellants/Objectors

The City applied certain criteria as a screen to exclude lands from further evaluation for inclusion in its UGB expansion area. See generally, R. at 1059-1065, 1166-1207, and 7772-7775. Tony Aceti, Terry Anderson, COLW, Hilary Garrett, Miller Tree Farm, Paul Shonka, Tony and Cyllene King (McGraw and Associates, LLC), the Oregon Department of State Lands, Rose and Associates, LLC, Barbara McAusland, Swalley Irrigation District, Newland Communities, Harold Sampson, and Brooks Resources Corporation filed objections to the city's locational analysis for its UGB expansion. Director's Decision, at 113-115 (summarizing the objections on this issue). The City, Swalley Irrigation District, COLW, Garrett, Bayard, and Anderson appealed the Director's Decision on this issue. Department Report on Appeals, at A-59 to A-68.

b. Legal Standard

ORS 197.298,[35] Goal 14[36] and OAR 660-024-0060 (2007)[37] contain the applicable state requirements that establish *where* a city may expand its urban growth boundary (UGB). The

[35] ORS 197.298 Priority of land to be included within urban growth boundary:

(1) In addition to any requirements established by rule addressing urbanization, land may not be included within an urban growth boundary except under the following priorities:

(a) First priority is land that is designated urban reserve land under ORS 195.145, rule or metropolitan service district action plan.

(b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of land needed, second priority is land adjacent to an urban growth boundary that is identified in an acknowledged comprehensive plan as an exception area or non-resource land. Second priority may include resource land that is completely surrounded by exception areas unless such resource land is high-value farmland as described in ORS 215.710.

(c) If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247 (1991 Edition).

(d) If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan for agriculture or forestry, or both.

(2) Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.

(3) Land of lower priority under subsection (1) of this section may be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land estimated in subsection (1) of this section for one or more of the following reasons:

(a) Specific types of identified land needs cannot be reasonably accommodated on higher priority lands;

(b) Future urban services could not reasonably be provided to the higher priority lands due to topographical or other physical constraints; or

(c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion of lower priority lands in order to include or to provide services to higher priority lands."

[36] Statewide Planning Goal 14 (as amended April 28, 2005) requires the following:

> "The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:
>
> (1) Efficient accommodation of identified land needs;
>
> (2) Orderly and economic provision of public facilities and services;
>
> (3) Comparative environmental, energy, economic and social consequences; and
>
> (4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB."

[37] OAR 660-024-0060 (adopted 10-5-06) provides in pertinent part that:

> "(1) When considering a UGB amendment, a local government must determine which land to add by evaluating alternative boundary locations. This determination must be consistent with the priority of land specified in ORS 197.298 and the boundary location factors of Goal 14, as follows:
>
> (a) Beginning with the highest priority of land available, a local government must determine which land in that priority is suitable to accommodate the need deficiency determined under 660-024-0050.
>
> (b) If the amount of suitable land in the first priority category exceeds the amount necessary to satisfy the need deficiency, a local government must apply the location factors of Goal 14 to choose which land in that priority to include in the UGB.
>
> (c) If the amount of suitable land in the first priority category is not adequate to satisfy the identified need deficiency, a local government must determine which land in the next priority is suitable to accommodate the remaining need, and proceed using the same method specified in subsections (a) and (b) of this section until the land need is accommodated.
>
> (d) Notwithstanding subsection (a) through (c) of this section, a local government may consider land of lower priority as specified in ORS 197.298(3).
>
> (e) For purposes of this rule, the determination of suitable land to accommodate land needs must include consideration of any suitability characteristics specified under section (5) of this rule, as well as other provisions of law applicable in determining whether land is buildable or suitable.
>
> (3) The boundary location factors of Goal 14 are not independent criteria. When the factors are applied to compare alternative boundary locations and to determine the UGB location, a local government must show that all the factors were considered and balanced.
>
> (4) In determining alternative land for evaluation under ORS 197.298, "land adjacent to the UGB" is not limited to those lots or parcels that abut the UGB, but also includes land in the vicinity of the UGB that has a reasonable potential to satisfy the identified need deficiency.
>
> (5) If a local government has specified characteristics such as parcel size, topography, or proximity that are necessary for land to be suitable for an identified need, the local government may limit its consideration to land that has the specified characteristics when it conducts the boundary location alternatives analysis and applies ORS 197.298.
>
> (6) The adopted findings for UGB adoption or amendment must describe or map all of the alternative areas evaluated in the boundary location alternatives analysis. If the analysis involves more than one parcel or area within a particular priority category in ORS 197.298 for which circumstances are the same, these parcels or areas may be considered and evaluated as a single group.
>
> (7) For purposes of Goal 14 Boundary Location Factor 2, "public facilities and services" means water, sanitary sewer, storm water management, and transportation facilities.
>
> (8) The Goal 14 boundary location determination requires evaluation and comparison of the relative costs, advantages and disadvantages of alternative UGB expansion areas with respect to the provision of public facilities and services needed to urbanize alternative boundary locations. This evaluation and comparison must be conducted in coordination with service providers, including the Oregon Department of Transportation with regard to impacts on the state transportation system. "Coordination" includes timely notice to service providers and the consideration of evaluation methodologies recommended by service providers. The evaluation and comparison must include:

Commission's division 24 rules were adopted in 2006, following the Commission's action in 2005 to amend Goal 14. The Commission's division 24 rules, and specifically section 0060, were intended (in part) to clarify the relation between ORS 197.298 and the locational factors of Goal 14 for urban growth boundary expansions.

c. Summary of Local Action, Director's Decision and Appeal(s)

In January 2006, the city established a study area of approximately 27,000 acres for both a proposed UGB expansion and a proposed urban reserve area designation. R. at 45, 1060. In June 2007, the first UGB expansion scenario was prepared and sent to the Department with a 45-day notice prior to the city's first scheduled public hearing. On August 7, 2007, the City and Deschutes County withdrew the urban reserve amendment until the UGB expansion was resolved. DLCD Form 3 Notice of Denial/Withdrawal, Supplemental Record at 1423. In the fall of 2007, the city enlarged the study area to over 44,000 acres (R. at 1061) and to respond to direction from the city council to consider the need for land for employment uses as well as housing. R at 1060.

