

AGENDA

UGB Remand Task Force (RTF)

Monday, July 1, 2013
3:00 p.m.

Bend Metro Parks and Recreation District Office
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JIM CLINTON
Mayor

JODIE BARRAM
Mayor Pro Tem

VICTOR CHUDOWSKY
City Councilor

DOUG KNIGHT
City Councilor

SALLY RUSSELL
City Councilor

MARK CAPELL
City Councilor

SCOTT RAMSAY
City Councilor

ERIC KING
City Manager

1. Call to Order
2. Approval of Minutes – April 5, 2012
3. Staff and RTF discussion – Background on UGB Remand Order, Collection Systems Master Plan, remand work plan, timeline, and citizen participation (no decision is required at this time)
4. Review communications plan and list of interested parties – (no decision is required at this time)
5. Public comment and RTF discussion
6. Adjourn

1. Convene Meeting

The Remand Task Force Meeting was called to order in the City Council Chambers at Bend City Hall at 3:04 PM on Thursday, April 5, 2012. Present were the Remand Task Force members Tom Greene, Jim Clinton, Kevin Keillor, Vice Chair Jodie Barram and Chair Cliff Walkey.

Staff present included Brian Rankin, Damian Syrnyk, Gary Firestone and Mel Oberst.

2. Approval of Minutes from November 10, 2011

Minutes from the November 10, 2011 meeting were unanimously approved.

3. Presentation: Housing Needs Analysis (HNA), Sub-Issue 2.3—Part 3

Discussion of Draft HNA and Two Memoranda

Discussion and Update of the Draft HNA

Damian began by explaining about the documents handed out in the meeting packet. He recapped what the Remand Task Force (RTF) has done thus far.

Discussion of the First Memorandum, “Estimate of Housing Density Needs—Task 3, Step 6 of ‘Planning for Residential Growth’”:

Table 1 in the memo shows that average net densities have increased over time in most zones. In the last 10 years, we have seen an increase in residential needs. Table 1 also examines the distribution of units and needed units.

Table 4 addresses the distribution of units by zone that we think will meet our housing needs for the next 20 years. The table includes analysis of single family detached units, single family attached units, and multi-family attached units.

Table 5 discusses allowable density by zone.

Finally, Table 6 was discussed. Table 6 displays: the number of needed housing units by housing type for the 2008-2028 planning period; the projected average net densities for each housing type by zone, based on built density averages from 2008; and a calculation of the average net density required in order to accommodate the three projected housing types. While discussing Table 6,

Damian pointed out that we are assuming that housing will be built in the RH zone more rapidly than it is now.

Our next step is to look at the extent to which we can accommodate the boundary by plan designation. We need to also look at the extent to which we can improve capacity. Liz mentioned that DLCD has reviewed our methodology and that it seems sound, but we're waiting for the data.

Damian said that we're trying to show our proposal for updating the general plan for housing. We will have a 20 year supply of residential housing and we've looked at the 3 types of housing the remand directed us to in an effort to be more consistent with the order.

Discussion of the Second Memorandum, "Comparison of Needed Density/Mix with Actual Density/Mix—Task 4 of 'Planning for Residential Growth'"

This memo outlines the City's response to Task 4 of the *Planning for Residential Growth* handbook. Damian explained that the memo shows that the City is taking its first step toward long range residential planning by combining our needed mix of housing with our actual housing density/mix.

Bend residential plan designations have density ranges broad enough to accommodate needed housing at actual net densities; thus, no changes to designations are needed to accommodate housing at higher densities.

Table 7 suggests that the RS and RM zones can accommodate needed housing at actual densities, while RL and RH zones cannot.

Our next steps on the residential remand include: determining capacity of current UGB for future housing; moving on to developing a measure for meeting needs within zone boundaries; and recalculating capacity to determine the extent of need that can't be accommodated and must be met through expansion of UGB.

A. Public Comment? None.

B. Questions, Direction from RTF

The first question, addressed to Damian, was: What do you need from the task force?

Damian first wanted to ensure that the RTF was satisfied with the work up to this point. Then, he informed the task force that they should recognize what will happen next and that step 6 will be incorporated into the HNA document as a draft.

An RTF member asked to confirm that the City is addressing the remand order with respect to the density question by further findings of facts that support our original position, which was 65/35 single-family split. Damian said it did change a little and that the definitions have been refined.

Mel mentioned that the work is taking time to get done. The next issue that will be brought back to the RTF will be to implement the measures prescribed in the remand. We want to move on to develop measure for meeting needs inside the boundary. The upcoming issues outline big projects that will require a lot of analysis. It will take many months, maybe through the end of summer.

An RTF member asked about recalculating what percentage of the remand is getting redone. Mel replied that he might be able to put together a summary to say where we are today.

One last comment was made that we had some informed comments from the last meeting after Wendy did a presentation on the nodes and we should be sure to incorporate and or address those comments.

5. Adjourn: Motion to adjourn meeting by Jim, seconded by Cliff at 3:45 p.m.

Urban Growth Boundary (UGB) Remand Work Plans

*July 1, 2013 Remand Task
Force Meeting*



Presenter: Brian T. Rankin

Department: CDD

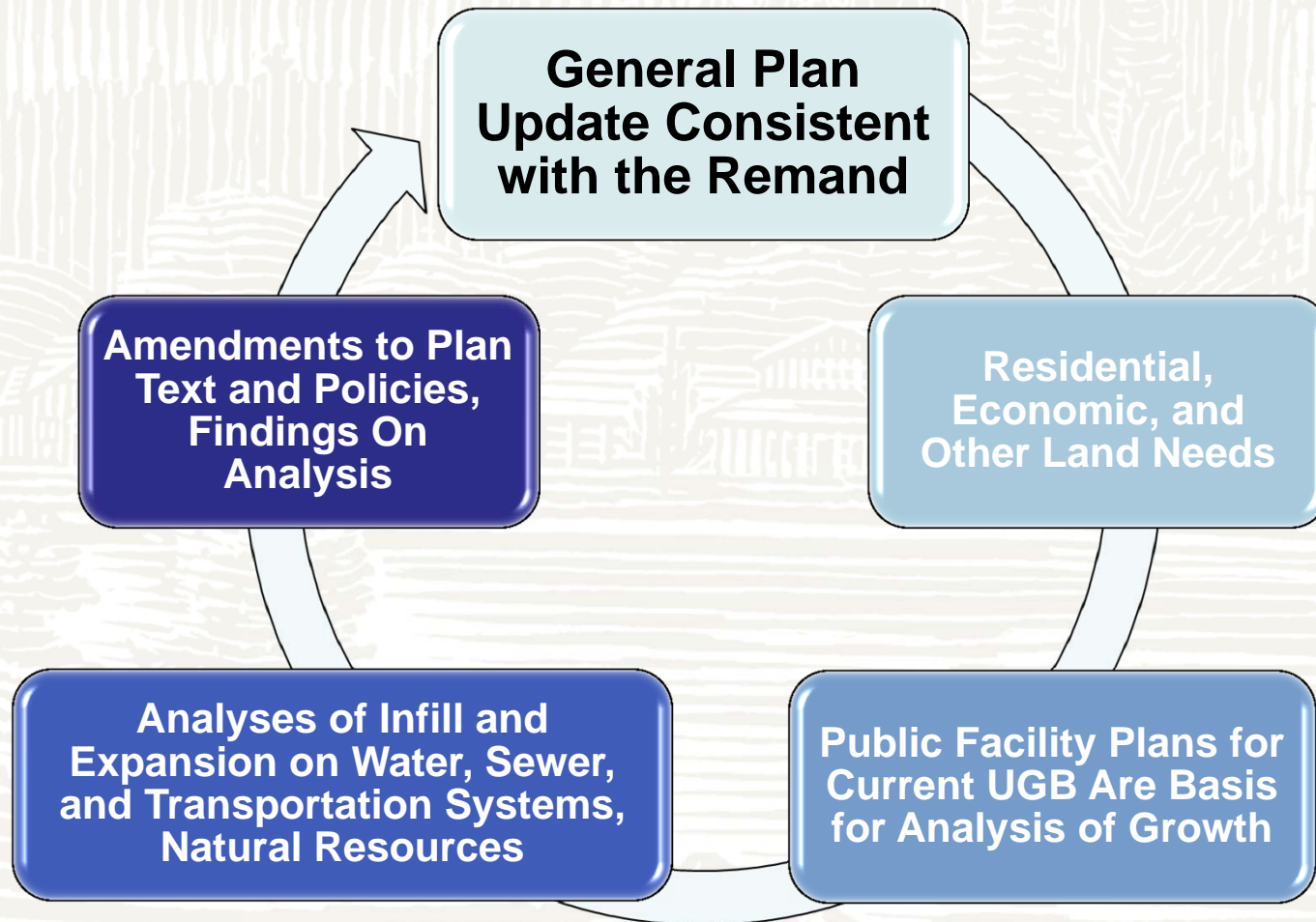
Date: July 1, 2013

Getting Up to Speed



- Overview of recent developments impacting the Remand
 - Time extension from the Land Conservation and Development Commission (LCDC) to complete the remand (June 30, 2017).
- Highlights of the Remand
 - Reworking land need
 - Water and sewer Public Facility Plans for current UGB
 - Guidance on completing the transportation and boundary analysis

Updating the Bend General Plan



Remand's Broad Implications



- Location, intensity, and type of future growth in Bend
- Impacts on public infrastructure – costs, timing, System Development Charges, rates
- Impacts to natural systems and resources such as rivers, habitat, farm and forest land
- Location of future parks and schools, commercial, industrial, and residential areas
- Bend's competitiveness, prosperity, identity, and appeal

Timeline & Example of Work Plan



2013: Pour the Foundation

- Complete Water PFP
- Start Collection System Master Plan and Sewer Infrastructure Advisory Group (SIAG)
- Start MPO Regional Transportation Plan (RTP) update

2014: Frame the House

- Finish Water PFP legal defense
- Finish CSMP and start sewer PFP
- Finish RTF work on residential land need analysis
- Start and finish RTF work on employment lands tasks
- Start deciding how to conduct the Goal 14 analysis
- Finish MPO RTP update

2015 and 2016: Interior/Exterior Work

- 2015 finish sewer PFP
- Start and finish RFT work on UGB boundary analysis including:
 - Community outreach and involvement
 - Develop growth and infill scenarios, visualizations of land use
- Water, wastewater, transportation modeling
- Market analysis
- Write findings and begin adoption

2017: Finishing Touches

- Finish City and County adoption and approval
- Start LCDC review leading to acknowledgement, remand, or appeal

2018: Move In

- Adopt new PFP/CIP to implement Acknowledged UGB

Concerns: Timeline & Process

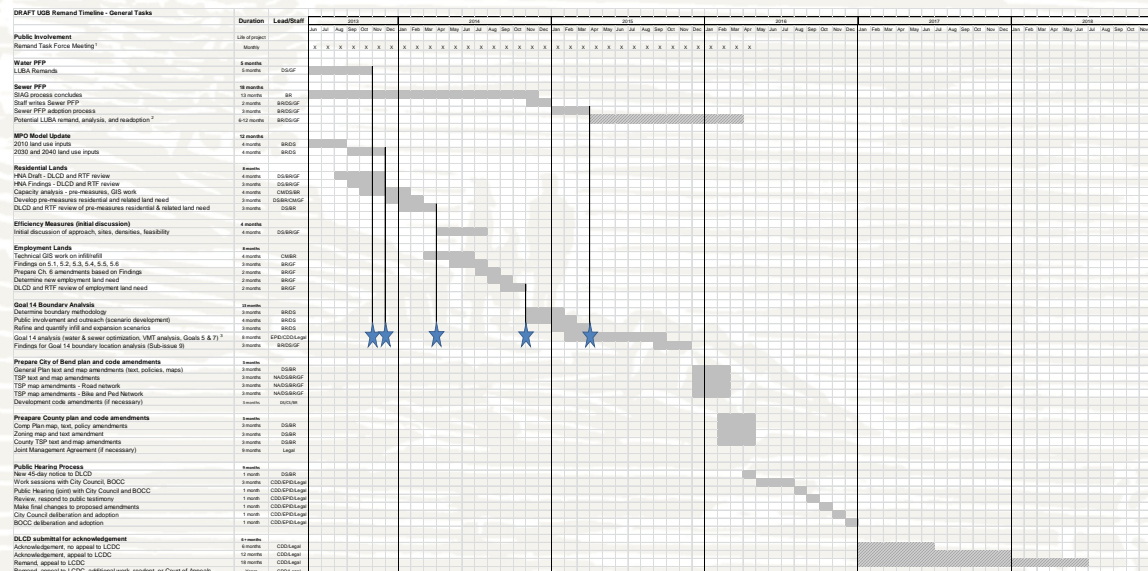


- Timeline is too long and should be shortened.
- Remand process should consider a broader range of input with more community involvement.
- Decision making process should be more transparent in order to improve the credibility of process and quality of the results.
- Remand is one of the most important projects underway at the city, and will influence this community for decades to come.

Work Plan Scenarios



- Each outlines work tasks and dependencies
- Each differs in the staffing resources, decision making, and public involvement process
- Designed to elicit feedback and discussion
- Is there a better and faster way to do the work?



Work Plan Dependencies



1) MPO Travel
Demand Model
Update (completed)

2) Residential
Land Need
Analyses
(completed)

3) Employment
and Other Land
Need Analyses
(completed)

4) Water Public
Facilities Plan
(acknowledged)

5) Sewer Public
Facilities Plan
(acknowledged)

**All must be
completed
before
significant work
can be done on
the UGB
boundary and
evaluation of
infill**

Sewer CSMP and PFP



- Soonest Sewer PFP can be acknowledged is March 2015, but it could take longer
- Assuming it would take another eight months to complete the modeling and boundary analysis plus five months for all local adoption, the earliest local adoption is April 2016
- This dependency plus appeals to LUBA have the most significant impacts on the timeline on all timelines

Improving Speed With Quality



- Additional staff to do as much work as soon as possible prior to Sewer PFP acknowledgement
- Improve stakeholder and community buy-in along the way with decision making process similar to the SIAG process
- These will ideally reduce the time required to do analysis and appeals of end products
- Hold off on major outreach until Sewer PFP is acknowledged and UGB scenarios are known (mid 2015)

Other Materials & Look Ahead



- Interested parties list – review & comment
- Communications plan – review & comment
- New website – review & comment
- Form RTF recommendation by early August
- Decide upcoming RTF meeting schedule:
 - Week of July 22
 - Week of August 5

M E M O R A N D U M

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TO: **UGB REMAND TASK FORCE (RTF)**
FROM: **BRIAN RANKIN, PRINCIPAL PLANNER**
SUBJECT: **UGB WORK PLAN, TIMELINE, RESOURCES, AND PUBLIC INVOLVEMENT SCENARIOS**
DATE: **JUNE 26, 2013**

Introduction

Welcome back Urban Growth Boundary (UGB) Remand Task Force (RTF) and welcome new City Councilors Sally Russell and Doug Knight. We are re-launching the UGB remand project in a different environment than when we last met. The economy is slowly improving, the housing market has picked up considerably, and there is a new City Council. There have been other notable developments that impact the UGB expansion remand order project (Remand) including:

1. The Water Public Facilities Plan (water PFP) is still being litigated at the Land Use Board of Appeals and is not acknowledged.
2. The adoption of the 2007 Collection Systems Master Plan (CSMP) and sewer Public Facilities Plan (PFP) was halted in April 2012.
3. The city started, and is currently working on, a new CSMP under the guidance of the Sewer Infrastructure Advisory Group (SIAG). This process will take more than a year to complete before it can be used as a basis for a Sewer PFP.
4. Two long-range planners, Planning Manager, Brian Shetterly, and Senior Planner, Rick Root have retired. Brian Rankin was hired as Principal Planner and Project Manager of the Remand. This leaves Brian and Senior Planner, Damian Syrnyk, as staff for the Remand.
5. The City of Bend received a time extension from the Land Conservation and Development Commission (LCDC) to complete the remand. LCDC granted an extension to June 30, 2017.

There are many other changes to note, but all the above have a direct and significant impact on the Remand. These changes require the RTF, staff, public, and City Council to re-scope the Remand. Staff suggests the RTF focus their immediate efforts on the remand work plan which includes considering the remand timeline, public involvement strategy, and budget necessary to carry out this work.

Background

The February 2013 time extension request from the City of Bend to the Land Conservation and Development Commission is for four years (June 30, 2017). The city requested the ability to do “incremental approvals” in order to receive acknowledgement of the land need estimates, but LCDC did not grant this request. The time extension has resulted in considerable discussion and concern in the community. Subsequent discussions with community members have revealed the following issues:

1. The Remand timeline is too long and should be shortened.
2. The Remand process should be more inclusive, and involve more community involvement and participation.
3. The decision making process should be more transparent in order to improve the credibility of process and quality of the results.
4. The Remand is one of the most important projects underway at the city, and will influence this community’s form, function, competitiveness, livability, and economy for decades to come.

There are many additional concerns and perspectives than those listed above, but the issues above tend to be common themes observed from a wide range of audiences. Given these concerns, staff suggests taking the next few Remand Task Force (RTF) meetings to come to agreement on how and when the elements of Remand will be completed, the public involvement process that will be used, and the resulting impacts these will have on the budget supporting this project.

The results of the RTF’s discussions on these topics will result in a recommendation to the City Council on the following items in this order:

1. A UGB work plan and timeline
2. A budget for long-range planning to support this work
3. Potentially a new RTF charter to implement the above products

The City Council has requested staff appear at a City Council work session in late August to discuss these topics. This request drives a short-term timeline to formulate the RTF’s recommendations. We have finally entered the busy summer months when many of us are enjoying our families and vacations, so the schedule below is up to the RTF to decide at their first meeting. However, this outline provides a starting point for discussion:

1. **July 1, 2013** RTF meeting:
 - a. Participate in a discussion regarding the main elements of the Remand, and discuss the Sewer Infrastructure Advisory Committee (SIAG) process that will result in a new sewer CSMP and PFP.
 - b. Review different UGB work plans and timelines
 - c. Review a list of interested parties that could be involved in the Remand
 - d. Review communications plan
 - e. Listen to public input on the above

2. Weeks of **July 8th through the 15th**, the RTF achieve the following:
 - a. Review the new UGB website
 - b. Read the UGB Remand Order to come to a better understanding of the work required to finish the remand and meet with staff as necessary to get questions answered
 - c. Review the remand work plans and timelines in order to recommend a preferred work plan and timeline the following week
 - d. Receive and read different citizen involvement techniques
 - e. Make additions and edits to the list of interested parties in the Remand
3. Ideally, **meet the week of July 22nd and no later than the week of July 29th** to:
 - a. Decide which work plan, timeline, and citizen involvement scenario should be selected and advanced for further refinement
 - b. Provide input to staff regarding preferred citizen involvement techniques to use in the remand project
4. Ideally, **meet the week of August 5th** to recommend the following:
 - a. Decide upon preferred remand work plan, timeline, and citizen involvement techniques
 - b. This will allow staff to fine tune the budgetary impacts of the preferred alternative to discuss later with the City Council
5. Attend the **August 21st City Council work session** to provide testimony and input to the City Council on the preferred Remand work plan, timeline, and citizen involvement techniques. Interested parties are strongly recommended to attend this public meeting to provide their input.
6. RFT meetings following this date will then focus on integrating the City Council's input into the work plan. This may require the City Council to amend the RTF Charter at a later date to provide consistency between the enabling charter and strategy to complete the Remand.

Analysis of Remand Work Plans

Accompanying this memorandum are three illustrative scenarios of tasks and timelines to complete the Remand. It is important to note at the outset that these are all subject to further input, discussion, and refinement, and are in no way intended to represent the only scenarios to complete the Remand. Staff hopes these generate feedback, new ideas, and perspectives about how to get the work done better, faster, and with the support of the community. These are also intended to illustrate key dependencies between the various elements of the Remand, how long the main elements could take to complete, and how different staffing levels and public involvement strategies can be integrated into the project.

These scenarios are titled:

1. Scenario A: Draft Tasks Timeline Assuming Current Staffing and Budget

2. Scenario B: Draft Tasks and Timeline Assuming Additional Staff Dedicated to UGB
3. Scenario C: Draft Tasks Timeline Assuming Additional Staff and Public Involvement Program

Each of the scenarios detail the major elements and the individual tasks required to complete the remand. These are not directly tied to remand tasks at this point so the public can better understand the work to be accomplished. This will be done after the basic form of the work plan is decided upon. The timeframes to accomplish individual tasks are the same between all the scenarios for an even comparison between scenarios (with a few exceptions described below). The major elements include the following:

1. **Public Involvement** – This details the form and timing of public involvement.
2. **Water PFP** – This includes how long it will take to receive acknowledgement of the Water PFP. This timeline is shown ending in approximately September of 2013, but the timeline may extend due to additional litigation. This is a critical dependency that must be completed prior to completing the Goal 14 boundary analysis.
3. **Sewer PFP** – This details the expected time to complete work of SIAG and CSMP, and also how much time may be required to get the Sewer PFP acknowledged. Since the Sewer PFP may be appealed, the timeline is shown in a hatch pattern because it is highly uncertain. The longer the appeal and acknowledgement process takes, the longer it takes for this to be acknowledged. This is a critical dependency that must be completed prior to completing the Goal 14 boundary analysis.
4. **MPO Model Update** – This illustrates how long it will take for the Metropolitan Planning Organization (MPO) to complete an update of their Regional Transportation Plan and travel demand model. This model will be the model used to evaluate Vehicle Miles Traveled in order to meet the requirements of Goal 12 and Transportation Planning Rule. This is a critical dependency that must be completed prior to completing the Goal 14 boundary analysis.
5. **Residential Lands** – This captures the work that needs to be done to determine the city's 20-year housing need and needed acres for residential uses. This is a critical dependency that must be completed prior to completing the Goal 14 boundary analysis.
6. **Efficiency Measures (initial discussion)** – This is a major element to describe the process of evaluating the amount and location of infill and redevelopment in the city over the planning period. This is an initial discussion that allows the process to start the work in advance of the Goal 14 analysis which includes a more rigorous analysis of the impacts of infill on the city's transportation, water, and sewer systems.
7. **Employment Lands** – This illustrates the work required to determine the 20-year employment land needs for the city. This is a critical dependency that must be known prior to completing the Goal 14 boundary analysis.
8. **Goal 14 Boundary Analysis** – This is the process required to determine the location of the UGB expansion, the location and intensity of infill in the current UGB, analyze the impacts of infill and expansion on the city's transportation system (through VMT analysis), water system (through an

intensive modeling process used to identify the least cost solution called optimization), and sewer system (through optimization). This includes developing infill and expansion scenarios that will be analyzed. The results of this analysis provide the factual basis for a preferred alternative that becomes the basis for the UGB expansion.

9. **Prepare the City of Bend Plan and code Amendments** – This task anticipates making changes to the city's General Plan and Development Code to integrate all the results from the above tasks. The City's General Plan text, policies, and technical appendices must be internally consistent, and consistent with all the results described above. Findings linking all the previously mentioned results will need to be drafted and discussed at this point.
10. **Prepare County Plan and Code Amendments** – Deschutes County's codes must also be amended so the UGB expansion can be implemented on land currently under the County's jurisdiction. This may result in new holding zones, framework plans and similar documents.
11. **Public Hearing Process** – These plans must be adopted by the city and county. This task shows the sequential process to adopt these materials through public hearings.
12. **DLCD Submittal for Acknowledgement** – This task illustrates different timelines associated with different review and appeal processes that are uncertain at this time. If the local submittal is not appealed, LCDC may acknowledge the local adoption package as soon as six months. If appeals take place, then additional time from six months to more than a year can be expected. It is important to note that if the final local adoption is the subject to another remand, it would require another round of local analysis and adoption.

Critical dependencies are shown with a blue star in the Goal 14 boundary analysis element. Major elements that are considered critical dependencies include the Water PFP, MPO model update, residential lands, employment lands, and Sewer PFP because these must be completed in order to complete the Goal 14 boundary analysis. The estimated dates by which these major elements will be completed are shown with the blue star in the Goal 14 boundary analysis work element. In order to do the analysis to support the location of the eventual UGB boundary and selection of efficiency measures that are part of the Goal 14 boundary analysis element, the water and sewer PFPs must be acknowledged. This is because the water and sewer systems represented in the water and sewer PFPs for the current UGB must be acknowledged prior to being used as the basis for the Goal 14 boundary analysis. This is because the Goal 14 analysis of the new UGB must include an analysis of the benefits, costs, and impacts of the expansion on the water and sewer systems represented in the water and sewer PFPs. Similarly, residential and employment land needs for the next planning period must also be known before the Goal 14 boundary analysis must be completed. The MPO model is also a critical dependency because that model is used for the Vehicle Miles Traveled (VMT) analysis accompanying the Goal 14 analysis. The five critical dependencies therefore, must be completed before the Goal 14 analysis can be completed, and even possibly undertaken.

Scenario A: Draft Tasks and Timeline Assuming Current Staffing and Budget

This scenario assumes the following:

1. Currently budgeted long-range planning staffing and consulting levels for the Remand (two full-time equivalent planners working on the UGB as well as other projects).
2. No major public involvement and community outreach programs outside of what has been done historically for the remand. This level of outreach is not budgeted, and would consume additional staff time that is not represented in the work plan timeline. This scenario assumes the city will be holding RTF meetings, work sessions with the City Council, and using the customary communications tools like the city's website and public notices.
3. Timelines for major elements and individual tasks are based on staff's best estimate given the requirements of the Remand Order and past experience working on these issues. A useful way to think about these individual timelines is to imagine how many RTF meetings it would take to make decisions on the different topics. Some may take more time, some less because they involve controversial policy level decisions rather than simple decisions on technical subjects. Consider it took more than a year to come to agreement on just the residential land need estimates during the last UGB.
4. The timeline for the Goal 14 boundary analysis is 8 months. This is driven by the time required to undertake the optimization modeling process. This is partially based on the city's recent experience with similar modeling efforts for water and sewer. The Goal 14 boundary analysis would require developing scenarios and then optimizing for the water and sewer systems. In addition, the Vehicles Miles Traveled analysis would be done on the same scenarios. This is more intensive than the last process, and will provide a much greater level of detail of costs and impacts to the city's infrastructure systems than was done previously.

Observations of this scenario include the following:

1. This process would involve a decision making and public involvement process similar to the previous UGB expansion work. This does not mean all aspects of the previous approach must be duplicated, as there are relatively minor changes that could be made to the RTF meeting format and use of advisory committees that do not require additional resources. However, these would generally be facilitated by staff and the RTF, and would not use additional resources or beyond what is currently budgeted.
2. Notice that tasks such as the residential lands, employment lands, and Goal 14 boundary analysis are sequential. This is necessary due to limited staff resources that will require current staff to work on one topic before focusing on the next. The estimates of time to complete these tasks consider the current "bandwidth" of long-range planning, legal, GIS, engineering, transportation, and other top level staff who are engaged in a number of major projects.

3. It appears that current staffing and budget levels could finish the necessary work on the tasks considered dependencies before the Sewer PFP is acknowledged (assuming no appeals). However, there is little to no gap of time, or cushion, between finishing the necessary analysis and completing the Sewer PFP.

Scenario B: Draft Tasks and Timeline Assuming Additional Staff Dedicated to the UGB

This scenario assumes the following:

1. One additional staff person dedicated to the Remand. This scenario does not take into account the few months it would take to go through the recruitment and hiring of this person given it may take time to decide upon the preferred Remand work plan.
2. Public outreach and involvement as in Scenario A.
3. Additional staff would allow staff some work to proceed faster. This is depicted by the red shaded timelines that essentially move up work that depicted in the lighter shade gray. This scenario assumes that the employment lands work could be done alongside the residential work, and some of the Goal 14 boundary analysis work could be done sooner.

Observations of this scenario include the following:

1. Work could be taken to the RTF faster than in Scenario A. Something to consider is the RTF's and community's capacity to process the work faster. More RTF meetings would likely need to be scheduled to process the work faster. The last UGB process was considered to feel rushed by some, so care would need to be taken to provide time for feedback that may not be reflected in this illustration.
2. Additional staff would allow more public outreach by way of attending more meetings, doing presentations, and similar low cost outreach methods.
3. Even if work is sped up on the land need analyses and Goal 14 boundary analysis, the process will be dependent on completing the CSMP and Sewer PFP. This one dependency has the most significant impact on the overall Remand timeline outside of appeals at the end of the process. The Goal 14 boundary analysis could be started sooner than Scenario A, but the final analysis of water, sewer, and VMT could be "waiting" for the Sewer PFP to be acknowledged. This is shown with the "?" in August of 2014 through October. It is likely that this time would be used in other ways, but speeding up the analysis may result in waiting for the Sewer PFP to be acknowledged. It must be pointed out that if the Sewer PFP is taken to the Land Use Board of Appeals, the Goal 14 boundary analysis would need to be postponed until mid-2015 or later.
4. The overall "time savings" of adding the additional staff person is therefore measured in a few months all else being equal. An unquantifiable benefit of having additional staff for public outreach and work may be to improve the final result and hopefully reduce appeals at the end of the process.

Scenario C: Draft Tasks and Timeline Assuming Additional Staff and Public Involvement Program

This scenario assumes the following:

1. One additional staff person dedicated to the Remand as in Scenario B.
2. Expanded public outreach and involvement. This can take many different forms which will be discussed over the next few RTF meetings. However, this scenario assumes two additional forms of public involvement for sake of discussion:
 - a. Using a professionally facilitated and assisted committee of diverse community stakeholders similar to the Sewer Infrastructure Advisory Group (SIAG) to direct staff work. This process puts the policy direction role in the hands of the larger and more diverse stakeholder group that is then supported by public facilitation and planning/urban design experts. Staff is then prepares analysis per the direction of this group. This is illustrated in the timeline as “Stakeholder committee with facilitator and planning consultant.” The blue arrows illustrate where this group could be included in the Remand. The level of involvement can vary. This timeline assumes this group would be involved in key decisions such as residential and employment land need, and Goal 14 boundary analysis. This group could look like an expanded RTF, or the RTF process could take recommendations from this group and formulate their own decisions.
 - b. Using a public outreach campaign. Where the stakeholder group involves a broad group of stakeholders who are local experts in an intensive meeting format, the public outreach seeks to take recommendations from the stakeholder group out to the broader public to gather their input on key decisions. This may also take a wide range of forms and use different tools such as statistically valid surveys, visual preference surveys, workshops and others, to provide information and receive feedback. The primary benefit of this approach is to get very broad input from people who may not typically participate in the Remand. One local example of using a statistically valid community survey combined with a visual preference survey and public workshops is the recent work on Mirror Pond. This scenario assumes this type of involvement would be started with the development of UGB infill and expansion scenarios associated with the Goal 14 boundary analysis. For example, a stakeholder group could identify a number of infill and expansion scenarios that could then be the focus of the broader public outreach campaign.
3. As in Scenario B, the one additional staff person would allow some work to proceed faster and would be needed to support the larger public outreach and stakeholder group involvement.

Observations of this scenario include the following:

1. All of the observations noted in Scenario B are the same in this scenario. Work may be sped up, but the Goal 14 boundary analysis could not be finalized until the Sewer PFP is acknowledged.

2. This suggests there is an element of risk in starting a major public outreach effort and stakeholder group that could end up waiting for the Sewer PFP to be acknowledged if it faces legal challenge. One way to mitigate this risk would be to rely on the stakeholder group early on in the process to recommend land needs and develop infill and UGB expansion scenarios as depicted, but to hold off on any broader public outreach campaign until the Sewer PFP is acknowledged. Similarly, the stakeholder group could be put “on hold” if they are delayed by legal challenges to the Sewer PFP.
3. The additional effort and expense involved in adding these forms of public involvement do not lead to a shorter timeframe to achieve local adoption due to the timing of the Sewer PFP acknowledgement. A more inclusive decision making process with broader public awareness and input would ideally shorten the timeline for the acknowledgement of the UGB by reducing or removing the additional time in appeals to LCDC.

Conclusion

1. One additional staff person working on the UGB will allow remand tasks to be completed faster and for more public outreach through conventional approaches such as attending meetings and doing presentations. Additional staff does not dramatically speed up local adoption timelines.
2. The timeline to complete the local adoption of the Remand Order is driven largely by the time it takes to complete the Sewer Collection Systems Master Plan and Sewer PFP. At the earliest, the Sewer PFP would be acknowledged by March, 2015. Any legal challenges stretch acknowledgement of the Sewer PFP out months or over a year. Delays impacting the Sewer PFP acknowledgement have a direct impact on the Remand timeline.
3. The method to conduct the Goal 14 boundary analysis can be decided before the Sewer PFP is acknowledged, but the final analysis upon which the UGB infill and boundary expansion analysis depends must rely on an acknowledged Sewer PFP.
4. Other critical dependencies such as the Water PFP, MPO model update, residential and economic land needs analyses can be finished before the Sewer PFP is acknowledged in all scenarios. This is more much more feasible with additional staff working on the project, but may also be possible with current staffing levels.
5. Adding more public involvement and outreach does not appear to drastically speed up the timeline for local adoption, but the more intensive public involvement process may increase the level of overall community support for the end result. Assuming this would lead to fewer appeals at the end of the process, reducing appeals to LCDC and additional remands would reduce the time it takes for the Remand to be acknowledged. This is difficult to quantify, but experience suggests that public policy that is broadly supported tends to be implemented with more speed and ease.
6. There is a risk to starting a broad public outreach campaign before the Sewer PFP is completed because it may be stalled or halted if the Sewer PFP faces legal challenges.

7. The biggest threat to achieving the timely acknowledgement of the Remand is a lengthy appeal and subsequent remand from LCDRC.

Recommendation

These scenarios suggest there are few ways to dramatically reduce the timeline for the local adoption of the Remand due to the timing and uncertainty involved with the Sewer PFP. This suggests that the best way to reduce the time to get the Remand acknowledged is to maximize the level of stakeholder and community support for the final Remand products.

Staff recommends adding an additional staff person dedicated to the Remand. This will allow greater support to any decision-making process used to guide the Remand. This will also allow staff to do more local outreach as much as possible. Staff will produce work faster, and in the event tasks take longer than anticipated by this timeline, will be able to get as much work done before the Sewer PFP is acknowledged.

Staff believes the most difficult and time consuming element of all these work tasks is making policy level decisions on complex and often emotional subjects such as residential density, the location of infill, housing mix, and the ultimate decision of boundary location. Staff recommends broadening the level of public involvement to at include a broader stakeholder group which is supported by professional facilitators and expert advice as needed. This could take the form of an expanded RTF, the RTF could use such a group for policy level guidance, or some other form. Planning staff are not expert at facilitating community discussions on highly controversial subjects. Rather, staff is expert at conducting the research and analysis required to support a decision making process. Given that many of the most critical decisions in the Remand are a blend of community values, analysis, and law, and that there are divided and strong opinions on the topics of growth and development, adding resources to support this aspect of the process will likely result in more broadly supported outcomes and less opposition. The exact form of this type of assistance and process should be discussed further.

The larger public outreach program would be an ideal addition to this project because the UGB impacts all of Bend's and Central Oregon's residents, and it has been difficult to get broad involvement in the UGB Remand to date. However, this should only be undertaken after the Sewer PFP is acknowledged in order to reduce the cost and increase the effectiveness of such an effort. Since this process would not need to be undertaken until 2015, deciding the exact scale and form of this aspect of the project is not necessary in the short term, and may be added at a later date if the RTF and community do not strongly support this approach.

On a related topic to help inform the RTF's discussion, the following describes a summary of a recent meeting the city held with a local group of parties interested and active in the Remand. The group included local developers, land use attorneys, members of Central Oregon Landwatch, and members of the EDCO board. This group expressed their perspective on the issues raised by the

Remand timeline and project in general. Concerns identified include the following:

1. The long timeline creates uncertainty in local markets and price increases, and may contribute to a boom and bust cycle.
2. There are few remaining large tracts of land for large site users like schools, parks, and commercial/industrial users.
3. The information being used is becoming older and not reflecting current conditions and should be updated.
4. Problems with the last UGB expansion process should not be repeated in this process.
5. There are shortages in inventory of built housing that lead to price increases. There is a threat that Bend becomes an "Aspen" or community where the city's housing becomes unaffordable relative to workers' average wages.
6. There is a need for a comprehensive growth strategy to create complete neighborhoods throughout Bend and the expansion area. This was not done with the last proposal.
7. Not knowing the location and intensity of infill and expansion areas prevents the ability to plan for necessary infrastructure and the funding of this infrastructure.
8. There are risks to starting UGB expansion proposals outside of the remand due to the high cost and uncertainty of this work, as well as the likelihood of appeals.
9. There are many lost opportunities that are not detected by the city and broader public which result in less economic development and job growth.
10. The focus of the Remand should be broader and include a discussion about how to make Bend and the entire region more competitive. Bend is being out competed by other cities that have available land that is served with infrastructure.
11. Efficiency measures and a preferred growth pattern should be encouraged by the city through incentives and supporting policies.
12. As much work as possible should be completed prior to the Sewer PFP being acknowledged so the remaining Remand tasks can be undertaken as quickly as possible once the Sewer PFP is acknowledged.
13. The success of the Remand impacts the entire region, and should therefore be a high priority for the City Council.
14. The local shortages of available "serviceable" land reflect poorly upon Bend and drive away business and economic development opportunities.
15. Legal appeals prevent a timely completion of important projects and should be mitigated as much as possible.

These perspectives will likely be echoed during the July 1 RTF meeting and may help the RTF form their decision on the Remand work plan. Staff has committed to meet again with this sounding board group to discuss any possible alternatives to getting the Remand completed, and to evaluate any other alternative approaches to resolving these issues.

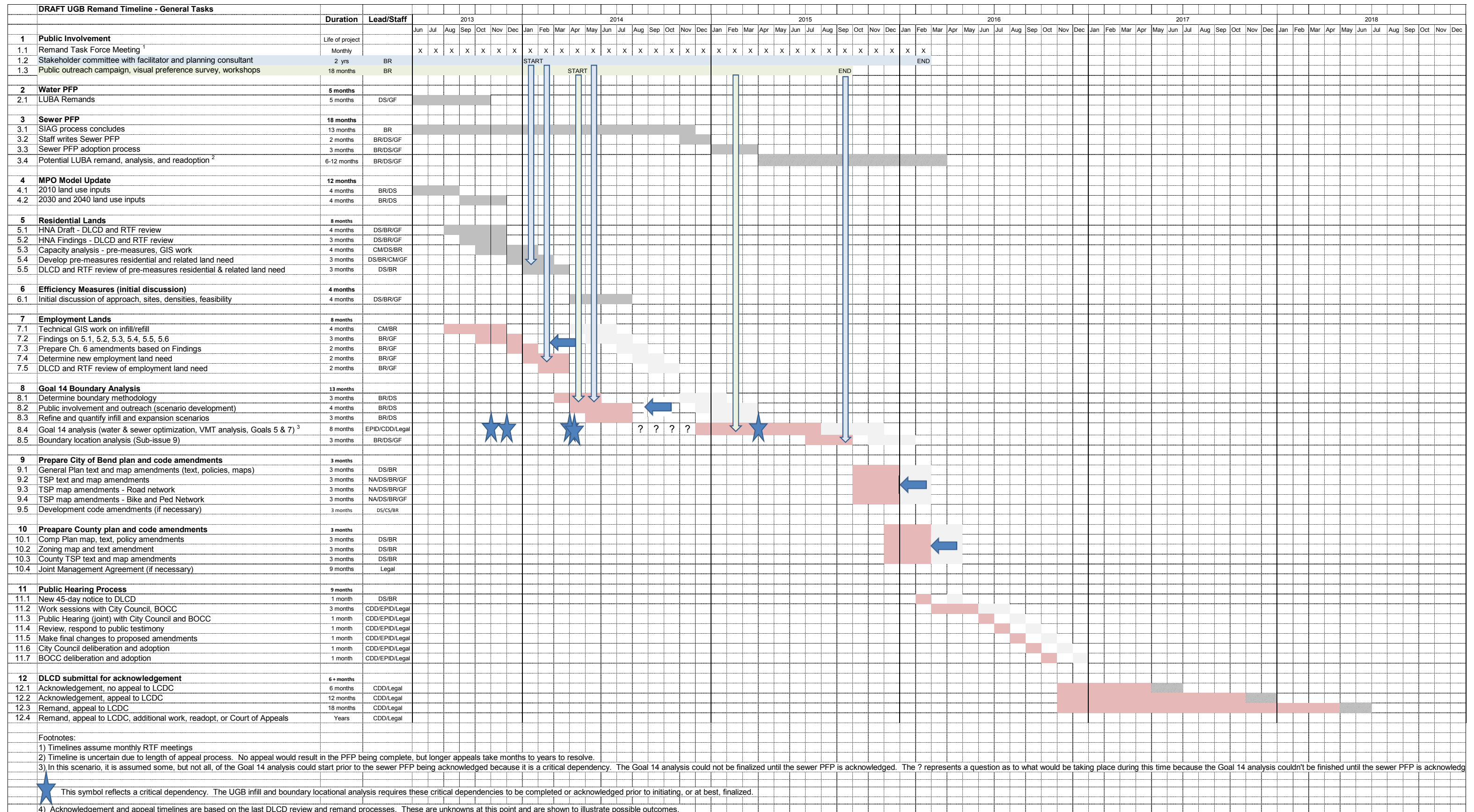
Scenario A: Draft Tasks Timeline Assuming Current Staffing and Budget

[illegible]

Scenario B: Draft Tasks and Timeline Assuming Additional Staff Dedicated to UGB

[illegible]

Scenario C: Draft Tasks Timeline Assuming Additional Staff and Public Involvement Program





UGB Remand – Communications Plan

June 2013

Project Staff:

Brian Rankin, Principal Planner (541) 388-5584 or brankin@bendoregon.gov

Damian Syrnyk, Senior Planner (541) 312-4919 or dsyrnyk@bendoregon.gov.

Goals:

Ensure anyone can get access to information on the UGB remand through the City's website and through City communications to the general public, stakeholders, and affected agencies. Proactively inform interested parties. Use major milestones to focus outreach attempts.

Objectives:

1. Push information, updates out to people. Provide all regular updates through a newsletter.
2. Keep website up to date. Use website to store meeting and background materials including the historical record developed between 2007 and 2009.
3. Be proactive with the media in providing background information on stories; don't wait for meeting dates involving significant decisions.
4. Identify key decision points to focus the story and build interest.

Tools:

Tool	Used Before	Using Now
City Website	Included: 2009 background material 2010 LCDC review material 2011 – present: RTF meeting materials	New website design: <ul style="list-style-type: none">• On-line record• Meeting materials• Push out to other projects

Tool	Used Before	Using Now
Social Media	Not used	Facebook and twitter for meeting announcements, updates to content on website, press releases
Email	Direct emails to interested persons and agencies on RTF meeting dates, when materials were available on website	Use email system developed to update interested persons on the UGB remand: http://www.bendoregon.gov/index.aspx?page=19 Expand email list – do a monthly or bimonthly newsletter?
Local news	Beat reporters write articles depending on meeting dates, topics	Forward stories, background materials, key meeting decision points to media sources (e.g. Bulletin, Source, KTVZ) Forward same information to each source's blog Meetings with The Bulletin editorial board
Public presentations	Updates to City Council, Planning Commission, not on regular schedule	Use City Manager's Memo to Council for updates Provide regular, scheduled updates to City Council Provide regular, scheduled updates to Planning Commission Provide periodic updates to Neighborhood Associations Round Table and individual Neighborhood Associations
Public Notices	Published in Bend Bulletin, through City's website	Publish notice as required by the Bend Development Code through the Bulletin, city website, distribute through press releases.

For More Information:

Online – <http://www.bendoregon.gov/index.aspx?page=613>

Brian Rankin, Principal Planner – (541) 388-5554 and brankin@bendoregon.gov

Damian Syrnyk, Senior Planner – (541) 312-4919 and dsyrnyk@bendoregon.gov

List of Interested Parties in UGB Remand and Focus of Communications and Outreach Efforts

Interested Parties	Focus of Involvement
Boards: Bend City Council Bend Planning Commission Bend Metro Parks and Recreation Board Bend-La Pine School Board Metropolitan Planning Organization Board Deschutes County Board of Commissioners Deschutes County Planning Commission	Regular updates Receive feedback
Advisory Committees: Infrastructure Advisory Committee Sewer Infrastructure Advisory Group Bend Economic Development Advisory Board	Provide updates Integrate Remand with their projects
State Agencies: Department of Land Conservation and Development Oregon Department of Transportation	Peer review of work products Provide updates
Public/Interest Groups: General Public Chamber of Commerce Central Oregon Environmental Center Civic Groups Central Oregon Builders Association Building a Better Bend Bend 2030 City Club Rotary Clubs Neighborhood Associations Central Oregon Association of Realtors Central Oregon Landwatch	Inform Involve as the group desires
Press: Bend Bulletin Editorial Board The Source Editorial Board TV/Cable/Radio	Inform about meetings and milestones
Projects: Collection Systems Master Plan Central Area Plan Mixed Use Multi-modal Area Plan MPO Travel Demand Model Update OSU Campus Planning	Integrate into Remand as needed



February 20, 2013

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Jim Rue, Director
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

Re: Request for Additional Time to Complete Work Related to 2010 Remand
of Bend Urban Growth Boundary Amendment (10-Remand-Partial Acknow-
001795)

JIM CLINTON
Mayor

JODIE BARRAM
Mayor Pro Tem

VICTOR CHUDOWSKY
City Councilor

DOUG KNIGHT
City Councilor

SALLY RUSSELL
City Councilor

MARK CAPELL
City Councilor

SCOTT RAMSAY
City Councilor

ERIC KING
City Manager

Dear Mr. Rue:

We met with you and several Department of Land Conservation and Department staff here in Bend on December 6, 2012. During our meeting, we mentioned that we would be asking you and the Land Conservation and Development Commission (Commission) for more time to complete the UGB remand and allow the approval process to be completed in phases or "bundles." This letter formalizes that request, and includes some additional background material that describes the progress made on this project, along with a description of our timeline for completion of the remand tasks.

The City of Bend (City) requests an extension of time through the end of June 2017 to complete the work related to the UGB remand. A number of projects and changes in direction have occurred at the City that necessitate this request. Primarily, the City is focusing its limited financial and staff resources on completing new public facility plans (PFPs) for its aging water and sewer facilities, some of which have capacity shortages that could threaten residential and job growth during this difficult period of economic recovery. Updated and acknowledged water and sewer PFPs for the existing UGB are fundamental building blocks upon which the remaining UGB boundary expansion analysis will be based. The PFP projects involve considerable cost, public involvement and time, including the potential for appeals to LUBA. Therefore, the City is requesting additional time to get the water and sewer PFPs acknowledged prior to beginning the UGB location analysis and related work. Enumerated below are our reasons for requesting the extension of time.

1. The City began work on a Goal 11 water PFP in January 2011. This

project has generated considerable community discussion and interest, and is taking additional time to complete due to evolving policy direction and legal challenges. This PFP was adopted by the City Council in May 2012, and after an appeal to LUBA, is now on remand. The City is working to address those issues raised in the remand and adopt an amended water PFP in March of this year. However, that adoption may also result in further appeals requiring additional time to complete.

2. In May 2012, the City Council passed Resolution No. 2875, which created a new direction to develop a new sewer collection system plan (CSMP) for the *existing* UGB. The City Council also created a sewer infrastructure advisory committee (SIAG) to help direct the work to develop a new sewer CSMP for the City. This is a new approach to public involvement, planning, engineering, and modeling for the City. It has the added benefit of intensive community involvement in infrastructure planning to facilitate greater economic development and residential density for areas inside the exiting UGB. As a result, this project will take nearly two years to complete (by mid-2014). The City intends to use this CSMP as a foundation document to develop and adopt a subsequent sewer PFP for the City. The adoption of a sewer PFP may be subject to appeals to LUBA. The City's master plan for the wastewater treatment plant was acknowledged by the Commission in their 2010 order on the UGB.

3. The work on the water PFP and sewer PFP will have the effect of delaying specific work on potential efficiency measures (Tasks 3.1 and 3.2) and any work on the boundary location analysis (Issue Area 9). We do not expect to complete this work until two years after the completion and adoption of the new sewer PFP. The new City Council has expressed an interest in engaging the community in a broader discussion and analysis about growth as part of the boundary location analysis, potentially requiring additional resources and time.

4. Completing the UGB remand has been, and continues to be, a priority for the City. That said, the City has fewer staff working on the remand tasks than we did two years ago. Brian Shetterly has retired, and we have had to also direct planning staff to work on other projects and tasks since 2010. Currently, we have two Full Time Equivalent employees devoted to long-range planning, and their time is programmed to complete not only UGB remand tasks, but other long-range planning tasks that need to be completed such as the water and sewer PFPs. The UGB remand and community discussion regarding growth are still top priorities for the new City Council, as evidenced in their 2013 goal setting.


You will find enclosed an excerpt from the 2012 Annual Report of the Bend Community Development Department. This includes a report on the UGB Remand work completed, but not yet adopted, during 2011-2012.

Extension request to Jim Rue
February 20, 2013
Page 3 of 3

Please find enclosed a proposed schedule and work plan from 2013 through 2018. The City proposes to complete this work in three stages, or in three "bundles." This approach demonstrates the City's commitment to completing the UGB remand by 2017 by actively involving the community, City Council, and LCDC as soon as possible.

We look forward to attending the Commission's March 21-22, 2013 meeting in Salem to answer any questions the Commissioners may have. Thanks very much for your consideration and for support of our work on behalf of Bend.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eric King', is written over the printed name.

Eric King, City Manager

cc: Karen Swirsky, Department of Land Conservation and Development
Bend City Council
Bend Planning Commission

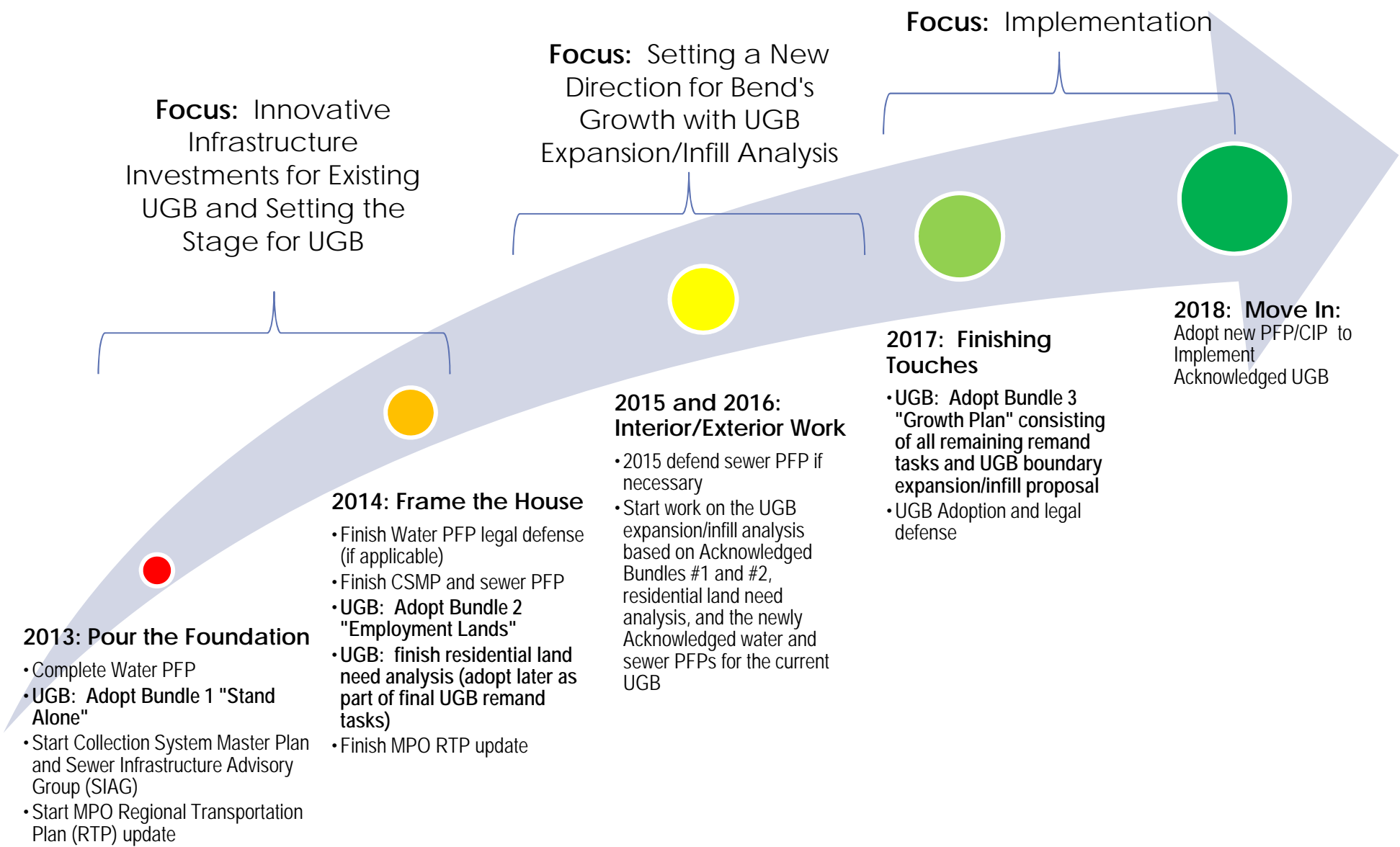
Enclosures (3)

1. Proposed bundles of remand tasks
2. Conceptual work plan for 2013-2018
3. 2012 Annual Report of the Bend Community Development Department, page 6.

City of Bend, OR
Proposed Adoption Bundles of Remand Tasks
(10-Remand-Partial Acknow-001795)

Bundle Number	Description of Remand Tasks in Adoption Bundle
1.	<p>Stand Alones - Remand Tasks that can be adopted as stand-alone products:</p> <ul style="list-style-type: none"> a. Second homes – Remand Task 2.5 b. School and Park land needs - Remand Tasks 4.2, and 4.3, Findings c. Other lands - Remand Task 4.1 d. Wildfire Hazards and Goal 7 – Remand Task 6.2
2.	<p>Employment Lands - Economic Opportunities Analysis, Findings – Remand Tasks 5.1, 5.2, 5.4, and 5.6 (Note, RTF has reviewed products for 5.6)</p>
3.	<p>UGB Boundary/Infill Analysis and Growth Plan – All remaining remand tasks related to capacity and to boundary location analysis:</p> <ul style="list-style-type: none"> a. Remand Tasks 2.2, 2.3, 2.4 – Final BLI, HNA, and estimate of residential land needed over planning period b. New Chapter 5 that incorporates these products, and shows that City will have adequate supply of land for needed housing – Remand Tasks 2.4, 2.8, 3.1, and 3.2. This new chapter recognizes past amendments to the BAGP and BDC as “efficiency measures” under ORS 197.296 and how they improve the capacity for housing in the UGB. c. All remaining remand tasks that will be addressed in boundary location analysis – Remand Tasks 2.6, 4.3, 5.8, 5.9, 6.1, 6.3, 7.3, 8.1, 8.2, 8.6, 9.1, 9.2, 9.3, 9.6, 9.7 d. One of these remaining tasks is 8.6, the VMT analysis required for the Bend MPO under the TPR.

Conceptual Work Plan: Bend UGB Remand Order



UGB Progress Report

The UGB Remand Task Force (RTF) met seven (7) times between March 2011 and April 2012. These meetings provided updates on work in progress, staff presentations on work products. The meetings include opportunities for public review and comment. Below is a list of RTF meeting dates, the topics discussed and tentatively accepted by the RTF.

April 28, 2011

Draft Findings:

- Sub-Issue 4.1 - Other Lands
- Sub-Issue 2.5 - Second Homes

June 2, 2011

Draft Findings: Sub-Issue 4.2 - Park/School Land Needs

Presentation and Discussion:

- Sub-Issue 4.3 - Future Park /School sites
- Sub-Issue 2.2 - BLI

July 28, 2011

Draft Findings:

- Sub-Issue 4.2 - Park/School Land Needs
- Sub-Issue 4.3 - Availability of Future Park/School Sites,
- Sub-Issue 5.6 - Vacancy Factor for Employment Lands
- Sub-Issue 2.3 - Part 1 Housing Needs Analysis,

September 8, 2011

Presentation and Discussion:

- Sub-Issue 2.2 - Draft Buildable Lands Inventory Housing
- Sub-Issue 2.3 - Part 1 Needs Analysis,

November 10, 2011

Presentation and Discussion:

- Sub-Issue 2.3 - Part 2 Housing Needs Analysis,
- Sub-issue 10.2 - Zoning of UGB Expansion Area

April 5, 2012

Presentation:

- Sub- Issue 2.3 - Part 3 Housing Needs Analysis (HNA),

Staff has been busy analyzing the development capacity of the vacant and redevelopable lands for consistency with recent development trends for Bend and consistency with the State definitions for vacant and redevelopable. It is anticipated that the RTF will be reconvened in late Fall of 2012 to review the draft findings.

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pdewey@bendcable.com

March 11, 2013

Land Conservation and Development Commission
c/o DLCD
635 Capitol St., NE, Ste. 150
Salem, OR 97301

**Re: City of Bend Request for an Extension on the Remand Proceedings Regarding
Expansion of the Bend Urban Growth Boundary**

Dear Commissioners:

I'm writing on behalf of Central Oregon LandWatch (a party to the original appeal proceedings) to oppose the City of Bend's request for an extension of time from May 2013 to June 2017 for the submittal of a revised determination under ORS 197.296 concerning its proposed urban growth boundary expansion. LCDC in its November 3, 2010, remand order already allowed the City two and a half years to do the remand work. This further extension would have the effect of delaying an expansion decision by over seven years.

While we would understand LCDC normally being open to such an extension request by a city, there are important reasons why any extension here needs to be carefully considered and must have significant conditions if allowed.

LandWatch's primary concern about the extension request is the outdated information that will end up being used by the City. Back in 2010, LandWatch argued to LCDC that the City's data was outdated. For example, we pointed out that the trend analysis used in Bend's 2008 Economic Opportunities Analysis (EOA) was based on outdated data associated with a market bubble that had begun to pop two years before the City adopted the EOA and the UGB expansion. However, since the EOA was dated as of 2008, LCDC in 2010 did not require the use of updated data. (LCDC, p. 71) By 2017, that report will be nine years old and the data it relied upon will be over 10 years old. The difference in the data will be significant given that we have gone through the most significant economic "correction" since the Great Depression. The EOA's analysis of the 20-year supply of employment land to 2028 will obviously not apply to the 20-year standard for a 2017 decision.