The city established and applied "threshold suitability criteria" to lands within the enlarged study area. R. at 1062. The suitability criteria were intended to be consistent with the Goal 14 location factors. R. at 1062. The parcels that met all of these criteria were considered suitable to meet Bend's needs for housing and employment (and other land needs). R. at 1168-1170. The suitability criteria included whether the parcel in question:

- Could be served [with sewer] by an existing or proposed city facility detailed in the 2008 Collection System Master Plan [e.g., the amended Public Facilities Plan];
- Is serviceable according to the 2007 City Water Master Plan, as amended, or a private water district service area;
- Scores medium or high for street connectivity;
- Is not an active surface mine, not a state of local park, not a landfill, and is not a destination resort;
- Is vacant or improved with improvement value below $20,000;
- If the parcel is improved with a dwelling, it is a parcel greater than 3 acres;
- If improved with a school or church, it is a parcel greater than 5 acres;
- Is not recreational land;

(a) The impacts to existing water, sanitary sewer, storm water and transportation facilities that serve nearby areas already inside the UGB;

(b) The capacity of existing public facilities and services to serve areas already inside the UGB as well as areas proposed for addition to the UGB; and

(c) The need for new transportation facilities, such as highways and other roadways, interchanges, arterials and collectors, additional travel lanes, other major improvements on existing roadways and, for urban areas of 25,000 or more, the provision of public transit service."

- Is not owned by the Bend/La Pine School District;
- Is not in a commercial farm classification with 23 acres of irrigation water rights;
- Is not subject to restrictive CC&Rs; and
- Is not in private open space. R. at 1169

Lands that did not meet *all* of the criteria were excluded from further study. Director's Decision, at 112. The City then took the remaining properties, and divided them according to the statutory priorities in ORS 197.298. Finally, the City then developed five scenarios of potential new UGB expansion areas, and applied the Goal 14 locational factors to compare the areas and select a preferred scenario. Director's Decision, at 112.

The Director found that the screening criteria used by the City were not sufficiently linked to specific identified future urban land needs to be used to exclude lands under ORS 197.298(3)(a), that the criteria extended beyond what is allowed under OAR 660-024-0060, and that the City lacked an adequate factual base to use its criteria as *per se* screens. The Director also found that the City failed to separate its suitable lands by the statutory priority categories, and then apply the Goal 14 locational factors. See generally, Director's Decision, at 115-123.

d. Analysis

The City argues that under ***Hildenbrand v. City of Adair Village***, 217 Or App 623 (2008) and ***City of West Linn v. LCDC***, 201 Or App 419, 440 (2005), it was authorized to exclude lands on the basis of locally-developed suitability criteria. In ***City of West Linn***, the court determined that, under the former Goal 14, the locational factors of Goal 14 may be used (along with the criteria in ORS 197.298(3) to determine whether there is "inadequate land to serve a need." *Id.*

The Commission notes that the ***Hildenbrand*** and ***West Linn*** opinions involve local decisions made *before* the Commission's amendments to Goal 14 and adoption of Goal 14 implementing rules for urban growth boundary amendments took effect. OAR 660-024-0060 (Boundary Location Alternatives Analysis) was adopted to provide guidance to local governments concerning how to evaluate lands for inclusion into a UGB, harmonizing ORS 197.298 and the Goal 14 location factors.

The Court's basic point in ***Hildenbrand*** was that the "exceptions" of ORS 197.298(3) and the Goal 14 location factors, together with the "priorities" of ORS 197.298(1), have roles to play in determining whether there is adequate land to serve an identified need for urbanizable land. That remains the case after the Commission's amendments to Goal 14 and its adoption of OAR 660-024-0060, but the roles and relationship between these statutory and rule provisions

has been clarified in OAR 660-024-0060.

Under OAR 660-024-0060, when evaluating lands for possible inclusion in its urban growth boundary for *general* residential and employment needs, the first step for the City is to determine whether land in the highest priority category under ORS 197.298(1) (here, exception lands) is "suitable to accommodate" those general land needs. OAR 660-024-0060(1)(a). This legal standard is intended to be exacting. The fact that it may cost more to provide services to some lands than others does not, by itself, mean that the land will not accommodate a general land need. Similarly, the fact that certain lands will yield few new homes or little development relative to other lands does not mean that they will not accommodate a general need for residential or employment uses during the planning period.

If the City can show that lands would not provide any residential or employment uses over the planning period, it may exclude them at this stage. For example, lands that are not "buildable lands" as that term is defined in the Commission's rules interpreting Goal 10 (Housing) (OAR 660-008-0005(2)) would not be included in the city's buildable lands inventory if they were included in the UGB and, as a result, should not be included in the UGB expansion area (unless needed for some other purpose).[38] Similarly, lands that are not "serviceable" and "suitable" as those terms are defined and used in the Commission's rules interpreting Goal 9 (Employment) (OAR 660-009-0005(9) and (12) and 660-009-0025(1) and (2)) would not meet the city's need for employment lands during the planning period if they were included in the UGB and, as a result, should not be included in the UGB expansion area (unless needed for some other purpose).

[38] Under OAR 660-008-0005(2)(e), land is not buildable if it "cannot be provided with public facilities." This test is intended to reflect both physical and practical limitations, including financial limitations. E.g., if it is clearly financially infeasible to provide public facilities to lands during the planning period, they should not be included within the buildable lands inventory or included within a UGB expansion area,

The City may use other suitability criteria based on the Goal 14 locational factors,[39] but in order to exclude lands for generalized housing or employment land needs the City must show, with an adequate factual base, that the lands will not accommodate any of its general land needs during the planning period.[40] Such a showing also may be based on ORS 197.298(3)(b) – e.g., that "[f]uture urban services could not reasonably be provided to the higher priority lands due to topographical or other physical constraints." Again, the showing will depend of the City having an adequate factual base and supporting findings showing that lands excluded under this provision meet the statutory standard.