Other examples of outdated data include the single-family/multi-family mix from 1998 to 2001 (LCDC, p. 30); the 2005 City of Bend Housing Needs Analysis (LCDC, p. 30); the 2007 Residential Lands Study (LCDC, p. 31); the 2005 Parks and Recreation and Green Space Comprehensive Plan (LCDC, p. 60); the 1999 and 2002 Metro data on a 10% infill/refill factor

(LCDC, p. 69); and the 1993-2005 vacancy rate data for office and industrial land (LCDC, p. 79).

On top of all of that, the City used a bubble-era population forecast for the City showing population increases of several percent per year. In reality, the City's population has actually gone down by a couple of thousand people.

The City's justifications for the four-plus-year extension are also not well-founded.

1. Even if the City has not completed its sewer and water plans, it could have accomplished other elements of the LCDC 2010 remand involving the Buildable Lands Inventory and other issues. Yet in the extension request letter, the City offers nothing except a list of when a Remand Task Force has met seven times in the past several years.
2. It is correct that the City's Water PFP was appealed to LUBA and that LUBA remanded the PFP on several issues, but the consequences of a city's inadequate planning should not necessarily be a basis for justifying extensions. That is particularly the case here where it took two years for the City to do the water PFP following LCDC's remand and where one of the LUBA remand issues was on providing water service outside the UGB, which was one of the LCDC remand issues back in 2010.
3. Regarding sewer, it is commendable that the City finally agreed to a more open public process. Goal 1 complaints were key issues in several appellants' appeals of the UGB expansion. An incomplete sewer plan, however, is not basis to delay all of the remand.
4. Decreased staffing for long-range planning is a concern, but it should be noted that the City has made extensive use of outside consultants to do the bulk of the work underlying the water and sewer plans.
5. LandWatch is also concerned with the proposed segmentation of the remand process where remand tasks are being "bundled" for separate acknowledgment. Such separate acknowledgement was not part of the original remand order. Though this segmented acknowledgment is not mentioned in the City's letter, it is referenced in the City's attached graphic of "Conceptual Work Plan: Bend UGB Remand Order." Our concern is that a number of these tasks are inter-related and that only by considering them together can one understand the full implications associated with any particular task subject. Early submittals to DLCD of task determinations as they are done would be good, but no acknowledgment should be made until the complete package is done. This would also help avoid more outdated data problems if further extension requests are made for certain remand tasks.

March 11, 2013

Page 3

In conclusion, this extension request should not be approved unless there is a requirement that all data used be updated. Out of fairness to all the appellants in the prior proceedings, some notice and opportunity for them to comment should also have been provided here.

Thank you for your consideration.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Paul Dewey", with a stylized, cursive script.

PAUL DEWEY

PD:ao

cc: Board



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Fax: (503) 378-5518

www.oregon.gov/LCD



March 12, 2013

To: Land Conservation and Development Commission

From: Jim Rue, Director
Karen Swirsky, Central Oregon Regional Representative

Subject: **Agenda Item 4, March 21, 2013 LCDC Meeting**

CITY OF BEND

REQUEST FOR EXTENSION TO COMPLETE WORK RELATED TO UGB REMAND

I. AGENDA ITEM SUMMARY

A. Type of Action and Commission Role

The City of Bend is under remand to complete certain tasks related to the expansion of the city's urban growth boundary. The commission set a deadline of May 2, 2013 for completion of the remand tasks at the request of the city. The city requests the commission approve an extension of this deadline to June 2017. Additionally, the city requests phased submittal of items adopted in response to the remand.

B. Staff Contact Information

If you have questions about this agenda item, please contact Karen Swirsky, Central Oregon Regional Representative, at 541-325-6927 or karen.swirsky@state.or.us.

II. BACKGROUND

As the materials provided by the city describe (Attachment A), there have been significant changes in circumstances since 2010, which have changed the timeline for completing the UGB expansion. The city requests an official extension of the time limit by the commission to complete the tasks set out in the remand order.

The letter from Paul Dewey, on behalf of Central Oregon LandWatch, in Attachment B requests that the commission require updates to data used in the city's Economic Opportunities Analysis and Housing Needs Analysis as part of any extension of the remand order. LandWatch is also

concerned about the city's proposed phased submission, arguing any approval should wait until all phases are complete.

III. ANALYSIS

Staff has been working closely with the city and believes that the attached timelines are realistic. The city has completed the work related to the Buildable Lands Inventory and several sub-issues on the residential lands remand. The city has been working assiduously on its water and sewer public facilities plans and is making important progress that will result in a strong analysis to support a realistic assessment of the city's expansion needs.

The city is not asking the commission for reconsideration of any of the remand task items. The ongoing work being performed by the city is based on the population forecast adopted by Deschutes County. That forecast has not been updated, so any new analysis would be based on the same population assumption. The planning horizon for the UGB also will not change. The issues raised by LandWatch were heard and resolved by the commission in 2010.

Regarding phased submittal, for residential lands, ORS 197.296 requires that a plan accommodate identified need. That is, the city is not permitted to adopt a residential land needs analysis that shows a need without simultaneously accommodating that need. No parallel provision exists for employment or other non-residential lands.

The department is unaware of any authority the commission or department has to consider anything but the final, adopted UGB amendment. In a similar case, the city adopted its updates in phases but did not send notice of adoption, either as a post-acknowledgment plan amendment or in the manner for review of a periodic review task; it will submit the final package when the UGB amendment is complete.

IV. DEPARTMENT RECOMMENDATION AND PROPOSED MOTION

Staff recommends that the commission approve the request for an extension until June 2017 for completion of the remand tasks included in Remand and Partial Acknowledgement Order 001795. Further, the department recommends that the commission not approve the request to submit for review the city's response to the remand in phases.

Recommended Motion

I move the commission approve the city of Bend's request for an extension until June 2017 for completion of the remand tasks included in Remand and Partial Acknowledgement Order 001795.

Alternative Motion

I move the commission approve the city of Bend's request for an extension until _____ for completion of the remand tasks included in Remand and Partial Acknowledgement Order 001795.

ATTACHMENTS

- A. Bend extension request and background materials, February 20, 2013
- B. Paul Dewey on behalf of Central Oregon LandWatch comment letter, March 11, 2013

DEPT OF
FEB 22 2013
LAND CONSERVATION
AND DEVELOPMENT



February 20, 2013

710 NW WALL
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PO Box 431
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Jim Rue, Director
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

Re: Request for Additional Time to Complete Work Related to 2010 Remand
of Bend Urban Growth Boundary Amendment (10-Remand-Partial Acknow-
001795)

JIM CLINTON
Mayor

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City Councilor

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ERIC KING
City Manager

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project has generated considerable community discussion and interest, and is taking additional time to complete due to evolving policy direction and legal challenges. This PFP was adopted by the City Council in May 2012, and after an appeal to LUBA, is now on remand. The City is working to address those issues raised in the remand and adopt an amended water PFP in March of this year. However, that adoption may also result in further appeals requiring additional time to complete.

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3. The work on the water PFP and sewer PFP will have the effect of delaying specific work on potential efficiency measures (Tasks 3.1 and 3.2) and any work on the boundary location analysis (Issue Area 9). We do not expect to complete this work until two years after the completion and adoption of the new sewer PFP. The new City Council has expressed an interest in engaging the community in a broader discussion and analysis about growth as part of the boundary location analysis, potentially requiring additional resources and time.

4. Completing the UGB remand has been, and continues to be, a priority for the City. That said, the City has fewer staff working on the remand tasks than we did two years ago. Brian Shetterly has retired, and we have had to also direct planning staff to work on other projects and tasks since 2010. Currently, we have two Full Time Equivalent employees devoted to long-range planning, and their time is programmed to complete not only UGB remand tasks, but other long-range planning tasks that need to be completed such as the water and sewer PFPs. The UGB remand and community discussion regarding growth are still top priorities for the new City Council, as evidenced in their 2013 goal setting.

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Extension request to Jim Rue
February 20, 2013
Page 3 of 3

Please find enclosed a proposed schedule and work plan from 2013 through 2018. The City proposes to complete this work in three stages, or in three "bundles." This approach demonstrates the City's commitment to completing the UGB remand by 2017 by actively involving the community, City Council, and LCDC as soon as possible.

We look forward to attending the Commission's March 21-22, 2013 meeting in Salem to answer any questions the Commissioners may have. Thanks very much for your consideration and for support of our work on behalf of Bend.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eric King', is written over a horizontal line.

Eric King, City Manager

cc: Karen Swirsky, Department of Land Conservation and Development
Bend City Council
Bend Planning Commission

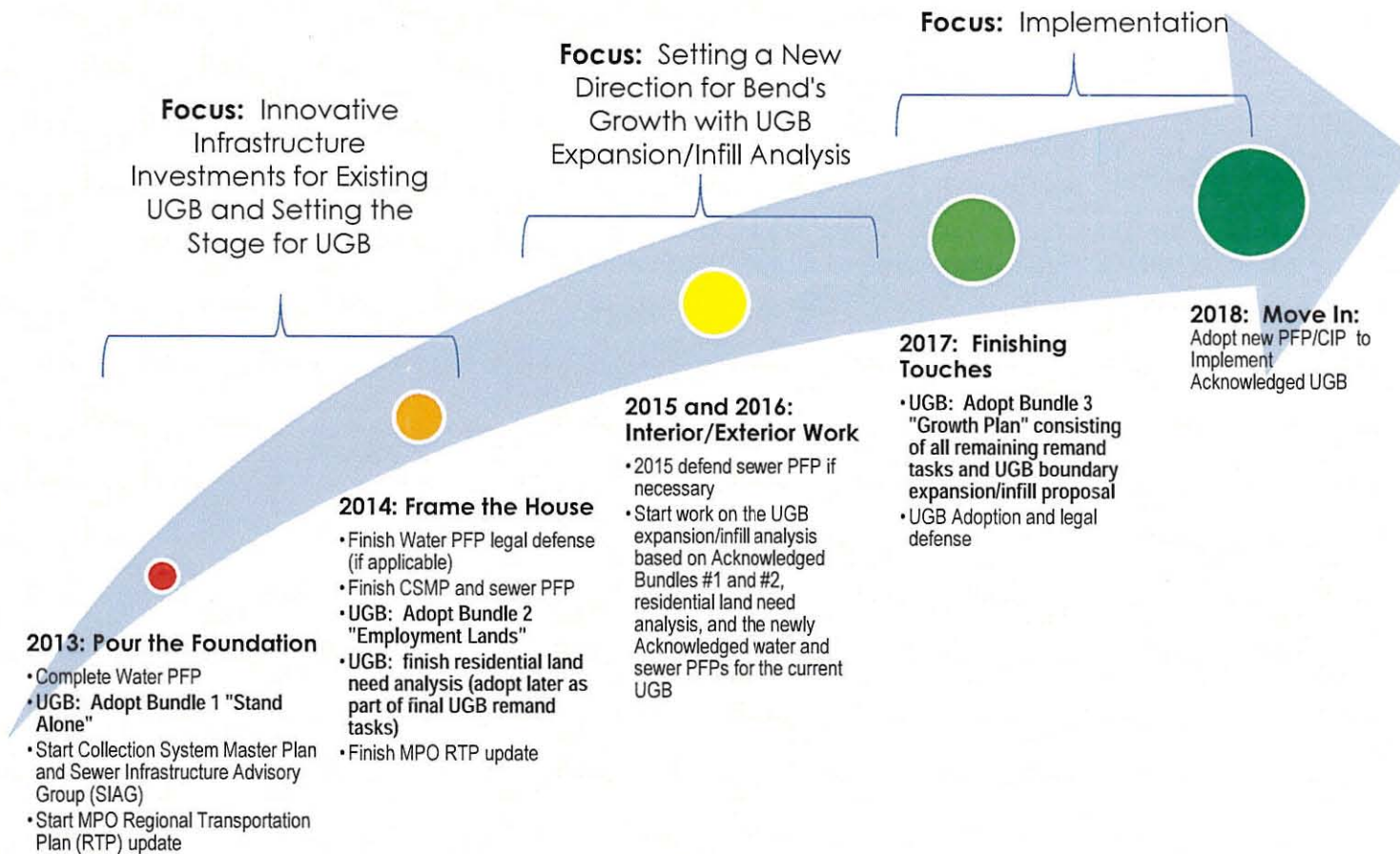
Enclosures (3)

1. Proposed bundles of remand tasks
2. Conceptual work plan for 2013-2018
3. 2012 Annual Report of the Bend Community Development Department, page 6.

City of Bend, OR
Proposed Adoption Bundles of Remand Tasks
(10-Remand-Partial Acknow-001795)

Bundle Number	Description of Remand Tasks in Adoption Bundle
1.	<p>Stand Alones - Remand Tasks that can be adopted as stand-alone products:</p> <ul style="list-style-type: none"> a. Second homes – Remand Task 2.5 b. School and Park land needs - Remand Tasks 4.2, and 4.3, Findings c. Other lands - Remand Task 4.1 d. Wildfire Hazards and Goal 7 – Remand Task 6.2
2.	<p>Employment Lands - Economic Opportunities Analysis, Findings – Remand Tasks 5.1, 5.2, 5.4, and 5.6 (Note, RTF has reviewed products for 5.6)</p>
3.	<p>UGB Boundary/Infill Analysis and Growth Plan – All remaining remand tasks related to capacity and to boundary location analysis:</p> <ul style="list-style-type: none"> a. Remand Tasks 2.2, 2.3, 2.4 – Final BLI, HNA, and estimate of residential land needed over planning period b. New Chapter 5 that incorporates these products, and shows that City will have adequate supply of land for needed housing – Remand Tasks 2.4, 2.8, 3.1, and 3.2. This new chapter recognizes past amendments to the BAGP and BDC as “efficiency measures” under ORS 197.296 and how they improve the capacity for housing in the UGB. c. All remaining remand tasks that will be addressed in boundary location analysis – Remand Tasks 2.6, 4.3, 5.8, 5.9, 6.1, 6.3, 7.3, 8.1, 8.2, 8.6, 9.1, 9.2, 9.3, 9.6, 9.7 d. One of these remaining tasks is 8.6, the VMT analysis required for the Bend MPO under the TPR.

Conceptual Work Plan: Bend UGB Remand Order



UGB Progress Report

The UGB Remand Task Force (RTF) met seven (7) times between March 2011 and April 2012. These meetings provided updates on work in progress, staff presentations on work products. The meetings include opportunities for public review and comment. Below is a list of RTF meeting dates, the topics discussed and tentatively accepted by the RTF.

April 28, 2011

Draft Findings:

- Sub-Issue 4.1 - Other Lands
- Sub-Issue 2.5 - Second Homes

June 2, 2011

Draft Findings: Sub-Issue 4.2 - Park/School Land Needs

Presentation and Discussion:

- Sub-Issue 4.3 - Future Park /School sites
- Sub-Issue 2.2 - BLI

July 28, 2011

Draft Findings:

- Sub-Issue 4.2 - Park/School Land Needs
- Sub-Issue 4.3 - Availability of Future Park/School Sites,
- Sub-Issue 5.6 - Vacancy Factor for Employment Lands
- Sub-Issue 2.3 - Part 1 Housing Needs Analysis,

September 8, 2011

Presentation and Discussion:

- Sub-Issue 2.2 - Draft Buildable Lands Inventory Housing
- Sub-Issue 2.3 - Part 1 Needs Analysis,

November 10, 2011

Presentation and Discussion:

- Sub-Issue 2.3 - Part 2 Housing Needs Analysis,
- Sub-issue 10.2 - Zoning of UGB Expansion Area

April 5, 2012

Presentation:

- Sub- Issue 2.3 - Part 3 Housing Needs Analysis (HNA),

Staff has been busy analyzing the development capacity of the vacant and redevelopable lands for consistency with recent development trends for Bend and consistency with the State definitions for vacant and redevelopable. It is anticipated that the RTF will be reconvened in late Fall of 2012 to review the draft findings.

1539 NW Vicksburg
Bend, Oregon 97701
(541) 317-1993
fax (541) 383-3470
pdewey@bendcable.com

March 11, 2013

Land Conservation and Development Commission
c/o DLCD
635 Capitol St., NE, Ste. 150
Salem, OR 97301

**Re: City of Bend Request for an Extension on the Remand Proceedings Regarding
Expansion of the Bend Urban Growth Boundary**

Dear Commissioners:

I'm writing on behalf of Central Oregon LandWatch (a party to the original appeal proceedings) to oppose the City of Bend's request for an extension of time from May 2013 to June 2017 for the submittal of a revised determination under ORS 197.296 concerning its proposed urban growth boundary expansion. LCDC in its November 3, 2010, remand order already allowed the City two and a half years to do the remand work. This further extension would have the effect of delaying an expansion decision by over seven years.

While we would understand LCDC normally being open to such an extension request by a city, there are important reasons why any extension here needs to be carefully considered and must have significant conditions if allowed.

LandWatch's primary concern about the extension request is the outdated information that will end up being used by the City. Back in 2010, LandWatch argued to LCDC that the City's data was outdated. For example, we pointed out that the trend analysis used in Bend's 2008 Economic Opportunities Analysis (EOA) was based on outdated data associated with a market bubble that had begun to pop two years before the City adopted the EOA and the UGB expansion. However, since the EOA was dated as of 2008, LCDC in 2010 did not require the use of updated data. (LCDC, p. 71) By 2017, that report will be nine years old and the data it relied upon will be over 10 years old. The difference in the data will be significant given that we have gone through the most significant economic "correction" since the Great Depression. The EOA's analysis of the 20-year supply of employment land to 2028 will obviously not apply to the 20-year standard for a 2017 decision.

Other examples of outdated data include the single-family/multi-family mix from 1998 to 2001 (LCDC, p. 30); the 2005 City of Bend Housing Needs Analysis (LCDC, p. 30); the 2007 Residential Lands Study (LCDC, p. 31); the 2005 Parks and Recreation and Green Space Comprehensive Plan (LCDC, p. 60); the 1999 and 2002 Metro data on a 10% infill/refill factor

(LCDC, p. 69); and the 1993-2005 vacancy rate data for office and industrial land (LCDC, p. 79).

On top of all of that, the City used a bubble-era population forecast for the City showing population increases of several percent per year. In reality, the City's population has actually gone down by a couple of thousand people.

The City's justifications for the four-plus-year extension are also not well-founded.

1. Even if the City has not completed its sewer and water plans, it could have accomplished other elements of the LCDC 2010 remand involving the Buildable Lands Inventory and other issues. Yet in the extension request letter, the City offers nothing except a list of when a Remand Task Force has met seven times in the past several years.
2. It is correct that the City's Water PFP was appealed to LUBA and that LUBA remanded the PFP on several issues, but the consequences of a city's inadequate planning should not necessarily be a basis for justifying extensions. That is particularly the case here where it took two years for the City to do the water PFP following LCDC's remand and where one of the LUBA remand issues was on providing water service outside the UGB, which was one of the LCDC remand issues back in 2010.
3. Regarding sewer, it is commendable that the City finally agreed to a more open public process. Goal 1 complaints were key issues in several appellants' appeals of the UGB expansion. An incomplete sewer plan, however, is not basis to delay all of the remand.
4. Decreased staffing for long-range planning is a concern, but it should be noted that the City has made extensive use of outside consultants to do the bulk of the work underlying the water and sewer plans.
5. LandWatch is also concerned with the proposed segmentation of the remand process where remand tasks are being "bundled" for separate acknowledgment. Such separate acknowledgement was not part of the original remand order. Though this segmented acknowledgment is not mentioned in the City's letter, it is referenced in the City's attached graphic of "Conceptual Work Plan: Bend UGB Remand Order." Our concern is that a number of these tasks are inter-related and that only by considering them together can one understand the full implications associated with any particular task subject. Early submittals to DLCD of task determinations as they are done would be good, but no acknowledgment should be made until the complete package is done. This would also help avoid more outdated data problems if further extension requests are made for certain remand tasks.

March 11, 2013

Page 3

In conclusion, this extension request should not be approved unless there is a requirement that all data used be updated. Out of fairness to all the appellants in the prior proceedings, some notice and opportunity for them to comment should also have been provided here.

Thank you for your consideration.

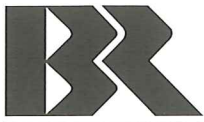
Very truly yours,

A handwritten signature in blue ink, appearing to read "Paul Dewey", with a stylized flourish at the end.

PAUL DEWEY

PD:ao

cc: Board



Brooks Resources Corporation

March 15, 2013

Land Conservation and Development Commission
c/o Jim Rue, Director, DLCD
635 Capitol Street NE, Ste. 150
Salem, Oregon 97301-2540

RE: City of Bend request for an extension on the remand proceedings regarding expansion of the Bend Urban Growth Boundary

Dear Commissioners:

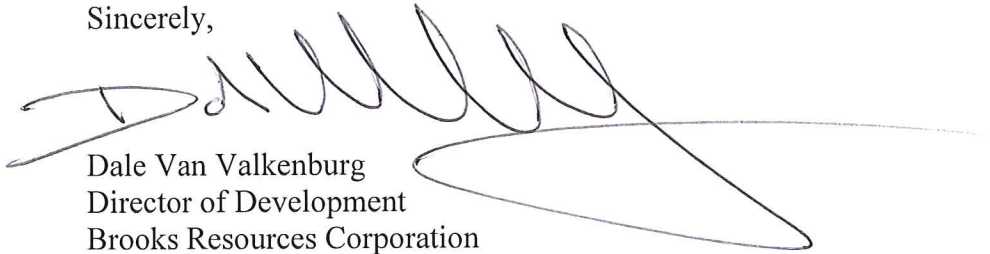
I am writing on behalf of Brooks Resources Corporation, a party to the original proceedings, regarding the City of Bend's request for an extension of time from May 2013 to June 2017 to complete the work related to the 2010 Remand of the Bend Urban Growth Boundary Amendment (10-Remand-Parital Acknow-001795).

Since the remand occurred in 2010, the City of Bend has initiated a comprehensive reevaluation of its Sewer Public Facilities Plan that will be of tremendous benefit to the City of Bend and its citizens. The timeline for the Sewer PFP, which incorporates a significant public input/involvement component, does not call for completion of that work until June of 2014. That work will then be utilized to inform the remaining remand tasks.

Thus, it is essential that the City of Bend be granted an extension to the remand deadline. However, we are concerned about the length of time the City has requested. Unfortunately, the June 2017 timeframe the City has proposed is a realistic one given the limited staff and financial resources the City has devoted to this project. We urge both the City of Bend and the LCDC to consider allocating more resources to this project. Given the recent improvement in Bend's real estate market, extending the UGB process out that long will lead to a shortage of available inventory, which in turn will inevitably lead to a sharp increase in housing prices, bringing the affordable housing issue once again to the fore.

Thank you for this opportunity to comment on this very important project for the future of the City of Bend.

Sincerely,

A handwritten signature in dark ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Dale Van Valkenburg
Director of Development
Brooks Resources Corporation
409 NW Franklin Avenue
Bend, Oregon 97701

Cc: Jon Skidmore, Bend Assistant City Manager
Paul Dewey, Attorney at Law

March 21, 2013

Land Conservation and Development Commission
635 Capitol Street NE, Suite 150
Salem, OR 970301-2540



710 NW WALL
STREET
PO Box 431
BEND, OR 97701
[541] 388-5505 TEL
[541] 385-6676 FAX
BENDOREGON.GOV

RE: March 21, 2013 LCDC Meeting: Item No. 4 – Extension
Request for Completing Work on Bend Urban Growth Boundary
Remand.

Dear Chair Worrix and Members of the Commission:

Thank you for considering the City's request for an extension of time. City staff have been working closely with Department staff, particularly Regional Representative Karen Swirsky, to complete the remand tasks from the Commission's November 2010 Order. We're grateful for the time and support Karen and the rest of the Department staff have provided us.

JIM CLINTON
Mayor

JODIE BARRAM
Mayor Pro Tem

VICTOR CHUDOWSKY
City Councilor

DOUG KNIGHT
City Councilor

SALLY RUSSELL
City Councilor

MARK CAPELL
City Councilor

SCOTT RAMSAY
City Councilor

ERIC KING
City Manager

We understand you have received a March 11, 2013 letter from Paul Dewey on behalf of Central Oregon Landwatch. The letter raises a number of issues that have already been resolved in the Commission's November, 2010 Order. These issues include those raised regarding the economic opportunities analysis (EOA), the population forecast that was acknowledged in 2005, and those issues raised at the bottom of page 1. The City has requested an extension of time to complete the remand, and is not asking the Commission to re-open the record to reconsider issues that are already settled.

Mr. Dewey's request to require "that all data used be updated" is contrary to the final remand order, and from a practical standpoint would require the entire project to start over. Mr. Dewey's concern was directly addressed, and dismissed, in Remand Task 5.3.

The City is unaware of any authority that would allow the Commission to impose conditions such as the ones proposed by Mr. Dewey. Mr. Dewey in effect is asking to reopen complex technical and legal issues settled in the remand order, and the requested conditions would need to be subject to further public input and judicial review.

The request for a time extension is allowed by statute (ORS 197.636) and rule (660-025-0170 (1)). The statute and rule are directed to remand work tasks and programs, are not explicitly or directly applicable to remand orders involving complex UGB expansion proposals, which is why the City is seeking a time extension longer than one year. It is also worth noting that the City is not in complete control of meeting the remand deadline because the water and sewer PFPs for the current UGB must be acknowledged before finishing the UGB boundary expansion analysis, and obtaining acknowledgement is neither guaranteed within a two year time frame, nor possible in the case of Bend.

Letter to the Land Conservation and Development Commission
March 2013
Page 2 of 2

While we believe that LCDC could make final decisions on non-residential land need and non-UGB boundary related remand work tasks (described as adoption "bundles" in the City's February 20th letter), the City accepts DLCD staff's recommendation that LCDC's order be limited to amending the remand deadline.

You have the City's February 20, 2013, letter to Jim Rue outlining the work that has been completed and the City's proposed strategy for completing the rest of the remand. That letter includes a report on which remand tasks have actually been completed, and summarizes the City's work to develop new water and sewer public facility plans. While the remand work has proceeded more slowly than expected, we're making progress on several fronts to complete this project and engaging the public in an effective and productive manner.

Thank you for your time and consideration.

A handwritten signature in black ink, appearing to read "Mel Oberst", with a long horizontal flourish extending to the right.

Sincerely,
Mel Oberst, Director
Community Development Department

cc: Bend City Council
Bend Planning Commission
Eric King, City Manager



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

Community Services Division

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Fax: (503) 378-5518

www.oregon.gov/LCD



April 1, 2013

Eric King, City Manager
City of Bend
710 N.W. Wall Street
Bend, Oregon 97701

RE: LCDC Approval of Bend's Request for Extension of UGB Deadline
(LCDC Order 13-Extension Resubmit Deadline 001833)

Dear Mr. King:

I am pleased to inform you that the Land Conservation and Development Commission approved Bend's request for an extension of the deadline for resubmittal of your urban growth boundary amendment, established in LCDC Order 10-REMAND-PARTIAL ACKNOW-001795, at its March 21, 2013 meeting. The deadline is extended to June 30, 2017. This letter serves as the final order implementing the commission's decision.

Judicial review of this order may be obtained by filing a petition for review within 21 days from the service of this final order, pursuant to ORS 197.651(3).

We appreciate the efforts of the Bend staff and appointed officials in completing this important planning project. Please contact Karen Swirsky, your regional representative, at 541-325-6927 or karen.swirsky@state.or.us, if you have any questions or need further assistance.

Yours truly,

Rob Hallyburton
Community Services Division Manager

cc: Nick Lelack, Deschutes County Planning Director (email)
Jim Rue, DLCD Director (email)
Carrie MacLaren, DLCD Deputy Director (email)
Karen Swirsky, DLCD Regional Representative (email)
Larry French, DLCD Periodic Review Specialist (email)

AGENDA

UGB Remand Task Force (RTF)

Monday, July 29, 2013
3:00 p.m.

Bend Metro Parks and Recreation District Office
799 SW Columbia Street, Bend, OR 97702



710 NW WALL
STREET
PO BOX 431
BEND, OR 97701
[541] 388-5505 TEL
[541] 385-6676 FAX
BENDOREGON.GOV

JIM CLINTON
Mayor

JODIE BARRAM
Mayor Pro Tem

VICTOR CHUDOWSKY
City Councilor

DOUG KNIGHT
City Councilor

SALLY RUSSELL
City Councilor

MARK CAPELL
City Councilor

SCOTT RAMSAY
City Councilor

ERIC KING
City Manager

1. Call to Order
2. Approval of Minutes – July 1, 2013
3. UGB website, list of interested parties, communications plan, and UGB remand work plans (from July 1, 2013 RTF meeting):
 - a. Staff presentation on the UGB website
 - b. Discuss suggestions, concerns, etc. – public, staff, RTF
 - c. Testimony – public
 - d. RTF deliberations and recommended timeline - RTF
4. Adjourn

UGB Remand Task Force Meeting
July 1, 2013
Minutes

1. Call to Order

The Remand Task Force Meeting was called to order in the Riverbend Community Room of the Bend Parks and Recreation District at 3:06 PM on July 1, 2013. Present were the Remand Task Force Members, Chair Cliff Walkey, Vice Chair Jodie Barram, Doug Knight, Sally Russell, and Kevin Keillor.

Staff present included Brian Rankin, Damian Syrnyk, Mary Winters, Gary Firestone, Jon Skidmore, Tom Hickmann and Russell Grayson.

2. Approval of Minutes from April 5, 2012

After Jodie Barram mentioned a scrivener's error and asked that the date at the top be corrected, the minutes were then approved by all members except Doug Knight, who abstained as he was not an RTF member at that time.

3. Staff and RTF Discussion - Background on UGB Remand Order, Collection Systems Master Plan, Remand Work Plan, Timeline and Citizen Participation

Chair Walkey opened the meeting at 3:06 PM. He mentioned that Doug Knight and Sally Russell are new to the RTF. Regarding number 3 on the agenda, we will postpone the discussion part and experiment with this format. This will just be a work session. We would like to recognize speakers today so please identify yourself.

Welcome by Brian Rankin. We appreciate your time and we hope to have more of a discussion after staff presentation. All materials are on the website. Mr. Rankin then proceeded to give a background of the RTF to date. He mentioned that we were able to obtain an extension and we'll be talking about the timeline and we'll also discuss the tasks to be done.

Highlights of the Remand include reworking land needs, water and sewer public facility plans for the current UGB, and guidance on completing the transportation and boundary analyses. We are now working on the current PFPs for the current UGB. They are key foundations for the analysis for growth.

The Remand has broad implications that include big impacts on public infrastructure, rivers, habitats, and farms.

A timeline was presented which ended in 2018. The first items include completing the water PFP, starting the CSMP and SIAG and starting the regional RTP. Then in 2014, we hope to finish the Water PFP legal defense, finish the CSMP and start the sewer

PRP, finish RTF work on residential land need analysis, and then move to finishing approvals and then finally send to the state for approval.

Brian acknowledged that we have heard some concerns about the timeline and we are addressing them now. The UGB Remand is one of the most important projects in the City. We have a few work plan scenarios to discuss: each outlines work tasks and dependencies; differs in staffing resources and decision making, and; each is designed to elicit feedback. The attendees were asked to consider whether there is a better and faster way to do the work.

We have work plan dependencies that include MPO travel demand model update, residential land need analyses completed, employment land, Water PFP acknowledged, and Sewer PFP acknowledged. All must be completed before we can do significant work on the UGB.

A question was asked if we could prioritize employment land before residential land as it may effect economic growth. Mr. Rankin stated that that could be something we consider.

The soonest the Sewer PFP can be acknowledged is March 2015 but it could be longer. Assuming another 8 months to complete the modeling and boundary analyses, plus five months for all local adoptions, the earliest local adoption is April 2016. This dependency, plus appeals to LUBA, has the most significant impacts on the timeline on all timelines.

The City will need to add additional staff to improve speed with quality so as much work as possible prior to the Sewer PFP acknowledgement occurs and improving stakeholder and community buy-in along the way. These will ideally reduce the time required to do analyses and appeals of end products. We hope to have a recommendation by August.

4. Review Communications Plan and List of Interested Parties

Damian Syrnyk then presented a communications plan. This includes pushing information and updates out to people, providing all regular updates through a newsletter, and keeping the website up-to date. We want to use social media such as Twitter and Facebook and we will be using an email system that sends interested parties updates. We'll also make use of tools such as local news, public presentations and public notices.

The RTF discussed whether to have these meetings once a month and whether we should we have it regularly. Mr. Rankin will send a doodle poll for possible dates and times.

5. Public Comment and RTF Discussion

Steve Hultberg, representing Newland Communities, spoke. He thanked staff for meeting with him previously. He believes the City should adequately staff for the UGB and that it is very important. He understands the sequential timeline, but he recommends we do as much as possible so that in 2015 and 2016, everything is ready to go. He suggests we focus on the residential needs analysis and getting everything teed up. He thinks the timeline looks reasonable.

Deborah McMahon, DMC Consulting Services. She echoes what Steve says and what staff says. But, if you step back, add a couple of years for appeals, the question keeps coming up if we can put the City on hold until this is done. Maybe we need to work backwards and start this year. We should look at different tasks with fresh eyes. There are many pressures facing the City.

Bruce White represents a client who owns land in the UAR 10 Zone, just north of WalMart, which is primarily economic land. He says it's unacceptable for us to not be able to add land until 2018. The City may need to dig deep to find resources -- it's all hands on deck to get something moving. OSU was not mentioned but that will have a big impact on planning resources, among other big projects. Some base analyses can be done. He also wonders if we could take some pieces out and do them separately from the UGB.

Liz Dickson represents many people inside and outside the UGB. In the last 45 days alone, she had 2 investors interested in Bend decide not to come because either there was not property or the process was too complicated and beleaguered. She believes we get them attracted here but we're not giving them a reason to invest. We don't have the land available to attract investors and business. She believes the UGB process is taking too long. She states that it's commercial and industrial land that her investors were interested in. She also she believes the fees are too expensive.

Jodie asks if others agree that it is employment land that we need focus on first or do they see it more in tandem with residential land. Bruce White states that it's both - residential and employment. He believes they both need to be worked on at the same time.

Dale VanValkenburg. He mentions that if we don't have shovel-ready land available, you never get over the threshold. He raised the question of whether the supply of employment land could be increased through a PAPA process or go outside of the UGB?

Brenda Pace also brought up population base and the new industries as are they basic multipliers. Perhaps they would have quicker results.

Mr. Rankin discussed the EOA that was based on population growth. The job growth estimates were not part of the remand. It does not have to be reconsidered through the remand.

Andy High, COBA, says we have about 1,300 lots to be built on. We have another 1,500 lots on paper with no improvements on them. Employment land is great but we have to have somewhere to have them. We have a 1% vacancy rate in rentals. We need supply -- its supply and demand. He advocates getting the annexation agreement done quickly.

Chair Walkey asks about the annexation agreement and Mr. High clarifies that you need to have a plan on what it's going to take to be part of the City.

Roger Lee, executive director of EDCO. It has local and regional implications. Sewer and water are huge issues and we're tracking that. The investment by the City is immense. We're the 5th largest MSA. His concern is that we thought we had the right formula before but the department said we need to essentially start from scratch. Can we broaden the resources?

Mr. Rankin mentioned that we also asked about incremental approvals. Can we bring bundles of these tasks and get them approved as we go and not wait until the end? The commission did not say that they had the legal authority to grant that request. We've looked at other alternatives. Should we adopt something outside of the UGB? It is risky because it could be appealed. The EOA was done in 2006. Can we still use it?

Mary Winters mentioned that the City and the DLCD had different views and that the remand order is pretty prescriptive. The one place that's still difficult is how you do the Goal 14 expansion areas - it's tricky because we have a new Remand Order and a Court of Appeals case. We do have a much better relationship with the DLCD now, though. We are checking in and this did not happen before. We are trying really hard to have a good community process. Also, we feel that the DLCD wants to help us in this process.

Sally Russell mentioned that the resources that the City has available to use to accomplish the tasks at hand is really limited and has been cut back significantly. How are we going to move through this?

Deborah McMahon discussed budgets, including the CDD budget. She believes we need to have someone out there as public outreach.

Mr. Hultberg suggests that we should look at the big picture -- it's the land term implication. Roger Lee asks if the City has done any analyses of what that might look like. Mr. Rankin looked preliminarily at what it might look like, just an informal analysis

with tax revenues. Tom Hickmann mentions that we looked at the revenue of sewer SDC's, he can't recall the exact number but it was a significant number.

Mr. Rankin will try to find the analysis he did to share with others.

Chair Walkey asks Mr. Rankin to speak to the timeframe and when the UAR would be combined with the UGB or if it would be separate.

Mr. Rankin mentions that one idea floated around is combining the UGB expansion with a UAR or a county initiated area reserve outside of the project.

Peter Gutowsky from Deschutes County spoke. In 2006, they worked collaboratively with Redmond with urban reserves. They did an UGB amendment. They worked with the City of Bend and there was a lot of pressure on City staff. Since 2007-2008, it's been on the backburner for the County. He suggests we do an urban reserve.

Mr. Rankin mentions that yes, we could initiate an UAR but staff is limited. The RTF is the group of experts and Council will listen to what they suggest.

Chair Walkey asks Mr. Rankin what types of things we should be thinking of when recommending something to Council to which Brian mentions the different model and the preferred model and why. (Please refer to the memorandum that Mr. Rankin circulated in terms of recommendations.)

Chair Walkey asks about the public involvement process. Wes Price, member of SIAG, mentions that we should do whatever is the quickest. He mentions that SIAG doesn't wish the process to go on forever -- let's keep it moving. He believes a lot of things can be moving forward simultaneously.

Toby Bayard (Volunteer from Landwatch). She believes that if the public understands the issues, they'll be more able to participate.

Mr. White also mentions that it might help if participants find out what the bottom line is - maybe we have mutual visions. Let's have a dialogue.

Jon Skidmore mentions that we should find out what we all envision - that the person that might appeal the UGB is most likely in the room.

Peter Gutowsky suggests that it would be helpful in 12 months to identify land need. Look at the lands in the UGB today that will see some urban efficiencies. Engage the community to find out what's palatable; vet it thoroughly; have dialogue; and have the City Council recognize what the efficiencies are. Then, it would be possible to discuss guidelines to determine which lands can be developed and which can be served. Could PW develop guidelines and then offer them to developers?

Mrs. Winters mentions that in her experience, people don't realize that we, as a City, often feel stuck in the middle but we see both sides. It's a very confusing process. Mr. Hickmann mentions that we're cautious about looking outside the urban boundary because it got is in trouble before.

Peter Gutowsky thinks we should come up with guidelines to give to developers. He again mentions we have an urban reserve.

Kevin Keillor asks us to think about whether we should start over and also asks that we all review the director's decision before the next meeting.

Toby Bayard (Volunteer) Landwatch asks about Bend 2030. Mrs. Barram mentions that they have an accelerated list, including OSU that will have an impact on infrastructure, etc.

Chair Walkey wrapped it up by saying that the RTF has a charter to follow. He does not want the process to be that staff presents their analyses and then they have to defend their work.

Mr. Rankin asks about meeting here or chambers to which most preferred meeting at Bend Parks and Recreation.

6. Adjourn

Meeting adjourned at 4:59.

Steven P. Hultberg
shultberg@radlerwhite.com
541-585-3697

July 11, 2013

Brian Rankin
City of Bend
Planning Division
Community Development Department
710 NW Wall St.
Bend, OR 97701

RE: Remand Task Force--UGB Timing

Dear Brian:

Thank you again for arranging the UGB stakeholder meeting and inviting the group to the Remand Task Force ("RTF") meeting last week. I felt that both meetings were very productive.

I represent Newland Communities in connection with the City's UGB work. Newland worked very closely with the City during the first round of the UGB expansion, and the City included Newland's property in the UGB. Newland has maintained a local office in Bend since 2001 and has remained actively engaged in the UGB process during the UGB remand.

At both the stakeholder meeting and the RTF meeting you asked for suggestions to shorten the current remand timeframe. After reviewing the current timeline and associated tasks, I believe that there are a few things that the City can do to shorten the process. Perhaps most importantly, the City should stay focused on the specific tasks set forth in the remand order and not incorporate new planning projects into the UGB process such as the Central Area Plan or the Growth Plan. While both these projects are important to the City, both could derail or further delay the UGB process.

At the outset, I acknowledge that the UGB process is sequential and that there are certain things, such as the Collection Sewer Master Plan ("CSMP"), which must be completed before the City can adopt a new UGB. That said, there are a number of tasks which should be completed as soon as possible so that the City can focus solely on the Goal 14 boundary analysis when the CSMP is complete. By completing tasks earlier in the process the City can both avoid delays at the end of the process and shorten the timeframe by many months.

First, the City could complete both the residential and employment lands analysis concurrently. This would allow for completion of these two processes by mid-2014. The land need analysis is likely to be contentious and it is reasonable to expect both processes to take considerably longer than the eight months allotted for each. A delay in either process would necessarily push back the Goal 14 boundary analysis and the ultimate adoption of a new UGB.

July 11, 2013
Page 2

Second, the City could start work on the City and County plan and code amendments in 2014. While it is true that this work cannot be finalized until the boundary analysis is complete, the City could get a significant head start on this work and could finish the work when the locational analysis is complete. For example, regardless of the size or location of the new UGB boundary, certain areas are likely to have master plan overlays which will require new special plan or overlay district plans. The City could start work on the basic framework of such plans now and finalize them when their location and size are known.

Third, much of the Goal 14 work could be moved forward. For example, the boundary methodology and infill analysis are not entirely dependent on completion of the CSMP and could be completed at any point. In addition, the City could begin the locational analysis while the CSMP is in process. The major components of the CSMP (e.g. SE Interceptor) will likely be known well before the final CSMP work is complete, possibly as soon as this winter after the first few optimization results are complete. Similarly, the City may learn that certain components of the previous CSMP will not be included in the final CSMP. This would allow the City to at least start on the locational analysis. Obviously the City cannot complete the locational analysis until the CSMP is adopted, but nothing prevents the City from at least initiating the work and completing certain portions prior to adoption of the CSMP.

Fourth, the City should acknowledge that the UGB is on remand and focus only on those issues identified in the UGB remand order. There has been some discussion regarding the public process involved in the UGB remand, with some indication that the City may engage in a SIAG-type process to determine where and how Bend should grow. While public process is a key component of the UGB remand and a requirement of State law, Newland encourages the City not to initiate a SIAG-type process. In the end, the UGB process generally involves arguments over a map. Regardless of how broad the makeup of a SIAG-type group may be, any recommendation is likely to be challenged by those left off the map. Similarly, it is altogether possible that a SIAG-type group could recommend a boundary location based more on a desire for Bend to grow in certain areas and not in others. Unfortunately, the boundary location is dictated by State law, and if the stakeholder preferences do not conform to State law, the recommendation would be subject to further remand.

Finally, I understand that City staffing levels play a significant role in the UGB timing. Newland urges the City to take all necessary steps to fund additional planning positions, perhaps through the use of consultants. Bend's economic survival depends on there being a sufficient supply of employment and residential lands. The opportunity cost of losing companies to other cities due to a shortage of suitable land in the City is simply too high. Bend must invest in additional staff resources now so that the City can complete the UGB process as soon as possible.

Thank you for your consideration of these comments.

Very truly yours,



Steven P. Hultberg

cc: Remand Task Force
City Council

M E M O R A N D U M

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TO: **UGB REMAND TASK FORCE (RTF)**
FROM: **BRIAN RANKIN, PRINCIPAL PLANNER**
SUBJECT: **UPCOMING RTF MEETING APPROACH AND OUTCOMES**
DATE: **JULY 24, 2013**

This memo is written to provide more detail regarding the upcoming July 29, 2013 RTF meeting agenda. Please refer to the accompanying agenda and the materials from the July 1, 2013 RTF meeting.

Agenda Item #3 lists the UGB website, list of interested parties, communications plan, and UGB remand work plans. This agenda item will begin with staff providing a brief presentation on the new UGB website. Staff proposes that members of the public, staff, and RTF then have an open discussion about these topics in a round-table format. After the discussion, there will be a chance for any person to provide public testimony in addition to the previous discussion. This affords people an opportunity to testify more formally if they choose. The next step allows the RTF members to deliberate on their own after listening to the discussion and testimony.

The UGB website (<http://bendoregon.gov/index.aspx?page=613>) was recently reformatted. Staff will briefly explain the new site and other tools on the city's website to improve communications. Please take a look at the website and feel free to suggest improvements during the discussion.

Staff presented a list of interested parties during the July 1, 2013 meeting. Please review the list and provide feedback. During the last meeting, staff received a suggestion to add EDCO, Arnold, Swalley, and Tumalo Irrigation Districts, KTVZ, and Cascade Business News to the list. Staff will add these entities in addition to other suggestions. Please review the list and suggest other boards, advisory committees, state agencies, public/interest groups, press, and projects to add to the list. Similarly, please review the communications plan and feel free to make suggestions.

The bulk of the last RTF meeting included a presentation and discussion of three different timelines and generalized work plans. The purpose of the discussion was to understand critical dependencies, how additional staff and consulting resources could impact the project, and how these all impact the timeline for local adoption and acknowledgement of the UGB remand. The takeaway message from these materials is that no matter the level of resources applied to the UGB remand project, the local adoption will likely not take place earlier than spring/summer of 2016. This is because the sewer PFP, which is required for the city to preform modeling and evaluation of alternative infill and boundary locations, will likely not be acknowledged before winter 2015 at the earliest.

Considering it will take a few months to model and evaluate different infill and expansion scenarios, write findings, and go through adoption after Winter of 2015, it appears that local adoption of the UGB remand will occur no sooner than Spring/Summer of 2016. This date assumes there will be no legal challenges of the sewer PFP, so may be optimistic. What is also clear from recent history and the timeline is that major appeals of the final UGB remand could introduce delays that are measured in years.

The purpose of having this discussion with the RTF is for the RTF make a general recommendation to the City Council regarding how to frame and fund this project. After such a recommendation is made, and with direction from the City Council, staff will do additional work to craft alternative project approaches involving combinations of consulting, public involvement, staffing, and costs. At this point, staff suggests the RTF focus on agreeing on answers to the following big questions:

1. Are current staffing and consulting levels the best way to get this project done better and faster as in Scenario A, or are additional resources and some form of stakeholder or public involvement a better direction for the project as depicted in Scenarios B and C?
2. If additional resources could be directed to the UGB remand as in Scenarios B and C, would some form of stakeholder consensus building or general public outreach be the most useful and beneficial approach to completing the remand?
3. Lastly, has staff missed something in this analysis that could radically alter the timeframe to complete this project?

For the reasons explained in detail in the June 26, 2013 staff memorandum, staff recommends additional staffing or consulting resources to this project to get as much work done with as much consensus as possible between now and 2015 in advance of the sewer PFP being acknowledged. Getting as much done between now and when the sewer PFP is acknowledged reduces the risk of further delays, and will allow the Goal 14 and boundary analysis to move forward as quickly as possible. Staff believes the best approach will be using some type of stakeholder process that utilizes professional facilitators and experts familiar with urban form or other specialized planning and legal disciplines to create as much informed consensus on all the complex and controversial topics of land need and the Goal 14/boundary analysis methodology included in the UGB remand. Staff believes this form of public involvement will yield greater results than a broader public outreach program because the issues are complex, require intensive effort to resolve, involve legal issues, and must balance community values with technical and legal feasibility. However, a broader outreach program could be added to the stakeholder approach at a later date. It is not critical that the exact form of stakeholder and public engagement be decided at this point; staff will provide more details and alternatives on the details of the planning process later. However, it is critical that the RTF form a recommendation to the City Council that reflects how they believe the project can get completed as quickly as possible with fewer chances of significant appeals.

AGENDA

UGB Remand Task Force (RTF)

Monday, August 19, 2013
3:00 p.m.

Deschutes Service Center
1300 NW Wall Street, Bend, OR 97701



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[541] 388-5505 TEL
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JIM CLINTON
Mayor

JODIE BARRAM
Mayor Pro Tem

VICTOR CHUDOWSKY
City Councilor

DOUG KNIGHT
City Councilor

SALLY RUSSELL
City Councilor

MARK CAPELL
City Councilor

SCOTT RAMSAY
City Councilor

ERIC KING
City Manager

1. Call to Order
2. Approval of Minutes – July 29, 2013
3. Presentation and Discussion of Collaborative Process (40 minutes):
 - a. Presentation from Elaine Hallmark, Senior Consultant Oregon Consensus, Portland State University
 - b. See: <http://www.youtube.com/watch?v=CYmf7-ltwlM>
 - c. Discussion – Elaine Hallmark, Public, Staff, RTF
 - d. Testimony – Public
4. Presentation and Discussion of Project Approach (time remaining):
 - a. Presentation from Brian Rankin, Principal Planner
 - b. Discussion – Public, Staff, RTF
 - c. Testimony – Public
 - d. Deliberations and recommendation to City Council - RTF
5. Adjourn

1. Convene Meeting

The Remand Task Force Meeting was called to order in the Riverbend Community Room of the Bend Parks and Recreation District at 3:04 PM. Present were the Remand Task Force Members, Chair Cliff Walkey, Doug Knight, and Sally Russell. Jodie Barram was absent.

Kevin Keillor has resigned from the task force. City Council will make the appointment and it will likely be a planning commission committee member. The commissioners will be polled to see if there is someone they recommend.

2. Approval of Minutes from July 1, 2013

Minutes from the July 1, 2013 meeting were unanimously approved.

3. UGB Website Discussion

Brian Rankin discussed the UGB website and mentions that we hope to have many ways into the UGB site, and we'd be happy to have any suggestions. We'll provide links and will be adding amendments here and there. The various ways in which to connect where discussed. Also, the eNews E-notifier system was discussed, which is a way to sign up and then get regular notifications. He then presented a quick snap shot of what we're doing and a time frame of the projects involved. We also have a list of meeting materials to date and there is a link to the meeting schedules and the topics to be discussed at each meeting.

We are developing a record as we move along in this process. Mr. Rankin asked if others see that it's a value to have all of the previous record on the website to which it some seemed to see it as a benefit, particularly Toby Bayard.

Ed Elkins mentioned that rather than hit the back button it would be nice to just put a return button to go back to where you came from.

Gail Snyder with Landwatch had some suggestions such as making the UGB link have more dominance on the basic information page without sifting through too much. Also, spell out the UGB and then move the Oregon Land Use explanation higher up on the page.

Dave Van Valkenburg and Ed Elkins believe we should have all the documents from the previous record online. Also, we should have a link on the committees, advisory groups and task forces' page.

Bill Wagner wondered if we can have a dialog mechanism on the website so others can talk. Brian Rankin responded that there's a new tool called City Voice wherein the City can post a question and then people may follow along on the site and provide their suggestions though it has to be kept fairly simple. It can help spread the word about the topic but we can't have technical discussions.

Mary Winters mentioned that we need to be clear that it's not going to be part of the record so that people know that it's just a communication tool, not part of the record. It's supposed to be used to develop an interest.

Mr. Rankin mentioned that it may be harder to have the previous record on the website that one might think as these documents are not searchable. We are trying to figure that out now.

Ms. Bayard wondered if the links on the old record have changed to which Mr. Rankin responded that they have indeed changed.

Doug Knight mentions that we might want to add the UGB Remand on that link, next to the Mirror Pond. We might have a discussion forum placed there as well. It would be nice to have it separate from the record.

Mr. Rankin will take these comments back and find out what we can do to the website.

Chair Walkey said it's a good concept but that it needs to be functional. Perhaps we can see how it'll work and do a mock up before we go live.

Mr. Rankin mentioned that we presented a lot of materials at the last meeting and we didn't have a lot of time for feedback so now is a good opportunity to add any feedback. We hope to get an idea of which scenarios we should follow.

We need to get a general idea of which package the RTF likes in terms of resources including additional staffing resources. Brian says he has not heard anyone say whether they believe the time line is not accurate.

Staff recommends scenario 'C.' Chair Walkey restates that staff recommends scenario 'C,' which is 'B' but it adds more public involvement. Brian Rankin goes on to say that it's really difficult to get a consensus and he believes a good idea of where to spend resources is to hire someone to help us get to a consensus.

Doug Knight wants to know that if the City believes that the process is going to be in fits and starts, why have we not secured more resources? Mr. Rankin mentions that we've

lost staff and consulting dollars. The current approved budget is zero dollars for UGB consulting and the long range planning department. He would like to come up with more scenarios which could involve more part-time staff. Mr. Knight wants it on record that he recommended to dedicate those funds toward the UGB effort, and he'd like to add 4%.

Gail Snyder with Central Oregon Landwatch asks about Scenario 'C' and if there are funds available or grants outside of City budget or other pots of money? Mr. Rankin and Mr. Knight both say yes. They plan to use some of the water and sewer funds to dedicate to a portion of the UGB. Mr. Rankin also says that he has been finding out about funding through other people such as schools, parks, regional solutions teams, etc. about how to come together to fund this project.

Karen Swirsky pointed out that there's a group called Oregon Consensus that does this type of consensus building, they're trying to find funding and they may be a little less than an independent consultant.

Ms. Bayard mentions the need for consensus and that getting consensus as we go will save agony. She believes that everybody needs a chance to weigh in and then we won't have as many appeals.

Dale Van Valkenburg mentioned that he has enjoyed the SIAG process. He asked how you inform the stakeholder group. He mentioned that in the SIAG group, you have people apply and they tried to do equal representation from different groups.

Victor Chudowsky asked if we have a parallel stakeholder meeting (that he assumes would also run monthly) will they overlap? It's hard to separate; where does one begin and where does one end?

Jon Skidmore mentioned that the steering committee for SIAG does not have 2 different groups. They meet first to have a dry run with the steering committee and they help define what the message is. The steering committee helps us streamline the message we're trying to get out. We now just have one steering meeting before the big meeting. He assumes it would be the same here, just a small one to get the agenda set.

Mr. Chudowsky asked if the RTF should have a good steering committee.

Ms. Winters mentioned that we need to be careful if we have a steering committee; that you couldn't be on SIAG if you have a vested interest. With this group, some people have a vested interest and that could have a perception that it's not balanced. It's concerning that we'd have stakeholders outside of the community.

Ms. Swirsky suggested that maybe it wouldn't be a steering committee, that you're the RTF and not the steering committee. Mr. Skidmore mentioned that they tried to represent a large group of stakeholders in the SIAG. Every SIAG meeting is public and

so is any UGB meeting. He would rather see a larger community outreach process. It seems too small of a group in the RTF.

Mr. Elkins mentioned that he's concerned about stakeholders. How do you define a stakeholder? How do you represent a lot of little people that don't have the resources? He believes it'll generate a conflict. He doesn't want to see us go down the same road as last year and doesn't want to see all that time wasted.

Mr. Wagner mentioned that he's leaning toward not having a set stakeholder group as well as the RTF, but just a group of people interested, as well as those interested in this specific topic and also have this consensus staff person. Mr. Knight asked if Mr. Rankin feels comfortable setting the agendas. Could we have this collaborative process?

Mr. Rankin mentioned that we're talking a lot about stakeholders and such but let's figure out if we want to build consensus with some group or work through the process with what we've already decided, which is the RTF. He goes on to discuss the SIAG committee and that Mr. Skidmore and Mr. Hickmann manage the project, which is the role of staff.

Ms. Swirsky added that Oregon Consensus would be to develop the format of how this thing works. They would find the one that works for us.

Steve Hultberg asked that Mr. Rankin explain the roles of what this group would be. He explained that we have remand tasks and this group work together to provide direction on this remand task. Some are easy and some are difficult. Some are boring but they're all part of the project. Another role of the task force is outreach.

Sally Russell mentioned that when she looks back to the original process, it seems that there was consensus but it wasn't in alignment with the state interpretation. Now today we're much more aware of the boundaries. We should recalibrate what the vision is, knowing what the boundaries are, so we can decide what to achieve. She believes we need a larger outreach visioning process. She is concerned if we don't work through the remand, the realtors, builders, contracts, property owners work together, we'll end up and be stalled again. Does it have to be City driven? She'd like a greater conversation to take place.

Mr. Winters mentioned that that's a great point. If we do this big visioning, we still have to read the remand to see what our limitations are to which Ms. Swirsky mentioned that there's a lot of interpretation in this UGB remand.

Andy High suggested that we have a steering committee that staff needs to bounce off of. The steering committee in SIAG has at least practiced the presentation before they go back to the public. It's somewhat vetted first.

Dale Van Valkenburg thinks the key thing that was missing was consensus. He believes we should try to reach consensus now and that everyone was worried about what they were going to get. He asked what level of density we want to have? What does it look like.

Mr. Elkins thinks it'll help to have a true definition from the City of what they want. Based on the remand and what the City wants now, if there's a vision on what we want, we could come to a consensus on how to get there. Let's get a definition from the City so we can start that path.

Mr. Rankin believes if we get a facilitator and give them the remand, they would look at it quickly and say we need to have decisions. What's an appropriate level of density, etc.? They would probably start on values and then bring it down to remand task. How do we get everybody to agree on what Bend's going to look like in 20 years?

Bill Robie thought that the document laid the policy out. He believes consensus is not going to happen if we have a facilitator -- it's wishful thinking. If the process will expedite it, it's great, but he's skeptical.

Mr. Firestone sees what the City is facing and he believes there are 3 steps. First, identify what we need. That's an area that there's room for public input. The next two steps is what can the City accommodate, what do we assume, what measures to be taken to increase the levels. The third is saying that that we have this much left, what are the assumptions for that and where is it going to go?

Ms. Bayard believes the big break down is that at the last minute, her neighborhood ended up being zoned commercial. She would never have paid attention if suddenly we didn't have that change. Public process is not surprising people and being very open doing the public business in the public eye.

Mr. Rankin responded to Mr. Wagner's comment by saying it's naïve that we get out of this by all agreeing. That's not what we're shooting for. He's hoping people can say that this is good enough, that I got some of the things I wanted, and that we can build agreement.

Gale Snyder is new to Bend and to this conversation. She thought more people would come to this meeting other than realtors, attorneys and Landwatch. We have 80,000 stakeholders and they all deserve attention.