As noted above, the Commission intended in adopting OAR 660-024-0060 that this, initial, step in the locational analysis for general land needs of excluding lands *before* any comparative analysis is done between alternatives be a "high bar," in line with how the Land Use Board of Appeals (LUBA) had applied the exceptions test to local decisions excluding exceptions lands from urban growth boundary expansions. See, e.g., ***DLCD v. Douglas County***, 36 Or LUBA 26 (1999) ("Factors that may have the effect of eliminating alternative sites because they are somewhat more expensive to develop are inadequate to demonstrate the eliminated alternative site cannot reasonably accommodate the identified need.); ***1000 Friends of Oregon, et al v. Metro***, 38 Or LUBA 565 (2000)("Metro must determine whether exception lands can reasonably accommodate the proposed use. As we stated in ***Parklane I*** and ***Residents of Rosemont***, exception criterion (ii) is not satisfied by findings that alternative sites to resource lands cannot accommodate the proposed use 'as well as' those resource lands … a finding that the resource land has relatively fewer developmental constraints or a higher percentage of buildable lands than an alternative site is not sufficient to satisfy the 'reasonably accommodate'

[39] OAR 660-024-0060(1)(e) provides that:

> "(e) For purposes of this rule, the determination of suitable land to accommodate land needs must include consideration of any suitability characteristics specified under section (5) of this rule, *as well as other provisions of law applicable in determining whether land is buildable or suitable*." (Emphasis added (the terms "buildable" and "suitable" are addressed above)).

And, OAR 660-024-0060(5) provides that:

> (5) If a local government has specified characteristics such as parcel size, topography, or proximity that are necessary for land to be suitable for an identified need, the local government may limit its consideration to land that has the specified characteristics when it conducts the boundary location alternatives analysis and applies ORS 197.298.

[40] The reference in OAR 660-024-0060(5) to "specified characteristics" * * * "for land to be suitable for an indentified need," is to ORS 197.298(3)(a) "specific types of identified land needs," not to general land needs for future residential and employment uses.

standard").[41]

For specific types of identified land needs (ORS 197.298(3)(a)), where the City has made a determination supported by an adequate factual base that a particular use with particular locational requirements is needed during the planning period and must be located in a particular location within the expansion area (as a result of its locational requirements), the City may use those requirements to exclude other lands as unsuitable (for that use) at this first stage (before a comparison between alternative sites is done). OAR 660-024-0060(5). This issue is addressed in more detail, in connection with issue 9.2, below.

e. Conclusion

The Commission remands the city's decision for it to conduct a locational analysis for its UGB expansion consistent with the procedures described below. To the extent that any objection or appeal is inconsistent with the analysis above, the Commission denies the objection and denies the appeal, for the reasons stated above.

In evaluating which lands to include within its UGB expansion on remand, the City must follow the following steps:

1. Establish suitability criteria for general housing, employment, and related land needs. These criteria must be consistent with (in the sense of implementing, or being in harmony with) the definitions in OAR 660-008-0005(2) (for lands planned for future general residential uses), and 660-009-0005(9) and (12) and 660-009-0025(1) and (2) (for lands planned for future general employment uses) as well as other provisions of law applicable in determining whether the land will meet the city's general land needs.

2. Document the criteria used to locate lands required to meet any "specific identified needs" as allowed by ORS 197.298(3)(a). The identified land needs include a future university site, a medical center, and two large-lot industrial uses.

3. Document (through existing or supplemental findings) that the sites identified by the City for a university, a medical center, and two large-lot industrial uses. The Commission agrees with the City that these identified future uses are justified under 197.298(3)(a). The City must demonstrate, however, through additional findings, that these future uses cannot reasonably be accommodated within the prior UGB.

[41] See also, ***Residents of Rosemont v. Metro***, 38 Or LUBA 199 (2000) and ***1000 Friends of Oregon v Metro***, 38 Or LUBA 565 (2000).

4. Apply the suitability criteria (from step 1, above) for general housing, employment and related land needs to exception lands within the expansion study area. In this step, the City must identify exception lands (including lands designated by the City as urban area reserve) that will not accommodate any of its general land needs during the planning period. These lands may be "screened out" from further analysis.

5. For its remaining (general) future land needs over the planning period, the City must compare the remaining (after the screening described above for suitability) exception lands using the Goal 14 locational factors to determine which of those lands are best to include in its UGB expansion area.[42] In this step, the City may rely on ORS 197.298(3)(c) (maximum efficiency of land uses *** requires inclusion of [resource lands] *** to include or to provide services to [the exception lands]") to *include* resource lands, particularly resource lands interspersed with exception lands, within its UGB expansion area. Resource lands included under ORS 197.298(3)(c) need not be evaluated for soil capability, as called for under ORS 197.298(2).

6. If the City is unable to accommodate its need for additional lands during the planning period after undertaking the preceding steps, it may then evaluate lands in the next priority category under ORS 197.298(1) (e.g., resource lands) for its general land needs. If theh City does so, it must consider resource lands with lower soil capability first, as specified in ORS 197.298(2). To the extent that resource lands are needed to meet remaining (general) future land needs over the planning period, the City must apply the general suitability criteria used in Step 1 (above) and then compare suitable resource lands using the Goal 14 location factors to determine which of those lands are the best to include in its UGB expansion area.

9.2. Whether the City Applied the Exception (to the Statutory Priorities of What Lands to Include in a UGB Expansion Area) for "Specific Types of Identified Land Needs" (ORS 197.298(3)(a)) in a Manner that Complies with Applicable Statutes, Goal 14, and the Commission's Rules

a. Summary of Issue, Objector and Appellants

The City included three types of employment uses within its UGB expansion area (on resource lands) on the basis that it had a specific need for those particular uses, and that those

[42] "The goal of consideration under [the Goal 14 boundary location factors] is to determine the 'best' land to include within the UGB, based on appropriate consideration and balancing of each factor." The Goal 14 location factors "must be considered together and balanced, but individual factors are not independent approval criteria." *Alliance for Responsible Land Use v. Deschutes Cty*, 40 Or LUBA 304, 318-319 (2001), *aff'd* 179 Or App 348 (2002). *Also see* OAR 660-024-0060(1)(b).