The UGB Remand recommendation was moved from Council to Sept. 18.

Chair Walkey mentioned that since we have more time, we want to be more deliberative and wait until the next meeting. It makes sense to have more people there in their deliberations.

Ms. Russell wanted to know how to get a part-time staffer or full time staffer.

Mr. Knight says community consensus is strong, we're looking for community support and he didn't believe we had that before. He wants to be sure that our efforts reflect what Bend wants. He'll be very deliberative when we have all of the 5 RTF members.

Mr. Hultberg provided testimony last week and Deborah McMahon provided a letter today. Mr. Rankin agrees with Mr. Hultberg's letter. Ms. McMahon has a number of criticisms in her letter including that she'd like to have a facilitator, among other suggestions.

Mr. Knight is very much looking forward to getting into the details. He does not want to get dragged down with the public process when we have decisions that need to be made.

Chair Walkey says consensus should be data driven. What he's heard today are great comments though some are ill defined. He believes it's important to have a proposal as to what that structure will be. Until its better defined, he can't react to it.

Mr. Rankin says they can reframe the project if it needs reframing. We can disband the RTF or have a steering committee and Mr. Knight mentioned that he needs to know what that relationship will be if they have a stakeholder group to which Mr. Rankin said he would put together scenarios. Mr. Rankin also explained that we'll have a map at the end of this process.

Mr. Chudowsky mentioned that he doesn't see that it'll be a problem with Council adding more resources to the UGB process and we don't need to necessarily wait until September. Mr. Knight said that Mr. Rankin should not be bashful in his analysis in what the process would be regardless of funds, and let Council decide whether it's feasible. Chair Walkey and Ms. Russell also support that comment.

Mr. Wagner would like to have more definition on the real role of certain groups - he'd like to get more specific.

4. Adjourn

Chair Walkey adjourned the meeting at 5:00 PM.

PHASES OF A COLLABORATIVE DECISION-MAKING PROCESS ON PUBLIC ISSUES

CONVENE

1. Assessment/Planning

Guiding Questions:

Can a collaborative process be successful?
If so, how should the process be designed for the greatest likelihood of success?

Key Areas of Exploration:

What: is the issue or problem to be resolved
(Define scope/initial framing)
Who: needs to be involved and how represented
How: should the collaborative effort be structured

2. Organization

Guiding Question:

How does the group best organize itself to achieve its outcomes through a collaborative process?

Key Areas of Agreement Sought:

Purpose/Outcomes
Group structure: membership, roles, timelines
Decision making, conflict resolution, and communication process, scope of authority
Creation of “working agreements”

SEEK AGREEMENT

3. Education

Guiding Question:

What common base of understanding among the group is needed to serve as the framework for joint problem solving and negotiation?

Key Areas of Education:

Historical, context, legal or statutory framework
Underlying interests and alternatives to a negotiated agreement
Critical data about the problem/issue/options

4. Negotiation/Resolution

Guiding Question:

What criteria will the group use and how will it be applied to make decisions to achieve agreed upon goals and satisfy stakeholder interests?

Key Areas of Focus:

Decision making criteria and process
Option generation, linking, and packaging
Reconciling conflicting interests
Trial balloons, communications with, and bringing constituents along

IMPLEMENT

5. Implementation

Guiding Question:

How does the group link the agreements made to external decision making and implementation?

Key Areas of Clarity:

Defined responsibilities for implementation and timelines
System of monitoring implementation to assure compliance
Method of integrating changing conditions into implementation – system of on-going adaptive management and collaborative decision making

Levels of Stakeholder Involvement

WHO

Key stakeholders with ability to problem solve and implement solutions

Technical/resource advisors
Stakeholders with specific relationship

Stakeholders with specific interest or information

Broad public and constituency

HOW

COLLABORATE

ENGAGE

CONSULT

INFORM

TOOLS

Consensus groups, shared decision making on recommendations

Workshops, deliberative polling, advisory committees

Public comment, focus groups, surveys, web tools

Fact sheets, websites, open houses, media



A New Approach to the Urban Growth Boundary Remand Project

*Aug 19, 2013 Remand Task
Force Meeting*



Presenter: Brian T. Rankin

Department: CDD

Date: August 16, 2013

Project Goals



- Complete UGB as soon as possible
- Create a broadly accepted General Plan to guide Bend's future growth
- Meet the specific requirements of the UGB Remand Order
- Use a technical approach that applies best planning and engineering practices, minimizes long-term project costs
- The final proposal must embody the community's values to the greatest extent possible and decrease the intensity and scope of legal appeals

Analysis and Assumptions



- Acknowledged Sewer PFP is required prior to completing the boundary analysis (best case scenario is March 2015)
- Assuming eight months to complete modeling and boundary analysis, five months for local adoption: earliest local adoption is **April 2016**
- Sewer PFP “dependency” plus any appeals to LUBA or LCDC have the biggest impact on the timeline
- A plan must be based on local know-how and knowledge, while meeting state law

Whole is Greater Than Sum of Parts



**How much and what type of housing does Bend need?
What types of redevelopment and infill are preferable?**

- Remand Order: 2.2, 2.3, 2.4, 2.5, 2.8, 3.1, 3.2

How much land does Bend need to strategically support our economy?

- Remand Order: 5.1, 5.2, 5.4, 5.5, 5.6, 5.8, 5.9

What is the total need for residential and employment land, and how should Bend determine where to grow “up or out?”

- Remand Order: Above, plus 2.6, 2.7, 4.1, 4.2, 6.1, 6.2, 6.3, 7.3, 7.4, 7.7, 7.9, 8.1, 8.2, 8.3, 8.4, 8.6, 9.1, 9.2, 9.3, 9.4, 9.5, 9.6, 9.7, 9.9, 9.10

What is the best growth alternative and final UGB expansion proposal for Bend ?

- Remand Order: Above, plus 4.3, 7.1, 7.2, 7.4, 7.7, 10.2

Shortest Timeline for Local Adoption



**How much and what type of housing does Bend need?
What types of redevelopment and infill are preferable?**

- **Finish by March 2015**

How much land does Bend need to strategically support our economy?

- **Finish by March 2015**

Acknowledged Sewer PFP March 2015

What is the total need for residential and employment land, and how should Bend determine where to grow “up or out?”

- **Finish by November 2015**

What is the best growth alternative and final UGB expansion proposal for Bend ?

- **Finish by April 2016**

Examples of Similar Projects



- City of Eugene – Envision Eugene (1,150 ac.)
 - Visioning, goal setting, public involvement, land need, framework plan for infill and expansion
 - Used facilitator, planning and natural resource consultants, hired additional staff
 - Nearly \$2 million over four years (2010-2013)
- City of Redmond – Urban Reserve/UGB Expansion (2,299 ac.)
 - Population and housing related analysis and findings to support a UGB expansion, framework plan
 - Used consultants for majority of analysis and findings
 - \$750,000 to \$1 million over three years (2004-2006)

Other Case Studies ¹



- Charlottesville Eastern Planning Initiative (VA), Envision Missoula (MT), PlanCheyenne (WY)
- Commonalities:
 - Intensive public engagement (advisory committees, public workshops, visioning exercises, summits, public forums, stakeholder input, opinion polling, charrettes)
 - Created and analyzed different land use/transportation scenarios with different land use/transportation models
 - Selected preferred alternative supported by the public
 - Used consultants, approximate \$500,000 cost, plus staff, 2002-2008

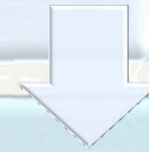
¹ State-of-the-Practice Alternative Land Use and Transportation Scenario Development. *A Review of Eight Metropolitan Planning Organization Case Studies*. October 30, 2009. Cambridge Systematics, Inc. and HDR, Inc.

Going Forward



RTF Recommendation (August)

- General Project Approach, Resources, and Timeline



Council Direction (September)

- Agreement on Timeline, Direction on Approach, Resources



Request for Proposals (October)

- Refined Approach, Resources, Timeline

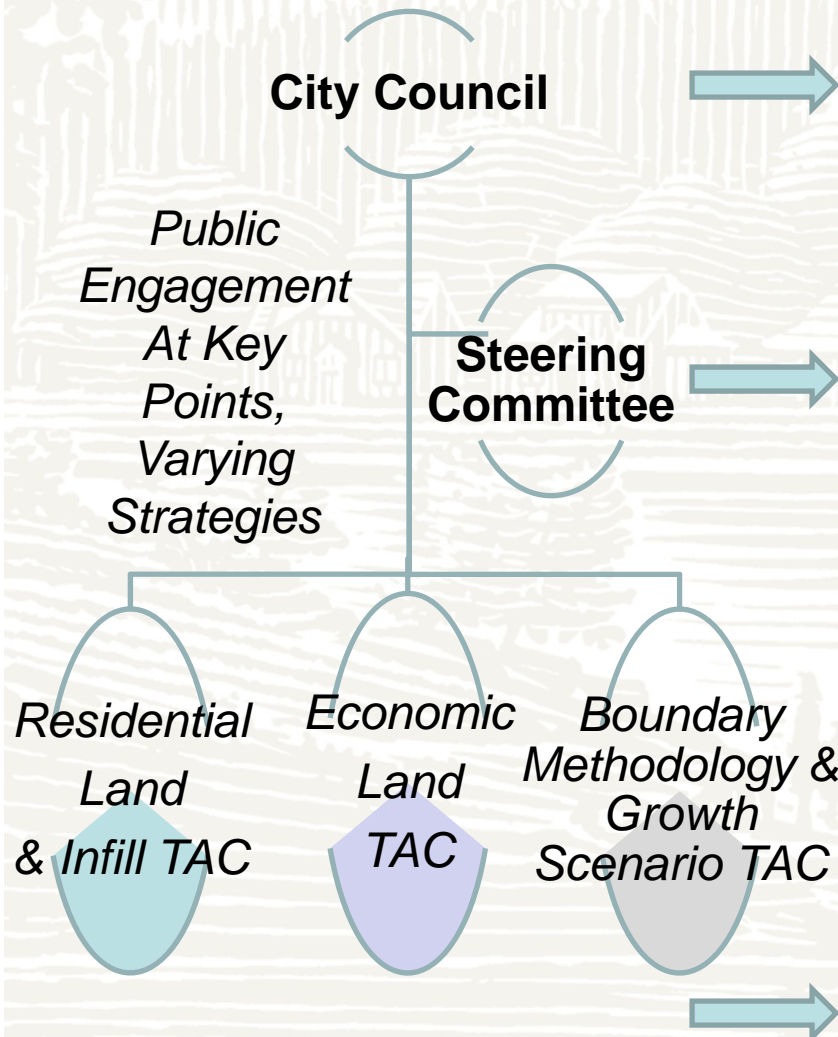


Select Project Approach, Funding, Timeline (December)



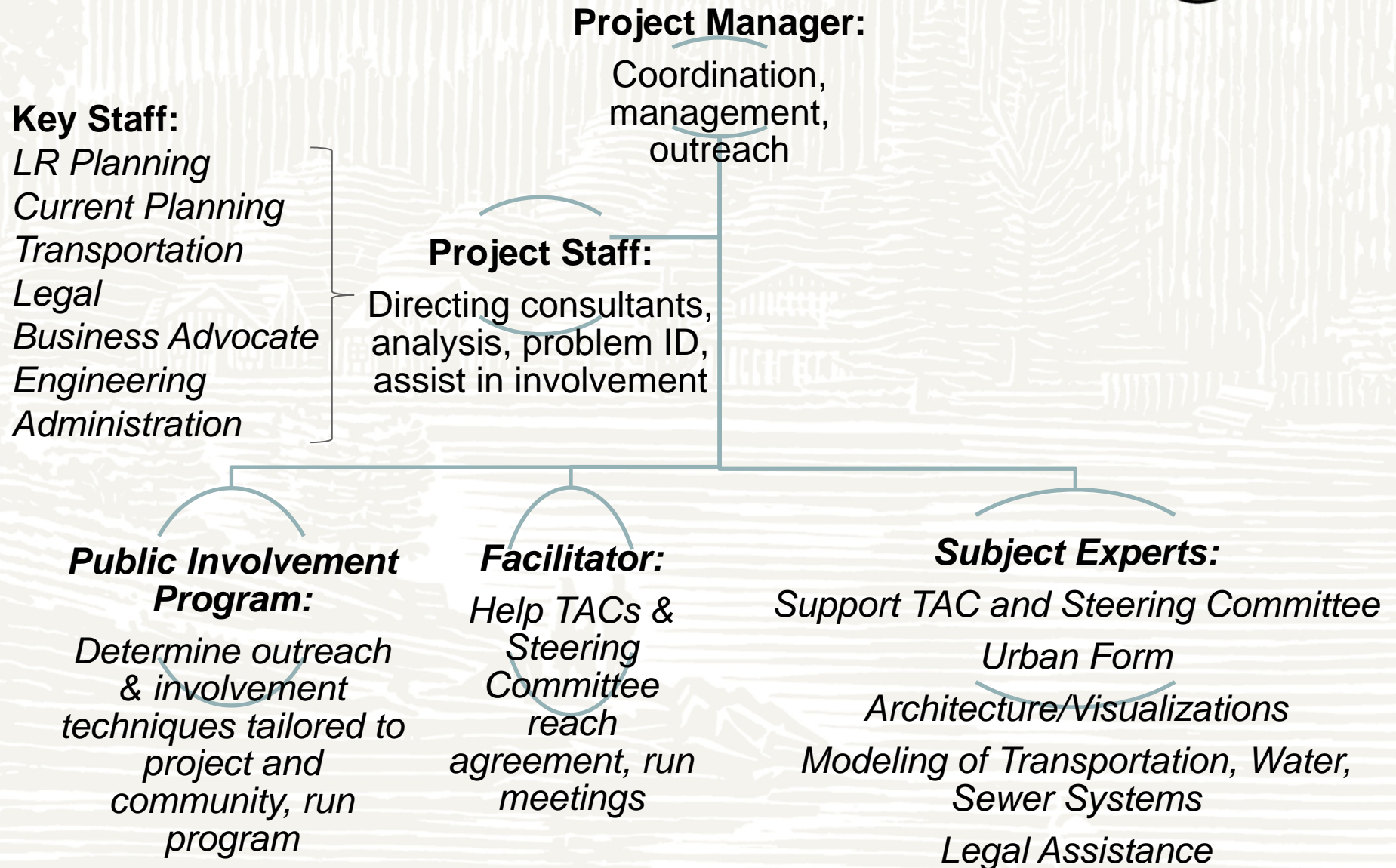
Contract, Initiate Work (Winter 2014)

Example of Project Approach



Participants	Role	Assistance
<ul style="list-style-type: none"> City Council 	<ul style="list-style-type: none"> Adoption 	<ul style="list-style-type: none"> Staff Experts
<ul style="list-style-type: none"> Council + 2 PC, BOCC Workshops Open process 	<ul style="list-style-type: none"> Policy guidance on “the whole” and “sum of the parts” 	<ul style="list-style-type: none"> Facilitation Experts Staff
<ul style="list-style-type: none"> Local experts & interests Run TACs at same time Open process 	<ul style="list-style-type: none"> Agreement on Remand tasks Apply local and diverse knowledge Advice to Steering Committee 	<ul style="list-style-type: none"> Facilitator Urban Design Experts Modeling Staff assistance

Staff and Consultant Roles



Staff & Possible RTF Recommendation



- Complete local adoption by April 2016
- Use a collaborative decision making process involving local experts and interested parties in a facilitated and expertly assisted process as described
- Apply best planning and engineering practices involving scenario development and analysis
- Engage, inform, and receive input from the public with techniques best suited for the project
- Commit to providing additional resources subject to reviewing specific proposals

AGENDA

UGB Remand Task Force (RTF)

Monday, October 21, 2013
3:00 p.m.

710 NW WALL
STREET
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BEND, OR 97701
[541] 388-5505 TEL
[541] 385-6676 FAX
BENDOREGON.GOV

DeArmond Room
Deschutes Service Center
1300 NW Wall Street, Bend, OR 97701



JIM CLINTON
Mayor

JODIE BARRAM
Mayor Pro Tem

VICTOR CHUDOWSKY
City Councilor

DOUG KNIGHT
City Councilor

SALLY RUSSELL
City Councilor

MARK CAPELL
City Councilor

SCOTT RAMSAY
City Councilor

ERIC KING
City Manager

1. Call to Order
2. Approval of Minutes – August 19, 2013
3. Presentation and Discussion: Role of findings, planning period, the record, and new information
 - a. Discussion by Mary Winters, staff
 - b. See memo "Timing of Data and Evidence in UGB Remand"
 - c. Discussion – RTF, Staff, Public
 - d. Testimony - Public
4. Presentation and Discussion: Upcoming meetings, existing vs. new information
 - a. Presentation from Brian Rankin
 - b. See memo "Upcoming Meetings, Approach to Project, New Info"
 - c. See "Schedule of Topics for RTF"
 - d. See "Remand Task Summary Table October, 2013"
 - e. Discussion – RTF, Staff, Public
 - f. Testimony - Public
5. Prep for November 18, 2013 RTF Meeting (Council Chambers)
6. Adjourn

1. Convene Meeting

The Remand Task Force Meeting was called to order in the DeArmond Room of the Deschutes Services Center at 3:00 PM. Present were the Remand Task Force Members, Chair Cliff Walkey, Victor Chudowsky sitting in for Doug Knight, Sally Russell and Jodie Barram. We have a new task force committee member, Bill Wagner.

Elaine Hallmark from Oregon Consensus was also in attendance.

2. Approval of Minutes from July 1, 2013

Minutes from the July 29, 2013 meeting were unanimously approved.

3. Presentation and Discussion of Project Approach

Elaine Hallmark introduced herself as a long time mediator/facilitator. She will give examples of what works and what hasn't worked. Land use decisions are difficult to get to in the right place/right way. She showed a video that discussed collaboration.

Collaboration is a broad word but one thing we should look at first is the guide to the junction of public processes. The government has to make a decision and people in the City have an interest in the decision. Collaboration is really a complete partnership with stakeholders on each aspect of the decision making. You're sharing the real decision-making, the plans, etc.

Ms. Hallmark presented levels of stakeholder involvement, a guide to the different processes and the different phases of a collaborative decision-making process on public issues. She indicated that the process includes several elements: convene the meeting, assess and plan, organize, educate, negotiate a resolution, and then implement. They have found that starting in the middle of these phases, the "seeking agreement" stage, creates problems.

Chair Walkey asks if anyone has comments/questions? Sally Russell asked for clarification on what Ms. Hallmark meant by her saying getting to the land use decisions in the right place in the right way. Ms. Hallmark explained that she screened every land use case that went to LUBA and one thing they learned is that in most cases, it's almost too late when [the parties] are already in appeal. They've already invested their time and money. Ms. Hallmark learned to try to get the word out earlier, but it only works well if you get it out very early. They have found that when you need to have some public backing for the decision, some buy-in, urban growth issues are one of the thorniest in

the state. They tried to help Clackamas County to try to get more rural communities involved. They helped the community get together and got a process going. They had town meetings along with it. It needs to be designed for each community and where you're at on each phase.

Mr. Wagner asked when the process is not appropriate to which she said it really is when you're up against a yes/no answer that you need from a judge, though it's not always just a yes/no. She believes it's almost always helpful.

Mr. Wagner discussed his concern. He is concerned with a formal stakeholder process when we don't know who will be a stakeholder. Halfway through you might discover that you should have included someone. Ms. Hallmark believes that that is an important point. She says you do the best you can at identifying all of those interests up front, which is the most valuable thing about the assessment phase. At each interview with potential stakeholders, they ask their opinion on whether there are other stakeholders. You can also add more elements if something comes up.

Mary Winters mentioned that we need to get the right stakeholders for the right time. She mentions that you have to use the right piece of the level of stakeholder involvement and you may want subcommittees for specific tasks.

Bruce White mentioned that there's going to be different levels of interest and how do you balance it where one part of the community doesn't show up. Do you put in a proxy? She says again, its assessment. You really need to find out who should be involved. Sometimes you do recruiting if you know who should be involved.

Bill Hopp is concerned about whether we will have an opportunity to update prior information if it becomes evident we need to. Ms. Hallmark says that's part of the educational phase and people need to agree about the educational phase. Mr. Rankin says they don't necessarily have to update the studies as it could open up some implications, but it doesn't mean that they won't. John Russell asks what if that includes factual changes such as a zone change. Mr. Rankin says he doesn't have a good answer right now.

Ms. Hallmark mentioned that conflict may be something that needs to be addressed right now. She says we should ask what do we want from this information and how could we get it in a reasonable way? She suggests not ignoring the conflict. The law says where to start the discussion.

Chair Walkey asks how you recognize consensus when you see it and how do you document it? Ms. Hallmark replied that consensus has a lot of meanings to different people. If you put together a representative stakeholder group, part of that group discussion is deliberating about what consensus means and how are we going to

achieve that. The typical way is they usually work to have every single person in the group say yes to the document. Sometimes you may write in a conceptual plan. You should talk about what is the outcome of this group. And then, for example, if we have a representative group and I represented a certain group, does that mean I have to have my neighborhood group agree also, or are we looking for just this group have consensus. It's hard to keep a whole community informed of everything but you often can have people go back to their own group to report. Certainly you would want them to be educating people as you go along. If you start out saying you're going to work for that, you have a huge possibility of attaining it. She also encourages people to get a fallback in their agreement. If we don't get 100% consensus, what are we going to do? Some people want to turn in a report if we get only 80% consensus. Again, we need to decide. If you're going for consensus, you truly need to listen to everyone's concerns.

Chair Walkey defers any further discussion or testimony to after staff has the ability to make a presentation.

4. Presentation and Discussion of Project Approach

We are hoping to get a decision on our project approach. Mr. Rankin submitted project goals, which included: completing the UGB ASAP; creating a broadly accepted General Plan; using an approach that reduces the risks of appeals, and; ensuring the final proposal embodies the community's values and decrease appeals. We also have to meet specific requirements of the UGB Remand. A timeline was presented that included an acknowledged Sewer PFP by best case scenario of March 2015. He then discussed the Remand's broad implications and examples of similar projects. He looked at other communities and brought back some numbers and their respective goals.

We are asking for RTF recommendations in August, then take it to Council in September, request for proposals in October, select project approach, funding and timeline in December and then contract and initiate work in winter, 2014.

Mr. Rankin also presented an example of a project approach. Ms. Barram sees a commonality in three different levels and that many of the same people would be at the meetings and they will be frequent. Also, how much will it cost? Mr. Rankin does not yet know how much it will cost.

Mr. Rankin then presented a possible RTF recommendation which included completing local adoption by April 2016 and using a collaborative decision making process.

Chair Walkey clarified what Mr. Rankin is asking. Is he just asking for a general recommendation? Mr. Rankin affirmed that yes, he's looking for a general recommendation.

Chair Walkey asked if they want the RTF to add additional staff and Mr. Rankin said he is not yet ready to talk about that.

Victor Chudowsky asked if we are asking to get a consultant, does that have any effect on any employment/residential lands? Mr. Rankin mentioned that the timeline is the same as Scenario C and taking the time to decide this process is pushing back the employment/residential lands. He also asks about public involvement and he agrees we don't need to make things even longer but we've got to consider that we've discussed public opinion surveys, etc. and how are we going to use that information from the public. How does it factor in? How much weight are we going to attach to these surveys? Is this just a public relations process or how will it mesh in?

Mr. Rankin mentions they did get an assessment from Barney & Worth. You do have to be careful on the public involvement techniques and ask how are you going to use them. The City does tailor this to the project. It's probably not as crucial in some areas but people will probably be interested in only in-fill, for example.

Mr. Wagner likes where Mr. Chudowsky is going. He expects that each technical advisory group has information available to the public.

Nick Arnis discussed how the public will help develop those scenarios. Mr. Chudowsky mentions that we are not required to go out with surveys. Sally Russell mentioned that we need to slow down to speed up - we need to get more information.

Mr. Rankin said that we would put this in a request for proposal. We have to complete this proposal and here are the timelines and we set the timelines. We have to get the input from the private sector.

Mr. White asked how do we scope this and how do we collaborate on scoping?

Ms. Russell asked about OSU to which Mr. Rankin responded by saying they need to clearly evaluate the different set of risks and changes associated. It doesn't make the process unmanageable. We just received an extension from LCDC to go forward with our tasks.

Ms. Winters discussed that lots of things can happen when we have a long time line such as this. What do we do with all sorts of information? And then we have to come to a decision so we don't keep rehashing this.

Ms. Barram mentioned that it's marrying what we originally started with. Our original proposal did take in to consideration a university and a technical group should decide if we take new information.

Chair Walkey asked if anyone would like to provide testimony for the record. Seeing none, he'd like to have a deliberation so they can come up with a recommendation.

Mr. Wagner likes what Mr. Rankin has proposed and it allows stakeholders to really participate in the areas in which they are interested and it allows Council to ask what it costs to incorporate OSU, for example.

Ms. Russell likes the new approach in general. She is comfortable with it and her comment about OSU makes her want to get some reassurance that they'll still be able to walk down this path knowing that we may not be able to stick to the timeframe.

Mr. Chudowsky is supportive overall.

Ms. Barram says going forward and having it outlined as Ms. Hallmark showed us was helpful. She is supportive of this as presented and she hopes it'll work well.

Chair Walkey thinks the facilitated stakeholder meetings as advisory groups is an important thing to do. Intuitively the scope of the UGB is dictated by the remand task and that introducing a more collaborative public involvement process at this juncture is good. The benefit of doing that is we have the opportunity to develop a community vision of growth. He thinks it's a good plan and he supports a recommendation to council to increase the resources and increase it to add a staff person if that is warranted.

Mr. Hopp mentions that you're talking about the Remand from 2008, you're looking at 2016. Are we will looking at 2028 as the termination date in which we'd have 12 years left on the plan or 20 years from the date it's submitted? Ms. Winters responds that it's 2028. Also, can we update the acronym sheet? Mr. Rankin mentions that we can put that on our website.

The next RTF meeting is September 16 at Council Chambers.

5. Adjourn

Chair Walkey adjourned the meeting at 4:59 PM.

MEMORANDUM



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TO: REMAND TASK FORCE
FROM: MARY WINTERS, CITY ATTORNEY
LONG-RANGE PLANNING STAFF
SUBJECT: TIMING OF DATA/EVIDENCE IN UGB REMAND
DATE: 4/26/2011

The memo addresses the timing of data/evidence for the Remand tasks, as it is a somewhat complex issue. As you review the various tasks, the following decision points will arise on accepting evidence/data/testimony into the record from city staff/consultants as well as the public: (1) no new data is needed and should not be introduced, just new findings consistent with the directions in the Order, (2) only data/evidence from 2008 in the existing record should be used to re-analyze a particular issue and support new findings, (3) new data/evidence that was available through 2008 may be introduced or, more rarely, (4) new data/evidence of circumstances after 2008 allowed into the record.

The Department rules do not give a great deal of guidance on the record in remand matters. The rules for appeal for periodic review do state:

OAR 660-025-01690(5): The commission shall hear appeals based on the record unless the commission requests new evidence or information at its discretion and allows the parties an opportunity to review and respond to the new evidence or information. The written record shall consist of the submittal, timely objections, the director's report, timely exceptions to the director's report, the director's response to exceptions and revised report if any, and the appeal if one was filed.

The basic rule is that the Commission's role in the proceeding is to review what the city did at the time it made its decision,¹ based on that record, unless the Remand Order requires or allows additional evidence. This is similar to the position LCDC

¹ The following are local dates of importance:

- Bend City Council and Deschutes County BOCC public hearing on November 24, 2008
- Written public hearing record remained open until December 1, 2008
- First Reading of amendment ordinance on December 22, 2008
- Second Reading and City Council adoption on January 5, 2009
- Deschutes County BOCC co-adopted the UGB amendment on February 11, 2009

recently took in reviewing an amendment to Woodburn's UGB to add land for employment purposes.² Thus, the record on remand is driven by the Remand Order. When the Commission has directed that the City do certain tasks, that is what we do and everything else is off the table. The Remand also clearly articulates between new analysis (that may or may not require new data) and new or revised findings, which require no new data or evidence. This is consistent with LUBA caselaw, and the principles LUBA applies on remand tasks.³

It is therefore important to emphasize that this a remand and partial acknowledgement of a decision made in December 2008. The Commission's role is not to substitute itself for the city, or make a new decision today, starting from scratch, just as the RTF's and City Council's roles are to carry out the Remand requirements spelled out by the Commission. Rather, LCDC, the RTF, and City Council will review the City's UGB expansion as if it were 2008. This makes sense given that a UGB expansion is based on the amount of land that the city needs for future residential and employment uses, over the 20-year planning period. Seeing the remand through the lense of 2008 also keeps the data, timeframe, and analysis internally consistent. Here, the planning period is 2008 to 2028, and is based on the coordinated population forecast upheld on appeal to LUBA.⁴ In March 2005, LUBA

² See DLCD's Report to the Commission on-line at http://www.oregon.gov/LCD/woodburn_amendment.shtml.

³ For example, LUBA has ruled as follows: When LUBA remands a decision by sustaining one or more assignments of error, it does not necessary mean that LUBA agreed with every argument or sub-argument advanced in the sustained assignments of error, or that on remand the local government must address every argument in the petition for review under those assignments of error. Instead, the local government must address the issues described in the portion of LUBA's opinion remanding the decision. If petitioners believe that LUBA erred in not addressing every issue, their remedy is to file an appeal with the Court of Appeals. *Easterly v. Polk County*, 59 LUBA 417 (2009). If a petitioner raises an issue and LUBA rejects that issue but remands a permit decision on other grounds, the petitioner may not raise the rejected issue for a second time in the local government's decision on remand. *Save our Skyline v. City of Bend*, 55 LUBA 12 (2007). A local government may limit its proceedings following a remand from LUBA to addressing the issues that led to the remand and may select procedures it believes are most appropriate, provided those procedures do not improperly exclude parties who are entitled to participate in those remand proceedings. *Siporen v. City of Medford*, 55 LUBA 29 (2007). Absent instructions from LUBA or applicable local requirements, a local government is entitled to limit the scope of remand proceedings to correcting the deficiencies that were the basis for LUBA's remand, although it may choose to expand the scope of remand proceedings beyond the scope of LUBA's remand. *CCOG v. Columbia County*, 44 LUBA 438 (2003). Where the local government limits the scope to correcting the deficiencies that were the basis for remand, issues that could have been raised during the previous appeal, but were not, may not be raised on remand. *Ploeg v. Tillamook County*, 43 LUBA 4 (2002).

⁴ See *Friends of Deschutes County v. Deschutes County* <http://www.oregon.gov/LUBA/docs/Opinions/2005/03-05/04160.pdf>.

upheld the Deschutes County Coordinated Population Forecast for 2025. The City relied on its portion of this forecast and extended to 2028 for UGB land need analysis. The January 2010 Director's Report found that the extension of the City's population forecast to 2028 complied with the law (See January 2010 Director's Report Page 25). Besides causing extensive time delay, updating data to the present would extend the planning period beyond the approved population forecast. Remands would become an endless cycle of evidence/data. In staff's discussions with Richard Whitman, he confirmed that local government's can rely on the planning period, and suggested caution in opening up the record to add new evidence.

To illustrate the Commission's thinking, the language of the Order gives direction on where it will be appropriate to allow analysis of Employment Opportunities Analysis (EOA) data available through 2008, but not past 2008:

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. 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. Although a local government is certainly not prohibited from revisiting its EOA trends analysis to reflect changing economic conditions, nothing in the Commissions rules requires a local government to continually update an EOA or its estimate of land need to reflect changing economic conditions."

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. [Emphasis added.] (Remand Order, pages 71-72.)

Hence, the City could choose to update its EOA trends analysis to the present, but it is absolutely not required to do so. The City can also choose to reanalyze data already in the record, or add data that could have been available through 2008, to comply with the remand requirements on this issue.

The same holds true for the buildable lands analysis. For example, the Order references "developed lands" as those "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 remand tasks are quite prescriptive, and the City is instructed to "develop a new record and adopt a buildable lands inventory supported by findings that are consistent with state law.

(Order, pages 20, 26). The Order is replete with references about development of new analysis for lots and development potential for the different types of land “within the planning period”. Thus, evidence for the residential lands needs analysis will fall within (1) – (3) above, depending on the particular issue.

Public facilities planning, on the other hand, is a task where the City is not necessarily using the lens of 2008, because the direction was to adopt new water and wastewater public facilities plans for acknowledged land uses within its existing UGB. (Order, page 101). In this case, it is practically impossible to complete the remand order without using current information. This will be done as a what’s referred to as a post-acknowledgement plan amendment (PAPA) (appealable to LUBA), and will include updated analysis of the water and sewer service for the existing UGB boundary:

Either in amendments to those new plans, or otherwise, the City must then address the entire expansion area under Goal 11 and Goal 14, locational factor 2. If the City elects to carry out the analysis(es) of the feasibility of serving the expansion area independent of its public facilities plan, it should nonetheless formally adopt the analysis and incorporate it into the city’s comprehensive plan (and the analyze must not conflict with the exiting provisions of the public facilities plan). (Remand Order, pages 110-111.)

Of necessity, this analysis will require new and current analysis and technical data for both the existing UGB and the entire expansion area.

In sum, the remand tasks are based on a decision made for the 2008-2028 planning period. This Task Force and the City Council need to be careful, deliberative, and strategic in allowing new evidence or data into the record. If it was not available before, or could not have been available before the city when it made its decision in December of 2008, it generally should not be admitted. If it is solely a findings issue, no new evidence or data should be considered. Nothing in state law or the Commission’s Order requires the city to consider a new population forecast for a different planning period.

M E M O R A N D U M

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TO: **UGB REMAND TASK FORCE (RTF)**
FROM: **BRIAN RANKIN, PRINCIPAL PLANNER**
SUBJECT: **UPCOMING MEETINGS, APPROACH TO PROJECT AND NEW INFORMATION**
DATE: **OCTOBER 17, 2013**

Introduction

This memorandum explains staff's recommended approach to prepare the Remand Task Force (RTF) for its new role during this period of transition between the "old" and "new" approach to the UGB remand project. It also discusses the relationships between the new approach to the project and issues of using information in the existing record vs. new information to address certain remand tasks.

Public input at previous RTF meetings expressed considerable interest and concern regarding how the UGB remand will address the new OSU Cascades campus, as well as new information and analysis by consultants and a more intensive public involvement process. This memorandum and associated documents explain how these issues could be addressed through the UGB remand project. Once the RTF agrees on the overall approach, this direction can then be included in the Request for Proposals or Qualifications for consulting services, and ultimately the UGB remand project.

Background

Per the City Council's direction during the September 18, 2013 work session:

1. Proceed with the RTF's recommendations regarding the process to complete the UGB remand.
2. Staff will write a Request for Proposals or Qualifications to solicit scopes of work from consulting firms to complete the UGB remand per the direction from the City Council.
3. The RTF will now include the full City Council until the project is "kicked off" with the assistance of a consulting team. The RTF is now composed of the full City Council and two planning commissioners.
4. Depending on the preferred approach to the project as specified by the selected consultant, the RTF may continue to operate as it is currently formatted, or be modified in conjunction with the selected consultant's recommendations.

Transition Period

It will take months to develop a Request for Proposals or Qualifications and provide necessary time to review proposals and select a consultant for this

important project. How can the city use this time to make progress on the UGB remand in advance of beginning a new approach?

Staff believes the project is in a transition from the previous approach to a new approach. Staff's recommendation is to use this time to refine the approach to the project with the full City Council participating through the RTF, bring the RTF and community up to speed and reach agreement about how to handle specific remand order tasks, and most importantly, have the RTF and community fully aware of the issues at hand, compromises and trade-offs, and the new approach to the UGB remand project. This is necessary because the manner in which remand topics are addressed is often matter of policy, practical necessity, legal risk, cost, and time. Staff believes these issues are best settled early so clear expectations can be transferred from the RTF to the scope of work, and ultimately, the UGB remand. A lack of clarity will result in a lack of consistency, misunderstandings, and could result in a scope of work that is off the mark and not matching the expectations of the City Council and community.

To this end, staff has created a rough schedule of topics to discuss between now and January, 2014 (see "Schedule of Topics for RTF"). The schedule of topics amounts to a "UGB Remand 101 Class." Staff hopes the RTF will gain a nuanced understanding of the remand over the next few months so the RTF can lead the project going forward.

Before diving into individual topics, staff recommends the RTF decide how tackle the issue of using the existing record (information) or new information to address specific remand tasks. This topic will be the main focus of the October 21, 2013 RTF meeting.

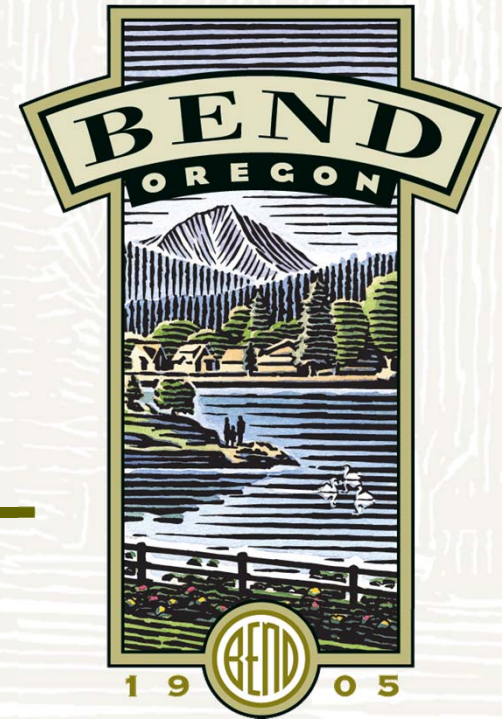
First, please refer to the 4/26/11 memorandum from Mary Winters, City Attorney. This memo explains the legal context of the remand, the record, planning period, and new evidence.

Next, please review the presentation in the packet that provides some background on recent council recommendations and an initial discussion of the pro's and con's of the recommended approach to using existing and new information. Included in the information packet is a table documenting staff's initial recommendations on how to approach each remand task ("Remand Task Summary Table October, 2013"). The table provides a snapshot of each remand task, whether it has been previously reviewed and approved by the RTF, the action that is required (or recommended at this point), and if the task requires new data of information added to the record (a recommendation at this point). A brief explanation of the type of new information that may be added to the record is included in the table.

Agreement on the approach to these issues will allow staff to move ahead with preparing a Request for Proposals or Qualifications. Decisions on whether to use existing or new information will have a direct impact on the cost of consulting services, the time to complete work tasks, and degree of legal risk. Decisions on these subjects will shape the rest of the project.

Bend Urban Growth Boundary Expansion Remand: Existing vs. New Data, Analysis, Findings

*Quick Recap
Existing vs. New Information
Summary and Discussion*



Brian Rankin

**Community Development
Department**

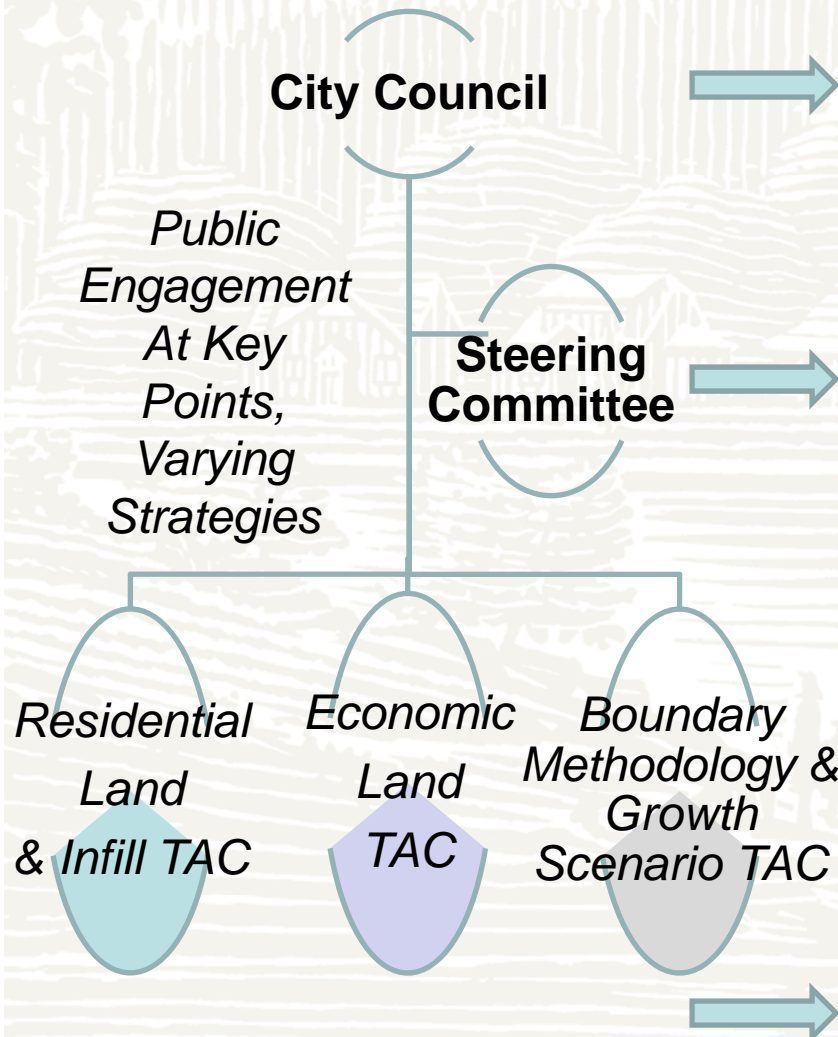
October 21, 2013

Council Recommendation & Goals



- Complete local adoption by April 2016
- Use a collaborative decision making process involving local experts and interested parties in a facilitated and expertly assisted process as described
- Apply best planning and engineering practices involving scenario development and analysis
- Engage, inform, and receive input from the public with techniques best suited for the project
- Commit to providing additional resources subject to reviewing specific proposals

Example of Project Approach



Participants	Role	Assistance
<ul style="list-style-type: none"> City Council 	<ul style="list-style-type: none"> Adoption 	<ul style="list-style-type: none"> Staff Experts
<ul style="list-style-type: none"> Council + 2 PC, BOCC Workshops Open process 	<ul style="list-style-type: none"> Policy guidance on “the whole” and “sum of the parts” 	<ul style="list-style-type: none"> Facilitation Experts Staff
<ul style="list-style-type: none"> Local experts & interests Run TACs at same time Open process 	<ul style="list-style-type: none"> Agreement on Remand tasks Apply local and diverse knowledge Advice to Steering Committee 	<ul style="list-style-type: none"> Facilitator Urban Design Experts Modeling Staff assistance

How We Reach These Goals



**How much and what type of housing does Bend need?
What types of redevelopment and infill are preferable?**

- Remand Order: 2.2, 2.3, 2.4, 2.5, 2.8, 3.1, 3.2
- **Finish by March, 2015**

How much land does Bend need to strategically support our economy?

- Remand Order: 5.1, 5.2, 5.4, 5.5, 5.6, 5.8, 5.9
- **Finish by March, 2015**

What is the total need for residential and employment land, and how should Bend determine where to grow “up or out?”

- Acknowledged Sewer PFP March 2015**
- Remand Order: Above, plus 2.6, 2.7, 4.1, 4.2, 6.1, 6.2, 6.3, 7.3, 7.4, 7.7, 7.9, 8.1, 8.2, 8.3, 8.4, 8.6, 9.1, 9.2, 9.3, 9.4, 9.5, 9.6, 9.7, 9.9, 9.10
 - **Finish by November, 2015**

What is the best growth alternative and final UGB expansion proposal for Bend ?

- Remand Order: Above, plus 4.3, 7.1, 7.2, 7.4, 7.7, 10.2
- **Finish by April, 2016**

Transition Period: Work This Fall



RTF Recommendation (August)

- General Project Approach, Resources, and Timeline

Council Direction (September)

- Agreement on Timeline, Direction on Approach, Resources

Request for Proposals (October/November)

- Refined Approach, Resources, Timeline

Select Project Approach, Funding, Timeline (December)

Contract, Initiate Work (Winter 2014)

Housing Land Need & Infill



Existing record with new findings

- Remand Order: 2.2, 2.3, 2.4, 2.5, 2.8

New information, analysis, and findings

- Remand Order: 3.1, 3.2

- **Existing record:** Buildable lands inventory. Housing needs analysis. Supply of land for housing. Second homes. Consistency with General Plan housing policies.
- **New information:** Efficiency measures based on new information, analysis, findings.
- **Pro:** Approach will not require new population and housing unit forecasts. This allows new information to be added from a market study, public input, new studies/expertise to identify efficiency measures. Likely less legal risk because core issues are settled and will require less time to complete.
- **Con:** Does not explicitly address OSU housing needs through HNA (instead, through efficiency measures). Based on 2008 data.

Employment Land Need & Strategy



Existing record with new findings

- Remand Order: 5.1, 5.2, 5.4, 5.6, 5.8

New information, analysis, and findings

- Remand Order: 5.5, 5.9

- **Existing record:** EOA already meets Goal 9. Infill/refill factor may be determined with existing information. Market choice factor does not require new information (only a decision). Other factors can be analyzed based on existing information (like vacancy rate).
- **New information:** Strategy to manage short term supply of land based on new information from PFPs, consulting expertise, and public input.
- **Pro:** Approach will save time and involve less risk than starting over. New information on short-term strategy could result in more focused public infrastructure plan. May want to add new information to determine redevelopment opportunity sites. University land need is approved.
- **Con:** Based on 2008 data and pre OSU Cascades campus.

Total Land Need, Boundary Method



Existing record with new findings

- Remand Order: 4.1, 4.2, 6.2, 6.3, 7.3, 7.5, 9.4, 9.5

New information, analysis, and findings

- Remand Order: 2.6, 4.3, 6.1, 7.1, 7.2, 7.4, 7.7, 7.9, 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 9.1, 9.2, 9.3, 9.6, 9.7, 9.9, 9.10, 10.2

- **Existing record:** Other lands factor. Park and school land. Wildfire risk consideration is optional. Surface mine designation.
- **New information:** Unsuitable acres. Meeting park & school land need. Goal 5 resources. New PFPs used to evaluate relative costs of serving alternative boundaries and infill. New transportation analysis will explain costs to serve, extraordinary costs, and west-side bridge, TPR compliance. New suitability criteria, use of exceptions, justifying lower priority lands, unsuitable lots, new boundary analysis are required.
- **Pro:** This approach is explicitly required by the remand. A new boundary analysis will reflect changes in ownership and zoning of lands in the expansion area, new information on cost to serve and other measures, data from new PFPs and other analyses.
- **Con:** BLI inside the UGB would be older than parcel analysis outside UGB.

Summary & Discussion



- **Existing information** in the record is used primarily in determining residential and economic land need
- **New information** could be added to the record in the following areas:
 - Infill and redevelopment and efficiency measures:
 - OSU Cascades campus
 - Transit and Central Area plans
 - Strategy to provide short-term supply of economic lands
 - Boundary analysis:
 - New suitability criteria, results from models, new information such as changes in zoning and ownership on lands in the expansion area
- Likely sources of new data may include studies and trends, best practices, land use scenarios and analysis, public input, market studies, visualizations, and other similar sources

Proposed Schedule for UGB Remand Task Force meetings 2013-2014

1. October 21, 2013, 3:00 pm. DeArmond Room, Deschutes Services Center, 1300 NW Wall St, Bend.

- Role, title of new RTF
- Overview of 2010 UGB Remand Order
 - Role of a Goal 2 factual base (Remand Order pages 8-9)
 - Role of Findings (Remand Order pages 13-16)
 - Review categories of remand sub issues (See summary work sheet)
- Prep for November 18 meeting

2. November 18, 2013, 3:00 pm, Council Chambers, Bend City Hall, 710 NW Wall St, Bend

- Recap, questions from October 21
- Review of remand sections and completed remand tasks
 - Residential Land Needs (Remand Order Pages 17-47)
 - See Tasks 2.2., 2.3, 2.4, 2.5, 2.6, and 2.8
 - Capacity of existing UGB and Efficiency Measures (Remand Order Pages 48-56)
 - See Tasks 3.1 and 3.2
 - Other (non-employment) land Needs (Remand Order Pages 57-63)
 - See Tasks 4.1, 4.2, and 4.3
- Prep for December 16, 2013 meeting

3. December 16, 2013, 3:00 pm, DeArmond Room, Deschutes Services Center, 1300 NW Wall St, Bend

- Recap, questions from November 18
- Review of remand sections and completed remand tasks
 - Employment Land Need (Remand Order Pages 64-85)
 - See Tasks 5.1, 5.2, 5.4, 5.5, 5.6, 5.8, and 5.9
 - Natural Resources and Hazards (Remand Order Pages 86-95)
 - See Tasks 6.1, 6.2, and 6.3
 - Public Facility Planning (Remand Order Pages 96-113)
 - See Tasks 7.1, 7.2, 7.3, 7.4, 7.5, and 7.7
- Prep for January 13, 2014 meeting

4. January 13, 2014 (tentative); 3:00 pm, Location TBD

- Recap, questions from December 16
- Review of remand sections and completed remand tasks
 - Transportation Planning (Remand Order Pages 114-122)
 - See Tasks 8.1, 8.2, 8.3, and 8.6
 - Location of the UGB Expansion Area (Remand Order Pages 123-137)
 - See Tasks 9.1, 9.2, and 9.3
 - Other Issues (Remand Order Pages 137-146)
 - See Task 10.2
- Next steps
- Schedule for early 2014

REMAND TASK SUMMARY TABLE
October 2013

***NOTE – The text of the sub-issues have been paraphrased for brevity**

Remand Issue	DLCD Review	RTF Acceptance	Action Required	Requires New Data or Information Added to the Record
2.2. Whether Buildable Lands Inventory (BLI) is adequate and capacity estimate complies with rules.	✓	✓	New findings	No. City can use 2008 data to revise BLI consistent with order.
2.3. Whether Housing Needs Analysis is adequate.	✓	✓	New findings	No. City not required to update data for HNA.
2.4. Whether City has planned for an adequate supply of land for needed housing types.			New findings	No.
2.5 Second homes (County)	✓	✓	New findings	No.
2.6. Whether City's inclusion of "unsuitable" acres complies with Goals 10 and 14.			New findings and analysis	Yes. Need to recognize any changes in ownership, zoning/plan designation.
2.8. Whether UGB expansion is consistent with General Plan housing policies promoting higher densities.			New findings	No.
3.1. Whether City has demonstrated that it has "reasonably accommodated" projected growth with its proposed efficiency measures.			New findings and analysis	Yes. New efficiency measures will be identified based on new information and analysis. This may include data in the new water and sewer PFPs, factors such as land ownership, values, conditions, etc. used to determine if land is suitable for redevelopment i.e. a new "efficiency measures" map and analysis based on market study, research,

Remand Issue	DLCD Review	RTF Acceptance	Action Required	Requires New Data or Information Added to the Record
				expert advice/testimony. Factors such as new transit plan, OSU-Cascades. Central Area Planning efforts, rezones/upzones, and similar information should be added to the record. New information from public outreach and market conditions should also be added to the record for efficiency measures.
3.2. Whether the City's two efficiency measures demonstrate that the needed mix and density of housing will be achieved.			New findings and analysis	Yes. New analysis and findings needed (See 3.1 above).
4.1. Whether City justified an additional 15% factor for "other lands."	✓	✓	New findings	No. New findings and analysis required.
4.2. Whether findings are adequate to justify parks and schools land needs.	✓	✓	New findings	No. New findings and analysis needed.
4.3. Whether findings are adequate to demonstrate that parks and schools needs cannot be met inside current UGB.			New findings and analysis	Yes. New data needed, new analysis and findings needed, based on new schools and parks located in current UGB and any proposed expansion area.
5.1. Whether City's EOA is consistent with rules for Goals 9 and 14.	Need to clarify in findings that city used 2008 EOA, Scenario A or B as basis for estimating employment land need			No.
5.2. Whether City's use of 10% refill factor for employment lands is supported by factual base and justified by findings.			New findings and analysis	Maybe; need input from consultant help. New findings and analysis based on current

Remand Issue	DLCD Review	RTF Acceptance	Action Required	Requires New Data or Information Added to the Record
				record may be sufficient. There is a possibility new data may be needed similar to Issue 3.1 (above).
5.4. Whether City may apply “market choice” factors to estimated employment land needs.			New findings	No. New analysis/decision needed.
5.5. Whether City’s policies are adequate to manage short-term supply of employment land.			New findings and analysis	Yes. New analysis and findings needed based on new PFPs and other information such as market studies and public input.
5.6. Whether City’s use of a 15% vacancy rate for employment lands is supported by the record.			New findings	No. New analysis/findings needed.
5.8. Whether City justified 119 acres to account for employment uses in residential lands.			New findings	No. New analysis needed.
5.9. Whether City’s UGB decision is consistent with General Plan policies 27 & 28 of Chapter 6 on commercial strip zoning.			New findings and analysis	Yes. New analysis needed based on boundary location, which will include new data.
6.1. Whether City’s UGB decision is consistent with Goal 5 and its administrative rule.			New findings and analysis	Yes. Depends on location of UGB and location of Goal 5 resources.
6.2. Whether City is required to address wildfire hazard as a Goal 7 issue.			Done	No.
6.3. Whether surface mining Plan designation is supported by adequate factual base.			New findings	No.
7.1. Whether City may do a serial adoption of a PFP for the current UGB, followed by separate PFP analyses of the UGB expansion area.			New findings and analysis	Yes. New water and sewer PFPs will include new data and analysis. Water PFP affirmed at LUBA and now

Remand Issue	DLCD Review	RTF Acceptance	Action Required	Requires New Data or Information Added to the Record
				acknowledged. Sewer PFP Dependent on work currently underway.
7.2. May City plan for sewer facilities to serve areas outside the current UGB?			New findings and analysis	Yes. New sewer PFP includes new data and analysis.
7.3. Whether City's PFPs were improperly used to determine location of expanded UGB.			New findings	No. Except to the extent that new information is developed under Tasks 7.1 and 7.2. To be addressed under boundary analysis – Issue Area 9.
7.4. Whether PFPs need to be consistent with measures to provide land for needed housing.			New findings and analysis	Yes. New sewer and water PFPs will be used to evaluate future efficiency measures.
7.5. What are City's obligations for coordinating with private water system providers?	Addressed in acknowledged 2013 Water PFP – incorporates and relies upon plans from Avion and Roats Water Companies.			
7.7. Whether CSMP and water master plans must cover all of UGB expansion area.			New findings and analysis	Yes. Analysis of UGB expansion areas will rely on new water and sewer PFPs. New analysis of possible expansion areas will require a new analysis based on new data.
8.1. Whether City's findings adequately explain the relative costs of providing transportation improvements to serve alternative UGB expansion areas.			New findings and analysis	Yes. New analysis required, may incorporate new information based on results of new VMT analysis and cost analysis.

Remand Issue	DLCD Review	RTF Acceptance	Action Required	Requires New Data or Information Added to the Record
8.2. Whether City must provide more detailed transportation analysis to consider “extraordinary” improvement costs.			New findings and analysis	Yes. City will likely revise findings based on new data - new information based on results of new VMT analysis and cost analysis.
8.3. Whether City must re-analyze relative costs of transportation improvements on the west side to be comparable with other expansion areas.			New findings and analysis	Yes. City will likely revise findings based on new data.
8.6. What must City do to comply with TPR?			New findings and analysis	Yes. New analysis is required using current (new) data.
9.1. Whether City’s use of suitability criteria complies with state statutes and Goal 14.			New findings and analysis	Yes. Requires multi-step process to apply suitability criteria to current priority status of lands (based on current zoning) in expansion area. New analysis is necessary and that analysis will be based on data in PFPs, Transportation System Plan (TSP), the VMT analysis, transportation cost analysis and current plans for OSU Cascades.
9.2. Whether City has justified use of exceptions allowed under ORS 197.298(3).			New findings and analysis.	Yes. Updated analysis and findings based on changes in plan designations and zoning in potential expansion areas.

Remand Issue	DLCD Review	RTF Acceptance	Action Required	Requires New Data or Information Added to the Record
9.3. Whether City properly applied ORS 197.298(3) (c) to include lower priority lands.			New findings and analysis.	Yes. Updated analysis and findings based on changes in plan designations and zoning in potential expansion areas.
10.2. Whether City and County applied appropriate comp. plan and zoning designations to the UGB expansion area.			New findings and analysis.	Yes. New data could include new plan designations that were not a part of the original record.

UGB Remand – Issues Resolved or Addressed under another Task

Remand Issue	Disposition
1. Whether the City's findings are adequate for review.	Director had correctly determined that City's work must be supported by substantial evidence and present adequate findings.
2.1. Whether the Director applied the correct version of the commissions Goal 10 and Goal 14 rules to the City's decision.	Objector's appeal denied. Affirms City's position.
2.5 Planning for second homes (City)	Objector's appeal denied. Affirms City's position.
2.7. Whether inclusion of 500 "surplus" acres complies with Goal 14.	Should be able to dispose of this issue by not including any surplus land.
5.3. Whether City must update EOA to reflect more recent economic trends.	Objector's appeal denied. Affirms City's position.
5.7. Whether UGB expansion must consider impacts on agriculture as an industry.	Objector's appeal denied. Affirms City's position.
6.2. Whether City is required to address wildfire hazard as a Goal 7 issue.	Objector's appeal denied. Affirms City's position. City is not required to address wildfire risk under Goals 2 and 7. City may consider wildfire risk during the boundary location analysis under Goal 14 locational factors 3 and 4.
7.6. What was City's obligation to provide notice prior to adoption of PFPs?	This issue will be resolved once the new 45-Day notice is sent
7.8. Whether City must coordinate with Swalley as an urban service provider.	Objector's appeal denied. Affirms City's position.
7.9. Whether City must reconsider relative costs of providing public facilities to UGB expansion area generally, and in planning for needed housing in particular.	Commssion denied objector's appeal. City will need to reevaluate public facility costs of alternative UGB expansion areas as described in 7.7.
8.4. What is planning status of west-side bridge?	City agreed to clarify findings that any bridge will not likely be needed during 20-year planning period. Need and timing to be determined through new travel modeling. Based on boundary location and analysis.
8.5. Whether City's findings regarding transportation impacts on the west side are consistent with TSP Policy 21.	Objector's appeal denied. Affirms City's position.
8.7. May City rely on partially-acknowledged TSP for UGB amendment?	Objector's appeal denied. Affirms City's position.
9.4. Whether UAR lands are exception lands.	Objector's appeal denied. Affirms City's position.
9.5. Whether City was required to exclude lands due to high costs to serve.	Objector's appeal denied. Affirms City's position.

Remand Issue	Disposition
9.6. Whether City may exclude developed lots less than 3 acres as unsuitable.	Will be addressed in work to satisfy Task 9.1 – no additional data required.
9.7. Whether City's threshold suitability criteria have an adequate factual base.	Will be addressed in work to satisfy Task 9.1 – no additional data required.
9.8. Whether City must apply Deschutes County Code 23.48.030.	Objector's appeal denied. Affirms City's position.
9.9. Whether City should reconsider specifically inclusion of northwest UAR lands in UGB.	Will be addressed in work to satisfy Task 9.1 – no additional data required.
9.10. Whether exclusion of Buck Canyon area from expanded UGB was consistent with statutory priorities.	Will be addressed in work to satisfy Task 9.1 – no additional data required.
10.1. Validity of objections.	City appeal denied. Does not result in a remand task.
10.3. Whether City provided adequate notice.	This issue will be resolved once the new 45-Day notice is sent.
10.4. Whether City coordinated adequately with Swalley.	Objector's appeal denied. Affirms City's position.
10.5 Whether City violated Goal 1.	Objector's appeal denied. Affirms City's position.
10.6 Did City place information in the record after public hearing was closed?	City will issue new 45-day notice and allow new evidence to be introduced into the record.
10.7 Should LCDC more clearly define scope of remand?	Objector's appeal denied. Affirms City's position.

MEMORANDUM

To: Council
From: Mary Winters, City Attorney
Tom Hickmann, Engineer
Subject: Response to Questions – Treatment Decision
Date: October 8, 2013

Questions from Councilor Chudowsky:

If Council approves UV+wells, do we have to run an Optimatics-style analysis for all or part of the system in light of the heavier dependence on wells?

Yes. Council will need to approve a contract for an additional modeling analysis using the Optimatics program. It would essentially modify our prior planning. The entire analysis of deficiency and improvements was based on the results showing the efficient use of our current infrastructure. The new modeling analysis would ignore the surface water as a piece of our existing infrastructure and not consider Bridge Creek as our base supply. That is a significant difference from the current planning document. Instead of asking how to use the existing infrastructure to maximize efficiency and defer capital investments, the new analysis would simply look at deficiencies with the system using all groundwater for extended peak periods of time. It is unknown what those results would show, but it would likely require investments in several wells and additional above ground storage. The current plan eliminated the need for any significant investments in storage in the planning horizon. The costs of potential additional storage is unknown.

Would an RFP have to be put out?

Yes. At a minimum we would need to pick three firms to bid on the RFP.

What is the approximate cost of such an analysis and how long would it take?

The cost could range anywhere from \$50K to more than \$250K. The results could require a complete rewrite of the current master plan, including an entirely new schedule of improvements and timing of those improvements. This would likely require a rewrite of the existing Water PFP that is based on the master plan. It could take up to 18 months to do this work.

Would design of the UV system have to be done only after the Optimatics-style analysis is done?

No. If Council decides to go with UV, we would need to begin the design process immediately to show the State the intent to comply with LT2. We would move ahead on both the design process and the new study.

Another factor to consider is that this change in approach requires starting the design from scratch. This likely requires a new competitive bid process to find the design firm. This new competitive bid process could take six months or more before we could even begin designing a UV system.

Assuming this takes a while, what are the consequences insofar as our treatment deadline with the state?

The consequences are unknown at this time. We have not discussed this option with the State, but it could be more than a bilateral compliance agreement because of the time it would take us to get to compliance, which would essentially have the state set timing of improvements and type of improvements. There are very real consequences for not complying with the federal regulation such as consent decrees or required public notices. That is not a situation we would want to be in for a variety of reasons.

With the membrane option, we would enter into a bilateral compliance agreement. Based on conversations to date, the state has been willing to work with us as long as we demonstrate progress towards meeting the regulation.

Since the Water PFP is based in part on Optimatics (in particular the schedule for normal well build-out on Table 3-1) would we have to re-do the Water PFP if substantive changes are going to have to be made to reflect the new Optimatics-style analysis? How long will a re-write of the Water PFP take? Then, how long will it take for the PFP to be approved? Then, if the Water PFP is challenged as the last one was, what is the approximate added time and expense?

Answers:

Goal 11 Requirements: Under Goal 11, public facilities plans must include a list of significant public facility projects which are to support the land uses in the acknowledged comprehensive plan, the rough cost estimates of each public project, and a map or written description of each public facility project's general location or service area, and an estimate of when each facility project will be needed. OAR 660-011-0010. The plan also has to designate these projects for development in the short terms (1-5 years) and the approximate year for development, and those for the long term (6-20 years) and a general estimate of when the need for project

development would exist, based on population levels, service level standards, etc. OAR 660-011-0025.

If the City chooses to change its base assumptions for its water infrastructure, the PFP will require a significant rewrite. This rewrite would be based upon the new Optimatics study. These timelines are stacked (Optimatics study then the PFP rewrite). It is likely that this would take at least 18 months.

If there is an appeal, unless record issues substantially delay the process, it is generally reasonable to assume that a LUBA decision will be issued within 5-6 months of the City decision. The following were the actual times for the first PFP.

1. During the first LUBA appeal (2012), six months from final council decision to remand order from LUBA.
2. Rewrite the PFP and address the 2012 remand order – three months.
3. Second LUBA appeal on the Water PFP, five months between final council decision and the order affirming the PFP in September 2013.

Therefore, the last round of LUBA appeals for the water PFP took approximately fourteen months to resolve. The adoption of the PFP is subject to appeal to the Court of Appeals which would extend timelines.

The costs are hard to estimate but this effort requires at the very least:

- New Optimatics study
- New PFP
- Appeal responses

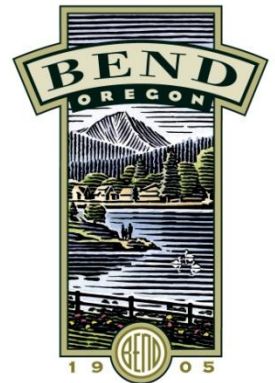
This will likely run in the range of \$500,000 - \$1,000,000 once all consultant and staff time is included. In terms of in-house legal time, between compiling the record, drafting briefs, oral argument, etc., we estimated several hundred hours of legal time for the original appeal and remand.

AGENDA

UGB Remand Task Force (RTF)

Monday, November 18, 2013
3:00 p.m.

Council Chambers
City of Bend City Hall
710 NW Wall St, Bend, OR 97701



710 NW WALL
STREET
PO BOX 431
BEND, OR 97701
[541] 388-5505 TEL
[541] 385-6676 FAX
BENDOREGON.GOV

1. Call to Order
2. Approval of Minutes – October 21, 2013
3. Recap of Presentation from October 21, 2013
4. Presentation and Discussion – UGB Remand Order: Residential Lands, Capacity and Efficiency Measures, and Other Lands
 - a. Presentation by Damian Syrnnyk, staff
 - b. See Staff memo, Pages 17 – 63 of Remand Order
 - c. Discussion, RTF, Staff, public
 - d. Testimony – Public
 - e. RTF Deliberation and Action:
 - i. Approve use of prior remand task work products
 - ii. Identify task work products for review and reconsideration
5. Prep for December 16, 2013 RTF Meeting (DeArmond Room)
6. Adjourn

JIM CLINTON
Mayor

JODIE BARRAM
Mayor Pro Tem

VICTOR CHUDOWSKY
City Councilor

DOUG KNIGHT
City Councilor

SALLY RUSSELL
City Councilor

MARK CAPELL
City Councilor

SCOTT RAMSAY
City Councilor

ERIC KING
City Manager

1. Call to Order

The Remand Task Force Meeting was called to order in the DeArmond Room of the Deschutes Services Center at 3:03 PM. Present were the Remand Task Force Members, Chair Cliff Walkey, Bill Wagner, Mayor Clinton and Councilors Capell, Chudowsky, Barram, Knight, Russell and Ramsay.

2. Approval of Minutes from August 19, 2013

Councilor Barram moved to approve the minutes and Councilor Ramsay seconded. Minutes were unanimously approved.

3. Presentation- Overview of 2010 UGB Remand Order

Mary Winters discussed a memo entitled "Timing of Data/Evidence in UGB Remand." It addresses both what the remand order says and our follow-up discussion with the former director, Richard Whitman. She explained the reasons for staff wanting to stick with our existing record. Today, some of our empty lots are starting to have developments and there are different market trends. We want to have a product that means something when we are done with it. Mr. Rankin will go through a slideshow with recommendations on areas where we think we really only need to do findings and where we think we should use the data in the record. The other area that we are recommending we look at is a lot with efficiency measures. Where do we absorb potential new housing - where is our market going? The more we push to make new findings, the more we push our timeline out.

In sum, the remand tasks are based on a decision made for the 2008-2028 planning period. This task force and the City Council need to be careful, deliberative and strategic in allowing new evidence or data into the record.

Mr. Rankin mentions that there is a legal risk by going with something new rather than something that's already been approved by DLCD. There is LUBA case law that says you can't challenge something that could have been raised and wasn't -- it can't be brought up the second time around. If there is an issue like efficiency measures, and we've been directed to look at mixed-use, up-zoning, etc. and we're looking at current market trends, then people can testify and voice their opinions.

There is no great guidance in the rule. We could stick to the planning period, but the question is what do we do with what has happened since 2008?

A question was asked about PAPAs and how it would affect that. Mrs. Winters explained that some documents are adopted as PAPAs that go to LUBA, such as the water PFP and the sewer PFP. If you did that kind of zoning while we're doing this process, those would then be going through the planning commission to council and they'd be appealable.

Another question was raised. If we stay strictly to that 2008 as we are going through this process, what parts we expand, how does that set us up beyond this planning period. Mrs. Winters says the better we plan for the UGB the better we can plan for the future.

It was pointed out by Ms. Swirsky that there is legislation that just passed but there is a two-year process before there will be clear guidelines.

Mr. Rankin mentions that this time around it is more collaborative and we're having more meetings and reaching out. An RTF member mentions that we should recognize that not all appeals are contentious; they might just need to be recognized. Not everybody will be happy as that's just the nature of land use.

It was mentioned that there are catch phrases that have legal and practical meanings such as "substantial evidence" and "actual factual basis." It is important for the City to have an ongoing dialogue on the substantial evidence and actual factual basis language.

Ms. Swirsky says that we're more than happy to review draft products and let you know if we think that's the right track or not. She does not expect anything to get off the rails.

Mr. Rankin then presented a quick slide show recap that included council recommendations and goals and an example of a project approach. He also discussed housing land need and infill. He discussed some pros and cons with each approach. Staff recommends we keep the 2008 for housing land needs but when working on efficiency measures, we're going to use new data.

Members of the RTF then voiced their general support and gave their personal opinions with Mayor Clinton stating he would like to see us develop a specific plan of how this is going to go and specific recommendations on that scoping so we have a clear idea of what individual steps are going to entail.

A member from the SIAG committee mentioned that she favors UV+wells. If we want UV+wells, we have to consider replacing surface+ wells because they could be in different places.

An RTF member mentions that we're always going to have changes. How are we going to manage any of those regardless of what the final decision is on the surface water treatment, to which Mr. Rankin mentions that first of all, this is not staff making this

decision. That the RTF is guiding the UGB process. As it pertains to the UGB/water PFP issue, we can present what we believe the timelines are to meet the 2016 deadline. Whether it's going to delay us is there is no clear answer. Ms. Winters mentions that it will go faster if we have decisions we can stick with..

Another RTF member makes the point that we should think about the fact that we have an acknowledged water PFP and nobody would think we'd do a water PFP within 5 years.

4. Prep for November 18, 2013 RTF Meeting (Council Chambers)

Brian asks everyone to send his or her comments regarding the list to him. He will start preparing the PFP with this in mind. Please review.

Cliff adjourns the meeting at 5:02 PM.

September 14, 2013

TO:

Bend City Councilors
Bend City Planning Commission
Bend Remand Task Force Members
Brian Rankin, Principal Planner, City of Bend

SUBJECT: Bend Remand Task Force's Recommended Strategy for Proceeding w/ UGB Expansion

I am writing to support the City's UGB Remand Task Force's (RTF) recommendation to proceed with its UGB expansion guided (in part) by outside experts from Portland State University's Oregon Consensus program (or a similar one), designed to help governments and their constituents reach consensus on complicated public issues and to say that I'm encouraged by the practical, thoughtful approach being advocated by the RTF, which is working closely with Principal Planner Brian Rankin.

It's no secret that I was an energized appellant of the City's earlier efforts to expand its UGB. The root of my opposition was related to the previous effort's lack of transparency and failure to involve the public when the City made substantial last-minute changes in its proposal that had the effect of denying the public adequate time to comment. One substantial last minute change resulted in a portion of our neighborhood being zoned to permit the construction of a 225 acre auto mall and also zone for IG/IL/IP (Industrial General/Light/Park) uses. We discovered these changes less than two months before the Joint City / Deschutes County hearing that voted to adopt the map. And, we only discovered the changes because a realtor with "inside knowledge" contacted my neighbor and tried to get him to list his land so that it could be sold to a concrete company that was losing its conditional use permit which allowed it to operate in the Old Mill District. The realtor happened to work for a City Planning Commissioner.

This time around, Bend has a different economy and growth trajectory, and new members on the City Council and Planning Commission. The expansion process is being managed by Brian Rankin, whose ability to work with the community is outstanding. Mr. Rankin clearly understands the need for collaboration and transparency. Because of this, I am motivated to adopt a constructive approach.

We've all learned the importance of giving diverse stakeholders an opportunity to weigh in on how they want Bend to grow – for grow it must. And, nearly everyone believes that the UGB expansion process must be expedited. **The quickest way to conclude the process is to avoid appeals.** The easiest way to avoid appeals is to get stakeholders talking, encouraging them to engage with each other to reach consensus with minimal intervention from the City (other than to work with the DLCD to help the group properly interpret Oregon's land use laws). In an environment where the City can remain somewhat removed from stakeholders' differences and biases, it is less likely to be 'stuck in the middle', which became a major source of "push-pull" during its last expansion effort.

The consensus-based approach advocated by the RTF and staff, augmented (I hope) by public education and outreach, closely mirrors that of the other municipalities that successfully abbreviated their UGB expansion processes. Those touted as being the best models are Eugene and Redmond and, to a lesser extent (due to one somewhat time-consuming appeal that was ultimately denied) Scappoose.

Contrast the relatively “painless expansions with those fraught with appeals and/or ultimately remanded fully or partially: Bend, McMinnville, Metro (still in the appeals process), and Woodburn (approved by the DLCD, affirmed by LCDC and overturned in the State of Oregon Court of Appeals).

It’s become clear to me that an approach based on public outreach and education, consensus building, and collaboration across various interest groups and constituencies (e.g., Eugene and Redmond) are much cleaner and quicker (not to mention far less costly) than those that see to expedite the process by shutting out the public. A commentary published in the Eugene Register Guard makes this same point: <http://projects.registerguard.com/csp/cms/sites/web/opinion/25403169-46/eugene-community-growth-council-envision.csp>

In the case of Bend, a transparent process will not only speed things along, it will also garner the public’s respect for this City Council – both for new members and more seasoned ones. It will show that the City is adaptive, willing to listen and learn ... all critical elements of good stewardship.

Finally, this UGB expansion approach must be different in order to respond to recent developments: It must consider the impact that the new OSU campus will have on the City’s transportation system, demand for affordable housing, and of course, public facilities. All of this drives the need for a more balanced approach, which is what the RTF, and staff are advocating. I am a wholehearted supporter.

I’m only one player, albeit one with a keen interest in the City’s ongoing UGB expansion process. Some might say that I should step back as my neighborhood is not within the City’s UGB and moreover, I and the vast majority of my neighbors, do not want to be included in Bend’s expanded boundary. But while I am an “outsider, it’s fair to say that I’m also an atypical “insider” based on my past history with the City’s UGB expansion process, my grasp of Oregon’s land use laws that govern such expansions, and my understanding of the various issues that have, and will continue to, inform the process.

My goal in writing this letter is to encourage Council and the Planning Commission to proceed with this UGB expansion effort in a way that is much more open and which reaches out to a much wider array of stakeholders. I also encourage you not to hold critical meetings during holiday weeks, (the joint session of City and County leaders was held during the Thanksgiving holiday week), to convene (and give lots of advance notice of) public meetings and open houses, and to hold at least some sessions to introduce members of the “greater public” to how Oregon’s land use laws impact the process, how the expansion will (or could) impact them, and how to communicate with the City in an informed manner (as opposed to a pointless rant that lacks a legal footing).

I thank you for considering my input. I wish the City of Bend the best in rapidly and efficiently concluding its UGB expansion process. I hope that this time around, circumstances allow me to play a much more constructive role.

Sincerely,

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MEMORANDUM

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TO: **UGB REMAND TASK FORCE**
FROM: **DAMIAN SYRNYK, SENIOR PLANNER**
SUBJECT: **NOVEMBER 14, 2013**
DATE: **PREVIEW OF NOVEMBER 18, 2013 RTF MEETING**

The next RTF meeting is scheduled for November 18, 2013 from 3:00 pm to 5:00 pm in the City Hall Council Chambers. This meeting is the first of three during which Staff will review the remand tasks by subject area with the RTF. You will find enclosed with this memorandum a pdf copy of a PowerPoint presentation for the November 18 meeting where we will review the residential land need, capacity and efficiency measures, and other lands remand tasks. You can find the entire remand order online at this link: <http://www.bendoregon.gov/modules/showdocument.aspx?documentid=5343>. A pdf copy of pages 17 through 63 of the 2010 Remand Order is also enclosed with your packet. These pages cover the topics we will cover during the November 18, 2013 meeting.

The goal of this and the next two meetings is to review the remand tasks so that the RTF understands what the remand order and related state law require for compliance, what tasks have already been completed, and also which remand task products, if any, the RTF wants to review or reconsider. Much of the work that was completed on remand tasks occurred between 2011 and 2012. In order for Staff to stay on schedule and move the process forward, we need the RTF to identify those tasks where you're satisfied with the work products and those where you want to review or reconsider the products. The packet for this meeting includes the materials reviewed by the RTF related to the buildable lands inventory (Task 2.2) the housing needs analysis (Task 2.3), second homes (Task 2.5), other lands (Task 4.1), and land need for public schools and parks (Task 4.2).

You will find a substantial amount of material that includes technical memoranda, maps, and findings related to these remand tasks. Staff does not expect the RTF to read through these materials in their entirety; rather, please review and skim if necessary so you have some idea of the amount of work already completed by staff and the RTF. Depending on the RTF's level of understanding and agreement with the work completed to date, additional meetings may or may not be needed.

Please contact me if you have any questions.

/dps

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 Objectors/Appellants

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

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 Brookings 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 routes 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 Its 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 its 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 its 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 Study²⁰), 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 needed 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.

UGB Remand Task Force

Bend City Hall Council Chambers

710 NW Wall St, Bend



*Damian Syrnyk
Senior Planner*

November 18, 2013

Substantial Evidence



- Legislative land use decisions must be supported by substantial evidence
- Substantial evidence is evidence a reasonable person would rely on in reaching a decision.
- 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
- 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.

Findings



- Local government must articulate its thinking through findings
- Articulate the applicable standard the City is showing is met
- Explain why the City's decision complies with this standard
- Identify substantial evidence in the record to support its explanation

Residential Land Needs



- 2.2 – Develop and adopt a buildable lands inventory (BLI) consistent with state law and order
 - **Completed and reviewed by RTF September 2011**
- 2.3 – revise housing needs analysis (HNA), findings, and Chapter 5 of BAGP consistent with Order
 - **Completed and reviewed by RTF April 2012**
- 2.5 – County needs 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
 - **Completed and reviewed by the RTF April 2011**

2.2 - Buildable Land Inventory (BLI)



- Classify all residential land, by plan designation, into one of several categories:
 - Vacant – 1,909 acres
 - Partially Vacant – 150 acres
 - Infill – 5,151 acres
 - Developed – 4,979 acres
- Relied on definitions in state law (OAR 660-008)
- Reviewed with DLCD to ensure consistency and clarity
- Provides foundation for future work on land need

2.3 – Housing Needs Analysis (HNA)



- Foundation piece like BLI
- Includes following components:
 - Housing units forecast – 16,681 units 2008-2028
 - Demographic and Economic trend analysis – national, state, local
 - Housing unit inventory – 34,929 units in 2008
 - Identification of future housing mix – 65% SFS, 2% SFA, 33%MFA
 - Identification of future density - 4.0 SFD, 15.0 SFA, 16.7 MFA, overall 5.4 du/acre
- Provides data for completing remand task 2.4

Residential Land Needs



- 2.4 – City must plan lands within existing UGB and any expansion so that there are sufficient buildable lands in each plan district to meet anticipated needs for particular needed housing types
 - This will need to be completed during efficiency measures work and in planning for any lands included in the UGB that are intended for housing
- 2.6 – City needs to determine to what extent any previously classified “unsuitable” lands will need future land needs
 - Key task during boundary location analysis
- 2.8 – City needs to adopt findings that address final UGB proposal and its compliance with the housing policies in Chapter 5

Capacity and Efficiency Measures



- 3.1 - City must reconsider projected capacity of lands in UGB based on revised BLI, recent development trends, and existing and potential new measures
 - Order provides suggestions on what actions the City could take to be more efficient
 - Commission concluded that the City had not satisfied “reasonably accommodate” standard of Goal 14
 - The Commission also point out this requirement is read in the light of ORS 197.296(7)-(9) and the unique factual situation of Bend.

Capacity and Efficiency Measures



- 3.2 - City to address requirements of ORS 197.296(7) and (9) with respect to any new measures that it relies on
 - Adopt specific timelines for initiation and completion of efficiency measures, including detail about the outcomes
 - Adopt findings that show why those outcomes are more likely to occur as a result of the measure(s), and how they related to needed housing types and location
 - Within two years of acknowledgement, complete and adopt provisions of specific measures, including provisions that plan for an estimated number of units

Other (non-employment) land needs



- 4.1 – 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.
 - **Completed and reviewed by RTF April 2011**
 - **12.8 percent**
- 4.2 - 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.

Other (non-employment) land needs



- 4.2 - Schools and Parks (continued)
 - **Completed and reviewed by RTF June and July, 2011**
 - **192 acres land need for schools**
 - **362 acres land need for parks**
- 4.3 -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
 - 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

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TO: **BEND UGB REMAND TASK FORCE**
FROM: **DAMIAN SYRNYK, SENIOR PLANNER**
SUBJECT: **WORK SESSION ON BUILDABLE LANDS INVENTORY**
DATE: **MAY 27, 2011**

Introduction

As discussed below, a buildable lands inventory (BLI) is required by state law as an early step in the UGB expansion process¹. A local government is required to develop the BLI as a necessary step in determining whether an expansion of an urban growth boundary (UGB) for housing is needed. If the BLI demonstrates that there is not enough buildable land within the existing UGB, then an expansion of the UGB may be justified. In Bend's case, the BLI adopted in 2009 found that, although the current UGB could accommodate about two-thirds of projected new housing units during the 2008-28 period, it did not contain enough buildable land to meet the entire 20-year need. That was a key finding which justified much of the proposed expansion.

In its order remanding the UGB expansion to the City, LCDC found that the 2008 BLI was inconsistent with state law in several ways. These are outlined in Sub-Issue 2.2 of the remand order. In Sub-Issue 3.1 there is related discussion concerning use of the BLI to estimate capacity of the existing UGB. With the assistance of the City's GIS Program, Long Range Planning Staff are revising the BLI to conform more precisely to requirements in state law. That revised BLI will result in a new estimate of buildable acres which will, in turn, affect the estimated housing capacity of the existing UGB and thereby the amount of land needed for expansion.

Purpose

On June 2, 2011, Staff will conduct a work session with the task force on the buildable lands inventory (BLI) for housing lands in the UGB. This work session will introduce the topic by reviewing:

- the information required to be included in the BLI;
- the statutory and administrative rule requirements for developing a BLI;
- the City's 2008 BLI and LCDC's decisions on this BLI, and;
- the City's proposed approach to address the Remand Order.

¹ For the purpose of this memo, "BLI" refers to a residential buildable lands inventory.

The June 2, 2011 work session will be an introduction to the BLI. The revised BLI – based on the remand order – will be presented at a subsequent RTF meeting, likely during July.

Buildable Lands

The buildable lands inventory for housing is an inventory of the residential lands in the Bend UGB that are suitable and available for housing. Both ORS 197.296(4) and OAR 660-008-005(2) identify and/or define what lands are to be treated as buildable lands for an inventory. The BLI is the basis for the city's analysis on how much land is suitable and available for housing in its current UGB. Before amending a UGB to add land for housing needs, a local government must first inventory residential land inside the UGB to determine whether there is adequate development capacity to accommodate 20-year needs for population and housing.

ORS 197.296 applies to local governments with a population of 25,000 or more in its UGB, and requires such local governments to inventory buildable lands for housing. In addition, the statute requires the local government to use the inventory data to estimate the capacity of the UGB for housing and describes what constitutes buildable lands to be inventoried. ORS 197.296(4) further defines what lands to consider buildable.

(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.*

OAR 660 Divisions 8 and 24 provide further guidance on the preparation of the inventory and what constitutes buildable lands. OAR 660-008 is the administrative rule that implements Statewide Planning Goal 10, Housing. OAR 660-008-005(2) further defines Buildable Land as follows:

(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.*

Please note that the rule, OAR 660-008-005(2), applies to all cities. The statute at ORS 197.296(4) applies to cities with a population of 25,000 or more, which includes Bend. The statute considers buildable lands those that are planned or zoned for residential use. The rule considers designated (planned) residential land for the BLI. Lands that are zoned residential, but have a non-residential plan designation must be included in the inventory under ORS 197.296(4). In Bend, there are approximately 70 acres of land that currently have a residential zone, but a non-residential (e.g. employment) plan designation. In addition, the statute further requires land in mixed use plan designations that allow housing to be included as buildable land. The City's 2005 BLI found 153 acres of land designated MR, Mixed-Used Riverfront, developed with 87 dwelling units (Record p 1992).

OAR 660 Division 24 is the administrative rule that implements Goal 14, Urbanization, by clarifying the requirements for developing or amending a UGB. OAR 660-024-0050(1) requires 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 BLI must include vacant and redevelopable land, and be conducted in accordance with 660-008-0010 and ORS 197.296 for local governments subject to that statute. OAR 660-024-0050(4) requires that if the BLI 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. Prior to expanding the UGB, a local government must demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the UGB.

Therefore, conducting an inventory is a key step in estimating whether additional residential land will be needed in the UGB to accommodate the estimated 20 year needs for housing. The January 2010 Director's Report and Order concluded that the City's 2008 to 2028 population and housing units forecasts complied with relevant state law². LCDC did not come to a different conclusion and approved the Director's decisions on these forecasts. The population and housing unit forecasts and the City's revised BLI will provide the basis for revising the housing needs analysis and determining the amount of residential land available in 2008 for housing, and the extent to which additional land will be needed in the UGB.

² See Director's January 2010 order, pages 25 and 31, respectively.

City's 2008 BLI

In 2009, the City adopted a residential buildable lands inventory, dated March 2008, and included a summary table of the inventory in an amended Chapter 5 of the General Plan, Housing and Residential Lands (Record p. 1280).. The inventory and a map identifying the respective lands in the inventory were submitted to the Department of Land Conservation and Development (DLCD) to be reviewed alongside the other materials submitted in support of the proposed UGB expansion. This memorandum includes a copy of Table 5-4, the 2008 BLI, as it was presented in the 2009 version of Chapter 5 that was submitted to DLCD for acknowledgement (See Attachment 1).

One concern of LCDC in reviewing the 2008 BLI was that in categorizing residential acreage within the existing UGB, the categories used by the City did not match those referenced in state law. To address this concern, Staff is developing a revised BLI which will categorize the various types of buildable residential land in the UGB based on the statute and administrative rule. Recent guidance has been provided by DLCD staff regarding the definitions and application of buildable land types.

The record developed for the UGB expansion includes several documents in which the City defined the categories of land used in the 2008 BLI. These documents include a March 3, 2008 memorandum to the Bend Planning Commission and County Planning Commission liaisons (Record p 8408). The record also includes an October 17, 2008 memorandum (Record P. 2040) that described the methodology and results of the 2008 BLI, including summary tables with the meta-data for the BLI (Record p. 2042). The following definitions were used in 2008 for all lands with a residential General Plan designation (See Attachment 2).

- **Developed Lands.** This category of land represented land that was developed with existing dwelling units and that did not meet the redevelopment criteria described below. It also included residential land that was used for employment, schools, parks, rights of way, open space, institutional uses, or parking lots.
- **Constrained Lands.** This category represented land that was vacant, redevelopable, or developed and that could not be developed further because of lack of infrastructure or because of the presence of areas of special interest, location in a flood plain, or a steep slope on at least 50% of the property.
- **Vacant Acres.** This category of land represented raw, undeveloped land with no constraints.
- **Vacant Acres – Pending Land Use.** This category represented vacant land that was the subject of a land use application for the creation of new lots or parcels.

- **Vacant Acres – Platted Lots.** This category of land included tax lots that had been created through partition or subdivision plats, but were not developed and did not have a pending building permit for new housing units.
- **Redevelopable Acres.** This category of land met scenario B3 for redevelopment purposes. Scenario B3 assumed that lands likely to redevelop were those lots of a half-acre (0.5 acre) in size or larger, that also have land values that are greater than improvement values, that could accommodate twice the number of units on the lot than currently exist, and that do not have deed covenants, conditions, and restrictions (known as CC&Rs) that prohibit further subdivision or development.
- **Redevelopable Acres – Pending Land Use.** This category of land included land meeting Scenario B3 (See above) for redevelopment and for which the City had received a pending land use application for residential development.

LCDC's Decisions on the 2008 BLI

LCDC 2010 Order remanded the BLI back to the City for further work. The Commission's disposition of the BLI is discussed primarily under Subissue 2.2 at pages 18 to 26 of the Order. To summarize, the Commission concluded that:

- The City's findings did not adequately explain the basis for the City's determination of which lands were vacant and redevelopable, as those terms are used in ORS 197.296 and OAR 660 Divisions 8 and 24;
- The City did not examine the amount and types of development that have occurred on vacant and redevelopable land in the UGB since the City's last periodic review of the comprehensive plan, utilize that information to project future infill and redevelopment, and provide findings regarding how that projection was determined;
- The City's findings did not adequately justify the City's exclusion of lots and parcels subject to CC&Rs, and;
- The City's exclusion of City-defined constrained lands, City-defined areas of special interest, and vacant parcels smaller than 0.5 acre was not consistent with state law, and on remand, these lands must be included in the City's BLI.

On remand, the City must develop a new BLI, using the 2008 data, that identifies vacant land, partially vacant land, infill land, and redevelopable land by plan designation. Using this data, the City must also look at trends in the development of land to estimate the capacity of the UGB for additional housing. LCDC's order allows the City to use the same data that it used in the previous BLI.

City's Approach to Develop a Revised BLI

Long Range Planning Staff have coordinated with DLCD staff in Bend and Salem to develop a revised buildable lands inventory, based on the Commission's disposition of Subissue 2.2. To date, this work has involved taking the data in the 2008 BLI and re-classifying it into one of the following mutually exclusive categories:

- **Completely Vacant land.** Residentially planned or zoned land with no development³.
- **Partially vacant land.** Residentially planned or zoned land that is developed with fewer dwelling units than permitted in its zone, and on which additional units can be developed during the planning period. Partially vacant lots or parcels are not large enough to further divide consistent with current zoning standards.
- **Land that may be used for residential infill.** Residentially planned or zoned land with one or more dwelling units on a lot or parcel that can be divided further for additional residential development consistent with the zoning standards.
- **Redevelopable land.** Residentially planned or zoned land that is completely developed, but where there is a "strong likelihood," due to present or expected market forces, that existing units will be removed and the site will redevelop at a higher density during the 20-year planning period.
- **Developed land.** Residentially planned or zoned land that is completely developed, and there is not a strong likelihood of redevelopment during the planning period.

The Order points out a distinction between redevelopable lands and other types of buildable residential land. For redevelopable lands, unlike other categories of land in a BLI, the criteria for determining whether a lot or parcel should be in the BLI are discretionary and subjective, instead of clear and objective. A local government must show there is a strong likelihood of more intensive residential development occurring over the planning period due to present or expected market forces. The local government must do so in order to include additional future capacity from this category of land in determining the residential capacity of the existing UGB over the planning period (See Order Pages 20-21, 24 and OAR 660-008-0005(6)). Redevelopable lands are only categorized as such if there is a strong likelihood that existing development will be converted to more intensive residential development during the planning period.

³ See LCDC Order page 20 for discussion of vacant land and its subcategories completely vacant land and partially vacant land.

The City understands that this first cut at the revised BLI will identify those lands that are redevelopable, based on the definition at OAR 660-008-0005(6). The City will identify additional redevelopable lands after completing the remand work on additional efficiency measures, pursuant to Sub-issues 3.1 and 3.2 of the Remand Order (See Order Pages 48-56).

The City has also reevaluated the constrained lands that were identified as such under the 2008 BLI (See above). The definition of buildable land under OAR 660-0080-005(2) does not define constrained lands in the same manner. Under this definition, lands are considered buildable unless they fall into one of the categories listed under (2)(a) through (2)(e). These categories include, but are not limited, lands that are constrained by natural hazards under Goal 7 or subject to natural resource protection measures under Goals 5, 15, and 16 through 19. For this BLI, the City will evaluate whether only portions of property with slopes of 25% or greater or that are within the 100-year floodplain are considered constrained. The City is no longer considering the presence of areas of special interest or perceived infrastructure limitations as constraints for purposes of the BLI.

Finally, the City has begun analyzing the development capacity of the vacant, partially vacant, land that may be used for residential infill, and redevelopable lands in the UGB by examining the actual trends in redevelopment and infill of developed properties. Additional coordination with DLCD staff will be sought to ensure that the City's methodology for revising the BLI is consistent with state statutes and rules and with the intent of the Order.

Conclusion

For the next Remand Task Force meeting, likely in July, Staff will prepare a revised residential buildable lands inventory, consistent with requirements of the remand order and subsequent guidance provided by DLCD staff. That inventory will summarize the total, estimated amount of buildable residential land within the current UGB in each of the categories discussed above. The updated BLI will then serve as the basis for estimating total residential capacity of the current UGB for the 2008-2028 planning period.

Attachments

1. Table 5-4, 2008 BLI
2. Residential Plan Designations and Zones

/DPS

Table 5-4
Current Inventory of Land for Housing by Plan Designation (March 13, 2008)

	RL	RS	RM	RH	TOTAL RESIDENTIAL
Total Acres	1,627	9,611	1,336	316	12,890
Total Lots	3,001	24,435	4,618	485	32,539
Developed and Constrained					
Developed Acres	1,436	7,086	920	112	9,554
Developed Lots	2,863	21,110	4,051	312	28,336
Constrained Acres	56	116	0	0	172
Constrained Lots	13	54	1	0	68
Total Developed and Constrained Acres	1,492	7,202	920	112	9,726
Total Developed and Constrained Lots	2,876	21,164	4,052	312	28,404
Vacant and Redevelopable					
Vacant Acres	24	476	130	10	641
Vacant Lots	31	261	149	20	461
Vacant Acres - Pending Land Use	1	513	37	10	561
Vacant Lots - Pending Land Use	1	50	18	6	75
Proposed New Lots/Units - Pending Land Use	1	2,021	217	132	2,371
Vacant Acres - Platted Lots	31	723	33	3	791
Vacant Lots - Platted Lots	64	2,530	265	23	2,882
Redevelopable Acres	54	502	78	1	635
Redevelopable Lots	26	381	48	2	457
Redevelopable-Pending Land Use Acres ⁵	24	195	62	0	281
Redevelopable-Pending Land Use Lots ⁵	3	41	21	0	65
Proposed New Lots/Units on Redevelopable-Pending Land Use Lots ⁵	42	979	655	0	1,676
Total Vacant and Redevelopable Acres	135	2,410	339	25	2,909
Total Vacant and Redevelopable Lots	125	3,263	501	51	3,940

Residential Plan Designations and Zones in Bend UGB

General Plan Designation	Implementing Zones
Urban Area Reserve	Urban Area Reserve (UAR-10) Suburban Residential (SR2.5)
Urban Standard Density	Residential Low Density (RL) Residential Standard Density (RS)
Urban Medium Density	Residential Medium Density (RM-10) Residential Medium Density (RM)
Urban High Density	Residential High Density (RH)

M E M O R A N D U M

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TO: **UGB REMAND TASK FORCE**
FROM: **LONG RANGE PLANNING STAFF, CITY OF BEND**
SUBJECT: **DRAFT BUILDABLE LANDS INVENTORY – SUB-ISSUE 2.2**
DATE: **AUGUST 31, 2011**

Introduction

This memo responds to Sub-issue 2.2 of the City of Bend Remand and Partial Acknowledgment 10-Remand-Partial Acknow-001795 (hereinafter referred to as Remand and Sub-Issue). This sub-issue is found on pages 18-26 of the Remand order.

This memo includes a discussion of the sub-issue and a staff recommendation. Because this memo includes only a partial BLI, draft findings that respond to all related remand issues will be prepared as remaining elements of the BLI are completed and submitted to DLCD for review. The contents of this memo and its preliminary estimates of housing capacity have been reviewed by DLCD staff. Based on discussions with DLCD staff, the City believes that the analysis contained in this memo, and its preliminary estimates of buildable lands and capacity, will be supported by DLCD staff as satisfactorily addressing the concerns expressed specifically under Sub-Issue 2.2. Both City and DLCD staff understand that these estimates will be subject to further revision based on a revised housing needs analysis (Sub-Issue 2.3) and any additional land use efficiency measures (Sub-Issues 3.1 and 3.2).

Remand Sub-issue 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”¹

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

¹ Oregon Land Conservation and Development Commission, Remand and-Partial Acknowledgement Order 10-Remand-Partial Acnow-001795, November 2, 2011, p. 18.

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

Discussion of Sub-Issue 2.2 Conclusion

In summary, the conclusion of Sub-Issue 2.2 directs the City to:

- 1) Explain the criteria used to determine whether lands are vacant or redevelopable, consistent with ORS 197.296, OAR 660-024 and 660-008.
- 2) Examine the amount and type of development that has occurred on vacant and redevelopable lands since the City's last periodic review.
- 3) Include vacant lots smaller than 0.5 acre in size in the inventory.
- 4) Project the capacity of the city's buildable lands (prior to implementing efficiency measures).
- 5) Reexamine lands defined as "constrained" to determine whether the lands are buildable under OAR 660-008-0005.

In order to comply with the mandates of this sub-issue, the previous BLI³ has been completely revised, based on different categories of vacant and developed land, and new analyses of land use and development activity during the 1999-2008 period. Much of this information was in the record prior to the remand;

² Ibid., p. 26.

³ Pre-Remand Record p. 1288.

however, the analysis of development trends is more extensive than in the previous BLI. In addition, land use and parcel data in the record for the previous BLI has been re-categorized, based on guidance from DLCDD, to ensure consistency with state law. All of the data analyzed in the revised BLI existed and was available as of December 2008. The analyses which form the basis for the new BLI include no new data subsequent to December 2008.

Applicable Legal Standard

Following are provisions in state law that must be addressed in preparing a BLI for housing.

ORS 197.296:

* * *

(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;

* * *

(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.

* * *

(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;

* * *

OAR 660-008-0005(2) and (6):

(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% 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.

OAR 660-024-0050 (2007 Version):

- (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:

Substantial Evidence

The Conclusion section of Sub-Issue 2.2 summarizes the need for an adequate factual base and findings that are consistent with state law. The steps which make up the remainder of this memo provide the factual base serving as substantial evidence of compliance with state law in preparing a BLI:

- **Steps 1 & 2** - Explanation of criteria used to inventory vacant and redevelopable lands;
- **Steps 3 & 4** - Examination of the amount and type of development that has occurred since Bend's last periodic review;
- **Step 5** - Projected capacity of buildable lands;
- **Step 5** - Explanation with adequate factual and policy basis for projections that differ significantly from past trends;
- **Step 2** - Inclusion in the inventory of parcels smaller than 0.5 acre; and

- **Step 2** - Inclusion of parcels subject to CC&Rs, unless findings show why they are not available for development or redevelopment;
- **Step 2** - Inclusion of buildable acreage within parcels that are partially affected by “constrained” lands.

As required by ORS 197.296(5), the table provided as Attachment A summarizes the number, density, and average mix of housing types that have occurred since periodic review (1999-2008). This table also indicates trends in density and average mix of housing types during that period.

Explanation of Compliance

The remainder of this memo explains the steps that have been taken to ensure that the revised BLI will be fully compliant with state law. Step 1 outlines the definitions that have been used to classify residential land consistent with ORS 197.296, OAR 660-008, and OAR 660-024. Remaining steps describe in detail the methodologies used to estimate the amounts of acreage within these categories and the potential yield in housing units by category. The housing unit yield is the basis for preliminary estimates of capacity within the 2008 UGB. Those capacity estimates are also based in part on housing trends observed during 1999-2008. Those ten years correspond to the period since the last periodic review, consistent with ORS 197.296(5)(a).

Step 1: Criteria Used for Buildable Lands Inventory

In reviewing the BLI adopted in 2008, much of DLCD’s concern centered on the City’s interpretations of categories of land to be included in the inventory. In the remand order, LCDC ruled that the City’s categories (vacant acreage, vacant platted lots, vacant with pending land use approvals, and redevelopable) were not consistent with state law. Except for “Redevelopable Land,” the terms used in state law (above) for the categories of land to be included in a BLI are not defined. (Even the definition of “Redevelopable Land” is open to interpretation.) To ensure that on remand the correct categories would be used by the City in the revised BLI, we contacted DLCD staff for more specific guidance on how to define the categories of potentially buildable land within the UGB. This guidance was also needed to prevent double counting of some types of land, since several of the required categories could be considered to overlap, e.g. partially vacant and infill. Through a series of recent e-mail exchanges, DLCD staff provided their interpretations of state law in the form of definitions that could be used to conduct a GIS parcel-based analysis of every acre of residentially planned or zoned land in the Bend UGB as of 2008.⁴ Those definitions as provided by DLCD, for land that is vacant, partially vacant, developed, redevelopable, or developed with infill potential, are shown below.

⁴ E-mail from Gloria Gardiner, DLCD, to Damian Syrnys, October 21, 2010. See also e-mail response from Gloria Gardiner, DLCD, to Karen Swirsky, dated June 9, 2011.

With clarity as to definitions, the revised BLI has been developed through a GIS database of all tax lots within the City. Information available in the database includes Deschutes County Assessor data such as real market land and improvement values, assessed values, property use information, and ownership information. The database also includes zoning and General Plan designation, property size, and the number and type of dwelling unit(s). Using this database, lots as of 2008 were assigned to the categories below:

Vacant (Completely) – Land planned or zoned for residential use that has \$0 in improvements value. Properties that are planned or zoned for residential use, but are dedicated for other uses such as parks, common areas, rights of way or utilities are excluded. Publicly owned land is also excluded.

Partially Vacant – Land planned or zoned for residential use that has an improvements value greater than \$0, but contains fewer dwelling units than permitted in the zone. Based solely on lot size, additional units could be built without removal of the existing structure, but the lot is not large enough to further divide. To identify partially vacant lands, we calculated the maximum number of units that could be built on each developed parcel that was not large enough to divide, based on the maximum density allowed per the development code and the parcel size. The number of existing units was then subtracted from the maximum number of units allowed. If one or more new units could be accommodated, the parcel was categorized as partially vacant. (Considerations such as setback and frontage requirements, lot coverage, or location of the existing unit on the lot were not considered, although those will be limiting factors in many cases.)

Developed – Land planned or zoned for residential use that is currently developed with the maximum number of dwelling units allowed in the zone, and the size of the lot does not allow for further division. (Residentially zoned land that is currently developed with employment uses is categorized as Developed.)

Redevelopable - Lands in the Developed category may be considered redevelopable only if there exists “the strong likelihood that existing development will be converted to more intensive residential uses during the planning period.” We have examined prior trends and examples of redevelopment to estimate the extent to which developed lots have redeveloped in the past, and the resulting housing yield. This work has focused on residentially zoned or designated lots that were completely developed, not large enough to further divide, and where the existing unit(s) was demolished in order to develop at a higher density.⁵

Developed w/ Infill Potential – Land planned or zoned for residential use that is currently developed, but where the lot is large enough to further divide consistent with its current zoning without the removal of the existing dwelling. As with Partially Vacant land, this category does not consider limiting factors such as setback and frontage requirements, lot coverage, or location of the existing unit on the lot.

⁵ E-mail from Gloria Gardiner to Damian Syrnyk, October 21, 2010.

Step 2: Classify the 2008 Parcel Database into Developed, Vacant, Partially Vacant, or Infillable Categories

Using criteria contained in the definitions above, every residentially designated or zoned lot/parcel within the current UGB as of 2008 has been placed into one of the following categories:

- Vacant (completely) land
- Partially vacant land
- Developed land
- Developed land with infill potential

State law also requires consideration of potentially redevelopable lands. Because potentially redevelopable lands also require a finding of a “strong likelihood” to redevelop, it is not possible to identify them in advance through a GIS-based analysis. The role of potentially redevelopable lands in this revised BLI is discussed in more detail under Step 6 as a sub-category of Developed lands.

For each of the other categories above we have analyzed total developable acres, as well as characteristics such as total number of lots/parcels, size of lots/parcels, zoning/plan designation, real market land and improvement values, assessed values, current property use, and ownership.

Within each of these categories, acres that are not buildable, based on criteria in OAR 660-008-0005(2), have been identified and tabulated, i.e. any land that:

- 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% or greater;
- d) Is within the 100-year flood plain; or
- e) Cannot be provided with public facilities.

At this point, the only criteria from OAR 660-008-0005(2) that have been used to exclude land as unsuitable are slopes in excess of 25% and land within the boundaries of the 100-year floodplain. All other residentially planned or zoned lands are considered buildable.

Results of this classification of 2008 residential parcels are summarized in Table 1. This summary indicates that as of 2008 there were a total of 7,210 acres of residentially zoned or designated land considered suitable and potentially available to accommodate needed housing units over the 2008-28 planning period. An additional 128 acres of potentially available land for housing were identified in two mixed-use zones, the Mixed-Use Riverfront (MR) Zone and the Mixed Employment (ME) Zone. Note that for the RM and RH zones, Table 1 shows separate columns for a small amount of RM and RH acreage within the Medical District Overlay Zone (MDOZ). For purposes of estimating housing capacity, residential acres within the MDOZ are treated differently than RM and

RH land elsewhere. Whereas the RM and RH zones in general permit housing as the primary use, within the boundaries of the MDOZ overlay the primary purpose is “to allow for the continuation and flexible expansion of the hospital, medical clinics, and associated uses in a planned and coordinated manner.”⁶ Housing is not precluded in the MDOZ, but medical and related uses are the highest priority. Residential acreage in the MDOZ is included in Table 1 because of its residential zoning, but is not treated as having capacity for new housing.⁷ Instead, this land has been treated as employment land for Goal 9 purposes, and is expected to accommodate economic uses rather than housing.

Table 1
Preliminary BLI Acreage Summary - 2008

	PLAN DESIGNATED OR ZONED (NON-MDOZ)								MDOZ		MR ¹	ME ¹
	RL	RS	RM	RH	PO/RM/RS	SR2 1/2	UAR10	TOTAL	RM	RH		
Developed												
Lots	2590	11958	881	77	5	1	0	15,512	6	77	440	259
Existing Units	2537	10923	814	5	5	0	0	14,284	0	22	137	11
Total Acres	1152	3634	161	31	1	0	0	4,979	9	121	194	169
Constrained Acres	20	232	4	1	0	0	0	257	0	1	23	2
Total Potential Acres	0	0	0	0	0	0	0	0	0	0	0	0
Developed w/ Infill Potential												
Lots	307	9486	1962	171	6	0	0	11,932	8	16	n/a	n/a
Existing Units	448	10629	6524	1005	6	0	0	18,612	302	141	n/a	n/a
Total Acres	403	4201	751	59	2	0	0	5,416	16	23	n/a	n/a
Constrained Acres	14	238	12	0	0	0	0	265	0	1	n/a	n/a
Total Potential Acres	389	3963	739	59	2	0	0	5,151	16	21	n/a	n/a
Partially Vacant												
Lots	2	21	1292	59	0	0	0	1,374	31	0	n/a	n/a
Existing Units	0	0	1454	73	0	0	0	1,527	62	0	n/a	n/a
Total Acres	1	3	141	6	0	0	0	151	4	0	n/a	n/a
Constrained Acres	0	0	1	0	0	0	0	1	0	0	n/a	n/a
Total Potential Acres	1	3	140	6	0	0	0	150	4	0	n/a	n/a
Vacant												
Lots	92	2933	421	44	15	0	0	3,505	15	27	16	19
Existing Units	0	0	0	0	0	0	0	0	0	0	0	3
Total Acres	82	1778	183	22	3	0	0	2,068	34	32	30	105
Constrained Acres	6	144	8	0	0	0	0	159	0	0	1	5
Total Potential Acres	75	1634	175	22	3	0	0	1,909	34	32	28	100
Publicly Owned												
Lots	8	287	79	16	0	0	2	392	1	1	n/a	n/a
Existing Units	1	9	4	0	0	0	0	14	88	0	n/a	n/a
Total Acres	16	1089	100	25	0	0	506	1,736	5	3	n/a	n/a
Constrained Acres	0	186	7	0	0	0	0	193	0	0	n/a	n/a
Total Potential Acres	0	0	0	0	0	0	0	0	0	0	n/a	n/a
TOTAL												
Lots	2999	24685	4635	367	26	1	2	32,715	61	121	456	278
Existing Units	2986	21561	8796	1083	11	0	0	34,437	452	163	137	14
Total Acres	1654	10704	1337	143	6	0	506	14,349	68	179	224	274
Constrained Acres	40	801	31	1	0	0	0	874	0	2	24	7
Total Potential Acres	465	5599	1054	86	5	0	0	7,210	53	54	28	100

The majority of potentially developable residential acres (5,151) are in the Developed with Infill Potential (Infillable) category. The next largest category is completely Vacant land, with a total of 1,909 residential acres. (For comparison, the previous BLI had estimated a total of 3,260 vacant acres, when combining Vacant, Vacant–Pending Land Use, and Vacant–Platted Lots). Total Developed residential acres, with no further capacity, are estimated at 4,979 acres (compared with 9,554 acres in the previous BLI).

⁶ Bend Development Code, Sec. 2.7.510.

⁷ Since adoption of the MDOZ in 2004, only 5 housing units have been built within MDOZ boundaries. See also Director’s Decision, Bend UGB Order 001775, January 8, 2010, p. 35.

Step 3: Determine the Amount and Types of Past Housing Development that Has Occurred on Residentially Designated or Zoned Lands

The City has examined all new residential construction that occurred from 1999 (start of last periodic review) through 2008 to determine the amount and type that has taken place on vacant lands, partially vacant lands, infill lands, and developed lands (redevelopment). As previously noted, we used a database of tax lots from 1999 that includes (for each property) characteristics such as the existing level of development, land and improvement values, zoning and general plan designation, whether it was large enough to divide, and whether a demolition permit has been issued. The City then examined the land divisions and building permit activity that took place on those properties for the 10-year period, 1999-2008.

The result of this work is a database of residential land divisions and new residential construction from 1999-2008, with each new division or building permit categorized as occurring on either vacant land, partially vacant land, developed infill land, or redeveloped land. The data also show the number of permits and resulting units by type of housing by year:

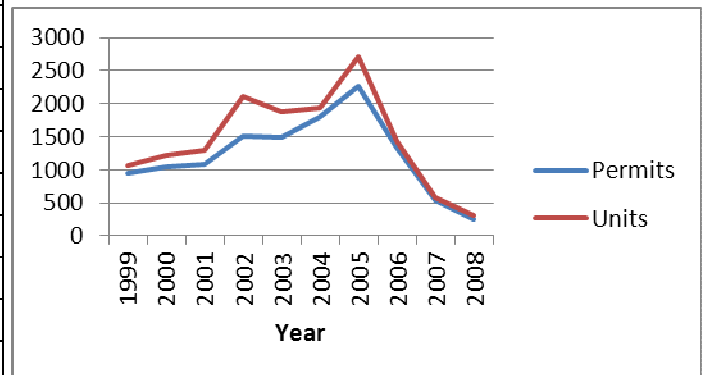
- Single-family dwelling
- Attached single-family dwelling
- Manufactured home on an individual lot
- Multi-family dwelling (two or more attached dwellings on a single lot).

Table 2 and Figure 1 summarize the total number of permits and new housing units built during 1999-2008:

Table 2

Year	Permits	Units
1999	945	1,057
2000	1,052	1,218
2001	1,085	1,305
2002	1,520	2,115
2003	1,484	1,879
2004	1,808	1,944
2005	2,263	2,720
2006	1,340	1,430
2007	543	583
2008	255	313
Total	12,295	14,564

Figure 1



Of interest in these summaries is the sharp spike in permits issued and housing units built during the middle portion of the period, and in particular during 2002-2005. These peaks coincided with the nationwide housing boom during this

period. The steep decline from 2006-2008 suggests a more modest rate of construction activity that appears likely to continue in the near term, at least.

Step 4: Identify Trends of Development by Category of Lot/Parcel and Type of Housing

In this step, land divisions and building permits for new residential units in residentially planned or zoned areas were analyzed to estimate both the number and proportion of units built during the 1999-2008 period by the lot/parcel categories identified in Step 2. The result provides a compilation of total land divisions and units built by year and by:

- Vacant (completely) land
- Partially vacant land
- Developed land with infill potential
- Developed land (occurrences of redevelopment)

Table 3, below, summarizes the permits that were issued between 1999 and 2008 by land development status.

Table 3
Residential Building Permits by Land Category 1999-2008

Development Status	Building Permits	% of Total
Vacant	8,173	66.47 %
Redevelopment	2	0.002%
Developed (Replacement units)	48	0.39 %
Partially Vacant	80	0.65 %
Infill	3,724	30.29 %
Publicly Owned or Institutional/Open Space ⁸	268	2.18%
Total	12,295	100.00%

Table 3 indicates that roughly two-thirds of all permits issued were for development on vacant land, while approximately 30% took place on land categorized as infill. Based on the definition of “Redevelopment” cited in Step 1,

⁸ These are units that were built on land that is generally not available for housing. An example would be a portion of public park land that was sold off for housing, while acquiring additional residential land elsewhere for park expansion. During any given period, some small amount of publicly owned or open space land may be made available for housing. During the same period, some residential land is likely to be acquired for non-housing purposes, thus becoming unavailable for housing. This activity does not indicate a general trend toward housing development on publicly owned, institutional, or open space land; it simply reflects on-going real estate transactions that in the end have relatively little impact on land availability or housing production.

there was virtually no redevelopment activity during 1999-2008. There were a total of 50 permits issued on lands where there was an existing unit AND where the existing unit was demolished. That might initially seem to indicate instances of redevelopment. However, when looking at these 50 permits, only 2 of them resulted in more units than had existed prior to the demolition. In both of these cases, duplexes were built after a single family home was demolished. The rest of the 50 permits resulted in the same number of units (e.g., a single family home was demolished and replaced with another single family home). Therefore, we can assume that only 2 permits were the result of redevelopment; the other 48 were merely replacements of existing units.

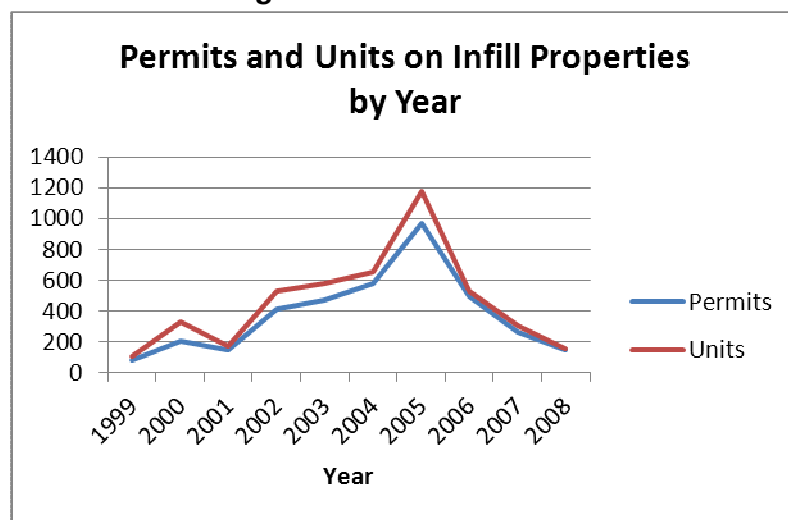
There were also very few permits issued for parcels categorized as partially vacant – less than 1% of the total. These were cases where housing units were built on parcels that had an existing dwelling(s), and there was enough area for additional dwellings to be built, but the parcel was not large enough to divide.

Because of the significant share of new housing built on lands classified as infill during 1999-2008 we took a closer look at that category. As noted above, approximately 30% of all permits for new housing units during that period (3,724 permits) were issued for infill parcels. That resulted in 4,507 new housing units, out of a total of 14,564 new units built during that period. The distribution by year of infill units built between 1999-2008 is shown below in Table 4 and Figure 2:

Table 4

Year	Permits	Units
1999	97	120
2000	202	323
2001	128	154
2002	409	553
2003	474	586
2004	576	652
2005	943	1152
2006	488	518
2007	260	298
2008	147	151
Total	3,724	4,507

Figure 2



The spike shown in Figure 2 for units produced during 2004-06 on Infill lots is similar to that for construction of total units during that period, but even more pronounced for infill construction. This suggests that during the height of the housing boom, the owners of infill properties were much more motivated to develop housing than during more normal housing market conditions. This degree of motivation is important because in normal times owners of most infill parcels are more likely to think of their properties as built out, with less inclination to pursue further development.