05853

uses had particular locational requirements under the commission's Goal 9 implementing rule (for site suitability). R. at 1181-1182. The issue is whether the city's decision was supported by an adequate factual base and adequate analysis and findings to include land for these uses within the UGB expansion area, and at the particular locations specified. The Director found that the City had adequately justified its need for these three uses, but that the City had not explained why the uses needed to be located in particular locations in the UGB expansion area rather than within the existing UGB. Director's Decision, at 134. The City appealed this aspect of the Director's Decision, arguing that it's findings were adequate. City Appeal, at 86-90.

b. Legal Standard

ORS 197.298(3)(a) provides:

> "(3) Land of lower priority under subsection (1) of this section may be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land estimated in subsection (1) of this section for one or more of the following reasons:
>
> (a) Specific types of identified land needs cannot be reasonably accommodated on higher priority lands * * *."

c. Summary of Local Action, Director's Decision, and Appeals

As described above, the City included land in its UGB expansion for a future university site, a medical center, and two large-lot industrial uses. The Director agreed with the City that it had shown a specific need under ORS 197.298(3)(a), but remanded the decision for adoption of adequate findings explaining why the need could not be accommodated within the prior UGB. The City appealed, arguing that its finding that there were no lands in the current supply for these uses was adequate. City Appeal, at 90.

d. Analysis

The has established site suitability criteria for these three uses The Director found that those criteria complied with the applicable Commission rules under Goal 9, and the Commission concurs. The remaining work for the City on remand is simply to show, using those criteria, that the uses "cannot reasonably be accommodated" within the prior UGB. The Commission concurs with the Director that the city's present findings are conclusory and lack the required reasoning tying the criteria to the facts found.

e. Conclusion

The Commission concludes that the City has made an adequate showing under ORS

197.298(3)(a) that there is a specific identified land need for a future university campus, a site for a future medical center, and for two 50-acre large lot industrial sites. The City must, however, analyze whether these needs could reasonably be accommodated within the prior UGB using its site suitability criteria and buildable lands inventory, and adopt findings explaining its reasoning. The Commission affirms the Director's Decision on this issue, including the Director's disposition of objections for the reasons stated in the Director's Decision, and denies the city's appeal.

9.3. Whether the City Properly Applied ORS 197.298(3)(c), in Determining that the Maximum Efficiency of Land Uses within the Urban Growth Boundary Requires Inclusion of Lower Priority Lands in Order to Include or to Provide Services to Higher Priority Lands

a. Summary of Issue, Objectors and Appellants

The City included some agricultural lands on the east side of the city in its UGB expansion area, and argued that inclusion of these lands was justified under ORS 197.298(3)(c). The Director generally agreed, but remanded the city's decision because it was based on the city's public facilities plan, which the Director had determined did not comply with state requirements. Department Report on Appeals, at A-62. The City and Swalley appealed.

b. Legal Standard

ORS 197.298(3)(c) authorizes a local government to *include* lands that would otherwise be a lower priority for inclusion in an urban growth boundary (typically, resource lands), when those lands are required in order to include higher priority lands or in order to provide services to higher priority lands.

c. Analysis

This issue is addressed, for the most part, under issue 9.1 above. The Commission has previously approved local decisions under this authority that have been upheld by the Oregon Court of Appeals. Examples include the City of Brookings, where agricultural lands were included in order to extend services to exception lands in the hills above the city, and the Bethany area in Washington County, where agricultural lands were included in order to allow a looped sewer system to serve more distant exception lands. The City will need to work through the particular application of ORS 197.298(3)(c) to the facts on remand, and that application may depend, in part, on what the City does with its public facilities plans.

d. Conclusion

The Commission affirms the Director's Decision on this issue, and denies the appeals. ORS 197.298(3)(c) may be used, as described above under issue 9.1., where resource lands are interspersed with exception lands, and in order to urbanize (provide public services to) exception lands that couldn't otherwise be served.

9.4. Whether the County's Urban Area Reserve Lands are Exception Lands or Resource Lands Under ORS 197.298(2)

a. Summary of Issue, Objectors and Appellants

Swalley argued in its objections, and continued to argue on appeal, that lands designated as Urban Area Reserve (UAR) are resource lands because no valid exception was taken to Goal 3 when the lands were planned and zoned UAR. Swalley and COLW also argue that the Director erred in interpreting ORS 197.298(2), because this statute (requiring consideration of lowest quality agricultural soils first for a UGB expansion) applies to all of the priorities in ORS 197.298(1), not just to resource lands. COLW Appeal at 5.

b. Legal Standard

ORS 197.298(1) makes exceptions lands a higher priority for inclusion within a UGB than resource lands. In this context, lands are exceptions lands if they were planned for a rural use other than agriculture or forestry on the basis of existing development or commitment to other uses, or on the basis of a reasons exception.

c. Summary of Local Action, Director's Decision and Appeals

In the applying the statutory priority of lands to be included within an UGB under ORS 197.298, the City considered parcels designated UAR as exception lands. R. at 162, 1177. In addition, the Bend Area General Plan (the city's comprehensive Plan) states that "Lands in this Urban Reserve area [land zoned UAR] are considered first for any expansion of the Urban Growth Boundary." Because of this plan provision, the City ranked UAR-zoned land higher than other exception land and included it in the UGB expansion before considering the other exception parcels zoned Suburban Residential 2.5-acre minimum, MUA 10-acre minimum, and Rural Residential 10-acre minimum. R. at 175, 1190.

d. Analysis

The Director's Decision determined:

> "On June 25, 1981, LCDC acknowledged the City of Bend comprehensive plan, which included city and county exceptions to Goals 3 and 4 for approximately 6,858 acres of land outside the 1981 UGB. These lands were designated UAR, 10-acre minimum parcel size (UAR-10), Suburban Residential, 2.5-acre minimum parcel size (SR 2½), and Surface Mining (SM). Parcels zoned UAR are therefore exception lands. UAR parcels in Deschutes County have not been designated as urban reserves under ORS 195.145. UAR lands in Deschutes County are exception lands." Director's Decision, at 131 (citations and footnote omitted).

On appeal (Swalley Appeal, at 12-15), Swalley confused the issue by ignoring what the Director's Decision said (which is quoted above). The Director determined that LCDC acknowledged the city's comprehensive plan in 1981. The city's proposed UGB included the UAR lands, and the City and County co-adopted the ordinances as referenced in Exhibit A to the Department's Report on the Appeals. The commission's acknowledgement order states that: "Based on these considerations, the City and County are taking an exception to Goal 3 and 4 as they relate to the land between the IUGB and UGB." Exhibit A to Bend UGB, Director's Decision, at 6. The Commission takes official notice of the 1981 Acknowledgement Order of the city's UAR land designations.