In 1999 there were 8,158 parcels that satisfied the criteria for a potential Infill lot, i.e. a developed residential lot large enough to divide further without removing the existing dwelling. Over 90% of those lots (91.4%) were under one acre in size. Each of these infillable lots already had some improvement value greater than \$0. Any of these potential Infill lots in theory might have been further developed with additional housing units, but most owners would have needed unusually strong motivation to do so. Conditions in the local housing market during 2004-06 were such that owners of potential Infill lots were in fact unusually motivated to consider dividing their lots and selling them for new housing units. (Even so, only 5.7% of all infillable lots as of 1999 actually received building permits for residential infill development during the 1999-2008 period.) By 2008 market conditions had changed significantly. At that time, a consensus was developing among economists and housing specialists that the boom conditions that existed during 2004-06 were unlikely to be repeated for the foreseeable future.

Step 5: Estimate Preliminary Capacity of Vacant Lands

Housing trends observed during the 1999-2008 period can be useful as a resource for estimating future housing capacity. Consideration of these trends is also required by ORS 197.296(5).

In Step 5 we consider the potential capacity of vacant lands, based on past trends and the amount of estimated suitable, available acreage. As discussed above, there are two sub-categories of vacant lands: Completely vacant and partially vacant. Table 5, below, summarizes the completely vacant acreage by zone as of 2008. Although not required by rule or statute, these completely vacant acres are further broken down in Table 5 into vacant platted lots, and raw, un-platted vacant acreage for the purpose of more accurately estimating the future capacity of these lands. As Table 5 indicates, as of 2008, there were 723 acres of buildable, completely vacant land in the form of platted lots; there were another 1,186 gross acres of completely vacant raw land.

Vacant Platted Lots

As part of the completely vacant category, Table 5 shows that in 2008 the 723 vacant, available, platted acres were made up of 2,965 individual lots (outside the MDOZ). The median size of these platted lots is .15 acre. Nearly all of these lots (90%) were in single-family residential zones (RL or RS), or were platted for single-family (attached) dwellings in other residential zones. Therefore, in terms of capacity, we assume that each of these vacant lots will be developed with one dwelling unit, for a total yield of 2,965 units.

Table 5
2008 Vacant Residential Lands Summary
And Potential Housing Unit Yield

	RESIDENTIAL PLAN DESIGNATED OR ZONED (NON-MDOZ)								MDOZ	
	RL	RS	RM	RH	PO/RM/RS	SR2 1/2	UAR10	TOTAL	RM	RH
Vacant - Platted Lots										
Lots	60	2601	266	23	15	0	0	2,965	8	9
Units	0	0	0	0	0	0	0	0	0	0
Acres	29	731	33	3	3	0	0	800	2	4
Constrained Acres	0	75	1	0	0	0	0	77	0	0
Total Available Acres	29	655	33	3	3	0	0	723	2	4
Potential Housing Yield	60	2601	266	23	15	0	0	2,965	8	9
Vacant - Non-Platted (Raw land)										
Lots	32	332	155	21	0	0	0	540	7	18
Units	0	0	0	0	0	0	0	0	0	0
Acres	52	1048	149	19	0	0	0	1,268	32	29
Constrained Acres	6	69	7	0	0	0	0	82	0	0
Total Available Acres (Gross)	46	979	142	18	0	0	0	1,186	32	28
Total Available Acres (Net)	37	773	112	15	0	0	0	937	NA	NA
Assumed Net Density ¹	2.10	4.90	13.40	27.47	0	0	0		NA	NA
Potential Housing Yield	77	3790	1507	401	0	0	0	5,775	0	0
Total Potential Housing Yield	137	6391	1773	424	15	0	0	8,740	0	0

¹ See Attachment A

Completely Vacant (Non-Platted) Land

Table 5 indicates a 2008 total of 1,186 gross buildable acres classified as completely vacant, non-platted (raw) land. Of this amount, 21% must be deducted for land for streets and utilities that will need to be dedicated, resulting in a net vacant acreage figure of 937 acres. Average net densities by zone for the 1999-2008 period have been calculated (see Attachment A of this memo), and are shown in Table 5 to estimate capacity for vacant raw land. Actual average densities for 1999-2008 range from 2.1 units/net acre in the RL zone to 16.9 units/net acre in the RH zone. (Because the 16.9 density figure for the RH zone, based on trends, is lower than the current minimum allowed density of 27.47, we assume that net buildable acres in the RH zone would be built out at 27.47 units/net acre, rather than the 16.9 actual average density observed during 1999-2008.) Applying the 1999-2008 densities to the available net acres in the completely vacant, raw land sub-category, (with an assumed density of 27.47 units/net acre for the RH zone), the resulting total yield in potential housing units is 5,775 units.⁹ When combined with the estimated capacity of vacant platted lots, we estimate a total capacity of 8,740 housing units for completely vacant residential land.

⁹ This estimate assumes development during the planning period of all vacant land within the UGB as of 2008. In reality this is extremely unlikely, since at any given time there is always some amount of vacant land in Bend or any other community. In 1999 there were 5,086 acres of vacant, raw (un-platted) land, and in 2008 there were 2,064 acres in that category. It would seem safe to assume that at the end of the 2008-28 planning period there will still be some amount of un-developed residential land, being held by owners who for various reasons have chosen not to make their buildable land available for housing. A capacity estimate that assumes build-out of every acre of vacant land is unavoidably inflated.

Partially Vacant Land

For the Partially Vacant category, Table 1 indicates a 2008 total of 150 acres of potentially available land. As defined above, these are parcels that are planned or zoned for residential use, that are currently developed, but contain fewer dwelling units than permitted in the zone; additional units can be built without the removal of the existing dwelling, but the lot is not large enough to further divide. Nearly all of these partially vacant lots (94%) are located in the RM zone.

Analysis of all partially vacant lots during 1999-2008 shows that very few of them experienced further development that resulted in additional housing units. Of the 12,295 permits issued for new housing units during that period, only 80 (less than 1%) were issued for partially vacant lots. As with developed Infill lots, owners of partially vacant lots generally must be highly motivated to build additional units on these lots. As noted above, the market conditions that produced some new housing on partially vacant lots during 1999-2008 are not likely to be experienced again in the foreseeable future. There are also significant practical difficulties to building more units on partially vacant lots. Because the existing units are not removed, and because these partially vacant lots are not large enough to further divide, there is very little room left for adding units. What remaining area might be technically available for more housing units is likely to be in use for parking, open space, or landscaping. For these reasons, and because of the observed trend of very limited amounts of new housing built on partially vacant lots during 1999-2008, the City assumes only a negligible housing unit yield from partially vacant lands during the 2008-28 planning period.

When the estimated yield from buildable, available completely vacant platted lots (2,965 units) is combined with the estimated yield from completely vacant raw land (5,775) as of 2008, we estimate that these completely vacant lands within the current UGB have a theoretical capacity of approximately 8,740 units. Allowing for a very limited yield from potentially available partially vacant lands, this estimate for all vacant and partially vacant lands might reasonably be rounded up to 8,750 units for the 2008-28 planning period.

Step 6: Estimate Raw Capacity of Developed Lands

As discussed above, there are three categories of Developed residential lands to be considered in the BLI: Developed with no further opportunities for new development; developed with infill potential; and developed parcels that may be redeveloped with a larger number of housing units, assuming there is evidence of a “strong likelihood” to do so. Table 1 indicates that in the first category, as of 2008, there were 15,512 fully developed residential lots in the current UGB, comprising 4,979 acres, that are fully built out with no additional capacity. Below, we estimate the capacity of the other two categories of Developed residential lands – those with infill potential and those that may be redeveloped.

Infill Land

Table 1 indicates that there are 11,932 residential lots totaling 5,151 acres (not including MDOZ; see Footnote 7) that are potentially available for additional infill

development. Although there may appear to be considerable potential for additional capacity on these infill lands, the history of infill development during 1999-2008 shows that only a relatively small proportion of them actually yielded additional units. In 1999 there were 8,158 infillable lots within the UGB. Between 1999 and 2008, infill activity resulting in permits for new units occurred on only 5.7% (465) of those lots, comprising 26% of all potentially infillable acres. Looking at patterns of infill development during 1999-2008, we see that some amount of infill development occurred in all residential zones, although it was mostly concentrated in the RS zone:

Table 6
Proportion of Divided Acres on Infill Lots By Zone 1999-2008

Zone	Percentage of Divided Acres
RL	7.96%
RS	77.39%
RM	13.66%
RH	0.99%
Total	100%

As illustrated in Figure 2 above, the amount of infill development peaked dramatically during the 2004-06 period, coincident with the height of the housing boom. This strongly suggests that the volume of infill housing development is influenced by the perceived strength of the local housing market and the inclination of the owners of infillable lots to make them available for more development. As economic conditions favor or stimulate all types of housing development, owners of some infillable lots are increasingly motivated to sell parts of their land for new housing, or to develop new units themselves. As shown in Table 4, the 3-year period 2004-06 accounted for 52% of total infill units built during the ten years of 1999-2008; 2005 alone accounted for 26% of the 10-year total. As of 2008, a general consensus was emerging that those economic and housing market conditions that drove the spike in infill housing development during 2004-06 are unlikely to be repeated in the foreseeable future.

One way of realistically estimating capacity of infillable lands is to consider the pattern of previous infill activity based on the size of infillable parcels. Based on trends observed during 1999-2008 we can estimate the proportion of small lots (<1 acre) and the proportion of large lots (>1 acre) that will experience infill during the planning period. During the 1999-2008 period, 4% of infillable lots less than 1 acre divided (on 4.5% of the infillable acres of small lots), and 36% of infillable lots larger than 1 acre divided (on 51% of the infillable acres of large lots). Applying these same proportions to infillable land as of 2008 results in estimates of 452 lots (157 acres) smaller than 1 acre in size, and 231 lots (850 acres) larger than 1 acre in size that could be expected to see infill development during the planning period. Assuming these acres are distributed among residential zones and plan designations similar to observed patterns during 1999-2008 (Table 6), we can estimate that a total of 1,007 acres will experience infill, as shown in Table 7, below.

Table 7
Projected Potential Developed Infill Acres by Zone 2008-28

Zone	Acres		
	Small Lots	Large Lots	Total
RL	12.49	67.71	80.20
RS	121.33	657.96	779.29
RM	21.41	116.10	137.51
RH	1.55	8.41	9.96
Total	156.78	850.17	1006.95

The next step was to estimate the number of units that might be accommodated on these 1,007 acres. Actual average densities of infill properties for 1999-2008 were examined by zone and lot size, and by applying those densities to the estimated number of acres that would infill, a resulting raw unit yield of 4,893 was derived (Table 8).

Table 8
Projected Capacity of Infill Acres by Zone 2008-28

Zone	Small Lots			Large Lots			Total
	Acres	Density	Capacity (Units)	Acres	Density	Capacity (Units)	Capacity (Units)
RL	12.49	2.21	28	67.71	1.83	124	152
RS	121.33	7.57	918	657.96	3.36	2,211	3,129
RM	21.41	11.56	247	116.10	9.17	1,065	1,312
RH	1.55	18.50	29	8.41	32.35	272	301
Total	156.78	n/a	1,222	850.17	n/a	3,671	4,893

Next, the raw estimate of 4,893 was adjusted to deduct existing units that would be assumed to already exist on these infillable lots. The average number of existing housing units on lots under 1 acre in size in 2008 was 1.2. The average number of existing units on lots larger than 1 acre was 8.03. By applying these figures to the estimated number infillable lots by lot size, it can be estimated that a total of 2,397 existing units should be deducted from the raw estimate of 4,893 total units on infillable acres. The result of this calculation is a final estimate of 2,496 new units on infillable land during the planning period.

Redevelopable

The final sub-category of the Developed lands category is redevelopment potential. The criterion for redevelopment, as provided in Step 1 with guidance from DLCD, is very narrow. Based on state law, DLCD considers that redevelopment occurs only on a completely developed lot, which is not large enough to further divide, where the existing unit(s) is demolished in order to develop at a higher density. In addition, state law requires evidence of a “strong likelihood” of redevelopment in order to assume any amount of redevelopment

activity.¹⁰ Given these criteria, as discussed above, only two cases of residential redevelopment were identified for the entire 1999-2008 period. Potentially, any of the 1,355 developed lots in the partially vacant category or the 11,873 developed lots in the infill category might be considered a candidate for redevelopment. However, when the evidence indicates that redevelopment as defined here essentially did not occur during the extraordinary boom years of 1999-2008, there's very little basis for a strong likelihood of redevelopment during the 2008-28 planning period. Therefore, we conclude that there is not a strong likelihood that there will be any measurable yield from redevelopment activity, as defined above, during the planning period.

Total Residential Lands Capacity

Table 9, below, summarizes preliminary estimates of residentially zoned or designated lands capacity for the 2008-28 planning period:

Table 9

Residential Land Category	Potential Capacity (Units)
Vacant	8,740
Partially Vacant	10
Infill	2,496
Redevelopment	0
Total	11,246

Step 7: Housing Capacity of Mixed-Use Zones

ORS 197.296(4)(a) includes "Lands that may be used for a mix of residential and employment uses under the existing planning or zoning" among the types of lands that must be included in the buildable lands inventory. Bend has three mixed-use districts: the Mixed Employment District (ME), the Mixed Use Riverfront District (MR) and the Professional Office District (PO). Each of these allows some housing, as well as various combinations of retail, commercial, public/institutional, and light industrial uses. The PO zone applies to only a few very small parcels that are adjacent to each other (off of Empire Ave.), with a combined acreage of approximately 7.5 acres. There is no history of development of any kind on PO land. These parcels are currently included in the Bend Economic Opportunities Analysis inventory of employment land.

As of 2008, the MR zone (Old Mill District) contains a total of 222 non-constrained acres, of which 28 acres are vacant.¹¹ Single-family and multi-family

¹⁰ OAR 660-008-0005(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."

¹¹ Because acreage in the MR and ME zones was considered as available for employment uses, and is tallied in the Bend Economic Opportunities Analysis, vacant acres in these zones are defined as provided in OAR 660-009-0005.

housing are listed as permitted uses in the Bend Development Code for the MR zone. During the 1999-2008 period permits were issued for a total of 115 housing units in this zone. The MR zone does not establish minimum or maximum densities for housing. The existing housing units in this zone occupy 7.74 acres, and have an average density (2008) of 15 units/acre. The 7.74 acres of housing represent 4% of total, developed MR zone acreage. Assuming this ratio of housing to non-housing acreage continues into the planning period, we could expect 1.12 acres of the remaining 28 acres of vacant MR land to accommodate new housing. Assuming also a continuation of the 2008 average density of 15 units/acre, another 17 housing units could be expected in the MR zone during the planning period.

Although it is a mixed-use zone, the ME zone has a stronger emphasis on employment uses. Its purpose is described in the Bend Development Code as follows:

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 commercial 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.¹²

Both single family housing and multi-family housing are listed as conditional uses in the ME zone, rather than as outright permitted uses, as in the MR zone. As of 2008, there were 11 housing units in the ME zone, and a total of 100 vacant,¹³ non-constrained acres in the ME zone. During the 1999-2008 period there were no permits issued for any housing units in the ME zone. These 100 acres are currently included in the Bend Economic Opportunities Analysis inventory of vacant, available employment land. Given the basic purpose of the ME zone, and the absence of any new housing production during the 1999-2008, we assume all remaining vacant acreage in this zone will be occupied by non-residential employment uses.

Step 8: Total Estimated Capacity 2008-28 by Category

Table 10 below summarizes estimates derived from the steps discussed above, including estimated capacity from mixed-use zones, to arrive at a raw, grand total capacity estimate by land category. Final capacity estimates will be revised based on an updated Housing Needs Analysis and any additional land use efficiency measures that may be identified.

¹² Bend Development Code, Chapter 2.3, Sec. 2.3.100.

¹³ Because acreage in the MR and ME zones was considered as available for employment uses, and is tallied in the Bend Economic Opportunities Analysis, vacant acres in these zones are defined as provided in OAR 660-009-0005.

Table 10

Residential Land Category	Potential Capacity (Units)
Vacant	8,740
Partially Vacant	10
Infill	2,496
Redevelopment	0
Mixed-Use Capacity	17
Total	11,263

The preliminary capacity estimate of 11,263 units represents 67.5% of the 16,681 total needed housing units for the 2008-28 planning period. This estimate can be compared with an initial capacity estimate of 10,059 units (60% of needed units), prior to efficiency measures, from the previous BLI. Additional measures taken as a result of the updated Housing Needs Analysis and in compliance with Goal 14 may increase further the final capacity estimate for the current UGB.

Conclusion

It is important to emphasize that the contents of this memo do not make up a complete, final BLI. Because Bend is under remand, and because Sub-Issue 2.2 must be addressed specifically, this memo combines several of the most important steps in the process of compiling a BLI for housing. The next step in this process is for the City to complete revision the Housing Needs Analysis, as directed by Sub-Issues 2.3 and 2.4. One possible outcome of that step could be a revised estimate of acres needed for multi-family housing, with corresponding revisions to estimates of acres assumed to be available for that housing type. Finally, we will consider any additional land use efficiency measures that may be warranted, in response to Sub-Issue 3.1. To the extent additional measures are identified, capacity estimates contained in this memo will be further adjusted.

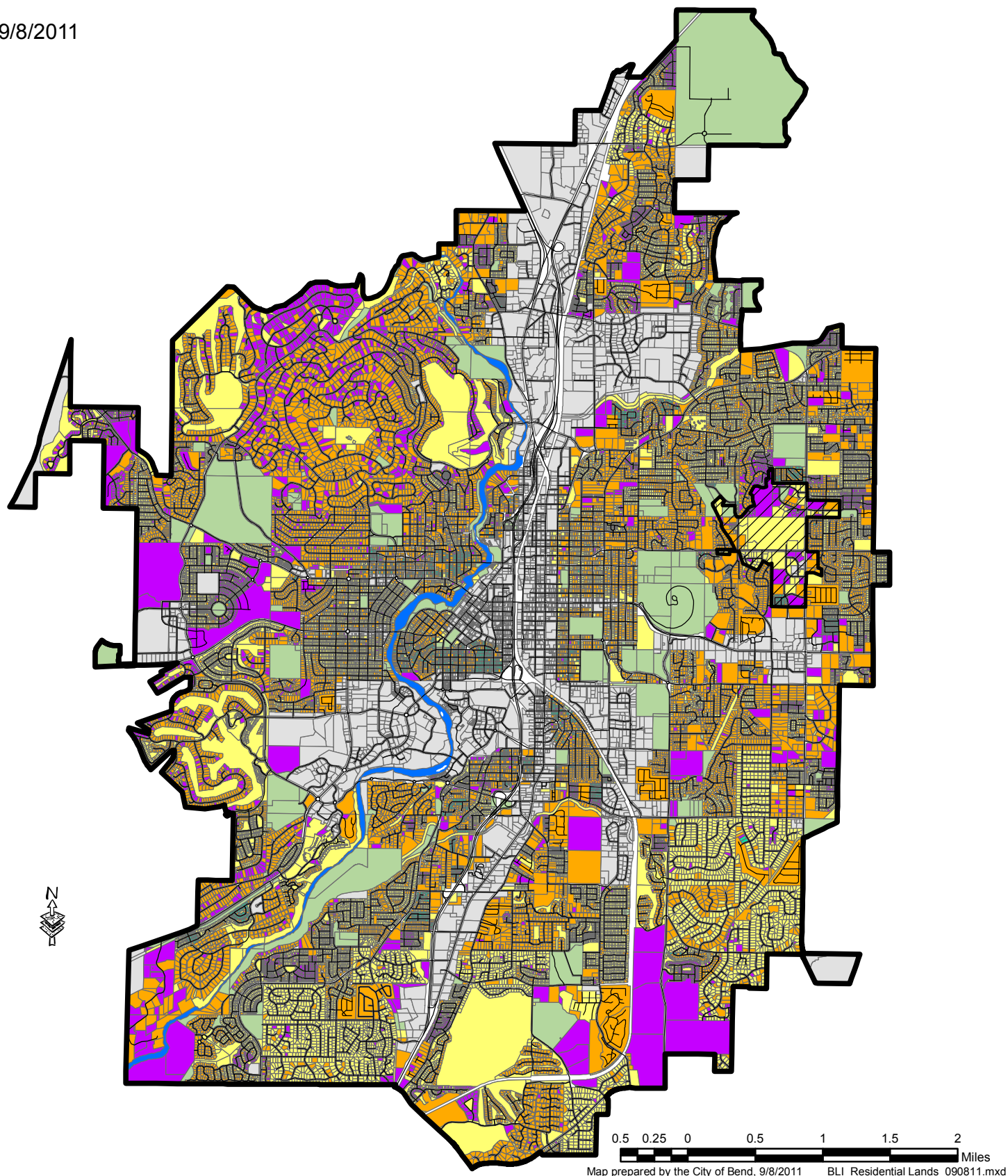
Recommendation

City staff recommends that the Remand Task Force accept this memo as a preliminary Buildable Lands Inventory satisfying Remand Sub-Issue 2.2.

Attachment A

HOUSING UNITS BY TYPE AND PLAN DESIGNATION												
PRE-1998 ¹												
	RL		RS		RM		RH		ALL RESIDENTIAL ZONES			
	TOTAL UNITS²	AVE DENSITY³	TOTAL UNITS²	AVE DENSITY³	TOTAL UNITS²	AVE DENSITY³	TOTAL UNITS²	AVE DENSITY³	TOTAL UNITS²	AVE DENSITY³	Pre-1998 Units - % of Total	
Single Family - Detached ⁴	2,146	1.9	8,846	3.1	1,606	4.7	145	6.6	12,743	2.9	66%	SFD
Single Family - Attached ⁵	0	0.0	26	5.1	22	21.5	0	0.0	48	7.8	0%	SFDA
Multiple Family Housing ⁶	57	8.8	500	9.7	3,314	16.6	539	20.9	4,410	15.5	23%	Multifamily
Manufactured Homes - In Parks ⁷	148	2.7	557	3.4	593	6.5	0	0.0	1,298	4.1	7%	Manuf in Parks
Manufactured Homes - On Lots ⁸	382	2.9	241	3.2	73	5.8	0	0.0	696	3.1	4%	Manuf on Lots
TOTAL	2,733	2.1	10,170	3.2	5,608	8.5	684	14.4	19,195	3.7	100%	TOTAL
1998-2008												
	RL		RS		RM		RH		ALL RESIDENTIAL ZONES			
	TOTAL UNITS²	AVE DENSITY³	TOTAL UNITS²	AVE DENSITY³	TOTAL UNITS²	AVE DENSITY³	TOTAL UNITS²	AVE DENSITY³	TOTAL UNITS²	AVE DENSITY³	New Units - % of Total	
Single Family - Detached ⁴	210	2.0	10,306	4.6	828	8.7	27	13.4	11,371	4.7	72%	SFD
Single Family - Attached ⁵	0	0.0	435	8.7	175	12.5	0	0.0	610	9.5	4%	SFDA
Multiple Family Housing ⁶	0	0.0	514	14.2	2,547	16.1	535	17.1	3,596	16.0	23%	Multifamily
Manufactured Homes - In Parks ⁷	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0%	Manuf in Parks
Manufactured Homes - On Lots ⁸	43	3.1	71	6.6	43	7.0	0	0.0	157	5.1	1%	Manuf on Lots
TOTAL	253	2.1	11,326	4.9	3,593	13.4	562	16.9	15,734	5.7	100%	TOTAL
ALL YEARS												
	RL		RS		RM		RH		ALL RESIDENTIAL ZONES			
	TOTAL UNITS²	AVE DENSITY³	TOTAL UNITS²	AVE DENSITY³	TOTAL UNITS²	AVE DENSITY³	TOTAL UNITS²	AVE DENSITY³	TOTAL UNITS²	AVE DENSITY³	All Units - % of Total	
Single Family - Detached ⁴	2,356	1.9	19,152	3.8	2,434	5.6	172	7.2	24,114	3.6	69%	SFD
Single Family - Attached ⁵	0	0.0	461	8.4	197	13.1	0	0.0	658	9.4	2%	SFDA
Multiple Family Housing ⁶	57	8.8	1,014	11.3	5,861	16.6	1,074	18.8	8,006	15.8	23%	Multifamily
Manufactured Homes - In Parks ⁷	148	2.7	557	3.4	593	6.5	0	0.0	1,298	4.1	4%	Manuf in Parks
Manufactured Homes - On Lots ⁸	425	2.9	312	3.6	116	6.2	0	0.0	853	3.4	2%	Manuf on Lots
TOTAL	2,986	2.1	21,496	3.9	9,201	9.9	1,246	15.5	34,929	4.4	100%	TOTAL
Summary data prepared 12/28/2010 by C. Miller from February 2008 Buildable Lands Inventory												
¹ Pre-1998 data includes all properties, and the dwelling units on those properties, that are in the current Urban Growth Boundary. Some properties were outside of Bend's current UGB at the time they were constructed.												
² Total units includes all built and permitted units, including units in the MDOZ, by general plan designation.												
³ Average density is the total number of built and permitted units (WHERE ONLY ONE TYPE OF HOUSING UNIT WAS ON A PROPERTY), divided by the total acres of those properties, by housing unit type and general plan designation.												
⁴ "Single Family - Detached" means a housing unit that is free standing and separate from other housing units. OAR 660-008-0005(3)												
⁵ "Single Family - Attached" means common-w all dwellings or row houses where each dwelling unit occupies a separate lot. OAR 660-008-0005(1)												
⁶ "Multiple Family Housing" means attached housing where each dwelling unit is not located on a separate lot. OAR 660-008-0005(5) This category includes duplexes, triplexes, fourplexes, buildings with five or more dwelling units, and condominiums.												
⁷ "Manufactured Homes - In Parks" are those in designated manufactured home parks.												
⁸ "Manufactured Homes - On Lots" are manufactured homes located on a separate lot, including those in designated manufactured home subdivisions.												

9/8/2011



Buildable Lands Inventory - Residential Lands



- | | |
|-------------------------------|-------------------------------|
| Vacant | Publicly Owned |
| Partially Vacant | Non-Residential Land |
| Developed w/ Infill Potential | Urban Growth Boundary |
| Developed | Medical District Overlay Zone |

DISCLAIMER: The information on this map was derived from City of Bend and Deschutes County digital GIS databases and land records. Care was taken in the creation of this map, but it is provided "AS IS." There are no warranties, express or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product.

This map was prepared for the City of Bend's Urban Growth Boundary expansion project and may be updated or further refined. Data was last updated on 9/8/2011 and was based on an original BLI prepared 2/28/2008.

Residential Lands are properties with a general plan or zoning designation of RL, RS, RM, RH, SR2.5, or UAR10.

For definitions of the land categories listed, refer to the memo to the UGB Remand Task Force on the Draft Buildable Lands Inventory dated 8/31/2011.

00616

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TO: **BEND UGB REMAND TASK FORCE**
FROM: **LONG RANGE PLANNING STAFF, CITY OF BEND**
SUBJECT: **ESTIMATE OF HOUSING DENSITY NEEDS – TASK 3, STEP 6 OF
“PLANNING FOR RESIDENTIAL GROWTH”**
DATE: **MARCH 27, 2012**

Introduction

This memo presents the City’s response to Step 6 of Task 3 of the *Planning for Residential Growth* handbook. This part of the handbook guides cities in preparing a Housing Needs Analysis (HNA) consistent with requirements in state law. Step 6 builds on Steps 1-5 for the HNA, and directs the City to, “Determine the needed net density range for each plan designation and the average needed net density for all designations.”

Contents of this memo will be incorporated into a revised HNA document, as directed by Sub-Issue 2.3 of the UGB remand. This memo and its preliminary estimates of needed density for needed housing types have been reviewed by DLCD staff. Based on discussions with DLCD staff, the Staff understands that they have review this work product, are satisfied with the work to date, and support the City moving forward to seek RTF and public review

Relevant Remand Issues

Remand Sub-Issue 2.3 addresses the questions,

“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?”¹

The remand’s conclusion for this sub-issue finds that the City is not required to analyze housing need by tenure, but directs the City “to revise its findings and Chapter 5 of its comprehensive plan consistent with the analysis” that precedes the conclusion.² Chapter 5 of the Bend Area General Plan is the housing element of Bend’s comprehensive plan. As submitted to DLCD for acknowledgment in 2009, Chapter 5 contained the Housing Needs Analysis

¹ Remand and Partial Acknowledgement Order, 10-REMAND-PARTIAL ACKNOW-001795, Oregon Land Conservation and Development Commission, November 2, 2010, p. 26.

² Ibid., p. 32.

which is the subject of Remand Sub-Issue 2.3, which the Commission found was not in compliance with state law. As noted above, the purpose of this memo is to determine the needed net density range for each of Bend's residential plan designations, and the needed net density for all designations.

The Analysis section of the Remand Order for Sub-Issue 2.3 states that "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 attached. 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 (sic) 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)."³

Consistent with this direction, and as required by OAR 660-008, this memo considers needed densities for three needed housing types: single-family detached, single-family attached, and multiple family housing.

The analysis section of Remand Sub-Issue 2.3 also states the following:

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.⁴

Accordingly, this memo considers historic and current average net densities by the three housing types, allowed and actual built densities by zone, and the distribution of needed housing units by zone for the 2008-28 planning period, based on a previously proposed housing mix for the planning period. This memo concludes with an estimate of needed acres by needed housing type for the planning period, based on projected net densities for those needed housing types. In these ways, the contents of this memo demonstrate compliance with directives of Remand Sub-Issue 2.3 and applicable provisions of state law.

³ Ibid., p. 31.

⁴ Ibid., p. 32.

Draft Findings Addressing Task 3, Step 6

Step 6.a: “Examine the relationship between lot size and square feet of living space over time, using county assessor’s data to determine local trends in housing density.”

Response: Attachment A of the revised Buildable Lands Inventory (August 31, 2011) illustrates historic trends in housing density by plan designation.⁵ Table 1, below, summarizes these trends:⁶

**Table 1.
Historic and Current Average Net Densities**

	RL			RS			RM			RH		
	Pre-1998	1998-2008	2008	Pre-1998	1998-2008	2008	Pre-1998	1998-2008	2008	Pre-1998	1998-2008	2008
Single-family detached housing	2.0	2.1	2.0	3.1	4.6	3.8	4.7	8.6	5.6	6.6	13.4	7.2
Single-family attached housing	0	0	0	5.1	8.7	8.4	21.5	12.5	13.1	0	0	0
Multi-family attached housing	8.8	0	8.8	9.7	14.2	11.3	16.6	16.1	16.6	20.9	17.1	18.8
Average Density – All Housing Types	2.1	2.1	2.1	3.2	4.9	3.9	8.5	13.4	9.9	14.4	16.9	15.5

As indicated in Table 1, average net densities have increased over time in most zones. The overall density in the low-density RL zone has held steady at 2.1 units/net acre (the RL zone contains less than 10% of total housing units), but it has increased somewhat in all other zones. The RS, RM, and RH zones showed increases in overall density from the pre-1998 period to 2008. The unusually

⁵ In this memo, the terms, plan designation” and “zoning designation” are used interchangeably. In general, zoning designations are consistent with plan designations. Where these designations are not consistent, data from both designations are included in the analysis.

⁶ Attachment A of the revised BLI contains data for five housing types. The three types shown in Table 1 are those that must, at a minimum, be considered in the Housing Needs Analysis (see Remand Sub-Issue 2.3). In order to determine average net densities for these three housing types, the category “Manufactured Homes – On Lots” shown in Attachment A has been combined with data for the “Single Family – Detached” category. Likewise, Attachment A data for “Manufactured Homes – In Parks” have been combined with the “Multiple Family Housing” category.

high pace of construction activity during 1998-2008 is reflected in higher densities for that period in all zones, except RL. The unique economic conditions of that decade are not expected to repeat during the 2008-2028 planning period.⁷

The most abundant housing type built, both before 1998 and during the 1998-2008 period, has been single-family detached. The majority of these detached single-family units have been built in the RS zone, during both historical periods. Table 1 indicates that the size of lots for single-family detached units in the RS zone has decreased historically as densities have increased. Average net density in the RS zone has increased from historical levels of 3.1 units/acre to 3.8 units/acre as of 2008.

Table 1 also indicates that the average net density for multi-family units in the RM zone held steady at 16.6 units/net acre from 1998 to 2008, and decreased slightly in the RH zone from 20.9 to 18.8 units/net acre. At the same time, multi-family density in the RS zone (consisting primarily of duplex units) increased from 9.7 to 11.3 units per net acre during that period.

Single-family attached units are relatively new to Bend's housing inventory. Only 48 units (less than 1% of total housing units) existed prior to 1998. During 1998-2008 they made up 9.5% (610) of total new housing units permitted. Most of those (71%) were built in the RS zone, with the rest built in the RM zone. As indicated in Table 1, average net density for single-family attached units in the RS zone increased from 5.1 to 8.7 units per net acre during 1998-2008, an increase of 71%. Overall, the average density of SFA units in all zones increased from 7.8 units/net acre prior to 1998 to 9.4 units/net acre in 2008.

Across all zones, for single-family detached units the average density increased by 24%, from 2.9 units/net acre before 1998 to 3.6 units/net acre by 2008. For single-family attached units across all zones, average density increased by 21%, during the same period. The change in average density for multi-family attached units across all zones was more modest, increasing by 2% from 15.5 units/net acre before 1998 to 15.8% by 2008.

Step 6.b: "Describe the likely effect of land price, availability, and location and future housing prices on these trends..."

Response: Data analyzed in Task 3, Steps 4 and 5, of the "Planning for Residential Growth" handbook, and the updated Buildable Lands Inventory suggest the following conclusions:

- The housing type in greatest need during the planning period will be single-family detached units.
- Demand for these single-family detached units will be greatest in the RS zone, with smaller numbers of units being built in the RL and RM zones.

⁷ See updated Buildable Lands Inventory, memo to UGB Remand Task Force, August 31, 2011, p. 12.

- Land prices within these zones, and within residential zones generally, can be expected to increase moderately in response to a gradually shrinking inventory of buildable residential land within the current UGB.
- Prices can be expected to increase moderately for all forms of housing as a result of increasing land costs and inflation.
- Land and housing price escalations are unlikely to return to levels seen during the height of the recent housing bubble (2001-2005).
- Some smaller and older households will seek housing types that occupy less land area, but offer the privacy of detached single-family units, e.g. cottage or cluster housing.
- A significant share of the market for rental housing for all households will continue to be met by single-family detached units in the RS, RL, and RM zones.⁸
- The increasing share of households headed by older persons will lead to greater interest in higher-density housing types with convenient access to shopping and services, e.g. the central core area, transit corridors, and mixed-use neighborhoods.

Step 6.c: “Allocate future needed housing units to the respective plan designation in which it is anticipated they will be developed.”

Response: Based on Steps 1-5 of the revised Housing Needs Analysis,⁹ Table 2, below, summarizes the number of housing units needed by type during the 2008-2028 planning period.

Table 2. Proposed Mix of Housing for 2008 to 2028		
Type	Proportion	Number
Single family detached	65%	10,842
Single family attached	2%	334
Multi-family attached	33%	5,505
	100%	16,681

For initial comparison purposes, Table 3 below allocates needed housing units to plan and zone designations under a scenario based on the distribution of units by type during 1998-2008. For example, during the 1998-2008 period 90% of detached single-family units were built in the RS zone, 8% were built in the RM zone, and 2% were built in the RL zone. Those same proportions for detached single-family units, and corresponding proportions for single-family attached and multi-family attached units built during 1998-2008 are replicated in Table 3.

⁸ See Memo to UGB Remand Task Force from Damian Syrnyk, September 2, 2011, p. 24, Table 16. As of 2007, 41% of all single-family units were renter-occupied. Between 2000-2007, the proportion of single-family units that were owner-occupied decreased from 55% to 53%; During that same period, the proportion of renter-occupied single-family units increased from 16% to 20%.

⁹ See Memo to Bend UGB Remand Task Force from Damian Syrnyk, November 3, 2011, p. 16.

Table 3
Scenario 1: Distribution of Needed
Housing Units by Zone 2008-28

	RL		RS		RM		RH		TOTAL	
	%	Units	%	Units	%	Units	%	Units	%	Units
SF Detached	2%	217	90%	9,758	8%	867	0%	0	100%	10,842
SF Attached	0%	0	10%	33	50%	167	40%	134	100%	334
MF Attached	0%	0	14%	771	71%	3,909	15%	826	100%	5,505
TOTAL	1%	217	63%	10,562	30%	4,943	6%	959	100%	16,681

For reasons outlined in response to Step 6.b, above, and based on conclusions from Steps 1-5, a distribution of needed housing units among zones that mirrors proportions observed during 1998-2008 (as shown above in Table 3) is unlikely, and would not adequately respond to changing economic and demographic conditions.

Table 4, below, illustrates an alternative scenario for distribution of needed housing units by zone that more effectively addresses issues identified in Steps 1-5 of the HNA. Assumptions built into Table 4 include the following:

- While single-family detached units will continue to be the most needed form of housing overall, the proportion of new units built in the RS zone will decrease from 90% during 1998-2008 to 80% during the planning period.
- The demand for single-family detached units at somewhat higher densities (e.g. cottage cluster housing or smaller-lot subdivisions) will increase, resulting in more of these units being built in the RM zone. The RM zone will account for 18% of total single-family detached units, up from 8% during 1998-2008.
- This increase in smaller, detached housing units will reflect a departure from the trend of larger homes being developed through 2005. Smaller, older households with higher incomes will have the option of purchasing smaller detached units in lieu of renting retirement housing or purchasing larger SFD homes.
- Consistent with the pattern seen during 1998-2008, and in order to be closer to jobs, shopping, and services, 90% of projected single-family attached units will be located in the RM and RH zones. The remaining 10% will be built in the RS zone.
- Consistent with the 1998-2008 period, 15% of new multi-family units will be built in the RS zone. These will consist mostly of duplex and triplex developments. Currently, these units are allowed conditionally in the RS zone.
- Larger-scale multi-family attached developments will locate in the RM and RH zones; reflecting historical trends, these developments will be of relatively modest size, typically consisting of less than 50 units.
- Although most future multi-family units will be built in the RM zone, the proportion of new units between RM and RH zones will shift somewhat

from what was observed during 1998-2008: The share of units built in the RM zone will decline from 71% to 60%, and the share of units built in the RH zone will increase from 14% to 25%.

Given these assumptions, future needed housing units for Scenario 2 are allocated to plan designations as shown in Table 4, below:

Table 4
Scenario 2: Distribution of Needed
Housing Units by Zone 2008-2028

	RL		RS		RM		RH		TOTAL	
	%	Units	%	Units	%	Units	%	Units	%	Units
SF Detached	2%	217	80%	8,674	18%	1,952	0%	0	100%	10,842
SF Attached	0%	0	10%	33	50%	167	40%	134	100%	334
MF Attached	0%	0	15%	826	60%	3,303	25%	1,376	100%	5,505
TOTAL	1%	217	57%	9,533	33%	5,422	9%	1,510	100%	16,681

Step 6.d: “Estimate the needed net density range for each plan designation, based on the types of structures that would be allowed in each designation; and on an estimate of the density at which each structure type is likely to develop in the community based on recent housing developments and current local policies.”

Response: Table 5, below, shows the current allowable density ranges for each of Bend’s residential zones.¹⁰ These ranges are shown as both gross and net densities. Table 5 also shows actual average density (net) for each housing type by zone as of 2008 for comparison purposes.

Table 5
Allowed and Actual Built Residential Densities by Zone¹¹

	RL	RS	RM	RH
Allowable Density By Zone (Units/Gross Acre)	1.1 - 2.2	2.0 - 7.3	7.3 - 21.7	21.7 - 43.0
Allowable Density By Zone (Units/Net Acre)	1.3 - 2.7	2.4 – 8.8	8.8 - 26.3	23.9 – 47.3
Average Built Density 2008 (Units/Net Acre)	2.1	3.9	9.9	15.5

¹⁰ Chapter 2.1 of the Bend Development Code lists minimum and maximum densities for each zone as gross density figures. The net density figures shown in Table 5 have been derived by multiplying gross density by 1.25 to reflect dedication of future rights-of-ways and other development standards.

¹¹ The conversion from gross to net density is achieved for the RL, RS, and RM zones by multiplying the gross density ranges by 1.21 to account for 21% of gross site area typically dedicated for streets and utilities. For the RH zone, a 10% dedication factor is used, acknowledging that a typical multi-family housing site in that zone may already have existing street frontage, thus the additional amount needed for dedication is less.

The City's policy, with respect to densities programmed to meet a wide range of housing needs, is summarized for each zone as follows in Chapter 2.1 of the Bend Development Code:

Low Density Residential (RL): The Low Density Residential District consists of large urban residential lots that are served with a community water system and DEQ permitted community or municipal sewer systems. The residential density range in this district is 1.1 to 2.2 dwelling units per gross acre.

Standard Density Residential (RS): The Standard Density Residential District is intended to provide opportunities for a wide variety of residential housing types at the most common residential densities in places where community sewer and water services are available. The residential density range in this district is 2.0 to 7.3 dwelling units per gross acre.

Medium Density Residential (RM): The Medium Density Residential District is intended to provide primarily for the development of multiple family residential housing in areas where sewer and water service are available. The residential density range in the District is 7.3 to 21.7 units per gross acre and shall provide a transitional use area between other residential districts and other less restrictive areas.

High Density Residential (RH): The High Density Residential District is intended to provide land for primarily high density residential multiple family housing in locations close to shopping and services, transportation and public open space. The density range of the district is 21.7 to 43 units per gross acre and shall provide a transitional use area between other residential districts and other less restrictive areas.

Data shown in Table 5 suggest that the currently allowable densities in the RL, RS, and RM zones are well suited for accommodating the types of housing that are needed and expected during the 2008-2028 planning period. However, the actual, average built density for housing units in the RH zone (15.5 units/net acre) appears to be lower than the minimum allowed density in that zone (23.9 units/net acre). This does not necessarily indicate a mismatch between historical densities and the current range of allowable densities in the RH zone. Part of the reason for the discrepancy is that the minimum allowed density for the RH zone was not in effect until adoption of the current Bend Development Code in 2006. As more multi-family housing is built in the RH zone meeting the minimum density requirement, this average density figure will increase. But the relatively low built density of multi-family developments in the RH zone does suggest that the market is more attuned to providing multi-family housing at RM density levels, or slightly higher, rather than at the higher densities allowed in the RH zone. This trend can be expected to continue. Even during the height of the housing boom of 1998-2008 the average net density of multi-family developments in the RH zone was only 17.1 units/net acre. Although multi-family housing will make up a larger share of total needed units during the planning period, and more of it will be built in the RH zone, it will generally be built at moderate densities, close to the minimum allowed that zone.

Step 6.e: “Estimate land needs by dividing the number of needed units of each structure type by the net density at which it is most likely to be developed (from the analysis in Step 6.d) and apportion the acres into each residential plan designation.”

Step 6.f: “Estimate the average needed net density by dividing the total number of needed net acres by the total number of needed units.”

Response: This response addresses both 6e and 6f above. Table 6, below, shows the number of needed housing units by housing type for the 2008-2028 planning period distributed by zone, as shown in Table 4, Scenario 2. The number of buildable net acres needed to accommodate needed housing under this scenario is 3,092. Table 6 also indicates expected average net densities for each housing type by zone, based on actual built densities for 2008 as shown in Table 1 for the RL, RS, and RM zones. For the RH zone, a net density assumption of 23.9 units/acre is used, since that corresponds to the minimum allowable net density in that zone. Finally, Table 6 includes a calculation of overall average net density needed to accommodate the projected housing types, as called for by Step 6.f. That overall average density is estimated at 5.4 units per net acre. This represents a 42% increase in the average density of housing from 1998-2008.

**Table 6
Needed Acres by Housing Type and by Zone 2008-2028**

Zone	RL			RS			RM			RH			TOTAL		
Housing Type	Net Density	Units	Net Acres Needed	Net Density	Units	Net Acres Needed	Net Density	Units	Net Acres Needed	Net Density	Units	Net Acres Needed	Average Net Density	Units	Net Acres Needed
SF Detached	2.0	217	109	3.8	8,674	2,283	5.6	1,952	349	0.0	0	0	4.0	10,843	2,740
SF Attached	NA	0	0	8.4	33	4	13.1	167	13	23.9	134	6	15.0	334	22
MF Attached	NA	0	0	11.3	826	73	16.6	3,303	199	23.9	1,376	58	16.7	5,505	330
TOTAL	2.0	217	109	4.0	9,533	2,360	9.7	5,422	560	23.9	1,510	63	5.4	16,682	3,092

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TO: **UGB REMAND TASK FORCE**
FROM: **LONG RANGE PLANNING STAFF, CITY OF BEND**
SUBJECT: **COMPARISON OF NEEDED DENSITY/MIX WITH ACTUAL DENSITY/MIX –
TASK 4 OF “PLANNING FOR RESIDENTIAL GROWTH”**
DATE: **MARCH 27, 2012**

Introduction

This memo presents the City’s response to Task 4 of the *Planning for Residential Growth* handbook, which directs the City to address the following questions: “Is *needed* density the same as or less than *actual* density? Is *needed* mix the same as *actual* mix?”

Contents of this memo will be incorporated into a revised Housing Needs Analysis (HNA), as directed by Sub-Issue 2.3 of the UGB remand. This memo has been reviewed by DLCD staff. Based on discussions with DLCD staff, Staff understands that they have review this work product, are satisfied with the work to date, and support the City moving forward to seek RTF and public review.

Relevant Remand Issues

Remand Sub-Issue 2.3 addresses the following questions:

“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?”¹

The remand’s conclusion for this sub-issue finds that the City is not required to analyze housing need by tenure, but directs the City “to revise its findings and Chapter 5 of its comprehensive plan consistent with the analysis” that precedes the conclusion.² Chapter 5 of the Bend Area General Plan is the housing element of Bend’s comprehensive plan. As submitted to DLCD for acknowledgment in 2009, Chapter 5 contained the Housing Needs Analysis which is the subject of Remand Sub-Issue 2.3, which the Commission found was not in compliance with state law.

¹ Remand and Partial Acknowledgement Order, 10-REMAND-PARTIAL ACKNOW-001795, Oregon Land Conservation and Development Commission, November 2, 2010, p. 26.

² Ibid., p. 33.

As noted above, the purpose of this memo is to compare the densities and mix of needed housing types for the planning period with the actual densities and mix of housing types existing as of 2008. The analysis and conclusions of this memo will be incorporated into a revised Chapter 5 of the General Plan, in support of revised projections of the housing densities and mix needed for the planning period.

The Analysis section of the Remand Order for Sub-Issue 2.3 states that:

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.”

. . . 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.³

Consistent with this direction, and as required by ORS 197.296(3) and (5), Goal 10, and OAR 660-008, this memo considers the actual densities and actual mix of three needed housing types, and compares those actual densities and mix with the needed densities and mix for the 2008-28 planning period. The three housing types considered are single-family detached, single-family attached, and multiple family housing.

Planning for Residential Growth – Task 4

Step 1: “Compare the actual housing mix with the needed housing mix.”

Step 1a: “Obtain the actual housing mix from the results of Task 2, Step 5. This is the percentage of total housing for each housing type.”

Response: Table 1 below summarizes the actual housing mix in Bend as of 2008.⁴

³ Ibid. p. 32.

⁴ Note that the Single-Family Detached housing type includes manufactured homes on individual lots, and the Multiple-Family Attached housing type includes manufactured homes in manufactured home parks.

Table 1
Actual Housing Mix 2008

Housing Type	Total Units	All Units - % of Total
Single Family - Detached	24,967	71%
Single Family - Attached	658	2%
Multiple Family Attached	9,304	27%
TOTAL	34,929	100%

Step 1b: “Obtain the future needed housing mix from the results of Task 3, Step 5e.”

Response: The table below summarizes the needed housing mix, resulting from Task 3, Step 5e:

Table 2
Proposed Mix of Housing Types 2008-28

Housing Type	Total Units	All Units - % of Total
Single family detached	10,842	65%
Single family attached	334	2%
Multi-family attached	5,505	33%
Total	16,681	100%

Step 1c: “Compare the actual housing mix with the future needed housing mix.”

Response: The table below compares the actual housing mix as of 2008 with the needed housing mix:

Table 3
Comparison of Actual vs. Needed Housing Mix

Housing Type	Actual Housing Mix	Needed Housing Mix	Difference Between Actual and Needed
Single-family detached	71%	65%	-6%
Single-family attached	2%	2%	0%
Multi-family attached	27%	33%	+6%
Total	100%	100%	

Step 2: “Compare the average actual net density with the average needed net density.”

Step 2a: “Obtain the average actual net density for all housing types from the results of Task 2, Step 7.”

Response: The average actual net density for all housing types as of 2008 is 4.4 units per net acre.⁵

Step 2b: “Obtain the average needed net density from the results of Task 3, Step 6.f.”

Response: The average needed net density for all housing types, from the results of Task 3, Step 6.f., is 5.4 units per net acre.

Step 2c: “Compare the average actual net density with the average needed net density.”

Response: Table 4 below compares average actual net density as of 2008 with average needed net density for the 2008-28 planning period.

Table 4
Comparison of Actual Net Density with Needed Net Density

	Actual Net Density	Needed Net Density	Difference
Average Net Density	4.4	5.4	1.0

Table 4 shows that the difference in needed net density is an additional unit per acre, a 23% increase over actual net density. This data also suggests that the density of housing development between 1998 and 2008 was moving closer to that density needed between 2008 and 2028. This further suggests that any measures the City adopts to encourage the development of needed housing will not need to encourage development of housing at significantly higher densities.

Step 3: “Compare the actual net density for specific housing types with the needed net density ranges.”

Step 3a: “Obtain the actual net density for each housing type from the results of Task 2, Step 6.c.”

Response: The actual net density for each housing type as of 2008 is shown below in Table 5.⁶

⁵ See Attachment A, Memo to UGB Remand Task Force on Draft Buildable Lands Inventory – Sub-Issue 2.2, August 31, 2011.

⁶ Net densities shown in Table 5 are derived from Attachment A, Memo to UGB Remand Task Force on Draft Buildable Lands Inventory – Sub-Issue 2.2, August 31, 2011. The Single-Family Detached category includes both conventional SFD units and manufactured homes on individual lots. The Multi-Family Attached category includes both conventional MFA units and manufactured homes in manufactured home parks. See memo to Bend UGB Remand Task Force from Damian Syrnyk, “Draft Results of Steps 4 and 5 of Housing Needs Analysis,” November 3, 2011, Table 4-1, p. 2.

Table 5
Actual Net Density by Housing Type - 2008

Housing Type	Actual Net Density
Single family detached	3.6
Single family attached	9.4
Multi-family attached	11.4

Step 3b: “Obtain the needed net density ranges from the results of Task 3, Step 6.d.”

Response: The results of Task 3, Step 6.d. indicate that needed density ranges for needed housing types are generally consistent with density ranges currently allowed by existing residential General Plan designations and zoning districts in the Bend Development Code. Recently built net density in the RH zone (1998-2008) has been lower than the current minimum allowable density for that zone. However, the needed density for the RH zone for the planning period will be achieved by ensuring compliance with the currently required minimum density for that zone. Table 6 below summarizes the needed and currently allowable net density ranges from the results of Task 3, Step 6.d.

Table 6
Needed Net Density Ranges by Residential Plan Designation

	RL	RS	RM	RH
Allowable Density By Zone (Units/Net Acre)	1.3 - 2.7	2.4 – 8.8	8.8 - 26.3	23.9 – 47.3
Needed Net Density (Units/Net Acre)	2.1	3.9	9.9	15.5

Step 3c: “Compare the actual net density for each housing type with the needed net density ranges by housing type and determine whether the actual net densities are within the needed net density ranges.”

Response: Table 7 below compares actual net density for each housing type (from Table 5) and zone with the needed net density ranges. Table 7 indicates that needed housing at actual net densities for each housing type can be accommodated in at least one of the existing residential zones in the Bend Development Code.

Table 7
Comparison of Actual Net Density by Housing Type and Zone
With Needed Net Density

Housing Type	Actual Net Density (2008)	RL		RS		RM		RH	
		Needed Net Density Range	Is Actual in Needed Range?	Needed Net Density Range	Is Actual in Needed Range?	Needed Net Density Range	Is Actual in Needed Range?	Needed Net Density Range	Is Actual in Needed Range?
Single-Family Detached	3.6	1.3 – 2.7	No	2.4 – 8.8	Yes	8.8 – 26.3	No	23.9 – 47.3	No
Single-Family Attached	9.4	1.3 – 2.7	No	2.4 – 8.8	No	8.8 – 26.3	Yes	23.9 – 47.3	No
Multi-Family Attached	11.4	1.3 – 2.7	No	2.4 – 8.8	No	8.8 – 26.3	Yes	23.9 – 47.3	No

Table 7 also suggests that the RS and RM zones can accommodate needed housing at actual densities, while the RL and RH zones cannot. However, a closer look will show this is not the case. The RL zone, for example, can accommodate very low density single-family detached units within its density range of 1.4 – 2.8 units/net acre. New SFD units can be accommodated and should be encouraged on the 217 existing, platted vacant lots in the RL zone. That number of SFD units was allocated to the RL zone for the planning period in response to Task 3, Step 6. With respect to SFA and MFA units in the RL zone, data in Table 7 correctly suggest that those needed housing types cannot be accommodated at actual net densities in the RL zone.

Table 7 also indicates that the density range of the existing RH zone cannot accommodate any needed housing types at actual densities. However, as discussed in response to Task 3, Step 6d, the actual net density for needed MFA units in the RH zone will increase during the planning period to at least meet the minimum 23.9 units/net acre, because the Bend Development Code requires any new housing development in that zone to meet or exceed the required minimum density. The response to Task 3, Step 6.c. also allocates needed MFA housing units to the RH zone at that minimum density for reasons discussed in the memo addressing Step 6.⁷

Step 4: “Determine if measures are required to achieve either the needed housing mix or needed densities, or both.”

Response: Based on data contained in Table 3, the actual housing mix as of 2008 is not the same as the needed housing mix for the 2008-28 planning period.

⁷ Memo from Long Range Planning Staff, City of Bend, re Estimate of Housing Density Needs – Task 3, Step 6 of “Planning for Residential Growth,” March 27, 2012, p. 5-7.

Similarly, based on Table 4, the actual net density as of 2008 is not adequate to achieve needed housing densities for the planning period. Therefore, the City must consider measures that may enable both the needed housing mix and density to be achieved. The identification and evaluation of a broad range of potential measures will be undertaken in direct response to Sub-Issues 3.1 and 3.2 of the UGB remand order.

City of Bend Housing Needs Analysis 2008-2028



Community Development Department
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March 2012



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Introduction

Purpose

This report presents the City of Bend's housing needs analysis. The purpose of this analysis is to address the requirements for planning for needed housing in urban areas under ORS 197.296(3) and (5). The document includes a buildable lands inventory and a related analysis of capacity for additional housing in the Bend urban growth boundary (UGB). The report also includes an analysis of national, state, and local demographic and economic trends, and makes recommendations for a mix and density of needed housing types. The data relied upon in this report is current as of 2008, and considers housing needs over a 2008 to 2028 planning period. This report builds on prior housing need analyses, including the city's 2005 housing needs analysis, and updates to this analysis adopted in 2009 with the City's 2009 urban growth boundary (UGB) expansion proposal. The City prepared this HNA to respond to Order 001775 from the Land Conservation and Development Commission (LCDC) through which they remanded certain work related to the city's housing needs analysis. Sub-Issue 2.3 of the UGB Remand Order requires the City to prepare a revised HNA consistent with provisions in state law. This document is prepared in response to that directive.

In an effort to address all requirements in statutes and administrative rules for an HNA, this document follows the suggested framework of "Planning for Residential Growth," a guide book prepared in 1997 by DLCD to assist local governments in compiling an HNA that complies fully with applicable portions of ORS 197.296 and 197.303, as well as OAR 660-008.¹

Legal and Policy Framework

Statewide Planning Goal 10, Housing, is to provide for the housing needs of the citizens of the state². Goal 10 requires cities to inventory lands for residential use and to develop plans that encourage the development 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.

Oregon Revised Statutes (ORS) 197.296 provides further requirements for complying with Goal 10. ORS 197.296 requires the city to 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. The purpose of this is to determine amount of land needed for each needed housing type for the next 20 years.

(3) In performing the duties under subsection (2) of this section, a local government shall:
(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

¹ The guidebook is available on-line at http://www.oregon.gov/LCD/docs/publications/planning_for_residential_growth.pdf.

² See OAR 660-0015-0000(10)

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.

In addition, ORS 197.303 and 197.307 define needed housing and what actions a local government must take to ensure an adequate supply of land is available for the development of needed housing.

LCDC has adopted an administrative rule at OAR 660-008 to assure opportunity for the provision of adequate numbers of needed housing units, the efficient use of buildable land within urban growth boundaries and to provide greater certainty in the development process so as to reduce housing costs³. This rule is intended to define standards for compliance with Goal 10 and to implement ORS 197.303 through 197.307. The pertinent sections of these statutes are:

197.303 “Needed housing” defined. (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.

³ See OAR 660-008-0000, Purpose.

197.307 Effect of need for certain housing in urban growth areas; approval standards for certain residential development; placement standards for approval of manufactured dwellings.

(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.

Housing Needs Analysis Steps

In 1997, DLCD published a guidebook, “Planning for Residential Growth,” that outlined what steps to perform to complete a housing needs analysis that satisfies state law⁴. These six steps include:

Step 1 – Project the number of new housing units needed in the next 20 years.

Step 2 – Identify relevant national, state, and local demographic and economic trends and factors that may affect the 20-year project of structure type mix.

Step 3 – Describe the demographic characteristics of the population, and, if possible, household trends that related to demand for different types of housing.

Step 4 – Determine the types of housing that are likely to be affordable to the projected households based on household income

Step 5 – Estimate the number of additional needed units by structure type.

Step 6 – Determine the needed density ranges for each plan designation and the average needed net density for all structure types.

To summarize, the City is required to consider its needs for future housing based on type and density over a 20-year planning period. This analysis of housing must examine current and future demographic and economic trends that will influence the types of housing produced and purchased or rented. In addition, this analysis must consider the types of housing needed at various price ranges and rent levels. One of the final steps in this process is an estimate of the number of additional units that will be needed by structure type. Once the City has done this, the City must show that adequate land has been or will be planned and zoned within the existing UGB, and if necessary any area added through an expansion, to demonstrate that the General Plan satisfies Goal 10.

⁴ See pages 25 through 33, Planning for Residential Growth: A Workbook for Oregon’s Urban Areas. Transportation and Growth Management Program, Lane Council of Governments, and ECO-Northwest (1997) -: http://www.oregon.gov/LCD/docs/publications/planning_for_residential_growth.pdf.

Prior Housing Needs Analyses and Remand Tasks

The purpose of this section is to provide a brief review of the city's past work on completing a housing needs analysis consistent with Goal 10. The City provided this information to DLCD and LCDC in January of 2010 as a component of the City's Appeal of the Director's January 8, 2010 Order and Report on the City's Proposed UGB Expansion.

In 2005, the City completed a buildable lands inventory (2005 BLI) (see Supp. Rec. 1987) and a housing needs analysis (2005 HNA). (Rec. 2046) The City followed DLCD's Goal 10 guidebook to develop both products. After further work with a technical advisory committee (TAC), the City updated the 2005 HNA in April 2006. (Supp. Rec. 2157.) Based on the findings of the 2005 HNA and the analysis of trends, the City concluded that manufactured homes would be provided on separate lots in the future, not in parks. The City also concluded that a more relevant factor for estimating current and future housing needs is type of housing unit (attached/detached) rather than tenure (rent/own).

In 2007, consultant Angelo Planning Group prepared a final report that presented land need estimates for housing, schools, parks, and institutional uses. (Rec. 2137.) This 2007 report also presented a series of forecasts for residential land needs, following ORS 197.296 and DLCD's Goal 10 workbook. Another consultant, Cogan Owens, prepared a draft General Plan housing element that, along with the 2007 Angelo land need report, were submitted to DLCD with a 45-day notice on June 11, 2007. (Supp. Rec. 1587, 1789.) Following the initial public hearings in July and August of 2007, the City, working in public work sessions of the Bend Planning Commission and with liaisons of the Deschutes County Planning Commission, reviewed and amended the proposed elements of the UGB expansion, including the work that supported the housing element.

From September 2007 through October 2008, the Bend Planning Commission held 35 public work sessions on the UGB expansion. Through these work sessions, which included extensive public input, the City revised its draft buildable lands inventory, housing needs analysis, and residential land need estimate. This work resulted in 2008 versions of the buildable lands inventory, housing needs analysis (Rec. 1280, 1728), and residential land needs analysis that were incorporated in the 2008 version of the housing element submitted to DLCD in 2009.

The Department issued a Director's Report dated January 8, 2010 that included analysis and findings resulting in a remand of the city's submittal of the UGB expansion. On January 29, 2010, the City filed an appeal of the Director's Report to LCDC. After receiving the Director's Report the City filed exceptions dated March 8, 2010. On both January 29, 2010 and March 8, 2010, the City provided the Commission with findings showing where the City addressed those issues raised on remand.

On November 2, 2010, LCDC issued its final order of remand and partial acknowledgement on the UGB expansion and its components. The final order was not appealed, and became final in January 2011. With respect to the HNA adopted as part of the UGB expansion, the Commission's order" remands the city's decision for it to revise its findings and chapter 5 of its comprehensive plan consistent with"⁵ a detailed analysis contained in the order. That analysis is based on the January 2010 Director's Report and Order which specifies that the City must:

1. Prepare a final housing needs analysis (HNA) that complies with ORS 197.296, ORS 197.303, OAR 660 Division 8, and OAR 660-024-0040(4). This product would replace the product adopted in 2008 and would be adopted as an element of the city's general plan. The final HNA must:
 - a. analyze housing needs for at least three (3) types, including: attached and detached single family housing, multi-family attached housing, and manufactured housing;
 - b. identify the types of housing that will meet the city's needs are allowed or proposed to be allowed in one or more residential zoning districts, and;
 - c. explain the city's policy choices for the final housing mix that includes at least three (3) types of housing, and how this proposed mix has been translated into types that are allowed in one or more residential zoning districts.
2. Prepare new findings that show whether the proposed housing needs analysis, mix, and types of housing are consistent with the housing policies in Chapter 5 of the Bend Area General Plan, in particular Housing Policies 4, 17, and 21. The new findings must also address Remand Task 3.2 and show that the proposed and any new measures will demonstrably increase the likelihood that residential development will occur at types and densities.
3. Prepare new findings that address Remand Task 3.2 and ORS 197.296(7) and (9). These findings must show how the proposed measures allow types of housing that will be needed over the 20-year planning period, and point to zoning districts that allow these types of housing. A key element of this task will be preparing a reasonable estimate of the potential numbers of units the city could see develop under these measures and supporting these estimates with adequate findings and a Goal 2 adequate factual base.

⁵ See Remand and Partial Acknowledgment Order ACKNOW-001795, LCDC, November 2, 2010, Sub-Issue 2.3, p. 33.

Factual Base and Data Sources

The City's plans must be supported by an adequate factual base. For a legislative land use decision such as this housing needs analysis, an adequate factual base must be supported by substantial evidence. 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. This HNA relies on a number of data sources and documents. These sources include, but are not limited to, the following documents with their record references from the proceedings before the Land Conservation and Development Commission.

- ❖ 2005 to 2025 Deschutes County Coordinated Population Forecast, Rec. 1980
- ❖ 2005 Buildable Lands Inventory, Supp. Rec. 1987
- ❖ 2005 Housing Needs Analysis, Rec. 2046 - 2113
- ❖ 2007 Residential Land Need report, Rec. 1798-1835, 2137
- ❖ 2008 Housing Chapter of BAGP (Ch. 5), Rec. 1720, including 2008 Housing Needs Analysis at Rec. p 1728
- ❖ Draft Revised Buildable Lands Inventory, Memo to UGB Remand Task Force, August 31, 2011.

In addition to these documents, the analysis presented on Steps 2 and 3 also relies on data from the 2000 Census and the 2007 American Community Survey. This data is available online through factfinder2.census.gov.

Step 1: Project the number of new housing units needed in the next 20 years

The first step in the HNA process is to forecast the number of housing units that will be needed to house the projected population growth over the planning period. In 2008, the City developed and relied on a 2028 population forecast for Bend of 115,063, reflecting an increase in population of 38,512 people between 2008 and 2028. The January 2010 DLCD Director's Report and Order on the UGB Expansion concluded that the forecast complied with applicable law⁶. The 2028 population forecast for Bend was prepared using the 2004 Coordinated Population Forecast for Bend as a base. The Coordinated Population Forecast for Bend is 109,389 people by 2025⁷. Staff extended the forecast out another three (3) years to 2028 using the same growth rate used to forecast population beyond 2025 in the Housing Needs Analysis⁸.

⁶ See page 25 of 156, January 8, 2010 Director's Report and Order

⁷ See Exhibit L-2, Deschutes County Coordinated Population Forecast 2000-2025 (2004) to 45-Day notice

⁸ See Exhibit L-3, City of Bend Housing Needs Analysis (2005) to 45-day notice, pages 7-8.

The City relied on this 2028 population forecast to develop a housing unit forecast for Bend from 2008 to 2028. The DLCD Director also concluded that the housing unit forecast of 16,681 new units between 2008 and 2028 complied with the applicable law in his January 2010 Report and Order⁹. The following table presents the 2008 to 2028 housing unit forecast for the City of Bend.

Table 1-1: Housing Unit Forecast: 2008 to 2028	
Population forecast for 2028	115,063
(-) Less Population on 7/1/08	76,551
(=) New population 2008 to 2028	38,512
(-) Less population in group quarters (2.3%)	886
(=) New population in households	37,626
(/) Divided by household size (2.4)	
(=) Equals new occupied housing units	15,678
(+) Plus vacancy factor (6.4%)	1,003
= New housing units 2008 to 2028	16,681

Staff used the same method for forecasting housing units already used in the record¹⁰. The household size, group quarters percentage, and vacancy factor are all based on the 2000 Census results for Bend¹¹. The housing units forecast relies on the 2028 population forecast of 115,063. Subtracting the population forecast for 2008 leaves a remainder of 38,512, this represents the new population growth between 2008 and 2028. Subtracting the population in group quarters (2.3% or 886) leaves the new population in households in 2028. Dividing the population in households by a household size of 2.4 persons per household provides the number of new occupied housing units between 2008 and 2028, 15,678. The final forecast is obtained by adding another 1,003 units to account for vacant units (a rate of 6.4%), which increase the forecast to 16,681 needed new housing units between 2008 and 2028.

Step 2: Identify relevant national, state and local demographic and economic trends and factors that may affect the 20-year projections of structure type mix

ORS 197.296(5) requires communities to examine demographic and economic trends that will inform the city's analysis of what types of housing will be needed in the future. This section presents an examination of relevant national, state, and local demographic and economic trends and factors that may affect the 20-year projection of the types and mix of housing. The analysis of trends focuses on the period following the acknowledgement of the 1998 Bend Area General Plan to 2007. For many variables, this analysis will include data from 1998 or 1999 to 2007; for others, two periods will be presented to look at trends. These periods will include 1990 to 2000, between the two Censuses, and from 2000 to 2007. For 2007, the City is relying on data

⁹ See page 31 of 156, January 8, 2010 Director's Report and Order

¹⁰ See Residential Land Needs 2005-2030 Memorandum (April 25, 2007); Table 3, Page 5.

¹¹ See the 2000 Demographic profile for Bend at: <http://censtats.census.gov/data/OR/1604105800.pdf>.

collected for the nation, the State of Oregon, and Bend from the American Community Survey¹². In addition, this analysis incorporates previous work from the 2005 Housing Needs Analysis and the 2007 Residential Land Need Analysis¹³.

National Demographic Trends

This section begins with a brief overview of national demographic trends that may affect the 20-year projection for new housing. This discussion summarizes the most recent information and data from several sources. The Census Bureau released a brief on Households and Families based on the results of the 2000 Census¹⁴. This report provides further data on trends of households and families that may affect the 20-year forecast for housing:

- ❖ Family households increased by 11 percent, from 64.5 million to 71.8 million between 1990 and 2000;
- ❖ Nonfamily households increased by 23 percent, from 27.4 million to 33.7 million between 1990 and 2000;
- ❖ Family households represent about 68 percent of all households nationally;
- ❖ The average household size decreased from 2.63 to 2.59;
- ❖ The average family size remained fairly constant, declining from 3.16 to 3.14, and;
- ❖ Female family households (family households with no husband present) increased from 6.0 million (6.6 percent of total households) in 1990 to 7.6 million (7.2 percent of all households) in 2000.

The Census Bureau also published a subsequent report on families and living arrangements in November 2004¹⁵. This report examined trends in families and living arrangements between 1970 and 2003. The following summarizes the demographic trends identified in this report that are related to housing:

- ❖ Family households, those households with at least two members related by birth, marriage, or adoption, represented 81 percent of all households in 1970. By 2003 that proportion had decreased to 68 percent of all households;
- ❖ Married couple households with children represented 40 percent of all households in 1970. By 2003, this proportion declined to 23 percent of all households;

¹² For more information about the American Community Survey (ACS), See <http://www.census.gov/acs/www/>. The ACS data can be accessed from the Census Bureau's American Factfinder website at http://factfinder.census.gov/home/saff/main.html?_lang=en.

¹³ See 2005 Housing Needs Analysis at Rec p 2046 and 2007 Residential Land Need Analysis at Rec. P. 2114.

¹⁴ Households and Families: 2000 A Census 2000 Brief (2001) US Census Bureau www.census.gov.

¹⁵ America's Families and Living Arrangements: 2003 (2004) US Census Bureau www.census.gov.

- ❖ In 2003,
 - The average household size 2.57 persons,
 - The average family household size was 3.19 persons,
 - The average non-family household size was 1.24 persons,
- ❖ Households with children represented 45 percent of all households in 1970. This proportion decreased to 32 percent of all households in 2003, and;
- ❖ In 2003, of the 111,278,000 households in the United States:
 - 26.4 percent were one person households
 - 33.3 percent were 2 person households
 - 16.1 percent were 3 person households
 - 14.3 percent were 4 person households
 - 9.8 percent were 5 or more person households.

Despite the decreases in the proportions of households that are either family or married couple with children households, 40 percent of households in 2003 were occupied by three or more people. The following table provides some summary data on key housing variables for the United States, comparing the results of the 2000 Census with the 2007 American Community Survey (ACS). This report includes similar tables presenting data for Oregon and Bend for comparison.

Table 2-1: United States - 2000 to 2007				
	Census	ACS	Change	% Change
	2000	2007	2000-2007	2000-2007
Population	281,421,906	301,621,159	20,199,253	7%
Household Size	2.59	2.62	0.03	1%
Family Size	3.14	3.2	0.06	2%
Age of Householder				
Under 25 years	5,533,613	5,272,168	(261,445)	-5%
25 to 44 years	42,266,048	40,775,077	(1,490,971)	-4%
45 to 64 years	35,539,686	43,295,140	7,755,454	22%
65 years and over	22,140,754	23,666,713	1,525,959	7%
Households by Type				
Total Households	105,480,101	112,377,977	6,897,876	7%
Family households (families)	71,787,347	75,119,260	3,331,913	5%
Married-couple family	54,493,232	55,867,091	1,373,859	3%
Nonfamily households	33,692,754	37,258,717	3,565,963	11%
Householder living alone	27,230,075	30,645,140	3,415,065	13%
Householder 65 years and over	9,722,857	10,264,914	542,057	6%
Median household income	\$41,994	\$50,740	\$8,746	21%
Median family income	\$50,046	\$61,173	\$11,127	22%
Sources: 2000 Census data and 2007 American Community Survey (ACS) data from American Factfinder - http://factfinder.census.gov/home/saff/main.html?_lang=en .				

- ❖ Over past seven years, the nation's population grew by seven (7) percent.
- ❖ The average household size increased by one percent; the average family size by two percent
- ❖ Households headed by individuals between the ages of 45 and 64 increased by 22 percent during this same period. Conversely, households headed by individuals less than 45 years of age decreased by four (4) percent during this period.
- ❖ Non-family households grew by a greater percentage than family households, increasing by 11 percent. The number of households with a householder living alone increased by 13 percent.
- ❖ Median household and family income grew by at least 21%.

In addition to the American Community Survey, the Joint Center for Housing Studies of Harvard University publishes an annual State of the Nation's Housing. The following summarizes the 2008 report's findings on drivers of housing demand¹⁶. The Center's findings focus on households and household characteristics.

- ❖ From 1994 to 2004, the national homeownership rate surged by 5.0 percentage points, peaking at 69.0 percent. In the three years since, homeownership rates have fallen back for most groups, including a nearly 2.0-point drop among black households and a 1.4-point drop among young households.
- ❖ The number of renter households increased by more than 2 million from 2004 to 2007, lowering the national homeownership rate to 68.1 percent in 2007.
- ❖ Thanks to higher rates of immigration and natural increase, minorities contributed over 60 percent of household growth in 2000–2006. Minorities now account for 29 percent of all households, up from 17 percent in 1980 and 25 percent in 2000. The minority share is likely to reach about 35 percent by 2020.
- ❖ In 2007, fully 29 percent of heads of households with children were unmarried. Within this group, about 18 percent lived with partners and another 21 percent lived with other non-partner adults.
- ❖ Education still remains the key to higher earnings. For example, the median earnings of college-educated male workers aged 35 to 54 rose from \$71,700 in 1986 to \$75,000 in 2006 in constant 2006 dollars, while those for same-age males who only completed high-school fell from \$48,000 to \$39,000.
- ❖ Among homeowners that bought units between 1999 and 2005, fully 85 percent saw an increase in wealth, with their median net wealth rising from \$11,100 to \$88,000 in real terms. Among households that already owned homes, 75 percent also saw an increase in their wealth, with their median net wealth nearly doubling from \$152,400 to \$289,000.

¹⁶ Joint Center for Housing Studies of Harvard University (2008) The State of the Nation's Housing 2008. <http://www.jchs.harvard.edu>.

- ❖ Changes in the number and age distribution of the adult population should lift household growth from 12.6 million in 1995–2005 to 14.4 million in 2010–2020.
- ❖ Minority household growth among 35 to 64 year-olds should remain strong in 2010–2020. In contrast, the number of white middle-aged households will start to decline after 2010 as the baby boomers begin to turn 65. White household growth in the next decade will be almost entirely among older couples without minor children and among older singles (usually widowed or divorced).
- ❖ In total, persons living alone are expected to account for 36 percent of household growth between 2010 and 2020. Three-quarters of the more than 5.3 million projected increase in single-person households in 2010–2020 will be among individuals aged 65 and older—a group that has shown a marked preference for remaining in their homes as they age.
- ❖ Unmarried partners are projected to head 5.6 million households in 2020, up from 5.2 million in 2005. Of these households, 36 percent will include children under the age of 18.

Finally, the 2008 report highlights a number of challenges households face with the affordability of their housing.

- ❖ In 2006, the number of severely-burdened households—paying more than half their income for housing—surged by almost four million to 17.7 million households.
- ❖ Between 2001 and 2006, the number of severely-burdened renters in the bottom-income quartile increased by 1.2 million, while the number of severely-burdened homeowners in the two middle-income quartiles ballooned by 1.4 million.
- ❖ Fully 47 percent of households in the bottom-income quartile were severely burdened in 2006, compared with 11 percent of lower middle-income households and just 4 percent of upper middle-income households.
- ❖ In 2006, approximately 20 percent of all middle-income homeowners with second mortgages paid more than half their incomes for housing. This is nearly twice the share among those with only a first mortgage.
- ❖ More than a quarter of severely-burdened households have at least one full-time worker and 64 percent at least one full- or part-time worker. Even households with two or more full-time workers are not exempt, making up fully 19 percent of the severely burdened.
- ❖ More than a third of households with incomes one to two times the full-time equivalent of the minimum wage have severe housing cost burdens. Even among the 15.3 million households earning two to three times the full-time minimum wage equivalent, 15 percent pay more than half their incomes for housing.
- ❖ More than one out of six children—12.7 million—in the United States live in households paying more than half their incomes for housing.

- ❖ In 2006, severely-burdened households with children in the bottom-expenditure quartile had only \$548 per month on average for all other needs. As a result, these families spent 32 percent less on food, 56 percent less on clothes, and 79 percent less on healthcare than families with low housing outlays.
- ❖ Nearly one in five low-income families—and nearly one in four low-income minority families—reported living in structurally inadequate housing in 2005. These families have a slightly higher incidence of severe cost burdens than otherwise similar families living in adequate units.
- ❖ Veterans with disabilities make up 29 percent of the 16.4 million veteran households, but 42 percent of the more than 1.5 million veterans with severe housing cost burdens.
- ❖ From 1997 to 2007, housing assistance programs fell from 10 percent to 8 percent of the nation's dwindling domestic discretionary outlays, even as the number of households with severe burdens rose by more than 20 percent from 2001 to 2005.
- ❖ About 14 percent of the low-cost rental stock—with rents under \$400—built before 1940 was permanently removed between 1995 and 2005.
- ❖ Older, lower-cost rentals are also being lost to rent inflation, with rents in more than half shifting up to a higher range between 2003 and 2005.
- ❖ From 1995 to 2005, the supply of rentals affordable to households earning less than \$16,000 in constant 2005 dollars shrank by 17 percent.
- ❖ Today, there are only about 6 million rentals affordable to the nearly 9 million households with the lowest incomes, and nearly half of these are either inhabited by higher-income households or stand vacant.
- ❖ The homeless population is up to 744,000 on any given night, and is estimated to be between 2.3 million and 3.5 million over the course of a year. Homelessness affects more than 600,000 families and more than 1.35 million children every year.
- ❖ Veterans are overrepresented among the homeless. While accounting for only 10 percent of all adults, veterans are somewhere between 23 percent and 40 percent of homeless adults. Moreover, veterans make up an estimated 63,000 of the 170,000 chronically homeless.

State Demographic Trends

The State of Oregon reached an estimated population of 3,791,075 on July 1, 2008, an estimated increase of 369,676 from the April 1, 2008 Census¹⁷.

- ❖ Oregon's population grew at a rate of 1.2 percent per year from 2000 to 2008.
- ❖ The population grew at increasing annual rates between 2000 and 2005. Growth rates stabilized between 2006 and 2007; growth rates slowed between 2007 and 2008.
- ❖ Between 2000 and 2008, net migration (in-migration minus out-migration) accounted for an estimated 237,481 in population growth, an estimated 64% of Oregon's population growth. Natural increase (births minus deaths) accounted for 132,180 or 36% of the state's population growth.
- ❖ Deschutes County's 2008 population was an estimated 167,015. Between 2000 and 2008, the county's population grew by 44.8%, or 51,648. Of this growth, net migration accounted for 45,887 in population growth, or 89% of the population growth between 2000 and 2008. Natural increase accounted for 11% of the county's population growth between 2000 and 2008.
- ❖ Deschutes County's estimated population growth of 51,648 represents 14% of the state's population growth between 2000 and 2008.

The following table presents data for Oregon from 2000 Census and the 2007 ACS, much like the forgoing table presented for the nation.

Table 2-2: Oregon - 2000 to 2007				
	Census	ACS	Change	% Change
	2000	2007	2000-2007	2000-2007
Population	3,421,399	3,747,455	326,056	10%
Household Size	2.51	2.49	-0.02	-1%
Family Size	3.02	3.05	0.03	1%
Age of Householder				
Under 25 years	83,213	74,928	-8,285	-10%
25 to 44 years	505,578	520,849	15,271	3%
45 to 64 years	466,637	575,969	109,332	23%
65 years and over	278,295	300,219	21,924	8%
Households by Type				
Total Households	1,333,723	1,471,965	138,242	10%
Family households (families)	877,671	940,771	63,100	7%
Married-couple family	692,532	734,363	41,831	6%

¹⁷ 2008 Oregon Population Report, Population Research Center, Portland State University
www.pdx.edu/prc.

Nonfamily households	456,052	531,194	75,142	16%
Householder living alone	347,624	414,031	66,407	19%
Householder 65 years and over	121,200	132,319	11,119	9%
Median household income	\$40,916	\$48,730	\$7,814	19%
Median family income	\$48,680	\$59,152	\$10,472	22%
Sources: 2000 Census data and 2007 American Community Survey (ACS) data from American Factfinder - http://factfinder.census.gov/home/saff/main.html?_lang=en .				

- ❖ The Census Bureau estimates the state's population has grown by 10 percent over the last seven (7) years.
- ❖ The state's average household size decreased slightly, while the average family size increased slightly.
- ❖ Like the rest of the nation, households headed by a householder between the ages of 45 and 65 increased by 23%.
- ❖ The number of households headed by a householder between the ages of 25 and 44 stayed about the same, increasing by three (3) percent.
- ❖ The number of households with the householder living alone increased by 19%.
- ❖ Median household and family income increased by at least 22%.

Summary of National and State Demographic Trends

- ❖ Households headed by individuals between the ages of 45 and 64 grew the most both nationally and at the state level.
- ❖ Conversely, households headed by younger individuals (e.g. 25 years or less of age) declined during the same period.
- ❖ Household and family sizes did not change significantly.
- ❖ Non-family households continue to represent a larger proportion of all households, particularly those with the householder living alone. The SON predicts this trend will continue between 2010 and 2020.
- ❖ Households are changing in composition, but not so much in size.
- ❖ Despite increases in household and family income, a number of households are still cost-burdened with respect to housing.

National Economic Trends and Cycles

This report draws from the State of the Nation's Housing (2008), produced by the Joint Center for Housing Studies at Harvard University. The report focuses on two key economic trends that have and will continue to affect the production of housing across the county. These trends are the downturn in the housing market in the latter part of the decade, and the increasing number of foreclosures that were, in part, a contributing factor.

Downturn in the housing market

- ❖ Sales fell sharply for the second year in a row. Existing home sales fell 13 percent in 2007 to 4.9 million, while sales of new homes plummeted 26 percent to 776,000, the lowest level since 1996.
- ❖ For the first time since recordkeeping began in 1968, the national median single-family home price as reported by the National Association of Realtors® fell for the year in nominal terms, by 1.8 percent on an annual basis to \$217,900.
- ❖ The National Association of Realtors® (NAR) national median single-family home price declined 6.1 percent from the fourth quarter of 2006 to the fourth quarter of 2007, while the S&P/Case Shiller® US National Home Price Index registered a fourth-quarter to fourth-quarter nominal decline of 8.9 percent.
- ❖ At the start of 2007, quarterly nominal median sales prices were still rising in 85 of 144 metros. By the end of the year, however, prices were increasing in only 26 metros. Fourth-quarter nominal house prices in 2007 fell back to 2006 levels in 12 metros, to 2005 levels in 35 metros, to 2004 levels in 19 metros, and to 2003 or earlier levels in 16 metros.
- ❖ The homeowner vacancy rate jumped from 2.0 percent in the last quarter of 2005 to 2.8 percent in the last quarter of 2007 as the number of vacant units for sale shot up by more than 600,000. In addition, the number of vacant homes held off the market other than for seasonal or occasional use surged from 5.7 million units in 2005 to 6.2 million in 2007.
- ❖ Assuming the vacancy rate prevailing in 1999–2001 was close to equilibrium, the oversupply of vacant for-sale units at the end of last year was around 800,000 units.
- ❖ Nationwide, the number of housing permits issued fell 35 percent from 2005 to 2007, including a 42 percent reduction in single-family permits. Florida topped the list of states with the sharpest cutbacks 2005–2007 at 64 percent, followed by Michigan at 61 percent and Minnesota at 51 percent.
- ❖ Completions of for-rent units in multifamily structures fell to just 169,000, down 15 percent from 2006 and 38 percent from 2000. The rental share of all multifamily completions dipped below 60 percent for the first time in the 43-year history of recordkeeping.
- ❖ The months' supply of unsold new single-family homes rose to more than 11 months in late 2007 and early 2008—a level previously not seen since the late 1970s—before

dropping back slightly. The months' supply of existing single-family homes for sale rocketed to 10.7 months by April 2008.

- ❖ By the end of 2007, the nation had 232,000 fewer construction jobs than a year earlier, dragging down employment growth in many states with previously booming housing markets such as Florida (74,000 construction jobs lost vs. 52,000 other jobs added) and Arizona (25,000 construction jobs lost vs. 23,000 other jobs added).

Foreclosures

- ❖ The number of homes in foreclosure proceedings nearly doubled to almost one million by the end of 2007, while the number entering foreclosure topped 400,000 in the fourth quarter alone.
- ❖ The share of all loans in foreclosure jumped from less than 1.0 percent in the fourth quarter of 2005 to more than 2.0 percent by the end of last year.
- ❖ In the fourth quarter of 2007, Ohio had the country's highest foreclosure rate of 3.9 percent—equivalent to 1 in 25 loans—followed closely by Michigan and Indiana.
- ❖ The foreclosure rate on all subprime loans soared from 4.5 percent in the fourth quarter of 2006 to 8.7 percent a year later, while the rate on adjustable-rate subprime loans more than doubled from 5.6 percent to 13.4 percent. Foreclosure rates on adjustable subprime mortgages were over five times higher than those on adjustable prime loans.
- ❖ Because of their abysmal performance, subprime loans fell from 20 percent of originations in 2005–2006 to just 3.1 percent in the fourth quarter of 2007. The real dollar volume plummeted from \$139 billion in the fourth quarter of 2006 to \$14 billion at the end of last year.
- ❖ Interest-only and payment-option loans fell from 19.3 percent of originations in 2006 to 10.7 percent in 2007, with especially large declines in the nation's most expensive metro areas where loans with affordability features were most common. States with high 2006 shares and large 2007 declines include Nevada (from 41 percent to 25 percent), Arizona (29 percent to 18 percent), Florida (25 percent to 13 percent), and Washington, DC (26 percent to 15 percent).
- ❖ The dollar volume of all non-prime investor loans plunged by two-thirds from the first quarter of 2006 to the third quarter of 2007, and of just subprime investor loans by a whopping seven-eighths.
- ❖ According to the Mortgage Bankers Association, loans to absentee owners also accounted for almost one in five loans entering foreclosure in the third quarter of 2007.
- ❖ In 2006, more than 40 percent of loans on one- to four-unit properties originated in low-income census tracts were high cost, as were 45 percent of such loans originated in low-income minority communities. By comparison, high-cost loans accounted for only 23 percent of originations in middle-income white areas and 15 percent in high-income white areas.

US Housing Market

The US Department of Housing and Urban Development's U.S. Housing Market Conditions (1st Quarter 2008) reported on the following trends in the national housing market, as of first quarter 2008¹⁸.

- ❖ The housing market performed very poorly during the first quarter of 2008, continuing two (2) years of decline. The number of single-family building permits, starts, and completions all declined in the first quarter and new and existing home sales decreased as well. Excessive inventories of both new and existing homes amounted to nearly 10 months' supply. The multifamily sector was somewhat mixed: permits and starts decreased, but completions increased.
- ❖ The subprime meltdown continues, with foreclosure rates on subprime adjustable-rate mortgages (ARMs) doubling over the past year. On the rental side, the vacancy rate increased, but the absorption rate showed some improvement.
- ❖ The overall economy posted a Gross Domestic Product (GDP) growth rate of only 0.6 percent in the first quarter of 2008. The housing component of GDP decreased by 26.7 percent, which reduced GDP growth by 1.2 percentage points.
- ❖ Housing affordability improved in the first quarter of 2008, according to the index published by the NATIONAL ASSOCIATION OF REALTORS®. The composite index indicates that the family earning the median income had 132.3 percent of the income needed to purchase the median-priced, existing single-family home using standard lending guidelines. This value is up 11.5 points from the fourth quarter of 2007 and up 17.8 points from the first quarter of 2007. The increase from the fourth quarter is attributable to a decline (4.6 percent) in the median price of an existing single-family home, an increase (0.2 percent) in median family income, and a 40 basis-point decrease in the mortgage interest rate. The first quarter homeownership rate was 67.8 percent, unchanged from the fourth quarter 2007 rate but 0.6 percentage point below the rate of the first quarter of 2007.
- ❖ The multifamily (five or more units) sector performed better than the single-family sector did in the first quarter of 2008. Production indicators were mixed; building permits and starts decreased, but completions increased. The absorption of new rental units improved, but the rental vacancy rate increased.

¹⁸ US Housing Market Conditions (1st Quarter 2008) U.S. Department of Housing and Urban Development, Office of Policy Development and Research - <http://www.huduser.org/portal/periodicals/ushmc.html>.

State Economic Trends and Cycles

Worksource Oregon's Oregon Labor Trends (May 2008) included the following summary of employment trends in Oregon through the first quarter of 2008.

- ❖ Oregon's seasonally adjusted unemployment rate was 5.7 percent in March and the revised figure for February was 5.4 percent. This puts Oregon's rate well above the 5.0 percent figure reached during March 2007, which was the lowest in over five years.
- ❖ In March, seasonally adjusted payroll employment dropped by 2,700, the first decline in six months. February's figure was revised upward to show a gain of 900 jobs.
- ❖ In March, several major industries recorded substantial seasonally adjusted job declines: trade, transportation, and utilities (-1,600 jobs), manufacturing (-1,300), construction (-700), and leisure and hospitality (-700). These losses were partially balanced by seasonally adjusted job gains in educational and health services (+1,300 jobs) and government (+1,100).
- ❖ Despite the weak March employment in trade, transportation, and utilities, over the past few months' retail trade has shown modest growth, with employment up 2,900, or 1.5 percent, since March 2007. On the other hand, wholesale trade has been hurt by declines in manufacturing and is down 300 jobs during the past 12 months.
- ❖ Manufacturing continued to trend downward in March as durable goods manufacturing shed 1,200 jobs. Durable goods have declined at a rapid rate since reaching a multi-year peak of 156,900 jobs in August 2006. Conversely, nondurable goods manufacturing has expanded over the last two years and has gained 900 jobs since March 2007.
- ❖ Construction posted no employment change during a month in which 700 jobs typically would be added. The March construction employment total of 93,700 was down 6,800 jobs from the year-ago figure. The residential side saw substantial cutbacks in March as residential building construction shed 500 jobs and building foundation and exterior contractors also cut 500 jobs.
- ❖ Seasonally adjusted construction employment peaked at 105,200 in August 2007 and is now down to 97,900 jobs, a loss of nearly 7 percent in seven months' time.
- ❖ The trend in leisure and hospitality shows continued growth. This industry, dominated by restaurant employment, had an over-the-year gain of 5,200 jobs, or close to 3 percent.
- ❖ Educational and health services continued to be the fastest growing major industry, adding 1,700 jobs in March. Since March 2007, it is up 8,400 jobs, or 4.0 percent. Employment trends over the past two years accelerated gradually as older baby boomers moved into their early 60s and as the age 65+ group increased by more than 2 percent per year.

- ❖ Government added 2,400 jobs in March nearly double its expected seasonal gain. It was up 8,100 jobs since March 2007, a gain of 2.8 percent. Local governments have expanded both their educational employment component as well as their other segments. In March, local government employed 195,600, a gain of 5,500, or 2.9 percent, from March 2007.

Summary of National and State Economic Trends

- ❖ Nationally, by the first quarter of 2008, the rapid rate of housing construction that occurred during the 2004-2007 period almost stopped with a slow down in construction and sales.
- ❖ Inventories of units for sale and rent increased to 10 to 11 months' worth of inventory.
- ❖ The rapid rise of home values and prices had started to finally ease, and in some areas decline to more affordable levels.
- ❖ One outcome of this change in the housing market was the increase in the number of homes facing foreclosure.
- ❖ The number of homes facing foreclosure added to inventories of homes for sale, which represented 10 months of supply.
- ❖ The slowdown in home construction and sales had a positive effect for potential consumers with prices decreasing and become more affordable to a greater number of household.
- ❖ However, in Oregon, seasonally adjusted payroll employment was beginning to drop.
- ❖ Concurrent trends of an increasing supply of housing that was potentially becoming more affordable due to prices decreasing to spur sales at the same time payroll employment was declining.
- ❖ Due to circumstances such as foreclosure, more pressure will be placed on the rental housing markets as households that owned or were buying housing need to transition into renting housing.
- ❖ The challenge for planning for housing is exacerbated because households that were cost-burdened a few years ago now face the additional challenges of a supply of housing prices not dropping enough, unemployment, and incomes not keeping up with the price of housing.

Step 3: Identify the local demographic characteristics of the population and, if possible, household trends that relate to demand for different types of housing

The forgoing portion of the HNA examined the relevant national and state demographic and economic trends and their influence on the future mix of housing in Bend. This section continues this examination of trends by looking at demographic and economic trends in Bend, including a description of Bend's population in 2007. This examination of trends begins with a brief examination of how the characteristics of Bend's population have changed since the 2000 Census. This section then focuses on key demographic variables that provide information on households and their housing choices including: 1) Households by type, size, age of householder, and household income; 2) Tenure – whether households are owner or renter occupied, and; 3) Types of housing, including the changes composition of the housing supply.

Characteristics of Bend's Population

The following table presents data on how Bend's population changed from 2000 to 2007. This table compares the data from 2000 Census with the 2007 American Community Survey.

Table 3-1: Bend - 2000 to 2007				
	Census	ACS	Change	% Change
	2000	2007	2000-2007	2000-2007
Population	52,029	73,368	21,339	41%
Household Size	2.42	2.34	-0.08	-3%
Family Size	2.92	2.79	-0.13	-4%
Age of Householder				
Under 25 years	1,674	2,188	514	31%
25 to 44 years	8,615	12,739	4,124	48%
45 to 64 years	6,770	10,534	3,764	56%
65 years and over	4,003	5,156	1,153	29%
Households by Type				
Total Households	21,062	30,617	9,555	45%
Family households (families)	13,396	18,666	5,270	39%
Married-couple family	10,563	14,977	4,414	42%
Nonfamily households	7,666	11,951	4,285	56%
Householder living alone	5,497	7,512	2,015	37%
Householder 65 years and over	1,819	1,834	15	1%
Median household income	\$40,857	\$56,053	\$15,196	37%
Median family income	\$49,387	\$66,740	\$17,353	35%
Sources: 2000 Census data and 2007 American Community Survey (ACS) data from American Factfinder - http://factfinder.census.gov/home/saff/main.html?_lang=en .				

- ❖ Bend's population grew by an estimated 41% between 2000 and 2007, at a rate much faster than that of the populations of the nation or the state.
- ❖ While household and family sizes remained stable nationally and at the state level, both the average household and family sizes each decreased by an estimated three percent.
- ❖ The number of households with a householder between 45 and 64 years of age increased by 56% over the last seven years, representing the largest percentage increase among all householder age groups.
- ❖ The total number of households increased by 45%, with non-family households increasing by 56%.
- ❖ Both the median household and family incomes in Bend increased by at least 35% between 2000 and 2007.

Bend's population has grown significantly since 1990. Between 1990 and 2000, Bend's population grew from 20,469 to 52,029. This change represents an increase of 31,560 people, or 154%. Of these 31,560 new people, approximately 17,060 people were annexed to the city between 1990 and 1998. Actual population growth accounted for an increase of 14,500 people, or 71% over the city's population in 1990.

Bend grew significantly again between 2000 and 2007. The city's population grew by 25,751 over this seven year period, and without being influenced by annexation¹⁹. Bend's average annual growth rate from 2000 to 2007 was 4.5% per year. This reflects the period of high population growth from 2004 to 2006, and slower growth in 2006 and 2007 that mirrored the downturn in the economy.

Table 3-2 : Population Growth of Oregon, Deschutes County, and Bend; 1990 to 2007					
Area	April 1, 1990	April 1, 2000	July 1, 2007	Change 1990 - 2007	Percent Change
Oregon	2,842,321	3,421,399	3,745,455	903,134	32%
Deschutes County	74,958	115,367	160,810	85,852	115%
Bend	20,469	52,029	77,780	57,311	280%
Source: Population Research Center, Portland State University – http://www.pdx.edu/prc/ .					

The following table presents data showing the changes in the composition of Bend's population, based on age groups. Each group includes a number of persons by age, and their numbers in 1990, 2000, and 2007. The percent distribution of the population by age is shown at the end of each table.

¹⁹ See 2007 Oregon Population Report, Population Research Center, Portland State University, available online at: <http://www.pdx.edu/prc/annual-oregon-population-report>.

Table 3-3: Age of Population in Bend: 1990, 2000, and 2007					
Age Group	1990	2000	Change	%Change	2000 Distribution
Under 25 years	7,225	18,058	10,833	150%	35%
25 to 44 years	7,413	16,171	8,758	118%	31%
45 to 54 years	1,771	7,459	5,688	321%	14%
55 to 59 years	628	2,209	1,581	252%	4%
60 to 64 years	672	1,701	1,029	153%	3%
65 to 74 years	1,436	3,109	1,673	117%	6%
75 years and over	1,324	3,322	1,998	151%	6%
Total	20,469	52,029	31,560	154%	100%

Age Group	2000	2007	Change	%Change	2007 Distribution
Under 25 years	18,058	21,683	3,625	20%	30%
25 to 44 years	16,171	25,296	9,125	56%	34%
45 to 54 years	7,459	9,331	1,872	25%	13%
55 to 59 years	2,209	5,332	3,123	141%	7%
60 to 64 years	1,701	3,292	1,591	94%	4%
65 to 74 years	3,109	4,110	1,001	32%	6%
75 years and over	3,322	4,324	1,002	30%	6%
Total	52,029	73,368	21,339	41%	100%

Sources: 2000 Census data and 2007 American Community Survey for Bend through American Factfinder: http://factfinder.census.gov/home/saff/main.html?_lang=en.

- ❖ Between 1990 and 2000, the city saw the greatest population growth in people between the ages of 45 and 59 years of age.
- ❖ That trend continued between 2000 and 2007, where the greatest increases in population occurred with people between the ages of 55 to 64 years of age.
- ❖ The proportion of the population under 25 years of age decreased from 35% to 30%.
- ❖ The proportion of the population between 25 and 44 years increased from 31% to 34%.

The next tables present data on tenure, whether housing is owned or rented, by type of households. This presentation includes data on family households and nonfamily households, and breaks this data down further by the age of the householder.

Table 3-4: Tenure by Type of Households				
	Owner occupied households		Renter occupied households	
	Number	Distribution	Number	Distribution
Total Households	18,032	100%	12,585	100%
Family households:	13,031	72%	5,635	45%
Married-couple family:	11,847	66%	3,130	25%
Householder 15 to 34 years	1,889	10%	1,371	11%
Householder 35 to 64 years	7,406	41%	1,610	13%
Householder 65 years and over	2,552	14%	149	1%
Other family:	1,184	7%	2,505	20%
Male householder, no wife present:	196	1%	485	4%
Householder 15 to 34 years	-	0%	271	2%
Householder 35 to 64 years	196	1%	214	2%
Householder 65 years and over	-	0%	-	0%
Female householder, no husband present:	988	5%	2,020	16%
Householder 15 to 34 years	86	0%	1,072	9%
Householder 35 to 64 years	427	2%	870	7%
Householder 65 years and over	475	3%	78	1%
Nonfamily households:	5,001	28%	6,950	55%
Householder living alone:	3,968	22%	3,544	28%
Householder 15 to 34 years	593	3%	785	6%
Householder 35 to 64 years	2,247	12%	2,053	16%
Householder 65 years and over	1,128	6%	706	6%
Householder not living alone:	1,033	6%	3,406	27%
Householder 15 to 34 years	58	0%	2,837	23%
Householder 35 to 64 years	907	5%	569	5%
Householder 65 years and over	68	0%	-	0%
Source: 2007 American Community Survey data for Bend city, Oregon, available online at: http://factfinder.census.gov/home/saff/main.html?_lang=en .				

- ❖ By 2007, 72% of family households were owner occupied households; 45% of family households were renter-occupied households.
- ❖ 28% of non-family households were living in owner occupied housing, and 55% of renter occupied households were non-family households.
- ❖ The total number of households grew from 21,062 in 2000 to an estimated 30,617, an increase of 9,555 households, or 45%.

In addition to the forgoing data on tenure, this report considers household types (family or nonfamily) by size. The purpose for doing so is to consider data on household size and whether households are purchasing or renting housing. The following table compares data on households by type and size for 2000 and 2007. Following this data is a table that compares households by size and the proportions that were owner-occupied and renter-occupied.

Table 3-5: Household Types by Household Size: Estimated Change between 2000 and 2007						
	2000 Census		2007 ACS		Change	% Change
	Number	Distribution	Number	Distribution		
Total:	21,050		30,617		9,567	45%
Family households:	13,554	100%	18,666	100%	5,112	38%
2-person household	6,200	46%	9,118	49%	2,918	47%
3-person household	3,159	23%	3,540	19%	381	12%
4-person household	2,656	20%	4,255	23%	1,599	60%
5-person household	1,049	8%	1,257	7%	208	20%
6-person household	407	3%	496	3%	89	22%
7-or-more person household	83	1%	0	0%	-83	-100%
Nonfamily households:	7,496	100%	11,951	100%	4,455	59%
1-person household	5,516	74%	7,512	63%	1,996	36%
2-person household	1,536	20%	3,115	26%	1,579	103%
3-person household	352	5%	1,066	9%	714	203%
4-person household	66	1%	258	2%	192	291%
5-person household	16	0%	0	0%	-16	-100%
6-person household	5	0%	0	0%	-5	-100%
7-or-more person household	5	0%	0	0%	-5	-100%
Source: 2000 Census data and 2007 American Community Survey data for Bend city, Oregon, available online at: http://factfinder.census.gov/home/saff/main.html?_lang=en .						

- ❖ The number of family households grew by 38% between 2000 and 2007; non-family households grew by 59%.
- ❖ Among family households the number of 2-person households grew the most, by 4-person households increased by a greater percentage.
- ❖ Among non-family households, households with 2 to 4 persons increased the most on a percentage basis; 1 and 2 person households grew the most in number.

Table 3-6: Tenure by Household size for 2000 and 2007 for Bend

	2000 Census		2007 ACS		Change	
	Number	Distribution	Number	Distribution	Number	Percent
Total Households:	21,062		30,617		9,555	45%
Owner occupied:	13,244	100	18,032	100%	4,788	36%
1-person household	2,921	22.1	3,968	22%	1,047	36%
2-person household	5,348	40.4	8,801	49%	3,453	65%
3-person household	2,044	15.4	1,600	9%	-444	-22%
4-person household	1,937	14.6	2,772	15%	835	43%
5-person household	724	5.5	777	4%	53	7%
6-person household	184	1.4	114	1%	-70	-38%
7-or-more person household	86	0.6	0	0%	-86	-100%
Renter occupied:	7,818	100	12,585	100%	4,767	61%
1-person household	2,576	32.9	3,544	28%	968	38%
2-person household	2,451	31.4	3,432	27%	981	40%
3-person household	1,417	18.1	3,006	24%	1,589	112%
4-person household	838	10.7	1,741	14%	903	108%
5-person household	336	4.3	480	4%	144	43%
6-person household	125	1.6	382	3%	257	206%
7-or-more person household	75	1	0	0%	-75	-100%

Source: 2000 Census data and 2007 American Community Survey data for Bend city, Oregon, available online at: http://factfinder.census.gov/home/saff/main.html?_lang=en.

- ❖ Owner occupied households grew by 36% between 2000 and 2007; the number of renter occupied households grew at a greater rate, by 61%.
- ❖ Among owner occupied households, 2-person households grew the most; the number of 3-person households decreased
- ❖ Among renter-occupied households, 3 and 4 person households each increased by at least 108%, with 6 person households increasing by 206%
- ❖ The largest group of owner occupied households are those with 2 persons; the large among renter occupied households are those with 3 persons

The next group of tables presents data on age of household by household income. This is an important variable to consider when planning for housing. These two variables are valuable indicators for identifying housing choices households are making at different points in life and based on what they can afford.

Table 3-7: Households by Age of Householder and Household Income (2007)				
	Under 25 years	25 to 44 years	45 to 64 years	65 years and over
Total	2,188	12,739	10,534	5,156
Less than \$10,000	-	192	230	55
\$10,000 to \$14,999	180	60	188	435
\$15,000 to \$19,999	86	437	842	266
\$20,000 to \$24,999	523	1,033	574	269
\$25,000 to \$29,999	136	1,141	394	313
\$30,000 to \$34,999	-	209	650	221
\$35,000 to \$39,999	-	488	235	279
\$40,000 to \$44,999	387	625	176	545
\$45,000 to \$49,999	230	829	493	96
\$50,000 to \$59,999	420	1,115	1,085	441
\$60,000 to \$74,999	226	2,022	1,227	686
\$75,000 to \$99,999	-	2,205	1,196	807
\$100,000 to \$124,999	-	1,176	1,062	457
\$125,000 to \$149,999	-	417	675	132
\$150,000 to \$199,999	-	325	879	59
\$200,000 or more	-	465	628	95

Table 3-8: Distribution of Households by Age of Householder and Household Income (2007)				
	Under 25 years	25 to 44 years	45 to 64 years	65 years and over
Total	100%	100%	100%	100%
Less than \$10,000	0%	2%	2%	1%
\$10,000 to \$14,999	8%	0%	2%	8%
\$15,000 to \$19,999	4%	3%	8%	5%
\$20,000 to \$24,999	24%	8%	5%	5%
\$25,000 to \$29,999	6%	9%	4%	6%
\$30,000 to \$34,999	0%	2%	6%	4%
\$35,000 to \$39,999	0%	4%	2%	5%
\$40,000 to \$44,999	18%	5%	2%	11%
\$45,000 to \$49,999	11%	7%	5%	2%
\$50,000 to \$59,999	19%	9%	10%	9%
\$60,000 to \$74,999	10%	16%	12%	13%
\$75,000 to \$99,999	0%	17%	11%	16%
\$100,000 to \$124,999	0%	9%	10%	9%
\$125,000 to \$149,999	0%	3%	6%	3%
\$150,000 to \$199,999	0%	3%	8%	1%
\$200,000 or more	0%	4%	6%	2%

- ❖ For households with a householder under 25 years of age, 36% of these households had household incomes under \$25,000; 58% of these households had incomes between \$40,000 and \$74,999.

- ❖ For households with a householder between 25 and 44 years of age, 33% of these households had incomes between \$60,000 and \$99,999.
- ❖ For households with a householder between 45 and 64 years of age, 43% of these households had incomes between \$50,000 and \$124,999.
- ❖ For households with a household that was 65 years of age and over, 51% of these households had incomes between \$40,000 and \$99,999.

The next tables present data on occupancy and tenure trends for Bend between 1990 and 2007. The data on occupancy presents numbers of housing units occupied and vacant. The data on tenure informs the analysis by describing the numbers of units that are owner-occupied and renter occupied. Please note that the number of units described by tenure are occupied and also describe household choices on whether to purchase or rent housing.

Table 3-9: Occupancy and Tenure for Bend: 1990 to 2000						
	1990		2000		Change 1990-2000	%Change 1990-2000
Occupancy	Number	Percent	Number	Percent		
All housing units	9,004	100%	22,507	100%	13,503	150%
Occupied housing units	8,526	95%	21,062	94%	12,536	147%
Vacant housing units	478	5%	1,445	6%	967	202%
Tenure	Number	Percent	Number	Percent	Change 1990-2000	%Change 1990-2000
Occupied housing units	8,526	100%	21,062	100%	12,536	147%
Owner-occupied housing units	4,614	54%	13,244	63%	8,630	187%
Renter-occupied housing units	3,912	46%	7,818	37%	3,906	100%

Source: US Census Bureau STF3 (1990) and SF3 (2000) through American Factfinder, available online at www.factfinder2.census.gov.

- ❖ The proportions of units occupied and vacant did not change significantly between 1990 and 2000.
- ❖ The tenure split did shift during the decade, with the proportion of owner occupied housing increasing by nine (9) percentage points, and the proportion of renter-occupied housing decreasing by a similar amount.

Table 3-10: Occupancy and Tenure for Bend: 2000 to 2007						
	2000		2007		Change 2000-2007	%Change 2000-2007
Occupancy	Number	Percent	Number	Percent		
All housing units	22,507	100%	34,160	100%	11,653	52%
Occupied housing units	21,062	94%	30,617	90%	9,555	45%
Vacant housing units	1,445	6%	3,543	10%	2,098	145%

	2000		2007		Change 2000-2007	%Change 2000-2007
Tenure	Number	Percent	Number	Percent		
Occupied housing units	21,062	100%	30,617	100%	9,555	45%
Owner-occupied housing units	13,244	63%	18,032	59%	4,788	36%
Renter-occupied housing units	7,818	37%	12,585	41%	4,767	61%

Source: 2000 Census and 2007 American Community Survey (ACS) data for Bend from American Factfinder - http://factfinder2.census.gov/home/saff/main.html?_lang=en.

- ❖ During the last seven years, the vacancy rate for housing units increased from six (6) percent in 2000 to 10 percent in 2007. This change represents an increase of 145% over this seven year period.
- ❖ The tenure split shifted in a direction opposite of what happened between 1990 and 2000. The proportion of owner occupied units decreased from 63% to 59%, while the proportion of renter occupied units increased from 37% to 41%.
- ❖ These shifts in occupancy and tenure occurred during the height of the housing bubble and the beginning of its decline, reflecting the number households seeking rental housing.

The next series of tables presents data on the distribution of housing by type, or the number of units in each structure. For example, single family detached housing is identified as “1-unit, detached.” The purpose for considering this data is to see whether the distribution of housing has changed, thereby reflecting different housing choices among Bend households. The first table presents the data on changes in units in structure from 1990 to 2000 followed a table that reflects the same data for 2000 to 2007. Please note that the data considers all housing units regardless of whether they are occupied or vacant. This data is followed by a table that further breaks down the data by whether housing was owned or renter occupied, and how these distributions changed between 2000 and 2007.

Table 3-11: Change in Units in Structure for City of Bend 1990 to 2000						
Units in Structure	1990	2000	Change	% Change	% Distribution	
	Census	Census			1990	2000
1-units detached	5,907	15,027	9,120	154%	66%	67%
1-unit attached	281	792	511	182%	3%	4%
2 to 4 units	990	1,723	733	74%	11%	8%
5 to 9 units	365	1,001	636	174%	4%	4%
10 or more units	978	1,681	703	72%	11%	7%
Mobile home, trailer, or other	483	2,274	1,791	371%	5%	10%
Total units	9,004	22,498	13,494	150%		
Source: US Census Bureau, SFT3 (1990) and SF3 (2000)						

- ❖ Due to both housing construction and annexation, the supply of housing units in Bend grew by 150% between 1990 and 2000.
- ❖ The distribution of units by type did not change drastically over this decade; single family detached dwellings represented 66% to 67% of the supply of housing units.
- ❖ Single family attached units increased slightly from 3% to 4% of the housing units.
- ❖ Multi-family attached units (all other units), decreased slightly, from 31% and 29%, of all units.

Table 3-12: Change in Units in Structure for City of Bend: 2000 to 2007						
Units in Structure	2000	2007	Change		% Distribution	
	Census	ACS	Number	Percent	2000	2007
1-units detached	15,027	23,853	8,826	59%	67%	70%
1-unit attached	792	1,151	359	45%	4%	3%
2 to 4 units	1,723	3,326	1,603	93%	8%	10%
5 to 9 units	1,001	1,362	361	36%	4%	4%
10 or more units	1,681	2,697	1,016	60%	7%	8%
Mobile home, trailer, or other	2,274	1,771	-503	-22%	10%	5%
Total units	22,498	34,160	11,662	52%	100%	100%
Source: 2000 Census and 2007 American Community Survey data for Bend through American Factfinder, available online at www.factfinder.census.gov .						

- ❖ From 2000 to 2007, the supply of housing units increased by 11,662 units, or 52%, and not through annexation.
- ❖ The proportion of housing that was single family detached increased from 67% to 70% of all housing units.

- ❖ The proportion of single family attached increased by 45%, but represented a smaller proportion of the city's housing supply.
- ❖ The proportion of all housing that were multi-family attached also decreased from 29% in 2000 to 27% in 2007.

Table 3-13: Tenure of units in structure for Bend in 2000 and 2007						
	2000 Census		2007 ACS		Change 2000 to 2007	
	Number	Distribution	Number	Distribution	Number	Percent
Total:	21,049	100%	30,617	100%	9,568	45%
Owner-occupied housing units:	13,339	63%	18,032	59%	4,693	35%
1, detached or attached	11,475	55%	16,279	53%	4,804	42%
2 to 9 units	117	1%	360	1%	243	208%
10 or more units	18	0%	50	0%	32	178%
Mobile home and all other types of units	1,729	8%	1,343	4%	(386)	-22%
Renter-occupied housing units:	7,710	37%	12,585	41%	4,875	63%
1, detached or attached	3,379	16%	6,039	20%	2,660	79%
2 to 9 units	2,464	12%	3,946	13%	1,482	60%
10 or more units	1,541	7%	2,386	8%	845	55%
Mobile home and all other types of units	326	2%	214	1%	(112)	-34%
Source: 2000 Census and 2007 American Community Survey (ACS) data for Bend from American Factfinder - http://factfinder.census.gov/home/saff/main.html?_lang=en .						

- ❖ The proportion of single family detached and attached units that were owner occupied decreased over the last seven years. Conversely, the proportion of these types of dwellings that were renter-occupied increased over this same period.
- ❖ While the numbers of owner occupied units that were multi-family attached (2 to 9, 10 or more) increased significantly on a percentage basis, they still represented a very small portion of the supply of owner occupied housing.
- ❖ The proportion both owner and renter occupied units that were mobile or manufactured homes, and other types of housing, decreased over this period.

Local Demographic and Economic Trends

The forgoing sections on local trends examined the characteristics of Bend's population and the changes in these characteristics will influence the demand for housing. This section draws from the city's 2008 General Plan Housing Chapter and 2008 Economic Opportunities Analysis to examine local demographic and economic trends that will influence both the supply of and demand for housing²⁰.

- ❖ Bend's population grew rapidly from 2000 to 2007, increasing by 41% and growing at an annualized rate of 5% per year.
- ❖ By 2007, Bend's population represented 48% of the population in Deschutes County.
- ❖ Most of the population growth in the county occurred through positive net migration; the number of people moving in exceeded the number of people moving out. Between 2000 and 2007, net migration represented 89% of the county's growth in population.
- ❖ Bend's population is forecasted to grow to 115,063 people by 2028; this would represent 45% of the county's population by this year.
- ❖ Bend has higher percentages of college educated workers compared to Deschutes County and the state. This is expected to generate more higher-paying jobs, increase average incomes, and be more responsive to changes in economic trends.
- ❖ Bend's incomes for households were consistent with those of the county, state, and nation. However, Bend had 10% more households with incomes of \$50,000 to \$74,999.
- ❖ Maintaining an adequate supply of land available and zoned appropriately to provide opportunities for a range of housing types needed in Bend in the face of rapid recent and expected continuing population growth. Bend's population increased by 154% between 1990 and 2000 and by another 50% between 2000 and 2005. "The Regional Economist for the Worksource Oregon Employment Department stated that Central Oregon has the highest net migration in the state (29 new residents for every 1,000 in population in 2004)." The inadequate supply of land led to a lack of multi-family units, as high land costs influenced development of luxury townhomes rather than more affordable apartments or condominiums.²¹
- ❖ The rapid increase in population resulted in a growth in demand for workforce housing that 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.²²
- ❖ The housing and land markets appreciated significantly at the beginning of the decade, driving the cost of housing up significantly and leaving relatively few market opportunities for low-cost owner-occupied housing. Land prices reportedly increased three to four-fold

²⁰ See Section 3: Review of National, State, Regional, and Local Trends at pages 12 through 59 of the 2008 EOA.

²¹ Central Oregon Workforce Housing Needs Assessment (2006). Rees Consulting, Inc.

²² Central Oregon Workforce Housing Needs Assessment (2006). Rees Consulting, Inc.

during the past ten years and the median home price increased by 54% between 2001 and 2005. Many housing developers, advocates, other community stakeholders city officials commented on the difficulty of finding land with a purchase price that will allow for the construction of affordable housing.