In sum, the city's acknowledged plan included Goal 3 and 4 exceptions for the UAR lands, which were placed in several zoning districts including UAR-10 and SR 2 ½, and these lands are exceptions areas for purposes of ORS 197.298.

e. Conclusion

The Commission concludes that the county UAR lands are exceptions lands under ORS 197.298, denies the appeals and related objections for the reasons stated above and in the Director's Decision and in the Department's Report on Appeals, and affirms the Director's Decision on this issue.

9.5 Whether the City Was Required to Exclude Lands from its UGB Expansion Area Because they Would be So Expensive to Develop that They Would Not Meet the City's Need for Affordable Housing

a. Summary of Issue, Objectors and Appellants

Central Oregon LandWatch (COLW) argued on appeal that the city should have excluded exception land west of the Bend UGB from its UGB expansion area because the land will be so expensive to develop that it will not meet the city's need for affordable housing.

COLW Appeal, at 5.

b. Legal Standard

Under ORS 197.298(3)(a), land of lower priority may be included in a UGB if land of higher priority "is inadequate to accommodate the amount of needed land" or because "specific types of identified land needs cannot be reasonably accommodated on higher priority land."

c. Analysis

ORS 197.298(3)(a) provides authority for a local government to *include* particular lands needed for a particular type of use. The statute does not provide a basis for *excluding* lands from a UGB expansion area, particularly to exclude a general type of land need such as land for the housing types a city has determined are needed under Goal 10. Further, the cost of land is not the type of locational requirement for a specific use that is contemplated by ORS 197.298(3)(a), Goal 14, and the Commission's implementing rules.

d. Conclusion

The Commission denies the appeal and affirms the Director's Decision, for the reasons set forth above, and in the Director's Decision.

9.6. Whether the City May Exclude (as Unsuitable) all Lots and Parcels of Less than Three Acres that Contain a House

This issue is a specific application of the general issue addressed above, as issue 9.1. The Commission concludes that due to the scope of the remand, it is premature to determine whether particular suitability criteria may be used as a screen by the City to eliminate lands from further consideration for inclusion in the expansion area. On remand, the City must reexamine its criteria and determine whether and how to apply them, using the steps described above under issue 9.1.

9.7. Whether the Threshold Suitability Criteria Used by the City Have an Adequate Factual Base

This issue is a specific application of the general issue addressed above, as issue 9.1. The Commission concludes that due to the scope of the remand, it is premature to determine whether particular suitability criteria may be used as a screen by the City to eliminate lands from further

consideration for inclusion in the expansion area. On remand, the City must reexamine its criteria and determine whether and how to apply them, using the steps described above under issue 9.1.

9.8. Whether the City and County Must apply Deschutes County Code Section 23.48.030 as a Standard for this UGB Expansion Decision

a. Summary of Issue, Objectors and Appellants

Deschutes County lists the *former* Goal 14 factors in the urbanization element of its comprehensive plan. Swalley Irrigation District argues that these are more restrictive local approval criteria that the County and City must comply with in making a UGB decision.

b. Analysis

Appellant Swalley withdrew its appeal at oral argument. In addition, the Commission does not agree that the cited county comprehensive plan provisions are more restrictive local requirements. Rather, the county's codification of the *former* Goal 14 need and location factors conflicts with the amended Goal 14 and Goal 14 rules (OAR 660-024). In this circumstance, ORS 197.646(4) applies and the local plan provisions are preempted by the revisions to Goal 14 and the Goal 14 rules. Under Swalley's argument, the commission's amendments to Goal 14 and the Goal 14 rules would never become effective until a local government had amended its comprehensive plan to adopt corresponding local plan and code provisions. ORS 197.646(4) was enacted to prevent this result.

c. Conclusion

The Commission denies the appeal, and affirms the Director's Decision on this issue, for the reasons stated above and in the Director's Decision.

9.9. Whether the Commission Should Remand the Submittal Specifically for Reconsideration of the Exception Areas to the Northwest of the Prior UGB

This issue is a specific application of the general issue addressed above, as issue 9.1. The Commission concludes that due to the scope of the remand, it is premature to determine whether these lands should or should not be included in the UGB expansion area. On remand, the City must reexamine these lands and determine whether to include them or not, using the steps described above under issue 9.1.

9.10. Whether the City Established that Excluding the Buck Canyon Area is Consistent with the Statutory Priorities of ORS 197.298

This issue is a specific application of the general issue addressed above, as issue 9.1. The Commission concludes that due to the scope of the remand, it is premature to determine whether ORS 197.298 applies in such a manner as to require the City to meet some of its identified need in the Buck Canyon area. On remand, the City must reexamine these lands and determine whether to include them or not, using the steps described above under issue 9.1.

10. Other Issues

10.1. Whether the Validity of Objections to the City's Decision Is Relevant to the Commission's Decision on Appeals of the Director's Decision?

a. Summary of Issues, Objectors and Appeals

The City argued on appeal that certain objections filed by other parties were not valid under the commission's rules, and argued that those objections should not have been considered by the Commission.

b. Legal Standard

OAR 660-025-0140(2) establishes the commission's requirements for objections. However, OAR 660-025-0150(4) allows *both* persons who filed valid objections, *and* persons who participated orally or in writing at the local level during the local process on the work task to appeal a decision by the director to remand or partially remand a work task to the commission.

c. Summary of Director's Decision and Appeals

The Director rejected the objections of several objectors as being invalid. Director's Decision, at 11. However, the City appealed, arguing that additional objections were invalid under OAR 660-025-0140(2). City Appeal, at 13 and at Appendix B.

d. Analysis

The objections challenged by the City were filed by persons who participated orally or in writing in the proceedings before the city. As a result, under OAR 660-025-0150(4), these persons had the right to participate in the appeal even if a specific objection they raised did not meet the requirements of OAR 660-025-0140(2). In addition, while the Director must consider all objections, the Director is not limited to issues raised by objectors in his evaluation of the submittal (the Director may consider issues even if they also are raised in an invalid objection). As a result, the city's appeal provides no basis for relief under the circumstances of this case.

e. Conclusion

The Commission determines that the parties participating in the appeals properly were before the Commission, and that the issues considered by the Commission were properly raised. At oral argument before the Commission, the City agreed not to contest this issue. As a result, the Commission denies the appeal of the City on this issue.

10.2. Whether the City and County Applied Appropriate Comprehensive Plan and Zoning Designations to the UGB Expansion Area?

a. Summary of Issue and Related Objections

The Director determined that the comprehensive plan and zoning designations adopted by the city and county for the UGB expansion area did not comply with state law. Director's Decision at 56-58. Specifically, the Director found that the zoning designations adopted by the County allowed more intense development than the prior county zoning, that the City and County failed to adopt comprehensive plan designations for lands added to the UGB to meet a "specific identified land need," and that the effect of the city's framework plan in light of the urban growth management agreement between the City and County needed to be clarified. This last point also was raised in an objection filed by Tumalo Creek Development LLC, which contends Bend violated Goal 2 by assigning future plan designations in the proposed Framework Plan to lands outside its jurisdiction. Tumalo Creek Objection, at 2.

b. Legal Standard

Goal 14 provides, in pertinent part, that:

> "Establishment and change of urban growth boundaries shall be a cooperative process among cities, counties and, where applicable, regional governments. An urban growth boundary and amendments to the boundary shall be adopted by all cities within the boundary and by the county or counties within which the boundary is located, consistent with intergovernmental agreements* * *."
>
> * * *
>
> Urbanizable Land
>
> Land within urban growth boundaries shall be considered available for urban development consistent with plans for the provision of urban facilities and services. Comprehensive plans and implementing measures shall manage the use and division of urbanizable land to maintain its potential for planned urban development until appropriate public facilities and services are available or planned."

The statewide planning goal definitions as amended April 28, 2005 define “urbanizable land” as:

> “Urban land that, due to the preset unavailability of urban facilities and services, or for other reasons, either:
>
> (a) Retains the zone designations assigned prior to inclusion in the boundary; or
>
> (b) Is subject to interim zone designations intended to maintain the land’s potential for planned urban development until appropriate public facilities and services are available or planned.”

OAR 660-024-0050(6) provides that:

> "When land is added to the UGB, the local government must assign appropriate urban plan designations to the added land, consistent with the need determination. The local government must also apply appropriate zoning to the added land consistent with the plan designation or may maintain the land as urbanizable land until the land is rezoned for the planned urban uses, either by retaining the zoning that was assigned prior to inclusion in the boundary or by applying other interim zoning that maintains the land's potential for planned urban development. The requirements of ORS 197.296 regarding planning and zoning also apply when local governments specified in that statute add land to the UGB."

c. Summary of Local Actions, Director's Decision, and Appeals

The lands added to the UGB were given a comprehensive plan designation of "urban growth boundary" by Deschutes County, and were zoned Urban Holding 10 and Urban Holding 2.5 (some lands were zoned "Public Facilities" and some zoned "Surface Mining"). Within these zones, cluster development is allowed with a minimum lot size of 15,000 square feet and a maximum lot size of ½ acre. DCC section 19.60. The prior zoning of these lands was largely Urban Area Reserve (allowing one home on ten acres) Multiple Use Agriculture 10, and Exclusive Farm Use. In addition, although the city does not have land use jurisdiction over the lands added to the UGB, it adopted a "Bend Urban Area Proposed General Plan Map" with both proposed comprehensive plan designations (for some areas), and proposed master plan designations and general land allocations (for the remaining areas). The county's comprehensive plan text "* * *recognizes the city's comprehensive plan as the policy document that provides the basis for implementing land use plans and ordinances in Bend's Urban Growth Boundary." In addition, the county adopted by reference the city's plan provisions for the UGB – evidently including the proposed general plan map and master plan designations noted above.

d. Analysis

OAR 660-024-0050(6) requires that the comprehensive plan designations for lands added to an urban growth boundary be consistent with the local governments' need determination. In this case, the City of Bend has determined a need to expand its UGB based on three specific identified land needs under ORS 197.298(3)(a) (225 acres for a future university site, 112 acres for a new hospital site, and two, 50-acre Industrial Sites (Targeted Sector and Heavy Industrial Site). Under OAR 660-024-0050, the comprehensive plans of the county and city (maps and

text) must clearly designate the areas planned for these uses to assure that they are, in fact, used for their intended purpose. The adopted plans and maps do not clearly do so.

OAR 660-024-0050(6) also requires that "* * * [t]he local government must also apply appropriate zoning to the added land consistent with the plan designation or may maintain the land as urbanizable land until the land is rezoned for the planned urban uses, either by retaining the zoning that was assigned prior to inclusion in the boundary or by applying other interim zoning that maintains the land's potential for planned urban development." The zoning designations adopted by Deschutes County allow a higher level of development than that permitted under the prior UAR, MUA and EFU designations. Of particular concern are several areas of UAR 2.5 zoning and areas where the zoning has changed from EFU to UAR 10. The City and County should either maintain the former county zoning until areas added to the UGB are ready to urbanize, or the City must specifically determine that the new zoning maintains the likelihood that the land will develop for the uses and at the intensity that the city's underlying analysis of the capacity of the lands is based on.

Similarly, under OAR 660-024-0020(1)(d) "the transportation planning rule requirements under OAR 660-012-0060 need not be applied to a UGB amendment *if* the land added to the UGB is zoned as urbanizable land, either by retaining the zoning that was assigned prior to inclusion in the boundary or by assigning interim zoning that does not allow development that would generate more vehicle trips than development allowed by the zoning assigned prior to inclusion in the boundary." On remand, the City and County must either retain the prior zoning (before the UGB expansion) or expressly analyze and determine that the assigned interim zoning will not generate more vehicle trips than development allowed by the prior zoning.