- ❖ Affordable housing for service workers, both for individuals and families, is in short supply in Bend. Rapid increases in home prices combined with growth in the (low wage) service sector to make it difficult for much of Bend's workforce to live in the city. The Worksource Oregon Employment Department forecasts that between 2004 and 2014, Central Oregon jobs will grow by approximately 24.4% or 17,520 new jobs.²³ There are limited affordable housing grants, down payment assistance programs or other support systems to aid residents in attaining affordable housing. Further complicating the issue is the seasonality of many jobs in the region, such as those in the construction, hospitality and leisure industries. In Deschutes County, approximately 5,000 more jobs exist in the summer than in the winter, making it difficult for the region to meet peak housing needs.
- ❖ The lack of affordable housing for the workforce had a negative effect on employers in Central Oregon. In a survey of 118 private and public sector employers, more than half felt that insufficient availability of affordable housing for the workforce was the most critical problem or one of the more serious problems in the region. These problems affect many aspects of a business, including service levels, hours of operation, and customer satisfaction.²⁴
- ❖ The lack of housing affordable to low and moderate income households led to many area workers purchasing homes and living in other communities, such as Redmond and Prineville. A survey of employers suggests that 23.3% of Bend's workforce lives outside the City of Bend.²⁵ Census data show from 1990 to 2000 shows an increasing number of workers commuting to Deschutes County from other counties.²⁶ Census data on travel times to work further suggest significant numbers of commuters in other Central Oregon cities were commuting to Bend for work.²⁷ This trend exacerbated traffic congestion and other issues caused by rapid growth in the community.
- ❖ Increasing land prices also influenced the conversion of manufactured home parks as land owners sold their land for a large profit or developed the land for a higher return. No new manufactured home parks were developed in Bend since 1998 and the supply of manufactured homes in manufactured home parks decreased from 2,159 units in 2000 to 1,403 units in 2005.²⁸ High land values also stimulated the conversion of rental apartments to condominiums. These processes result in a lack of affordable rental housing at a time when there is a limited amount of rental development.

²³ Central Oregon Workforce Housing Needs Assessment (2006). Rees Consulting, Inc.

²⁴ Central Oregon Workforce Housing Needs Assessment (2006). Rees Consulting, Inc.

²⁵ Central Oregon Workforce Housing Needs Assessment (2006). Rees Consulting, Inc.

²⁶ Commuting Patterns Within Central and South Central Oregon (2003). Steve Williams, Oregon Employment Department. www.qualityinfo.org/olmisj.

²⁷ City of Bend Housing Needs Analysis and Residential Lands Study. June 30, 2005.

²⁸ See City of Bend Buildable Lands Inventory (2005).

- ❖ Special needs populations faced gaps in service delivery, including transitional housing for low-income families, supportive transitional housing for people with substance abuse problems and mental illnesses and some emergency housing. These gaps may be exacerbated by the State of Oregon's budget shortfall.

Summary of Bend's population characteristics, and local demographic and economic trends

- ❖ Bend's population grew much faster than the nation's or the state's between 2000 and 2007
- ❖ This growth included an increase in the number of smaller households, and households with a householder between 45 and 64 years of age.
- ❖ This growth in population also includes an aging of the population; between 2000 and 2007, the number of persons in Bend between 55 and 59 years of age increase by 141%. The number of persons 60 to 64 years of age increased by 94%.
- ❖ Nonfamily households grew at a greater rate (59% to 39%) than family households
- ❖ More households were renting their housing in 2007 than in 2000, but owner occupied households still represented 59% of households in 2007
- ❖ With the downturn in the housing market, the number of vacant housing units increased from 6% in 2000 to 10% in 2007
- ❖ The distribution of housing units also changed with single family detached units representing a greater proportion of units in 2007; the proportion of multi-family units decreased from 29% to 27% of the supply of housing units by 2007.
- ❖ By 2007, there were more households with householders between the ages of 45 and 64 that also had household incomes greater than \$50,000 a year.
- ❖ Land prices had increased rapidly between 2001 and 2005, and during a time when growth in employment occurred in industries with lower wages and income.
- ❖ These same industries are expected to see more growth between 2004 and 2014, and requiring housing affordable for the wages and income that could be earned.
- ❖ Much of the apparently serious affordable housing situation observed during 2005-06 was the result of unique economic conditions that were beginning to moderate during 2006-08, and are unlikely to be repeated during the planning period.²⁹
- ❖ Even under the unique economic conditions of 2000-2005, 91% of needed "workforce housing units" were produced in Bend.³⁰

²⁹ ²⁹ See updated Buildable Lands Inventory, memo to UGB Remand Task Force, August 31, 2011, p. 12.

³⁰ Central Oregon Workforce Housing Needs Assessment (2006). Rees Consulting, Inc.

- ❖ In response to dwindling numbers of affordable mobile home units, City Council has adopted a program to promote re-zoning of closed manufactured home parks to higher-density zoning to provide an incentive for park owners to replace those units with affordable rental housing.
- ❖ By 2007, 41% of all single-family units were occupied as rental units. It appears that a significant share of demand for rental housing is being met by these single-family units. This suggests a continuing need for an adequate supply of land for single-family housing to meet a significant portion of the demand for rental housing.
- ❖ The proportion of single-family detached and single-family attached units that were owner-occupied decreased (55% to 53%) between 2000 and 2007, and the proportion of these dwellings that were renter-occupied increased (16% to 20%). This appears to be a trend toward a higher proportion of rental housing needs being met by SF units rather than by MF units.
- ❖ The overall proportion of single-family units increased slightly between 2000 and 2007, from 67% to 70%. This ratio has held relatively constant since 1990, changing only from 66% in 1990 to 67% in 2000.
- ❖ In 1990 the ratio of owner-occupied units to renter-occupied units was 54:46. By 2000 this ratio had changed in favor of owner-occupied units to 63:37. However, this trend was reversed from 2000-07. During that period the ratio went from 63:37 to 59:41 (Table 13). Also during that period, the number of owner-occupied units increased by only 36% while the number renter-occupied units increased by 61%. This suggests a trend toward increasing opportunities in the single-family detached rental market.
- ❖ Between 2000-2007 households with householders 45-64 years old increased faster than any other age group (56%). This same age group also had the highest proportion of households earning \$50,000 or greater (63%). This suggests that the fastest growing segment of the population has more purchasing power, and therefore has options in selecting housing type and tenure.

Step 4. Determine the types of housing that are likely to be affordable to the projected population based on household income.

4a. Identify the types of housing that are likely to be affordable to the projected population based on household income.

LCDC's November 2010 order identifies the types of housing the City must consider through this housing needs analysis. The Commission's disposition of this matter was based, in part, on ORS 197.303(3)(a), which identifies "needed housing:"

- (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.

The Commission's rules further define the three (3) types of housing that must be considered in the housing needs analysis. The following table lists these three types of housing and how they are classified under the Bend Development Code.

Table 4-1: Comparison of OAR 660, Division 8 Definitions with Types of Housing Allowed under the Bend Development Code.	
OAR 660-008-005, Definitions	Bend Development Code (See BDC Chapter 1.2)
<i>"Attached Single Family Housing" means common-wall dwellings or roughhouses where each dwelling unit occupies a separate lot. OAR 660-008-0005(1).</i>	Dwelling, single family attached
<i>"Detached Single Family Housing" means a housing unit that is free standing and separate from other housing units. OAR 660-008-0005(3).</i>	Courtyard housing Dwelling, single family detached Manufactured home on individual lot
<i>"Multiple Family Housing" means attached housing where each dwelling unit is not located on a separate lot. OAR 660-008-0005(5).</i>	Condominium Two and three family housing (duplex and triplex) Multi-family housing (more than 3 units) Manufactured homes in parks ³¹

The following table displays the changes in the mix of housing in Bend between 1998 and 2008. It includes the mix of housing as of 1998, after the adoption of the current General Plan, between 1998 and 2008, and in 2008. The presentation of housing mix describes three types of housing, consistent with the Commission's Order and OAR 660-008-005³².

³¹ This form of housing is included under "Multiple-family housing" because the density of parks is similar to that of other forms of multi-family housing.

³² See OAR 660-008-005, Definitions, online at http://arcweb.sos.state.or.us/pages/rules/oars_600/oar_660/660_008.html.

Table 4-2: Presentation of Housing Mix						
Type of Housing	Pre-1998		1998-2008		2008	
	Number	Distribution	Number	Distribution	Number	Distribution
SFD	13,439	70%	11,528	73%	24,967	71%
SFA	48	0%	610	4%	658	2%
MFA	5,708	30%	3,596	23%	9,304	27%
Total	19,195	100%	15,734	100%	34,929	100%
Notes: SFD – Single family detached: includes detached single family dwellings and manufactured homes on individual lots SFA – Single family attached: includes attached single family housing such as row houses MFA – Multi-family attached: includes Condominiums, multi-family housing, duplexes, and manufactured homes in parks Source: City of Bend building and land use permit records						

4b. Organize data gathered on household incomes by income range categories (e.g., high, medium, and low. Calculate the percent of total households that fall into each category.)

Table 4-3 below summarizes data from the 1990 Census and the 2000 Census for household income in Bend. This table shows the distribution of households by household income, and the change in this distribution between 1990 and 2000. Please note that by 2000, 62% of Bend's households had household incomes less than \$50,000. A total of 31% of households had incomes between \$50,000 and \$99,999. The remaining 9% of households had incomes of \$100,000 or more. The median household income in 2000 was \$40,857.

Table 4-3: Change in Bend Household Incomes 1990 to 2000			
Household Income	% of Total Households in 1990	% of Total Households in 2000	% Change between 1990 and 2000
Less than \$10,000	15%	7%	12%
\$10,000 to \$14,999	11%	7%	50%
\$15,000 to \$19,999	10%	7%	54%
\$20,000 to \$24,999	11%	7%	41%
\$25,000 to \$29,999	11%	8%	71%
\$30,000 to \$34,999	9%	8%	118%
\$35,000 to \$39,999	7%	6%	114%
\$40,000 to \$44,999	6%	6%	144%
\$45,000 to \$49,999	3%	6%	339%
\$50,000 to \$59,999	6%	10%	289%
\$60,000 to \$74,999	4%	11%	494%
\$75,000 to \$99,999	3%	10%	853%
\$100,000 to \$124,999	1%	4%	1,009%
\$125,000 to \$149,999	0%	2%	869%
\$150,000 or more	1%	3%	1,107%
Median Household Income	\$35,787	\$40,857	58%
Source: US Census Bureau STF3 (1990) and SF3 (2000) available through American Factfinder www.factfinder2.census.gov .			

Table 4-4 shows the distribution of households by income based on the 2007 ACS data for Bend. In 2007, the median household income had increased to \$56,053, or about 37%, since the 2000 Census. At that time 42% of Bend's households earned less than \$50,000. An estimated 37% of Bend's households had incomes between \$50,000 and \$99,999, and the remaining 21% had incomes of more than \$100,000.

Table 4-4: Number of Households by Household Income in 2007		
Income Category	Number	Percent
Total:	30,617	100%
Less than \$10,000	477	2%
\$10,000 to \$14,999	863	3%
\$15,000 to \$19,999	1,631	5%
\$20,000 to \$24,999	2,399	8%
\$25,000 to \$29,999	1,984	6%
\$30,000 to \$34,999	1,080	4%
\$35,000 to \$39,999	1,002	3%
\$40,000 to \$44,999	1,733	6%
\$45,000 to \$49,999	1,648	5%
\$50,000 to \$59,999	3,061	10%
\$60,000 to \$74,999	4,161	14%
\$75,000 to \$99,999	4,208	14%
\$100,000 to \$124,999	2,695	9%
\$125,000 to \$149,999	1,224	4%
\$150,000 to \$199,999	1,263	4%
\$200,000 or more	1,188	4%
Source: American Community Survey data for Bend (2007) available online at www.factfinder2.census.gov .		

The following tables display the data in Table 4-4 in one of three categories: lower, middle, and higher. The purpose for this organization of the data is to better estimate the types of housing that will be affordable to each group based on household income. The households in the "lower" category are those that have household incomes of less than \$50,000; these households represent 42% of all households in 2007. The households in the "middle" category are those that have household incomes between \$50,000 and \$99,999; these households represent 37% of all households in 2007. The households in the "higher" category have household incomes of \$100,000 or more; these households represent 21% of all household in 2007.

Table 4-5: “Lower” household incomes – number of households by income category - 2007		
Categories	Number of Households	Distribution among all households
Less than \$10,000	477	1.56%
\$10,000 to \$14,999	863	2.82%
\$15,000 to \$19,999	1,631	5.33%
\$20,000 to \$24,999	2,399	7.84%
\$25,000 to \$29,999	1,984	6.48%
\$30,000 to \$34,999	1,080	3.53%
\$35,000 to \$39,999	1,002	3.27%
\$40,000 to \$44,999	1,733	5.66%
\$45,000 to \$49,999	1,648	5.38%
Subtotals	12,817	42%

Table 4-6: “Middle” household incomes – number of households by income category - 2007		
Categories	Number of Households	Distribution among all households
\$50,000 to \$59,999	3,061	10.00%
\$60,000 to \$74,999	4,161	13.59%
\$75,000 to \$99,999	4,208	13.74%
Subtotals	11,430	37%

Table 4-7: “Higher” household incomes – number of households by income category - 2007		
Categories	Number of Households	Distribution among all households
\$100,000 to \$124,999	2,695	8.80%
\$125,000 to \$149,999	1,224	4.00%
\$150,000 to \$199,999	1,263	4.13%
\$200,000 or more	1,188	3.88%
Subtotals	6,370	21%

The organization of households by income into of these three groups is based in part on the distribution of the data. The ACS reports the number of households within a certain income range (e.g. \$50,000 to \$59,999). The data does not include a distribution by the actual value – household income – for organizing households into categories.

4c. Considering local housing prices for the same timeframe as the income data, identify the structure types financially attainable by each income. ³³

The following data describes local housing prices as of 2007 and early 2008. The data sources include the American Community Survey, which reported limited data on this topic in 2007³⁴. The ACS reports values of owner-occupied units, but not by type of unit (e.g. single family detached).

Table 4-8: Value of Owner-Occupied Units					
	Number of Units		Distribution Owner-Occupied Units		Distribution All Housing Units
Total:	18,032		100%		53%
Less than \$50,000	658		4%		2%
\$50,000 to \$99,999	306		2%		1%
\$100,000 to \$149,999	186		1%		1%
\$150,000 to \$199,999	815		5%		2%
\$200,000 to \$299,999	3,520		20%		10%
\$300,000 to \$499,999	7,375		41%		22%
\$500,000 to \$999,999	4,232		23%		12%
\$1,000,000 or more	940		5%		3%
Source: American Community Survey data for Bend (2007) available online at www.factfinder2.census.gov .					

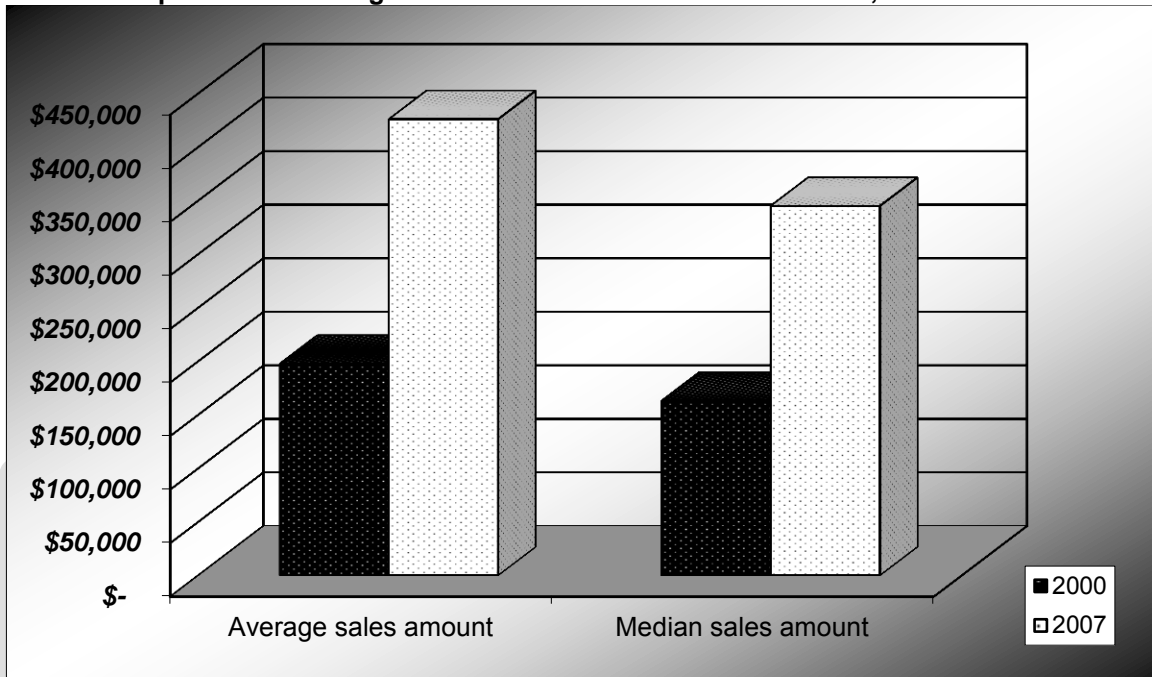
Table 4-8 shows that by 2007, 41% of the owner occupied units in Bend were valued between \$300,000 and \$499,999. An estimated 28% of the owner occupied units were \$500,000 or more in value. Approximately 32% of the owner occupied housing units in 2007 were valued at \$299,999 or less. Figure 1 below shows the changes in average and median sale values for housing in 2000 and in 2007³⁵.

³³ Please note that the 1997 guidebook directs the reader to consider structure types and tenure. For the purpose of this analysis, LCDC concluded that the city is not required to consider tenure in this HNA because the City does not regulate housing by tenure. See Order pages 26-33.

³⁴ The 2007 ACS data is available online at www.factfinder2.census.gov.

³⁵ See Central Oregon Association of Realtors for quarterly and yearly sales data at <http://www.centraleregonrealtors.com/index.php?action=resources.stats>.

Figure 1
Comparison of Average and Median Sales Amounts for Bend, 2000 and 2007



Note: Data presented end of calendar years 2000 and 2007

Source: Central Oregon Association of Realtors - <http://www.centraloregonrealtors.com/index.cfm>

The price of housing has continued to rise between 2000 and 2007. In 2000, the median sales amount for residential property in Bend was \$163,000. By end of 2007, the median sales amount was \$345,000, an increase of \$182,000, or 112%, over this seven year period.

Table 4-9: Change in Housing Prices in Bend, 2 nd qtr 2004 through 2 nd qtr 2008						
Median Sales Amounts for...	Through Second Quarter of...					% Change '07-'08
	2004	2005	2006	2007	2008	
Single family	\$217,500	\$258,000	\$343,950	\$349,250	\$307,000	- 12.10%
Condo/Townhome	\$197,500	\$239,050	\$316,750	\$315,000	\$322,500	+ 2.38%
Manufactured Homes	\$125,000	\$138,500	\$198,450	\$185,000	\$172,500	- 6.76%

Source: Central Oregon Association of Realtors - <http://www.centraloregonrealtors.com/index.cfm>

The data reflect a shift in the housing market between 2006 and 2008. The median prices for single family homes increased between the 2nd quarter of 2004 and the 2nd quarter of 2007 by \$131,750 or 61%. Prices for new single family homes showed a decrease of 12% between 2nd quarter 2007 and 2nd quarter 2008. Table 4-10 shows the change in all types of housing units available for rent by their monthly cash rent between 2000 and 2007.

Table 4-10: Contract Rent (number of housing units rented for cash)				
	2000 Census		2007 ACS	
	Number	Distribution	Number	Distribution
Total:	7698	100%	12,585	100%
With cash rent:	7552	98%	12,507	99%
Less than \$200	245	3%	203	2%
\$200 to \$299	199	3%	83	1%
\$300 to \$499	2146	28%	897	7%
\$500 to \$749	3031	39%	5,098	41%
\$750 to \$999	1655	21%	3,845	31%
\$1,000 or more	276	4%	2,381	19%
No cash rent	146	2%	78	1%
Note: The number of units included in this table includes all types of units available for rent in Bend in 2000 and 2007. Source: American Community Survey data for Bend (2007) available online at www.factfinder2.census.gov .				

The units for rent for \$499 or less decreased between 2000 and 2007. By 2007, these units represented 10% of the units for which cash rent was sought; in 2000, the stock of rental units available for these rents represented 34% of the units rented. Conversely, the proportion of units available for rent for \$500 or more increased between 2000 and 2007. By 2007, this proportion of rental units represented 92% of the units rented. The data does not show a clear link between household income and the type of housing being purchased or rented (e.g. households with income x living in housing type y). For the purpose of completing this step, the following estimates the type of structure financially attainable by each income group listed above in Tables 4-6 through 4-8.

For “Lower” income category households (\$49,999 or less in household income):

- More likely to rent
- More likely to require some assistance to make monthly housing payments for those households with lower incomes in this category
- This assistance may include vouchers to make monthly rent payments, and possibly subsidized housing.
- More likely to rent multi-family attached housing, including mobile homes in parks.

For “Middle” income category households (\$50,000 to \$99,999):

- More likely to rent depending on incomes and household sizes
- More likely to buy at higher end of this range
- More likely to rent single family detached, multi-family attached housing.
- More likely to buy single family detached housing, particularly single family dwellings on their own lot.

For “higher” income category households (\$100,000 or more):

- Have more choices in housing market because of more purchasing power
- More likely to buy single family detached housing, particularly single family dwellings on their own lots.
- May buy single family attached housing or multi-family attached housing if households are smaller.

Step 5. Estimate the number of additional needed units by structure type.

5a. Describe the relationship between household size and structure type and tenure. Estimate likely shifts in the number of households by household size in 20 years and the implications for housing choice.

The sizes of households and families remained stable nationally and in Oregon between 2000 and 2007. For Bend, household sizes remained fairly stable between 1980 and 2000. In 2000, the Census reported a household size of 2.42 persons per household in Bend. The 2007 ACS estimated household size at 2.34, a decrease of about 0.08 persons per household or 4% since the 2000 Census. Family size has also decreased in Bend during this period from 2.92 persons per family to 2.79 persons per family, a decrease of 5%. The 2007 ACS also estimates that the average household sizes of owner-occupied housing at 2.31 persons per household, and 2.4 persons per household for renter-occupied housing.

Table 5-1: Persons Per Household in Bend in 1990 and 2000

Type of Household	1990	2000	Change	% Change	% of Total
1 person	2,515	5,516	3,001	119%	26%
2 persons	3,031	7,736	4,705	155%	37%
3 persons	1,353	3,511	2,158	159%	17%
4 persons	1,087	2,722	1,635	150%	13%
5 persons	377	1,065	688	182%	5%
6 persons	98	412	314	320%	2%
7 or more persons	75	88	13	17%	0%
Total households	8,536	21,050	12,514	147%	100%
Source: US Census Bureau STF3 (1990) and SF3 (2000)					

As shown in Table 5-2 below, as of 2007, 1-person households still represented roughly one-quarter of all households in Bend. The proportion of 2-person households increased from 37% to 40% of all households. The proportions of 3- and 4-person households did not change significantly, each representing about 15% of Bend’s households in 2007.

Table 5-2: Persons Per Household in Bend 2007		
Household Size	Number of Households	Distribution
1-person household	7,512	25%
2-person household	12,233	40%
3-person household	4,606	15%
4-person household	4,513	15%
5-person household	1,257	4%
6-person household	496	2%
Source: American Community Survey data for Bend (2007) available online at www.factfinder2.census.gov .		

In 2007, 65% of Bend's households were 1 or 2 person households. The remaining 35% of Bend households had 3 or more persons per household. The following table describes household size by tenure; the proportions of households by size that were purchasing or renting housing in 2007. The tenure split shown in Table 5-3 is noteworthy because it indicates that while 59% of all units were owner-occupied, the remaining 41% were occupied by renters. This contrasts with the housing type split for single-family dwellings and for multi-family dwellings as of 2007, shown in Table 4-2. That table indicates that the ratio of single-family dwellings to all other types of housing was 70:30. This confirms that a significant share of Bend's rental housing demand is being met by single-family detached units.

Table 5-3: Households by tenure and household size (2007)			
	Number of Households	% Distribution of all Households	% Distribution by Tenure Category
Total:	30,617	100%	
Owner occupied:	18,032	59%	100%
1-person household	3,968	13%	22%
2-person household	8,801	29%	49%
3-person household	1,600	5%	9%
4-person household	2,772	9%	15%
5-person household	777	3%	4%
6-person household	114	0%	1%

Table 5-4: Households by tenure and household size (2007)			
	Number of Households	% Distribution of all Households	% Distribution by Tenure Category
Renter occupied:	12,585	41%	100%
1-person household	3,544	12%	28%
2-person household	3,432	11%	27%
3-person household	3,006	10%	24%
4-person household	1,741	6%	14%
5-person household	480	2%	4%
6-person household	382	1%	3%
Source: American Community Survey (2007) available online at www.factfinder2.census.gov .			

By 2007, almost half (49%) of owner-occupied households were 2 person households. Approximately 71% of all owner occupied households were 1 to 2 persons in size. The remaining 29% of owner occupied households were 3 or more persons in size. An estimated 79% of all renter occupied households were between 1 and 3 persons in size in 2007, with the remaining 21 percent between 3 and 6 persons in size. The following table shows the proportions of Bend households by size in 1990, 2000, and 2007. Please note, that during this period, 1 and 2 person households have remained the majority of all households.

Table 5-5: Changes in Distribution of Households by Size			
	1990	2000	2007
1-person households	29%	26%	25%
2-person households	36%	37%	40%
3-4 person households	29%	30%	30%
5 or more person households	6%	7%	6%
	100%	100%	100%
Source: 1990 and 2000 Census data, 2007 American Community Survey data for Bend through American Factfinder – www.factfinder2.census.gov . Percentages may not add to 100% due to rounding.			

1-person households have represented between 25% and 29% of Bend's households from 1990-2007. The number of these households increased between 2000 and 2007, and their proportion of all households has remained around one-quarter of all households.

2 person households have represented between 36% and 40% of all households, with the proportion of these households increasing between 2000 and 2007.

3- and 4-person households combined have represented between 30% and 40% of all households between 1990 and 2007. The proportion of all households that are 3 or 4 persons in size has decreased from 39% in 1990 to 30% in 2007.

5 or more person households have consistently represented between 6% and 7% of all households between 1990 and 2007.

Over the next 20 years, households with 1 to 2 persons per household are expected to represent the largest category of households by size. To consider the types of housing households are choosing, by their size, we can turn to the ACS data on family and nonfamily households. The data on household size by units in structure (e.g. single family detached), is limited. The data available includes family and nonfamily households, by their size, and some data on their choice of housing in 2007. In 2007, the ACS estimated a total of 30,617 households in Bend, of which 18,666 households were family households. Table 5-5 displays the data on the distribution of these households by size, and then by their chosen form of housing.

Table 5-6: Family Households in Bend (2007)

Family Households By Size			Family Households By Housing Type		
Size	Number	Distribution	Type	Number	Distribution
2-person	9,118	49%	1-unit structures	15,297	82%
3-person	3,540	19%	2-or-more-unit structures	2186	12%
4-person	4,255	23%	Mobile homes and all other types	1,183	6%
5-person	1,257	7%			
6+-person	496	3%			

Source: 2007 American Community Survey data for Bend through American Factfinder – www.factfinder2.census.gov

The ACS shows that just less than half of family households were 2-person households. Approximately 42% of family households were 3- or 4-person households. Compare this data to what types of housing they inhabited; 82% of family households were living in 1-unit structures, while 12% were living in structures with two or more units³⁶. This is surprising given the large proportion of family households that are 2-person households. This suggests that family households are choosing single-family detached units to purchase or rent. In 2007, the ACS estimated a total of 11,951 nonfamily households in Bend. The following table displays the same data for nonfamily households in 2007.

³⁶ See Table 4-2 on mix of housing types in Bend. Most single family units in Bend were single family detached units.

Table 5-7: Nonfamily Households in Bend (2007)

Nonfamily Households By Size			Nonfamily Households By Housing Type		
Size	Number	Distribution	Type	Number	Distribution
1-person	7,512	63%	1-unit structures	7,021	59%
2-person	3,115	26%	2-or-more-unit structures	4,556	38%
3-person	1,066	9%	Mobile homes and all other types	374	3%
4-person	258	2%			

Source: 2007 American Community Survey data for Bend through American Factfinder – www.factfinder2.census.gov.

The largest category of nonfamily households was 1-person households. Households composed of 2-persons represented a quarter of all non-family households. Like family households, a majority of non-family households were living in 1-unit structures (e.g. single family dwellings), with a smaller proportion living in 2 or more unit structures. Although the shares are somewhat different for family households and non-family households, Table 5-6 also suggests that a large majority of non-family households (63%) are occupying single-family detached units, whether owned or rented. For both family and non-family households, a small proportion of households were living in mobile homes and all other types of housing.

5b. Age of household head: Based on the data gathered under 3a, describe the relationship between age of household head and structure type and tenure. Estimate likely shifts in the number of households by age of household head in 20 years and the implications for housing choice.

Table 5-7 shows the distribution of households in Bend in 2007 by the age of their householder.

Table 5-8: Distribution of Households by Age of Householder (2007)	
Householder 15 to 24 years	7%
Householder 25 to 34 years	22%
Householder 35 to 44 years	19%
Householder 45 to 54 years	18%
Householder 55 to 59 years	10%
Householder 60 to 64 years	6%
Householder 65 to 74 years	8%
Householder 75 to 84 years	7%
Householder 85 years and over	2%
Source: 2007 American Community Survey data for Bend – www.factfinder2.census.gov .	

Table 5-8 shows that most households in Bend – approximately 70% - were headed by a householder between 25 and 59 years of age. Approximately 28% of all householders were 45 to 59 years of age. Table 5-9 shows the distribution of which households – based on age of householder – were purchasing or renting housing in 2007.

Table 5-9: Distribution of Households by Age of Householder and Tenure (2007)		
Age of Householder	Owner-occupied Households	Renter-occupied Households
Householder 15 to 24 years	1%	16%
Householder 25 to 34 years	14%	34%
Householder 35 to 44 years	19%	21%
Householder 45 to 54 years	21%	13%
Householder 55 to 59 years	13%	7%
Householder 60 to 64 years	9%	2%
Householder 65 to 74 years	12%	3%
Householder 75 to 84 years	11%	2%
Householder 85 years +	1%	3%
Source: 2007 American Community Survey data for Bend through American Factfinder – www.factfinder2.census.gov .		

By 2007, owner-occupied households were almost evenly split between householders 54 and younger and 55 and older. At this time, 55% of the owner-occupied households were headed by a householder 54 years of age or less. The remaining 46% of households were headed by householders 55 years of age and older. For renter-occupied households, most households were headed by householders less than 34 years of age. An estimated 50% of householders renting housing were 34 years of age or less; the remaining 50% were 35 years of age and older. The following table expands on this analysis to the choices households made to purchase or rent housing by the type of housing.

Table 5-10: Distribution of Households by Tenure and Housing Type		
Type	Owner occupied Households	Renter occupied Households
1, detached or attached	90%	48%
2 to 9 units	2%	31%
10 or more units	1%	19%
Mobile home and all other types	7%	2%
Source: 2007 American Community Survey data from American Factfinder – www.factfinder2.census.gov .		

For both owner occupied households and renter occupied households, the form of housing most often purchased or rented was a single family detached or attached unit. Table 4-2 shows most of the single family units were detached units. Very few owner occupied households were living in structures with 2 or more units in 2007, and only seven (7) percent of owner occupied households were living in manufactured homes. For renter occupied households, 48% of all households were living in 1-unit structures, detached or attached. The second largest group was renter occupied households residing in structures with 2 to 9 units. This suggests that when considering meeting future housing needs, single family detached and attached units were chosen by either owner or renter occupied households before other types of housing, including those with 2 to 9 units in a structure. For both categories of household, structures with 10 or more units were chosen less than these other types.

5c. Based on the analysis in Steps 5a and 5b, and on knowledge about national, state, and local housing condition and trends and analysis in Step 4, describe how the characteristics of the projected households will likely affect housing choice. Consider trends in housing and land prices. Document conclusions drawn from the analysis, including a description of how and why local conditions and/or trends are expected to differ from the national and state trends.

Smaller households with lower household incomes, including family households, will have limited options for housing. These households will be more likely to rent detached single family dwellings and multi-family attached dwellings. Households toward the lower end of the income scale may still require some kind of assistance to meet monthly housing costs (e.g. rent, energy), regardless of land supply or the mix of housing provided by the market. Younger households, those with a household head less than 34 years of age, will more likely rent multi-family attached.

Two-person households are continuing to become a larger proportion of all households. These households have increased in number, and they choose single family detached housing more often by owner and renter occupied households. Single family attached does not represent a significant proportion of Bend's housing stock. Three and four person households represent 30% of Bend's households; more of these households rent than buy housing. Large majorities of both family and non-family households in Bend are choosing single family structures – both detached and attached – for housing. In 2007, 82% of family households and 59% of non-family households were living in 1-unit structures (See Tables 5-5 and 5-6).

This discussion of Bend households and their characteristics highlights one of many differences between local conditions and how they differ from national and state trends³⁷. As indicated earlier, while household and family sizes increased over the last seven years nationally and statewide, Bend saw decreases. From 2000 to 2007, average household size decreased by 3% and average family size by 4% in Bend. Bend saw greater growth in households headed by householders between the ages of 25 and 44 and householders between the ages of 45 and 64 than the nation and the state. This was also related to greater growth in households in Bend, on a percentage basis, than the nation and the state. Growth in family and nonfamily households occurred at a faster rate in Bend. Finally, while median household and family income grew around 22% nationally and statewide, Bend saw median household income grow by 37% and median family income grow by 35% since 2000.

³⁷ See Tables 2, 3, and 4, September 2, 2011 memorandum to the Remand Task Force on Steps 1-3 of the Housing Needs Analysis.

5d. Describe trends in construction by structure type and how future construction trends will likely be affected by changing demographics.

While the City will be forecasting housing needs using three structure types (single family attached, single family detached, and multi-family attached), the following table presents data on units permitted through building permits from 1999 to 2007³⁸.

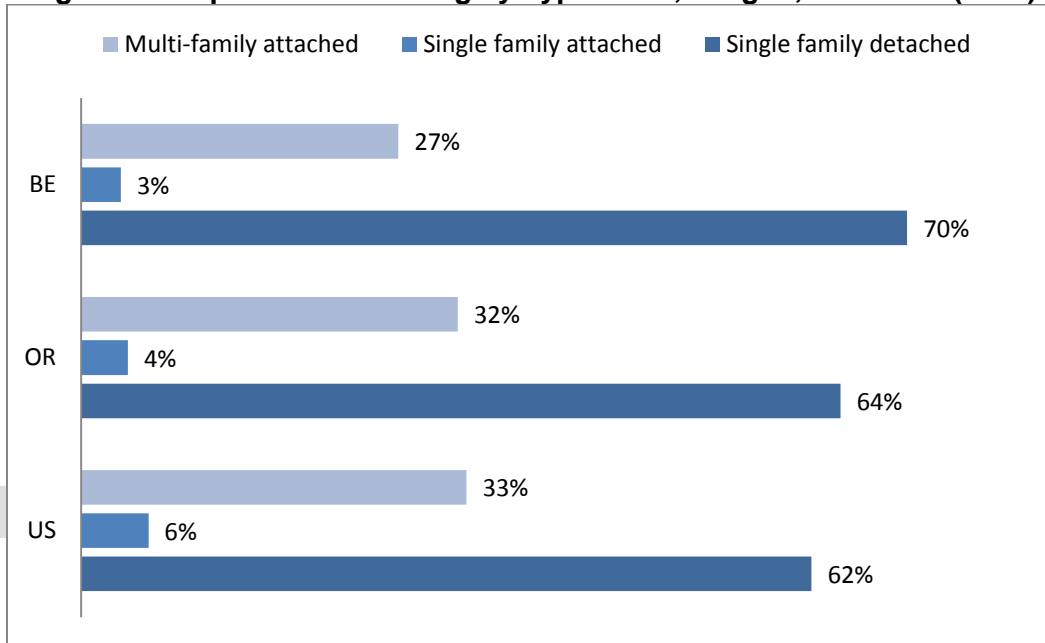
Table 5-11: Types of Housing Permitted in Bend, 1999-2007				
Structure Type	Total Units 1999-2007	Annual Average	Total Distribution 1999-2007	Annual Average Distribution
Single family detached	10,589	1,177	69%	73%
Single family attached	466	52	3%	3%
Two-family dwellings	1,037	115	7%	7%
3 and 4 family dwellings	371	41	2%	3%
5 or more family dwellings	1,588	176	10%	11%
Mobile Homes	425	47	3%	3%
Totals	14,476	1,608	100%	100%
Source: City of Bend building statistics, available on-line through: http://www.ci.bend.or.us/depts/community_development/building_division_2/building_statistics.html				

Most of the housing units permitted were single family detached dwellings. The second largest category behind SFD's was multi-family attached housing with five or more units. The third largest group was two-family dwellings, a.k.a. duplexes. Duplexes represented 7% of the units permitted between 1999 and 2007. In 2000, the Census counted 1,723 units, 8% of all housing units that were duplexes, triplexes, and fourplexes. During this time (1999-2007) 1,037 units, or about 7% of all units permitted, were duplexes. Adding triplexes and fourplexes in with duplexes represents 1,408 units, or 10% of all units. This suggests that some of Bend's demand for non-single-family detached types of housing could be met with these types of housing. While the proportions of single family detached, two-family dwellings, and 5 or more family dwellings increased, the proportions of single family attached, 3 and 4 family dwellings, and mobile homes have remained the same or slightly decreased.

With respect to changing demographics, household size has been decreasing in Bend since 2000. At the same time, the number of households headed by a householder between the age of 45 and 64 increased. Households with 1 or 2 persons are still the largest segment of households in Bend. These demographic trends might suggest potential demand for more attached housing, perhaps more single family attached housing. However, construction trends in Bend have shown that most of the units permitted between 2000 and 2007 have been single family detached. Multi-family attached housing represented 19% of the permitted units. Single family attached units represented three (3) percent of the permitted units. This is one trend where Bend's housing stock is changing in ways different from the nation or the state. The following figure shows the proportion of housing by type comparing the nation, state, and Bend.

³⁸ See discussion in Commission's Order at pages 31 through 33.

Figure 2: Proportion of Housing by Type in US, Oregon, and Bend (2007)



Source: American Community Survey – www.factfinder2.census.gov.

By 2007, approximately 70% of the housing in Bend was single family detached housing. This proportion of single family detached housing was higher than the Nation's or the State's. While demographic trends indicate that smaller and older households would suggest greater demand for attached housing, these trends are occurring at the same time single family detached housing has been permitted more often than other types of housing. By 2007, 82% of family households and 59% of nonfamily households were living in one-unit structures. According to the data on mix of housing, the majority of single unit structures in Bend were single family detached housing. Single-family detached units can be expected to continue to dominate as the preferred housing type in Bend, whether for owners or renters, and whether family or non-family households. Production of significant numbers of single-family detached units will be needed during the planning period to meet this large segment of total demand.

5e. Estimate the number of additional units by structure type needed for new households. Allow for a vacancy rate to provide for housing choice.

The housing unit forecast for Bend is 16,681 new housing units to house 38,512 people between 2008 and 2028. This forecast included a 6.4% vacancy rate³⁹. In 2007, the mix of housing in Bend was 71% single family detached, 2% single family attached, and 27% multi-family attached (See Table 4-2). The current distribution of households by income shows 42% of households in Bend have household incomes of less than \$50,000. This data suggests a need for additional housing affordable for these households. In addition, household composition is changing, with more non-family households and smaller (1 to 2 person) households. This change in demographics would suggest a stronger demand for multi-family attached housing. However, the trend data on recent construction and tenure suggest both owner and renter

³⁹ Please note that this rate was the City's vacancy rate reported in the 2000 Census results for Bend – www.factfinder2.census.gov.

occupied households, including smaller households, are purchasing or renting single family detached housing. These demographic trends indicate a preference for smaller detached units – single family detached or attached – rather than more multi-family attached units. At the same time, the significant share of households earning less than median income suggest that a somewhat greater share of multi-family attached units than exists in 2007 will be needed to meet total housing needs during the 2008-28 planning period.

This analysis proposes a mix of housing intended to ensure that an adequate supply of land is available for all forms of needed housing, including multi-family attached housing. This proposed mix also reflects that a significant proportion of future needed housing will continue to be single family detached.

Table 5-12: Proposed Mix of Housing for 2008 to 2028		
Type	Proportion	Number
Single family detached	65%	10,842
Single family attached	2%	334
Multi-family attached	33%	5,505
Totals	100%	16,681
Note: the total number of housing units reflected in the third column is the 2008-2028 housing unit forecast of 16,681 units.		

“Single family detached housing” includes both site-built single family detached dwellings and manufactured homes on their own lots. This category includes those dwellings classified as detached single family dwellings under OAR 660-008-005(3). The proposed proportion of 65% is intended to ensure an adequate supply of land for detached single family units. This proportion is based on an assumption that, consistent with demographic and economic trends, including recent construction trends, most of the housing produced will be single family detached. Going forward, the City also assumes that this proportion for single family detached will include adequate land for smaller detached housing units such as cottage housing and courtyard housing. These forms of detached housing are examples of single family detached housing that can be developed at higher densities (e.g. 8 to 12 units/acre) in the RM Zone and RM-10 Zone. This proportion (65%) is less than the current proportion (71%) of single family detached dwellings in Bend. This proposed proportion of 65% is not based on assumption that demand for single family detached dwellings will decrease over time. It indicates that the supply of this type of housing exists to meet the projected need and that the proportion of housing in other categories must be adjusted to ensure an adequate supply of land for these types of housing.

“Single family attached housing” consists of attached single family housing under the Bend Development Code. This category includes those dwellings classified as attached single family dwellings under OAR 660-008-005(1). The proposed proportion of 2% recognizes that this proportion of the housing stock has decreased over time, and with changing household characteristics – e.g. smaller and older households – has not increased in proportion. This proposed proportion is also based on an assumption, reflected in the forgoing discussions of housing mix, that other forms of housing are needed more than single family attached housing.

“Multi-family attached housing” consists of all other types of housing, including condominiums, duplexes, multi-family attached housing (3 or more units under Bend Development Code), and manufactured homes in parks. This category includes those dwellings classified as multiple

family housing under OAR 660-008-005(5). This proposed proportion of 33% is intended to ensure an adequate supply of land for duplexes, condominiums, and multi-family attached housing. The proportion of 33% is also recommended to provide the opportunity to increase the supply of this form housing for some households with household incomes of less than \$50,000. Going forward, this proposed proportion also assumes less housing will be provided in the form of new manufactured homes in parks. This proportion of additional multi-family attached housing (33%) would assume 5,505 new units of multi-family attached housing and an increase of 59% over the supply of 9,304 units in 2008. During the last seven years, on an annual basis, 73% of new housing units permitted were single family detached dwellings and 21% were multi-family attached dwellings⁴⁰. Using a higher proportion of multi-family attached housing in the proposed mix will support the addition of land both inside the current UGB and in the UGB expansion to ensure an adequate of supply of land for this type of housing.

Table 5-13, Change in Mix of Housing By 2028

Type	Distribution in 2008	Change 2008 to 2028	Distribution in 2028	% Distribution by 2028	% Change 2008-2028
SFD	24,967	10,842	35,809	69%	43%
SFA	658	334	992	2%	51%
MFA	9,304	5,505	14,809	29%	59%
	34,929	16,681	51,610	100%	

Source: Data in Tables 4-2 and 5-11

⁴⁰ See Table 5-10 of this memorandum.

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TO: **UGB REMAND TASK FORCE**
FROM: **BRIAN SHETTERLY, AICP, LONG RANGE PLANNING MANAGER**
SUBJECT: **DISCUSSION AND RECOMMENDATION OF REMAND TASK 2.5:
SECOND HOME LAND NEEDS**
DATE: **APRIL 22, 2011**

Introduction

This memo responds to Sub-issue 2.5 of the City of Bend Remand and Partial Acknowledgment 10-Remand-Partial Acknow-001795 (hereafter referred to as Remand and Sub-issue). This sub-issue is found on pages 36-39 of the Remand order.

This memo includes a discussion of the Sub-issue and a staff recommendation. The contents and recommendation of this memo have been reviewed by DLCD staff. Based on discussions with DLCD staff, the City believes that acceptance of the recommendation contained in this memo will be supported by DLCD staff as satisfactorily addressing Sub-issue 2.5.

Remand Sub-Issue 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."*¹

Conclusion:

"The Commission upholds the City's appeal and denies the appeal of COLW [Central Oregon Land Watch], 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

¹ Land Conservation and Development Commission, "Remand and Partial Acknowledgement Order, 10-Remand-Partial-Acknow-001795," November 2, 2010, p. 36.

² Ibid., p.39

Discussion of Conclusion

As noted in the conclusion to Sub-issue 2.5, the Commission accepts the substance of the City's findings with respect to second homes, and does not require any specific action by the City. The conclusion does include some direction to Deschutes County concerning regional demand for second homes, but that direction does not require any specific action by the City.

Findings adopted with the 2009 UGB amendment estimated that second homes could be expected to absorb 500 acres of residential land during the 2008-28 planning period. This estimate was based on evidence in the record that the number of second homes forecasted to develop in the future could be expressed as a proportion of total housing units for permanent residents. Specifically, the City estimated that new second homes, equivalent to 18% of needed housing units, could be expected to be built in Bend during 2008-28. This would amount to slightly over 3,000 units. Based on an average density assumption of 6 units per acre, these second homes would occupy 500 residential acres that would otherwise be available for permanent residents (see Record p. 7692). The total amount of residential acres needed for the planning period was adjusted to include these 500 acres (see Record p. 1058).

LCDC has accepted the City's findings on this issue, and the factual base which supports them.³ If during the remand process the density assumption of 6 units/acre for second homes is revised, the 500-acre estimate adopted in 2009 will be revised upward or downward accordingly.

Recommendation

Staff recommends that the Remand Task Force accept the conclusion that Sub-Issue 2.5 requires no corrective action. The final findings package for the UGB on remand will be based on the methodology used to derive the 2009 estimate of acres needed to account for second homes construction during the planning period.

³ Ibid., p. 38.

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TO: **REMAND TASK FORCE (RTF)**
FROM: **BRIAN RANKIN, SENIOR PLANNER; LRP; LEGAL DEPARTMENT**
SUBJECT: **DISCUSSION AND RECOMMENDATION OF REMAND TASK 4.1:
OTHER (NON-EMPLOYMENT) LAND NEEDS - GOAL 14**
DATE: **4/22/2011**

Introduction

This memo responds to Sub-issue 4.1 of the City of Bend Remand and Partial Acknowledgment 10-Remand-Partial Acknow-001795 (hereafter referred to as Remand and Sub-issue). The Sub-issue is found on pages 57-59 of the Remand order.

This memo includes a discussion of the Sub-issue and a staff recommendation. Attached to this memo is a separate document with proposed findings for this Sub-issue and record references used in the findings. The findings provide the applicable legal standard, substantial evidence, and an explanation of compliance with the legal standard.¹ The contents of this memo and the attached findings have been reviewed by DLCD staff. Based on discussions with DLCD staff, the City believes that adopting the draft materials contained in the findings will be supported by DLCD staff as satisfactorily addressing the concerns expressed under the Sub-issue.

Remand Sub-issue 4.1

*"Whether the city adequately justified inclusion of an additional 15 percent factor for all "other lands" in its identified need"*²

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

¹ Oregon Land Conservation and Development Commission, Remand and-Partial Acknowledgement Order 10-Remand-Partial Acnow-001795, November 2, 2011, p.14.

² Ibid, p. 57.

consideration of future conditions and needs (and explain why the trend will continue or change over the future planning period).”³

Discussion of Conclusion

The Sub-issue states the need 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 15 percent is justified.”⁴ The Sub-issue does not require a new or modified factual basis or evidence, but does require new findings based on evidence already in the record to explain the increase from 12.8 percent to 15 percent. The City’s new findings should not be based “only on past trends, but should include consideration of future conditions and needs.”

Discussion and Staff’s Recommendation

The City’s “Other (non-employment) Land” needs analysis attempts to add a small amount of land to the UGB expansion to account for uses that are not purely housing, employment, public schools, public parks, and public rights-of-way. Uses in the “Other (non-employment) Land” estimate include churches, benevolent/fraternal organizations, utilities, canals, cemeteries, common areas in developments, golf courses, properties owned by irrigation districts, parks (not managed by Bend Metro Parks and Recreation District), and RV parks. Some of these uses are necessary for a city to function; others are desirable to many of the City’s residents. These uses consume employment and residential land that would otherwise be developed with needed housing and employment uses. If they are not accounted for among the City’s future land needs, they will displace acreage designated for housing or employment, resulting in an inadequate supply of land for those key uses.

The following explains the City’s original UGB proposal related to “Other (non-employment) Land.” The City applied a factor of 15 percent for “Other (non-employment) Land” uses to calculated net land needs for housing, employment, public school, public parks, and then added this acreage to the UGB expansion. The 15 percent factor was mostly based on research of the current UGB showing 12.8 percent of the net land area in “Other (non-employment) Land” uses. The increase from the observed 12.8 percent to 15 percent was based upon a recognition that stormwater management systems may use an additional increment of land to be added to the 12.8 percent estimate. The City’s rationale for the increase from 12.8 to 15 percent is the principal subject of this Sub-issue.

The options available to the Remand Task Force on this Sub-issue include the following:

1. Use the 12.8 percent estimate for “Other (non-employment) Land” “as is,” add no new factual evidence to the record, revise the findings to clarify how the City arrived at the estimate, and explain why the observed trend will continue into the future.

³ Oregon Land Conservation and Development Commission, Remand and-Partial Acknowledgement Order 10-Remand-Partial Acnow-001795, November 2, 2011, p. 59.

⁴ Ibid, p. 59.

2. Increase the estimate from 12.8 percent to 15 percent (or another higher estimate) with findings specifying how the increase is justified based on information already in the record, and explain why the trend will continue into the future.
3. Increase the estimate from 12.8 percent to 15 percent (or another higher estimate), add new evidence to the record, and explain why the trend will continue into the future.
4. Use some other estimate and analysis resulting in a possibly larger or smaller estimate based on a combination of existing information in the record and new information.

Goal 14's administrative rule allows cities to consider these types of "Other (non-employment) Land" needs. However, it is not an easy task to quantify the extent to which such uses will be needed. The Remand demonstrates it is difficult to successfully add land to the UGB without an accurate methodology quantifying a land need.

The evidence and factual basis relied upon resulting in the 12.8 percent estimate has not been challenged and is not the subject of the Sub-issue. At issue is the increase from 12.8 to 15 percent and findings. If new evidence is entered into the record on this subject, then it may be the subject of a future appeal.

Staff believes there is insufficient evidence in the record to accurately quantify an increase from the 12.8 percent estimate to a higher estimate due to more land being used for stormwater management. See Pre-remand Record 2514-2518 for the evidence related to stormwater which does not include any definitive land need estimate for stormwater management uses. While we believe it would be reasonable to increase the 12.8 percent estimate to account for stormwater management, the detailed analysis that would be required to justify that estimate has not been carried out and is not part of the record.

New information or evidence⁵ would need to be entered into the record to substantiate an increase above the 12.8 percent estimate. This new information would not include the newly adopted Central Oregon Stormwater Manual because it was not available in final form as of the date of local adoption of the UGB in January 5, 2009. Even with new evidence it would be difficult to quantify the additional amount of land that may be needed for stormwater facilities that is appropriate to include in the "Other (non-employment) Lands" estimate. Stormwater facilities are commonly located in a variety of locations such as setbacks, landscape areas, parking areas, and in public and private rights-of-way, so accurately quantifying the additional amount of land dedicated to stormwater in common areas would be difficult and likely result in a small increase. Any new evidence entered into the record to support stormwater-based land needs would likely be challenged, and could subject this issue to an appeal.

⁵ "New" in this case meaning information or evidence that was available at the time the record closed for the local adoption of the UGB (December 22, 2008), but not previously entered into the record.

Staff recommends option 1, above. This option does not require additional evidence. LCDC has already concluded the existing factual basis supports this option and the 12.8 percent estimate, and it would therefore not be the subject of further appeals. Option 1 is also the approach which is called for in the conclusion of Sub-issue 4.1, except that the city is not seeking to increase the estimate. Any option that requires adding new information to the record presents risks that may outweigh their benefits. It will be very difficult to develop a supportable method of quantifying an additional land need due to stormwater facilities on lands outside of the public right-of-way. The attached findings further explain the reasons why the 12.8 percent estimate is reasonable, and likely to be acceptable to LCDC.

Remand Sub-issue 4.1 - 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).”¹

Applicable Legal Standard

“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).”² In addition, submittals under ORS 197.626 must be supported by substantial evidence and present adequate findings.

City’s Position

Remand Sub-issue 4.1 requires additional findings and explanation if the City proposes to increase the amount of land needed for other urban uses from 12.8 percent to 15 percent or other higher number. The City is calculating the land needed for other urban uses at 12.8 percent and is not increasing the percentage to 15 percent. Therefore, the City believes that it is not required to adopt additional findings justifying the increase because there is no increase. This position is supported by DLCDC staff. The following findings clarify the existing determination that the City previously used to justify including land for other urban uses at 12.8 percent of the net land needed in the proposed UGB expansion for housing, economic lands, Bend Metro Parks and Recreation District park facilities, and Bend-La Pine Schools’ facilities.

Findings

1. The conclusion of Remand Sub-issue 4.1 does not require any new evidence be added to the record.
2. OAR 660-024-0040(1) describes three broad types of land uses:
 - a. Housing
 - b. Employment

¹ Oregon Land Conservation and Development Commission, Remand and-Partial Acknowledgement Order 10-Remand-Partial Acknow-001795, November 2, 2011, p. 59.

² Ibid, p.57.

FINDINGS FOR REMAND SUB-ISSUE 4.1

- c. Other urban uses such as public facilities, streets and roads, school, parks, and open space
3. The City's residential land need analysis determines the amount of land needed for housing. (Add record cite once final).
4. The City's employment land need analysis (Employment Opportunities Analysis) determines how much land is needed for employment uses. This analysis removed all employment from lands considered "Other (non-employment) Lands." The following references explain how employment land need estimates exclude land need estimates for "Other (non-employment) Land." Pre-remand Record 1651-1653, 2180-2182, 8329.
5. A land need analysis by the Bend-La Pine School District predicts future public school land needs, and does not include private schools. Pre-remand Record 1088-1089. (Add new or revised record cites once final).
6. A land need analysis by the Bend Metro Parks and Recreation District is for future public parks owned only by BMPRD, and does not include private open spaces or other public park land needs like state parks. Pre-remand Record 1089-1090. (Add new or revised record cites once final).
7. A public and private rights-of-way for roadways estimate considered these lands needs and did not include any of the lands included in the "Other (non-employment) Lands" analysis. Pre-remand Record 2168-2178.
8. The factual information in findings three through seven, above, demonstrates there has been no double counting of land need estimates, and that the "Other (non-employment) Land" needs analysis is mutually exclusive of the land need analyses noted above.
9. The City analyzed current land use patterns and determined that land that qualifies as "other urban uses" constitutes 12.8 percent of the net land area of the current UGB. The City has developed a ratio of "Other (non-employment) Lands" to the total number of net acres in the prior UGB. Pre-remand Record 2182.
10. A total of 2,265 net acres in "Other (non-employment) Land" uses was divided by a total of 17,695 total net acres of developed and vacant land in the prior UGB (excluding private and public rights-of-way) resulting in a ratio of these uses of 12.8 percent. Pre-remand Record 2182.
11. The following uses are included in the 12.8 percent estimate and the 2,265 net acres used for "Other (non-employment) Land" uses:

FINDINGS FOR REMAND SUB-ISSUE 4.1

- a. 132 net acres for benevolent/fraternal, church, and a small parking lot for these uses.
 - b. 105 net acres for utilities and unclassified and unbuildable uses related to utility uses.
 - c. 2,028 net acres of private, public, and open spaces other than those owned by Bend Metro Parks and Recreation District in the form of canals, cemeteries, common areas, golf courses, land owned by irrigation districts, RV parks, parks (not BMPRD, but Oregon State Parks), and a small amount of acreage considered unbuildable or unclassified.
12. The 12.8 percent estimate includes land uses expressly mentioned in OAR 660-024-0040(1). "Other urban uses" includes uses such as benevolent/fraternal organizations, churches, parking lot for institutional uses, and cemeteries. "Public facilities" includes uses such as utilities, canals, irrigation district properties. "Open spaces" includes uses such as common areas, golf courses, private parks, unbuildable and unclassified areas.
13. The 12.8 percent ratio is based on acreages including all developed and vacant parks, schools, residential land, and employment land inside the current UGB. Therefore, the 12.8 percent ratio is applied to net land need estimates for residential, economic, public park and school uses. (Note: the updated land need analysis for residential, economic, public park and schools is not finalized, so an exact acreage figure for "Other (non-employment) Lands" for the adjusted UGB is not available at this time.)
14. Information in the record (Pre-remand Record 2514) does not allow the city to quantify the additional amount of land on private property that may be dedicated to stormwater-related uses (for example, in parking areas, landscape areas, common areas, setbacks, and public and private rights-of-way for roadways), and therefore the City finds it is not appropriate to increase the 12.8 percent figure to account for new stormwater treatment uses.
15. The city expects the current, observed land need to continue during the 20-year planning period at approximately the same 12.8 percent rate as is observed in 2008 because of their presence and use in the current UGB as of 2008, population increases requiring these uses, and the City's development code allowing these uses in nearly all zoning classifications.
16. If the factor for "Other (non-employment) Land" is not added, then land for needed residential, economic, public school, and Bend-Metro Parks and Recreation uses will be displaced and, therefore, the City would not be able to satisfy ORS 197.296 if it did not account for these "Other (non-employment) Land" uses. The "Other (non-employment) Land"

FINDINGS FOR REMAND SUB-ISSUE 4.1

consideration is important to ensure a 20-year buildable land supply for needed housing pursuant to ORS 197.296.

17. As shown in the foregoing findings, the city's approach to calculating "Other (non-employment) Land" matches the needed land types referenced in OAR 660-024-0040(1), calculates the need based on factual information in the record, and makes findings demonstrating these lands are needed now and in the future consistent with OAR 660-024-0040(1).

Exhibits: Pre-remand Record References

The following contains record pages from the existing Pre-remand record from the City of Bend Remand and Partial Acknowledgement 10-Remand-Partial Acknow-001795. The record page number is found at the bottom left or right corner of each page. The following pages are not intended to be read from start to finish as they are excerpts from the record; rather, they are reference documents related to the findings.

homes in new lands included through expansion of the UGB⁵⁴. The city staff also received testimony that it found credible on how to address second homes in the UGB expansion⁵⁵. The Bend Planning Commission decided to not address land consumed by second homes in the current UGB (a.k.a backfill), but did decide to account for second homes as a percentage of the future housing needs projection. This projection was 18% of the total units between 2008 and 2028⁵⁶.