The final aspect of this subissue is the applicability of the city's comprehensive plan map and policies within the UGB expansion area. The county's comprehensive plan indicates that the city's plan map and policies will control within the expansion area. However, the city's plan map and policies do not contain similar corresponding provisions. On remand, the City and County should clarify the applicability of the city's plan map and plan policies within the UGB expansion area, including the city's Framework Plan map.[43]

[43] Ideally, such provisions should be included within the city's comprehensive plan, and should reference the intergovernmental agreement between the city and the county that details responsibilities for administering planning and zoning responsibilities in this area.

e. Conclusions

For the reasons stated above, the commission denies the city's appeal and affirms the director's decision. On remand, the city and county must:

- Clearly designate on the appropriate comprehensive plan map, the areas planned for the specific identified land needs described in the city's analysis under 197.298(3)(a), and include policies to assure that the lands are, in fact, used for their intended purpose;
- Either maintain the former county zoning districts until areas added to the UGB are ready to urbanize, or specifically determine that interim zoning designations maintain the likelihood that the land will develop for the uses and at the intensity that the city's underlying analysis of the capacity of the lands is based on;
- If the County or City adopt interim zoning for the UGB expansion area, they must determine that the assigned interim zoning in each area will not generate more vehicle trips than development allowed by the zoning designations in place before the UGB expansion; and
- The City and County must coordinate, and clarify the applicability of the city's plan map and plan policies, including its Framework Plan map, within the UGB expansion area.

10.3. Whether the City Complied with ORS 197.610 by Failing to Provide Adequate Notice of the Proposed Amendments to its General Plan?

Several objectors argued that the City failed to comply with applicable requirements for public notice of its hearings on the UGB expansion as well as its public facility plan amendments. The Director's Decision upheld those objections, Director's Decision, at 148-150, and the Commission concurs for the reasons set forth in that decision. The City has agreed to re-notice its hearing(s) on remand on the UGB expansion and related amendments to its General Plan (including its public facilities plan), including providing a new 45-day notice under ORS 197.610.

10.4. Whether the City Met its Goal 2 Coordination Obligations with Regard to Swalley Irrigation District?

a. Summary of Issues and Related Objections

Swalley Irrigation District (Swalley) and Toby Bayard allege that the City and County failed to coordinate with the Swalley and other governmental entities, as required by Goal 2. In particular, Swalley alleges that the submittals were not coordinated with the district in the sense that the district's needs were considered and accommodated as much as possible. Goal 2; ORS 197.015(5). Swalley Objection 2(A), at 28-34. Bayard Objection 2, at 27-33. On appeal, Swalley did not pursue this objection, nor did Bayard. However, neither did they withdraw their objections and, as a result, the Commission addresses them.

b. Legal Standard

The coordination elements of Goal 2 require local governments to exchange information with affected governmental units. In addition, information received from affected governmental units must be used by the adopting local government. *Santiam Water Control District v. City of Stayton*, 54 Or LUBA 553, 558-559 (2007); *DLCD v. Douglas County*, 33 Or LUBA 216, 221 (1997); *Brown v. Coos County*, 31 Or LUBA 142, 145 (1996). The adopting government must provide "notice clearly explaining the nature of the proposal and soliciting comments concerning the proposal." *1000 Friends of Oregon v. City of North Plains*, 27 Or LUBA 372, 394, *aff'd* 130 Or App 406 (1994). A local government's 45-day notice to DLCD is not sufficient for this purpose. *Id*.

Similarly, newspaper notice is not sufficient. *Adkins v. Heceta Water District*, 23 Or LUBA 207, 218 (1992). Finally, the local government's findings must address the concerns raised; simply rejecting the concerns or deferring addressing them to a later time is not sufficient. *Cox v. Polk County*, 49 Or LUBA 78, 89 (2005). *DLCD v. Douglas County, supra*. Goal 2 and ORS 197.015(5) do not mandate success in accommodating the needs or legitimate interests of all affected governmental agencies, but they do mandate a reasonable effort to accommodate those needs and legitimate interests "as much as possible." *Turner Community Association v. Marion County*, 37 Or LUBA 324, 353-354 (1999). From the foregoing, the coordination requirement of Goal 2 is satisfied where the local government has engaged in an exchange of information regarding an affected governmental unit's concerns, put forth a reasonable effort to accommodate those concerns and legitimate interests as much as possible, and made findings

responding to legitimate concerns.

c. Summary of Local Actions, Director's Decision and Appeals

The City adopted findings summarizing its coordination with irrigation districts, including Swalley. [R. at 1214-1215] Those findings describe how the City and Swalley communicated, and the city's consideration of the concerns raised by the district.

According to the city's findings, it removed a 332-acre area entirely within the district. Also according to the City it "cannot balance SID's opposition to urbanization with the need for urbanization of the identified lands, for all of the reasons explained in the city's findings." [R. at 1215]

d. Analysis

The Director concluded that the City complied with the coordination elements of Goal 2. Director's Decision, at 152. The City met with the district; conducted an analysis of the acreage of irrigated lands affected by the proposal; removed some irrigated lands from the proposal; and adopted findings describing the district's concerns and how they were accommodated. Although the notice provided by the City was confusing, it met the requirements of Goal 2, and the district itself has indicated that it was able to make its concerns known in writing.

e. Conclusion

The Commission concurs with the director's conclusion that the city's and county's actions (the three City ordinances, and the two County ordinances) were adopted in compliance with the coordination requirements of Goal 2.

10.5. Whether the City Violated Goal 1 in How it Considered and Provided for Public Participation Regarding its Public Facility Plans?

a. Summary of Issues and Related Objections

Toby Bayard (and to some degree Swalley and Central Oregon LandWatch) alleges that the City failed to provide critical information to the public in a timely fashion, and made substantial last-minute changes in its proposal that had the effect of not allowing the public adequate time to comment. [Bayard Objection 1 at 1-26; Central Oregon LandWatch Objection at 6-8]

b. Legal Standard

Goal 1 is to "develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process." [OAR 660-015-0000(1)] Goal 1 establishes requirements for local citizen involvement programs. Its provisions do not apply to comprehensive plan amendments unless those amendments include the government's citizen involvement program. The city and county submittals do not amend or affect either the city's or county's citizen involvement program. Under those circumstances, the submittals are in violation of Goal 1 only if the submittals include provisions that are inconsistent with the city or county citizen involvement programs. *Homebuilders Assoc. v. Metro*, 42 Or LUBA 176, 196-197 *aff'd Homebuilders Assn. of Metropolitan Portland*, 184 Or App at 669. No objector attempts to establish that the submittals include provisions that are inconsistent with either citizen involvement program. In addition, the objectors do not identify any specific provision of the city's citizen involvement program that has been violated. See, General Plan, Chapter 1.

c. Summary of Local Actions, Director's Decision, and Appeals

The city did not amend its citizen involvement program.

d. Analysis

Because the City is not amending its citizen involvement program, Goal 1 does not establish requirements for the local government actions under review by the Commission.

e. Conclusion

The Commission upholds the director's decision and denies the Bayard, Central Oregon LandWatch and Swalley objections and appeals concerning Goal 1, because the goal does not establish legal requirements for the actions under review.

10.6. Did the City place information in the record after the public hearing was closed and, if so, does this require remand?

The City has agreed to re-notice its hearing(s) on the urban growth boundary expansion, and to allow new evidence to be introduced into the record. As a result, this subissue is no longer relevant to the commission's decision.

10.7. Should the commission more clearly define the scope of the remand?

COLW argued on appeal that the Commission should more clearly identify specific tasks

that the city must complete on remand relative to the Director's Decision. COLW Appeal, at 7-8. The Commission, through this order, has provided an appropriate level of detail in its remand to the City. COLW identified four specific objections that it argues should be sustained or denied:

> "The city must consider Tetherow and other second home development in the region to determine how many units and how much acreage is needed in the UGB."
>
> "EOA assumptions regarding vacancy rates and institutional use, open space and right-of-way must be re-determined."
>
> "The city needs to consider the impact of west side expansion on widening Newport and Galveston Streets which would violate a city plan policy that restricts widening of these streets."
>
> "* * * On pages 118-122. Table 3 should be clarified to include the listing of sustained objections in pages 124-125. Also, an additional sustained objection of LandWatch (page 113) not included in either of these lists and should be: "The city needs to justify its assumption that parcels smaller than three acres with a house are unsuitable." COLW Appeal, at 7-8.

The objections listed above are denied, for the reasons set forth earlier in this order.

VII. Compliance with Applicable Statutes, Statewide Land Use Planning Goals and Implementing Rules

Except as specifically modified in this order, the Commission concurs with the Director's Decision concerning the applicability of the statewide planning goals and their implementing rules to the city's decisions, and whether those decisions comply with the goals and rules. See, Director's Decision, at 154-156 (goal findings). Except as modified in this order, the Commission concurs with the Director's Decision concerning whether the city and county decisions comply with applicable state statutory requirements and applicable implementing rules of the Commission.

Conclusion

Based on its consideration of the record as a whole, including the city's and county's submittals, the objections, the Director's Decision, the appeals of the Director's Decision, the Department's Report, exceptions and oral argument, the Commission concludes and orders that:

1. The City of Bend's Water Reclamation Facilities Plan (2008), Carollo Engineering (including technical memoranda nos. 1 – 10 (2008)), submitted in connection with Ordinance Number NS-2111, complies with the applicable statewide planning goals, their implementing rules and state statutes, and is hereby approved pursuant to OAR 660-025-0150 and 660-025-0160 (partial approval);

2. The remainder of the City of Bend's Ordinance Number NS-2111 and the other accompanying public facilities plans (except the Airport Water System Master Plan, which the City has withdrawn) do not comply with the applicable statewide planning goals, their implementing rules and state statutes for the reasons set forth in this order, and are hereby remanded to the City for further proceedings consistent with this order and (to the extent not appealed) the Director's Decision;

3. The City of Bend's Ordinance Number NS-2112, concerning the city's legislative amendment of its urban growth boundary, along with the accompanying amendments to the city's comprehensive plan (listed R. at 1050-1051) do not comply with the statewide planning goals, their implementing rules and state statutes for the reasons set forth in this order, and are hereby remanded to the City for further proceedings consistent with this order and (to the extent not appealed) the Director's Decision;

4. The City of Bend's Ordinance Number NS-2113, concerning certain amendments to the city's development code to adopt urban holding districts and provide for master plan development within such districts, along with the accompanying amendments to the city's code (R. at 1836-1848) do not comply with the statewide planning goals, their implementing rules and state statutes for the reasons set forth in this order, and are hereby remanded to the City for further proceedings consistent with this order and (to the extent not appealed) the Director's Decision;

5. Deschutes County's Ordinance No. 2009-001, concerning amendments to the county's code, comprehensive plan map, and transportation system plan map, does not comply with the statewide planning goals, their implementing rules and state statutes for the reasons set forth in

this order, and is hereby remanded to the County for further proceedings consistent with this order and (to the extent not appealed) the Director's Decision; and

6. Deschutes County's Ordinance No. 2009-002, concerning amendments to the county's code, and zoning map does not comply with the statewide planning goals, their implementing rules and state statutes for the reasons set forth in this order, and is hereby remanded to the County for further proceedings consistent with this order and (to the extent not appealed) the Director's Decision.

IT IS FURTHER ORDERED THAT:

Pursuant to OAR 660-025-0160(6)(b), the Commission establishes May 2, 2013 (2.5 years from date of this order) as the city's deadline to submit a revised determination under ORS 197.296 concerning its urban growth boundary. As set forth above in this order, the City may separately adopt a post-acknowledgement plan amendment for a public facilities plan or plans addressing facilities serving only lands within the city's prior UGB.

The Commission has considered every objection to the city's decisions and every appeal of the Director's Decision. Except for those that the Commission specifically sustained in this Order, all other objections are denied for the reasons set forth in this order or, if not addressed in this order, in the Director's Report. The Commission also has considered every appeal of the Director's Decision. Except for those appeals that the Commission specifically sustained in this Order, all other appeals are denied for the reasons set forth in this order or, if not addressed in this order, in the Department's Report on the Appeals.

DATED THIS 2nd DAY OF NOVEMBER 2010.

FOR THE COMMISSION:

John VanLandingham, Chair
Land Conservation & Development Commission

NOTE: You may be entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this final order. Judicial review is pursuant to the provision of ORS 183.482 and 197.650.

Copies of all exhibits are available for review at the department's office at 635 Capitol Street NE, Suite 150, Salem.