RESIDENTIAL LAND NEEDS FOR RELATED USES

Goal 14 – Factor 2 and OAR 660-024-0040

Goal 14, Land Need factor (2) recognizes that changes to a UGB may be based on demonstrated need for “*livability or uses such as public facilities, streets and roads, schools, parks or open space.*” The need for public and institutional facilities such as schools, parks, churches, etc. will expand as population increases. Such uses are necessary to support planned population growth and (in the case of parks, open space and schools) increase the livability of residential neighborhoods. In Bend, such uses typically locate on land designated for residential use. Publicly owned and developed or planned school and park sites can also be designated and zoned “Public Facilities”.

The city is aware that the administrative rules under OAR 660-024-0040(9) provide a safe harbor for local governments to use in estimating land for public facilities and rights of way. The city is also aware that this topic was raised in DLCD’s comments from July 11, 2007 and most recently in the Department’s letter dated November 21, 2008. These letters appear to treat the safe harbor under OAR 660-024-0040(9) as a legal standard. The administrative rule is clear that OAR 660-024-0040(9) is not a legal requirement the city must satisfy. OAR 660-024-0010(2) defines a safe harbor as an optional course of action that a local government may use to satisfy a requirement of Goal 14⁵⁷. The city is also not compelled by state law to provide findings explaining why it chose not to employ this or any other safe harbor.

The city has developed an adequate factual base under Goal 2 regarding its estimated land needs for schools, parks, other land uses, and rights of way. The following findings provide estimates that were developed based on substantial evidence and through coordination with the affected school and parks districts regarding the city’s estimated needs for land for public schools and public parks.

Public Schools (K-12)

Findings: The Bend-La Pine School District (District) adopted a *Sites and Facilities Plan (Plan)* in December of 2005.⁵⁸ The city has not adopted this document, but acknowledges that it has been submitted into the record and constitutes evidence on which the city can rely⁵⁹. The land need recommendations in these findings have been

⁵⁴ See January 7, 2008 memorandum to the Bend Planning Commission and the Deschutes County Planning Commission Liaisons.

⁵⁵ See October 29, 2007 and November 13 2007 memoranda from Winterbrook Planning.

⁵⁶ See June 16, 2008 variables checklist; January 7, 2008 memorandum to Bend Planning Commission and county planning commission liaisons.

⁵⁷ See definition at OAR 660-024-0010(2).

⁵⁸ Bend-La Pine School District, 2005 Sites and Facilities Plan (December 2005).

⁵⁹ See record for July 26, 2007 public hearing.

coordinated with the District and are consistent with the methodology used in the 2005 District Plan.

John Rexford, Assistant Superintendent for the District, provided the following formula to estimate school land needed based on the common population and housing unit projections to 2028.⁶⁰

$$\begin{array}{r} 0.397 \text{ public school (K-12) students per housing unit} \\ \times \quad 0.029 \text{ acres per public school student (pro-rated per grade level)} \\ \hline 0.0115 \text{ acres of school land needed per housing unit} \end{array}$$

The city has presented a 2008 through 2028 housing unit projection of 16,681 new housing units to accommodate a forecast population of 115,063. Applying the school district formula to the housing unit forecast results in the following estimate of land needed for school facilities to the year 2028:

$$\begin{array}{r} 16,681 \text{ new housing units} \\ \times \quad 0.0115 \text{ acres of land needed per housing unit} \\ \hline 192 \text{ acres of land needed for new school facilities (2008-2028)}^{61} \end{array}$$

Given the extremely competitive real estate market, the few number of vacant sites, and the need for the recommendations to remain flexible, the Facilities Subcommittee recommended that the District use site selection criteria to provide the best sites possible within their constraints. The subcommittee recommended the following site size criteria for new schools:

- 7 acres for small elementary school (300 students)
- 15 acres for prototypical elementary school (600 students)
- 25 acres for a middle school
- 40 acres for a high school

Neighborhood and Community Parks

Findings: Bend Metro Park & Recreation District (BMPRD) is a special parks district that serves the greater Bend area. In September 2005, the district adopted a new *Park, Recreation and Green Spaces Comprehensive Plan* for long-term park planning over the next 20 years. The city acknowledges that it has not incorporated this plan by reference in the city's General Plan. However, the Parks District has provided testimony and evidence based on this plan for the record. The District's plan establishes development standards for park facilities that address the purpose, service area, size guidelines, location criteria, facility features, and other development considerations.

The BMPRD plan separates the various types of park facilities into five broad categories or "classes" and predicts park needs based upon acres per 1000 people for these classes. Per capita calculations serve as general guidelines for determining park land needs. Specific to the Residential Lands Study, the District recommends using the

⁶⁰ Memorandum from John Rexford to Damian Syrynk, December 5, 2005.

⁶¹ See also January 7, 2008 memorandum to the Bend Planning Commission and Deschutes County Planning Commission liaisons.

target Level of Service (LOS) to estimate future land needs for Neighborhood and Community Parks. The following park land needs are estimated for the coordinated population projection for Bend between 2008 and 2028 based on the target LOS standards⁶².

Type of Park or Facility	New population 2008-2028 ⁶³	Parks Standard	Park Land Need (acres)
Neighborhood Parks	38,512	2 acres/1,000 pop	77
Community Parks	38,512	5 acres/1,000 pop	193
Trails	38,512	2.4 acres/1,000 pop	92
Total Acres			362

The Parks District supplemented their testimony with a November 24, 2008 submitted into the record before the City Council and the Deschutes County Board of Commissioners. Through this letter, the Parks District reported the results of their work to further estimate park land needs (parks and trails) on a quadrant basis using the city's Framework Plan. This work resulted in an increase to the park land need from 362 acres to 474 acres⁶⁴. The city found this work credible and concurred with the analysis of park land. The city believes that this work constitutes an adequate factual base under Goal 2 to increase the land need for public parks from 362 acres to 474 acres, based on this information from the District. The city also acknowledges that no other testimony was submitted which undermined the credibility of this data, and that the city staff's use of this data is consistent with city council direction on the UGB expansion⁶⁵.

Other Land Uses

The work to estimate land need with the original UGB proposal focused on land for housing and related uses. These related uses included public schools and parks, second homes, institutional uses, neighborhood commercial areas, and rights of way. This initial estimate was approximately 2,550 acres. The initial proposal also proposed adding another 500 acres for employment within the UGB.

The City Council directed staff in August 2007 to also pursue through this current UGB expansion proposal a full 20-year supply of employment land. This change of scope has led staff to consider how to estimate the future needs for land for uses that will consume land that's also needed for housing and employment.

The work to estimate future land needs for housing and employment has also addressed other land needs that consume such land. For example, for housing, staff considered the land needs for public schools, public parks, and institutional uses to ensure that the 20-year supply estimates for housing land will not be further reduced by such uses.

⁶² See January 7, 2008 memorandum to the Bend Planning Commission and Deschutes County Planning Commission liaisons.

⁶³ See November 19, 2007 memorandum to the Bend Planning Commission and Deschutes County Planning Commission Liaisons.

⁶⁴ See Figure 3, Net Park and Trail Acres Needed, November 24, 2008 letter from Bruce Ronning, Bend Metro Parks and Recreation District.

⁶⁵ See November 19, 2007 Issue Summary "Draft Policy Statements for Urban Growth Boundary Expansion."

The 2007 Leland EOA outlines the methodology used to produce employment projections and land needs beginning on page 35 through page 41. This methodology is presented below, with the changes made upon request of the Planning Commission and UGB TAC.

This Section contains a brief overview of the methodology used to generate the quantitative Sections of this EOA. Additional information about each of the steps in the process is included in the detailed Sections that follow.

The methodology closely follows the approach prescribed by the Department of Land Conservation and Development in the EOA *Guidebook*. However, because economic development goals and the data available about each community vary throughout the state, there are several variations in the methodology. The DLCD recognizes that variation in methodology is appropriate.

1. Analyze existing policy and visions; national, state, county, and local trends; and other forces likely to have an impact on Bend's economic future
2. Forecast 20-year employment growth, [...] [2008-2028]:
 - a. Begin with OED [...] [2006] employment data for the City of Bend, disaggregated to detailed industry sectors
 - b. Create 20-year projected growth rates for individual industry sectors:
 - i. Begin with OED [...] [Deschutes County 2006-2016] projections
 - ii. [Grow 2006 industry employment to 2008 by adding Bend's slightly accelerated population growth rates (.11 percent faster than Deschutes County) to the ten-year industry growth rates predicted by OED]
 - iii. Adjust employment upward (11.5 percent) to account for self-employed, contract workers, and "non-covered" employees not included in OED employment projections
 - iv. For land need estimates, decrease employment projections by estimating the percentages of non-shift workers in each industry
 - v. Grow employment from 2008 to 2015 at the 10-year adjusted employment growth rate by industry
 - vi. Adjust targeted industry sectors upwards by 10 percent to reflect increased growth in these sectors
 - vii. Grow employment from 2015 to 2025 by the City of Bend Coordinated Population Forecast Average Annual Rate of Growth at reduced rate to account for less predicted population and employment growth in this time period
 - viii. Apply a 1.7 percent AARG to grow 2025 employment to 2028 end of the planning period]
3. Inventory Current Employment Land Supply:
 - a. Inventory all lands with a [...] [General Plan] designation for economic use and public facility use

people who worked for profit or fees in their own unincorporated business, professional practice, or trade or who operated a farm.

Self-employed in own incorporated business workers. In tabulations, this category is included with private wage and salary workers because they are paid employees of their own companies."

Staff investigated the same U.S. Census ACS data for 2005 and found 12.2% of employed persons classified themselves as self employed. For Oregon as a whole, in 2005 a total of 11.3%, and in 2006 a total of 11.1% of employed persons 16 years and older were classified as "self employed". Averaging the City of Bend 2005 and 2006 estimates for self employed persons yields a statistic of 11.5%.

Staff recommends uniformly increasing the base 2006 City of Bend geo-coded OED employment figures by 11.5% to account for self-employed, contract, and other "non-covered" employees.

Employment in Residential Districts and Public Facilities Land Needs

The EOA produces land need estimates for job growth taking place on commercial, industrial, and mixed employment lands, but excludes land needs for public facilities and economic uses in residential areas. On page 60 of the EOA, Tables 21 and 22 illustrate that employment projections made for public facilities and employment in residential areas are not converted to land need. Table 21 shows that 878 employees expected to require public facilities land and 6,441 employees expected to work in residential areas are not addressed in the subsequent land needs analysis. Pages 68 and 69 of the EOA further explain these are non-traditional employment lands that are not addressed by the EOA. The EOA counts on "Neighborhood Centers", part of the framework plan, to provide needed jobs in residential areas. The EOA avoids making projections about public facility land because of uncertainty, but does recommend the City of Bend plan for such lands.

Public Facilities

Staff recommends including land needs for public facilities in the updated economic lands analysis. This would be done by updating the employment projections for public employers (Federal, State, City, County, special districts) to year 2028. Applying an appropriate employment density based in G.I.S. analysis of 2006 employment will enable staff to predict 20-year land needs for the public sector employees. This land need has not been considered by the existing analysis for "institutional" and "other lands" like open spaces. The lands included as "institutional" and "other lands" do not directly employ people, and generally are not represented in employment projections. Staff will confirm that these lands are not "double counted" by removing any employment at these locations from the updated employment projections (for example, at golf courses). The need to expand the UGB for public facility uses will be based on the comparison of needed land with the existing supply of land.

Economic Land Needs in Residential Areas

Staff recommends including the economic land needs in residential areas in the updated analysis. The main reason for this recommendation is that many economic uses such as child care facilities, hospitals, retail goods and services,

repair services, and others are allowed in some residential districts and consume residential land. For example, page 51 of the EOA states:

"Nearly 10 percent – of Bend's total employment occurs on residential zoned land, as opposed to within traditional employment zones. The primary types of businesses that locate on residential zoned land are: health care and medical, educational; religious institutions; retailers; and home-based businesses."

Staff recommends a general approach of identifying employment that has been addressed in other land need estimates (schools, other lands, institutional lands, etc.) and removing this employment from the employment projections. With these employees removed from the analysis, employment projections would only include employees requiring new employment lands that have not been addressed in the residential analysis. Staff recommends making the following adjustments described below.

1. Employment in Bend-La Pine School District schools located in residential zones – 20-year land needs have been included for schools as part of the residential lands analysis, so including job growth projections for schools would result in "double counting" these land needs. Staff recommends removing employment figures at Bend-La Pine School District schools located in residential districts, and not including them in job growth estimates. Staff recommends including the administrative staff (not working at a school site) to account for additional administrative land needs as well as private and trade schools.
2. Employment at churches, fraternal, benevolent, and other institutional lands, "open space" lands – Land needs for these uses have been addressed in the residential analysis, so should not be included in the economic lands analysis. Staff recommends removing jobs that are on lands classified as "institutional" and "open space" lands in the residential analysis. With these jobs removed from the analysis, subsequent employment growth and economic land needs analysis will not include these uses.
3. Employment in the Medical District Overlay Zone (MDOZ) – Lands in the Medical Overlay District mostly have a General Plan designation of RH and RM. While these lands are residential, they also function as economic lands within the MDOZ. Staff recommends these lands be separated from the supply of residential lands and economic lands in order to evaluate the potential of these lands for long-term economic and residential uses. Separating the MDOZ will allow an independent projection for medical land needs to be made and prevent an overestimate of employment land needs in residential areas.
4. Employees who work in their own homes – Employees working in their own homes may not require additional employment lands since the business is taking place in their own home. Staff proposes to use the 2006 geo-coded OED employment data cross referenced with the Deschutes County Assessors Property Class Codes to identify employment in structures coded for residential use. Staff believes this will identify employment in residential areas that take place in residential structures. These employees can then be removed from the

employment projections. Staff will identify the overall levels of employment in residential structures and compare it with the 2006 American Community Survey data (described below) to verify the working at home employment levels are appropriate.

Staff believes that after removing employment at schools, institutional uses, open spaces, the Medical Overlay District, and employees working in residential structures, the remaining employees in residential lands will represent those employees requiring additional residential lands for employment.

2006 American Community Survey Data on Working At Home

Staff recommends a two tiered approach in estimating the number of people who work at home. First, the G.I.S. analysis described above will be employed to estimate the number of people working in residential zones in residential structures. Staff expects the G.I.S. analysis to include people working in their own home, as well as people working in residential structures that are not their home. Next, the calculated percentage of employees working out of their homes can be verified against census data. If the G.I.S. analysis is significantly different from the census data, staff recommends using the census data below to estimate the number of people working at home. In this case, staff recommends reducing the total employment in residential districts by 6.2% (as explained below) to account for people working at home.

In the 2006 American Community Survey, the data associated with "Commuting to Work" explores how people travel to their workplace in the City of Bend. This information includes workers 16 years old and over who were at work during the reference week. The data refers to the geographic location where workers performed their occupational activities for the reference week. Table 2, below, summarizes the 2006 ACS data.

M E M O R A N D U M

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TO: BEND CITY COUNCIL
FROM: BRIAN RANKIN, SENIOR PLANNER
SUBJECT: RIGHTS-OF-WAY FOR ROADWAYS VARIABLE: FINAL
MEMORANDUM POST DLCD COMMENTS
DATE: 12/4/08

Summary

This memorandum is the final analysis calculating the amount of existing public and private rights-of-way for roadways in the City of Bend UGB to use as a basis for estimating rights-of-way for roadways in the proposed UGB expansion area. For purposes of this analysis and methodology, rights-of-way are public and private areas used for public and private roadways, including: local roads, roundabouts, collectors, arterials, highways, and rail roads. Public parks, private common areas, public and private parking areas, Areas of Special Interest, public plazas, and public and private schools are not included in this analysis.

This memorandum has been prepared to replace previous memoranda on the subject. Notably, the methodology has been modified to address refinements suggested by DLCD in their November 21, 2008 letter commenting on the Bend UGB proposal. The data sources used in the methodology are based on the finalized Buildable Lands Inventory (BLI) dated 2/25/08 and summarized 9/2/08. The result of the analysis is a public and private right-of-way for roadways estimate of 21% for the existing Bend UGB.

Estimating Rights-of-Way in the Current UGB

Staff used the city's Geographic Information System (GIS) to calculate critical variables in the rights-of-way analysis. It is important to understand the how lands are represented in GIS data so the subsequent analysis makes sense.

The Deschutes County GIS "taxlots" dataset represents every taxlot inside the Bend UGB. These are polygons that have a discrete area and shape. Examples of the taxlots are shown as red polygons with black borders in Figure 1. The absence of red polygons, or empty white spaces, in Figure 1 represents public rights-of-way and the Deschutes River. Figure 1 also represents taxlots that are used for private roads or private rights-of-way as blue parcels. Throughout the entire UGB, public rights-of-way and ODOT highways are generally represented by the empty white space described above. Some exceptions to this include taxlots owned by ODOT or private Home Owners Associations (HOAs) used for roadways that do not show up as empty white space.

Figure 1: Example of G.I.S. taxlot data



The following methodology is based on the city's original approach with some modifications suggested by DLCD. This methodology does not duplicate DLCD's approach, since staff believes the DLCD methodology is slightly less accurate than what is described below. Generally, the approach is to identify net developed acreage inside the existing UGB and divide it by the appropriate gross acreage associated with the net developed acres. This approach requires establishing an accurate numerator (net developed acres) and a denominator (gross acres associated with net developed acres), to calculate a corresponding percentage of land that is developed. Once the percent of developed land is known, it is possible to assume the remaining fraction of land is "undeveloped", and in this case, used as rights-of-way as previously defined. DLCD suggested omitting a consideration of gross vacant acres in the calculation. Staff believes a better approach is to consider gross vacant acres in calculating net-developed acres by subtracting gross vacant acres from the supply of net developed and gross vacant acres (resulting in the numerator). Staff agrees with DLCD that gross vacant acres should also be subtracted from the total of gross acres associated with the net developed acres (resulting in the denominator). Other minor modifications to the numerator and denominator are required to result in an accurate estimate of rights-of-way for roadways.

The following define the critical variables needed to perform the calculation to estimate rights-of-way for roadways in the Bend UGB. Acreages below are from the Final BLI dated 9/2/08. Other acreage figures are from a GIS analysis conducted by the City of Bend GIS coordinator. Where possible, figures are provided to illustrate the acreage totals summarized below. These figures are also helpful to illustrate that other analysis performed by the city to estimate land uses for institutional/open spaces, do not duplicate or double count lands in these analyses. Variables used in the rights-of-way analysis are described below and figures are included at the end of this memorandum:

1. Calculate the total gross area of the Bend UGB. This area is 21,247 gross acres. This area is shown in Figure 2: Gross Acres of Bend UGB.

2. Calculate the total area of lands in net developed and gross vacant parcels (taxlots) inside the UGB. This area is 17,691 acres and is shown in Figure 3: Net Developed and Gross Vacant Parcels.
3. Calculate the area of taxlots that are serving as private rights-of-way used for roadways and parcels owned by ODOT that are used for the Bend Parkway or other state rights-of-way. This area is 446 acres and is shown in Figure 4: Tax Lots Serving As rights-of-way for Roadways. These parcels are included in the analysis because they are used as roadways, not open spaces or common areas, and if not included would underestimate the amount of land used for public and private roadways.
4. Calculate the area of the Deschutes River, which is not represented as a taxlot, but as empty white space. Since the empty white space is otherwise used to depict rights-of-way for roadways, the area of the river must be subtracted from the area of the UGB so as not to overestimate areas used for rights-of-way. The gross acres shown as the Deschutes River is 175 acres. This acreage was calculated by city staff and is shown in Figure 5: Deschutes River.
5. Calculate "vacant acres" and "vacant acres-pending land use" for all land inside the UGB since development of these lands will require additional rights-of-way and rights-of-way have not been dedicated from these lands. DLCD suggested removing these lands from this methodology altogether. Staff believes these acres should be removed from the lands shown in Figure 3 so the resulting acreage represents only net developed acres. These acres should also be removed from the acreage shown in Figure 2, so the gross acres associated with net developed lands are not overestimated. The acreage totals for "vacant acres-platted lots" and "redevelopable" are not considered because, in general, these lands have already dedicated rights-of-way or are otherwise considered "developed".

The "vacant acres" and "vacant acres-pending land use" variables have two main constituents: residential and economic lands. Residential lands have General Plan designations of RL, RS, RM, and RH. Economic lands have General Plan designations of CB, CC, CG, CL, IG, IL, IP, ME, MR, PF, PO, PO/RM/RS, and SM. Acreage totals include lots with split zones.
 - a. There are 640 gross acres of "vacant" residential land in the UGB excluding the Medical District Overlay Zone. The Medical District Overlay Zone contains 49 gross acres of "vacant" land. There are 689 total gross acres of "vacant" residential land including the MDOZ.
 - b. There are 561 gross acres of residential "vacant - pending land use" lands and 12 gross acres of "vacant acres-pending land use" in the MDOZ. The residential "vacant acres-pending land use" total is 573 gross acres.
 - c. The 689 gross acres of "vacant" and 573 gross acres of "vacant acres-pending land use" are shown in Figure 6: Residential Vacant and Vacant-Pending Land Use Acres.

- d. The Final BLI demonstrates there are 1,108 gross acres of "vacant" economic lands and 126 gross acres of economic "vacant – pending land use" in the Bend UGB. Therefore, the total gross acreage of economic land is 1,234 acres.
- e. The 1,234 gross acres of "vacant" and "vacant-pending land use" economic lands are shown in Figure 7: Economic Vacant and Vacant-Pending Land Use Acres.

The calculation to determine the area representing rights-of-way for roadways in the Bend UGB is described below.

1.	Total net developed and gross vacant acres of taxlots in Bend UGB:	17,691
2.	Minus net acres of private rights-of-way and ODOT parcels that are represented as taxlots in the GIS data:	446
3.	Minus gross acres of "vacant" and "vacant acres – pending land use" residential and MDOZ land:	1,262
4.	Minus gross acres of "vacant" and "vacant acres – pending land use" economic lands:	1,234
5.	Equals the total <u>net developed</u> acres of taxlots in Bend UGB:	14,749
6.	Total gross acres in the Bend UGB:	21,247
7.	Minus the gross acres of the Deschutes River not represented as a taxlot, but as empty white space in the GIS data:	175
8.	Minus the gross acres of residential and economic "vacant" and "vacant acres – pending land use":	2,496
9.	Equals the total gross acres of the Bend UGB not including the area Deschutes River associated with the net developed acres:	18,576
10.	% of UGB in developed taxlots (#5 divided by #8):	79%
11.	% of UGB in public and private rights-of-way (100 minus #9):	21%

The analysis illustrates that approximately 21% of the Bend UGB is used for public and private rights-of-way for roadways. This is further supported by research done by the Victoria Transport Policy Institute's October 25, 2005 study titled *Transportation Land Valuation, Evaluating Policies and Practices that Affect the Amount of Land Devoted to Transportation Facilities*, by Todd Litman. Page 4, Table 2, of this study illustrates the road supply as a percentage of urbanized area for a variety of cities throughout the world, but is similar to the estimate for the Bend UGB. For example, New York has 22%, London, UK 23%, Tokyo, Japan 24%, and Paris, France 25% of their urban areas used for roadways. The estimate established for the Bend UGB of 21% is within these ranges.

Figure 2: Gross Acres of Bend UGB

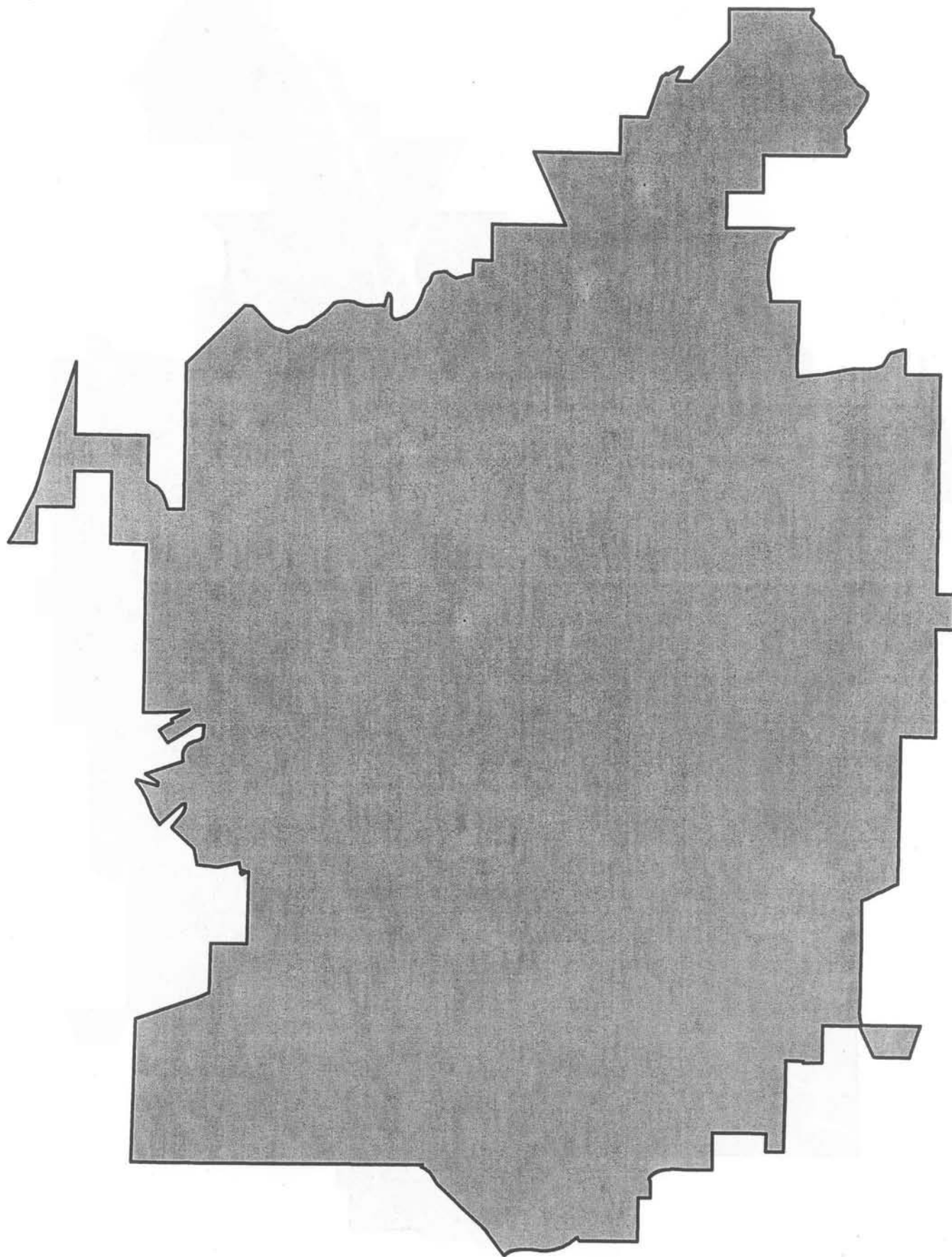


Figure 3: Net Developed and Gross Vacant Parcels

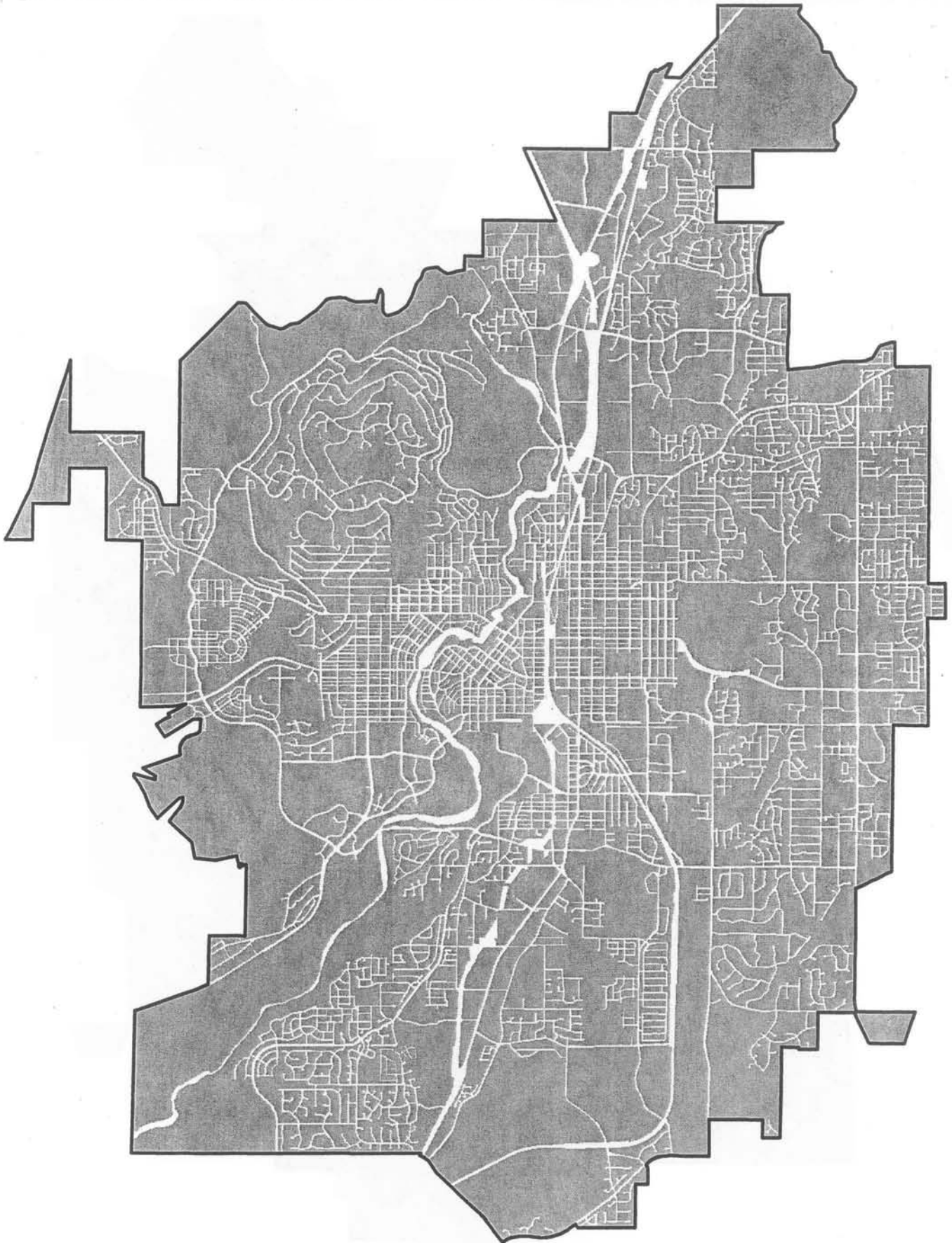


Figure 4: Taxlots Serving as Rights-of-Way for Roadways

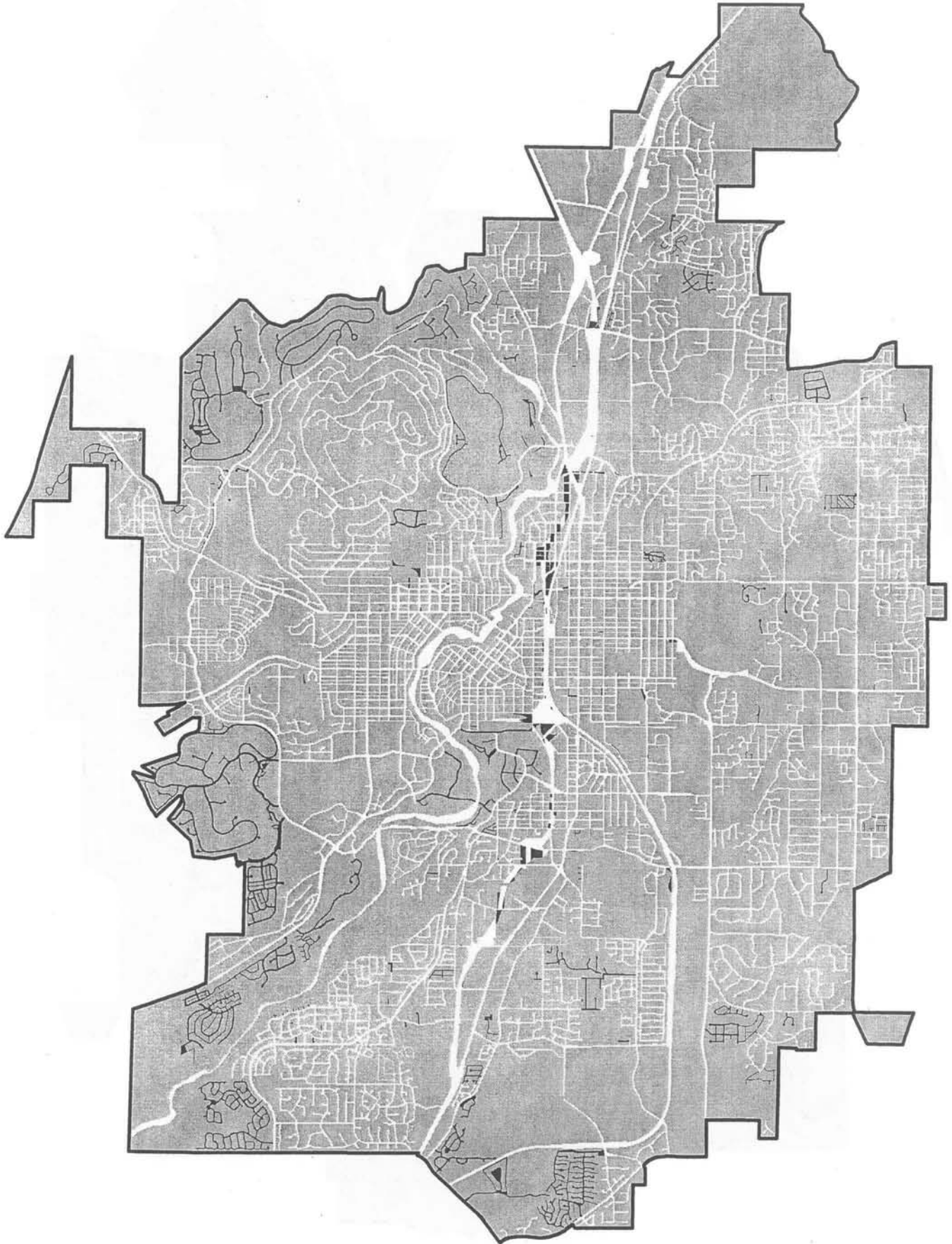


Figure 5: Deschutes River

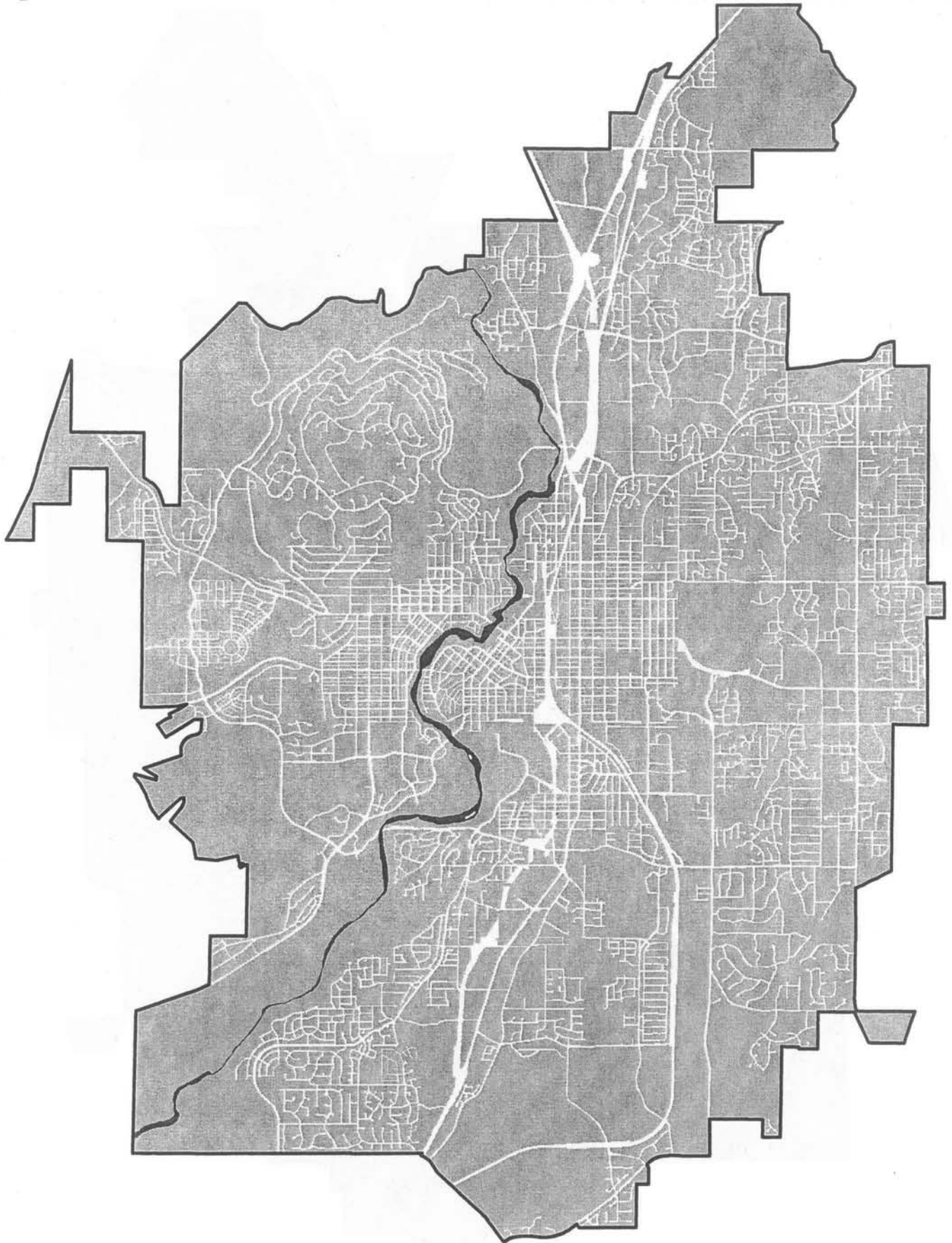


Figure 6: Residential Vacant and Vacant-Pending Land Use Acres

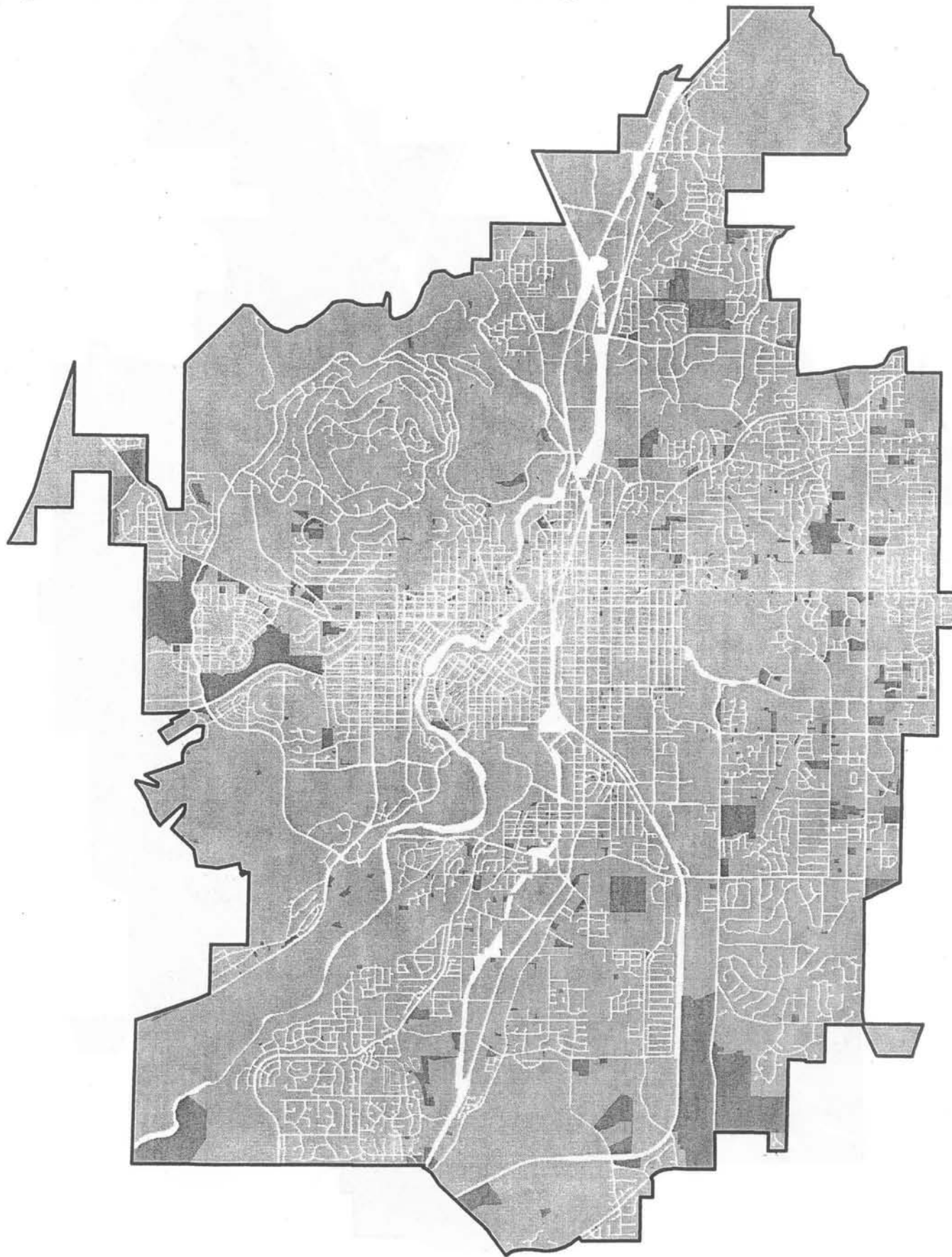


Figure 7: Economic Vacant and Vacant-Pending Land Use Acres

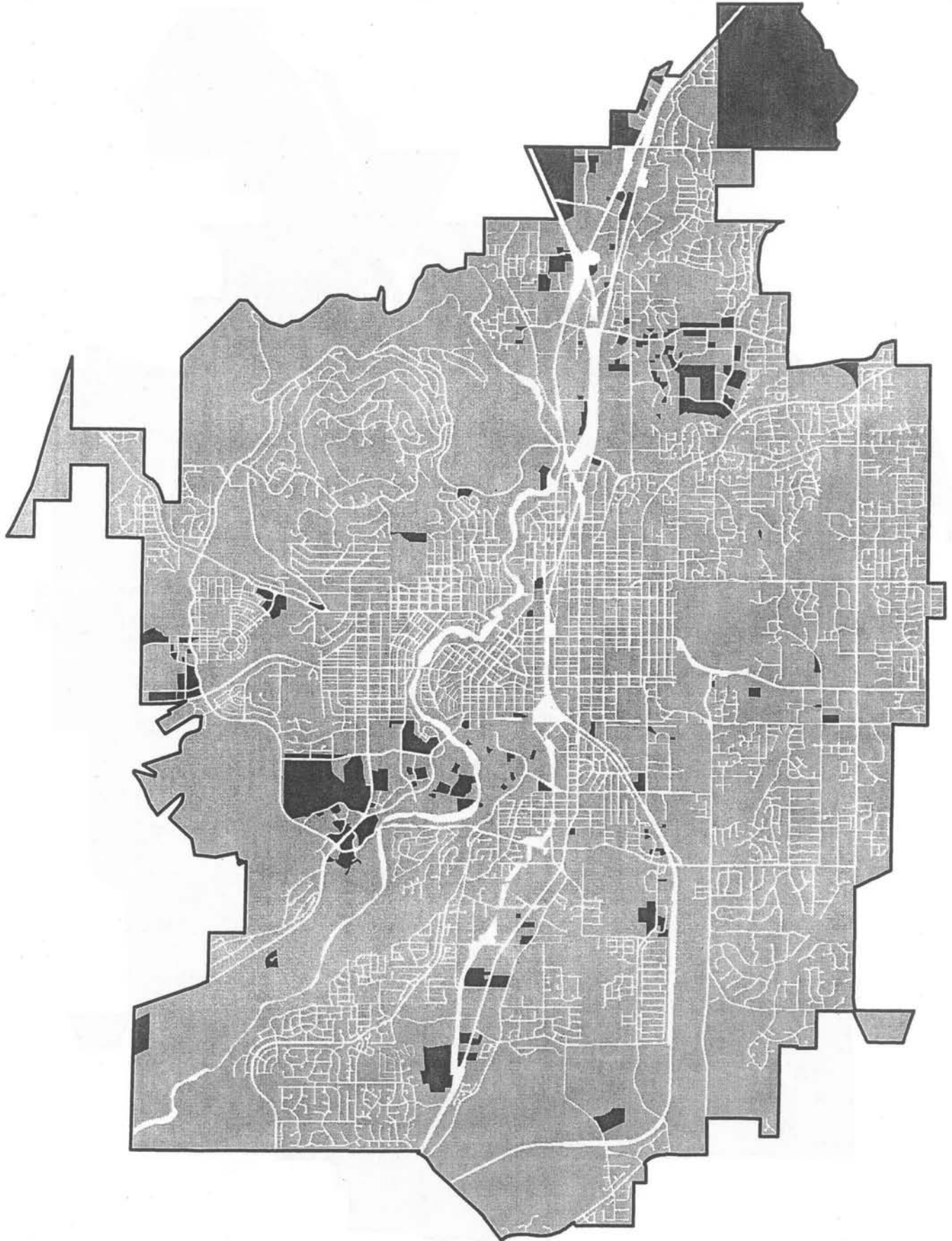
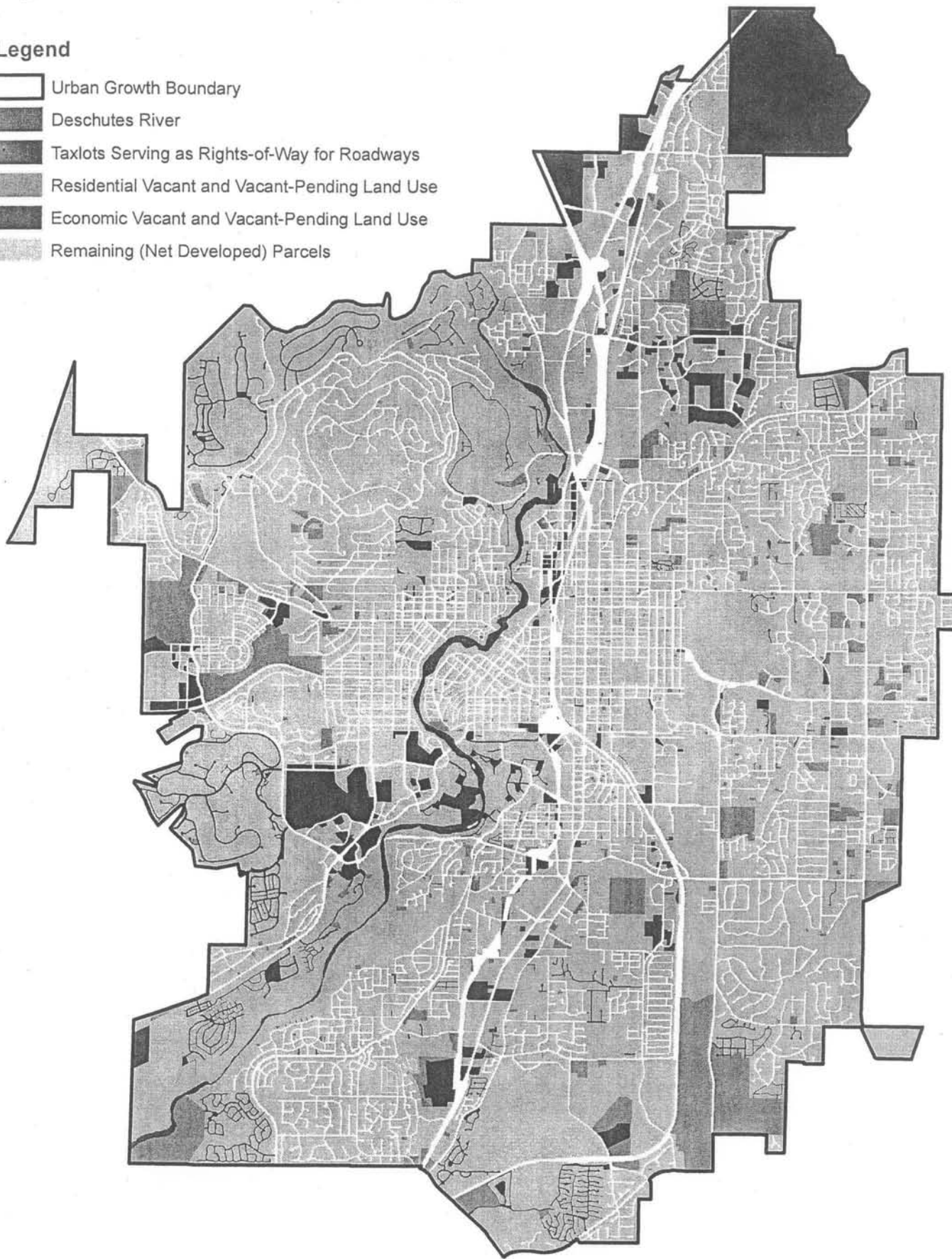


Figure 8: All Lands Used in ROW Analysis

Legend

-  Urban Growth Boundary
-  Deschutes River
-  Taxlots Serving as Rights-of-Way for Roadways
-  Residential Vacant and Vacant-Pending Land Use
-  Economic Vacant and Vacant-Pending Land Use
-  Remaining (Net Developed) Parcels







Memorandum

To: Brian Rankin, Senior Planner
From: Wendy Edde, Environmental Program Manager;
David Buchanan, Stormwater Engineering Technician;
Reviewed By: Hardy Hanson, Stormwater Division Manager
Subject: Stormwater Utility Right-of-Way Needs Analysis
Date: December 1, 2008

Introduction/Background

The purpose of this memorandum is to examine the right-of-way needs for stormwater facilities for proposed UGB expansion areas, given the current stormwater quality regulatory requirements, hydrogeological considerations and general Stormwater Master Plan strategies. In the current UGB, the City's stormwater facilities consist of 13 miles of piped stormwater lines with outfalls to the Deschutes River, approximately 4,000 publicly owned dry wells and 1,000 drill holes, and a handful of publicly-owned drainage infiltration ponds/swales as well as three manufactured treatment controls. The City is currently undergoing a thorough field-level inventory update that includes obtaining GPS coordinates for existing stormwater facilities, expected to be completed in January 2009. This information is necessary not only for efficient operation and maintenance needs, but also for water quality regulatory requirements.

Regulatory Drivers. Stormwater that drains through pipes to the river or other surface waterbody must meet the requirements of the City's Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) Permit number 102901 (DEQ File No. 113602) issued on February 26, 2007 under the federal Clean Water Act (33 U.S.C. section 1342 (P)), as amended, and Oregon Administrative Rules. Under Schedule A, item 2. of the permit, the Oregon Department of Environmental Quality (DEQ) states that the City must "...protect water quality by requiring controls to reduce the discharge of pollutants to the maximum extent practicable." These include management practices, control techniques, and pollutant control provisions.

Stormwater that injects into the ground through Underground Injection Controls (UICs)—drywells or drill holes—must meet the requirements of the federal Safe Drinking Water Act and Divisions 40 and 44 of Oregon's Administrative Rules to protect the drinking water quality of groundwater aquifers. The City could choose to meet DEQ requirements for Underground Injection Controls either through rule authorization or a permit. The City is currently negotiating its Water Pollution Control Facility Permit for its stormwater UICs under the federal Safe Drinking Water Act and Oregon Administrative Rules under Divisions 40 and 44. However the Oregon Administrative Rules excerpted below clearly state that other stormwater management options must be employed if suitable so that UICs should only be used as a last resort and that when used, they must incorporate treatment measures suitable to protect drinking water quality:

Division 44, Construction and Use of Waste Disposal Wells or Other Underground Injection Activities (Underground Injection Control):

340-044-0018 Authorization of Underground Injection by Rule. (3) Injection systems injecting storm water are authorized by this rule if the owner or operator is in compliance with the following requirements, as applicable: (a) **Basic requirements for all storm water injection systems authorized by rule**—Storm water injection systems authorized by this rule shall meet all the following requirements, and the owner or operator shall verify and shall submit with registration and inventory a certification that:

...

(B) Site development, design, construction and management practices have minimized storm water runoff.

(C) No other method of storm water disposal, including construction or use of surface discharging storm sewers or surface infiltration designs, is appropriate. An appropriate method shall protect groundwater quality and may consider management of surface water quality and watershed health issues.

340—044-0035 Authorization by Permit....

(2) Permits shall not be issued for construction, maintenance or use of an underground injection system where any other treatment or disposal method that affords better protection of public health or water quality is reasonably available or possible.

(3) In no case shall a permit to construct or operate an injection system be issued if the injection activity will cause a violation of any primary drinking water regulation under the federal Safe Drinking Water Act or does not comply with the groundwater protection requirements of OAR 340-040.

Division 40, Groundwater Quality Protection:

340-040-0020 General Policies (11) In order to minimize groundwater quality degradation potentially resulting from point source activities, point sources shall employ the highest and best practicable methods to prevent the movement of pollutants to groundwater....

Estimated Right-of-Way Needs for Specific Stormwater Facilities

This section examines the right-of-way needs for various publicly-owned stormwater facilities, including stormwater pipelines, underground injection controls with manufactured treatment controls, longitudinal swales/biofilters, regional landscape controls (e.g. detention basins, wet ponds); and permeable pavement.

Stormwater Pipelines. As with sanitary sewer pipelines, stormwater pipelines must be placed at least 10 feet away from drinking water pipelines for drinking water quality regulations. An additional 10 feet of right-of-way width would be useful for ensuring adequate room to install and maintain stormwater pipelines; however stormwater pipeline may be placed closer to sanitary sewer lines if necessary and properly planned.

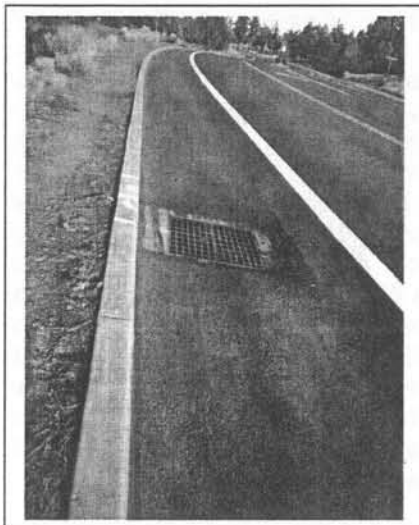
Underground Injection Controls with Manufactured Treatment Controls. Because underground injection controls are in widespread use throughout the current UGB, the current right-of-way assumptions are adequate for the UICs alone. Stormwater division staff are having challenges installing some treatment controls for drywells and drillholes in the current right-of-ways, especially in the older sections of town, but there is not enough data to warrant increasing right-of-way needs beyond current levels for inclusion of such facilities. Moreover, due to the high total costs (including long term operation and maintenance over the life of the facility), the regulatory hurdles, and the increased likelihood that adequate maintenance schedules will not be able to be met, the City will not promote underground injection controls with individual manufactured treatment controls in newly developing areas.

Roadside/Longitudinal Swales/Biofilters and Regional Landscape Controls. According to the Center for Watershed Protection (Better Site Design: A Handbook for Changing Development Rules in Your Community, August 1998): "swale designs that provide the best stormwater treatment and prevent standing water may require 10 to 12 feet along one or both sides of the road." The water quality storm is defined as the 6 month/24 hour storm for the City of Bend. The City is also tasked with providing safe passage for the 100 year storm. The volume necessary to treat the following storms in a swale or detention basin 1 foot deep per acre of drainage basin, is as follows:

6 mth/24 hour water quality storm	25 year Storm	100 year storm
2,300 square feet/acre	5,700 square feet/acre	7,000 square feet/acre

Notes: Assumes no infiltration (e.g., rain on snow event). Use of underground detention vaults can reduce the swale and pond size by parceling out the precipitation event over a longer period of time.

Permeable Pavement. Permeable pavement--if installed and maintained correctly and is installed to adequately protect other underground utilities--is a potential solution for certain applications that could help handle storm water drainage and reduce storm water drainage right-of-way needs while meeting regulatory requirements. Permeable pavements can be designed to handle the storm water quantity needs without or minimizing the additional needs for roadside swales. Given that private development is required to keep its stormwater onsite when possible, permeable pavements would remove the need for UICs and their associated treatment requirements, and for piping and the associated catch basins and inlets.



Promoting alternative transportation such as bicycling and pedestrian use is a best management practice for stormwater quality by reducing pollutants from automobile trips. Permeable pavement could also have the added benefits of improving bike lane safety and reducing the additional right-of-way needs associated with separating the bike lane from placement in the roadway where storm drainage catch basins are located. (Another alternative to having storm drain catch basins in bike lanes is to install curb inlet catch basins, but during winter weather, City plows often damage side inlet catch basins, making this option not favorable). Because stormwater would infiltrate directly into the pavement and drainage base, separate catch basins would not be necessary so bike lanes could be free from the potential hazards (see picture at left).

The City is just starting to embark on pilot projects to begin incorporating permeable pavements. They would likely be used in lower traffic areas first, such as residential streets, and potentially in the bike lanes and parking areas of arterials and collectors.

General Trends for Stormwater Management In Proposed UGB Expansion Areas

In general, for newly developing areas, the City's strategy is to:

- First address stormwater at the source (via source controls such as reduced pavement width, permeable pavement, adjacent swales/biofilters);
- Second, consider regional controls like detention basins or other infiltration or evaporative measures, which may require open channel or piping to the control;
- Third, piping to the river or underground injection control with appropriate treatment.

Key to the City's strategy is to choose the best option based on the total cost, including long-term operation and maintenance requirements, and not just the installation cost.

The City of Bend is about to release a public draft of its first ever Stormwater Master Plan that has been under development for two years and focuses on areas within the current UGB, which is nearing built out

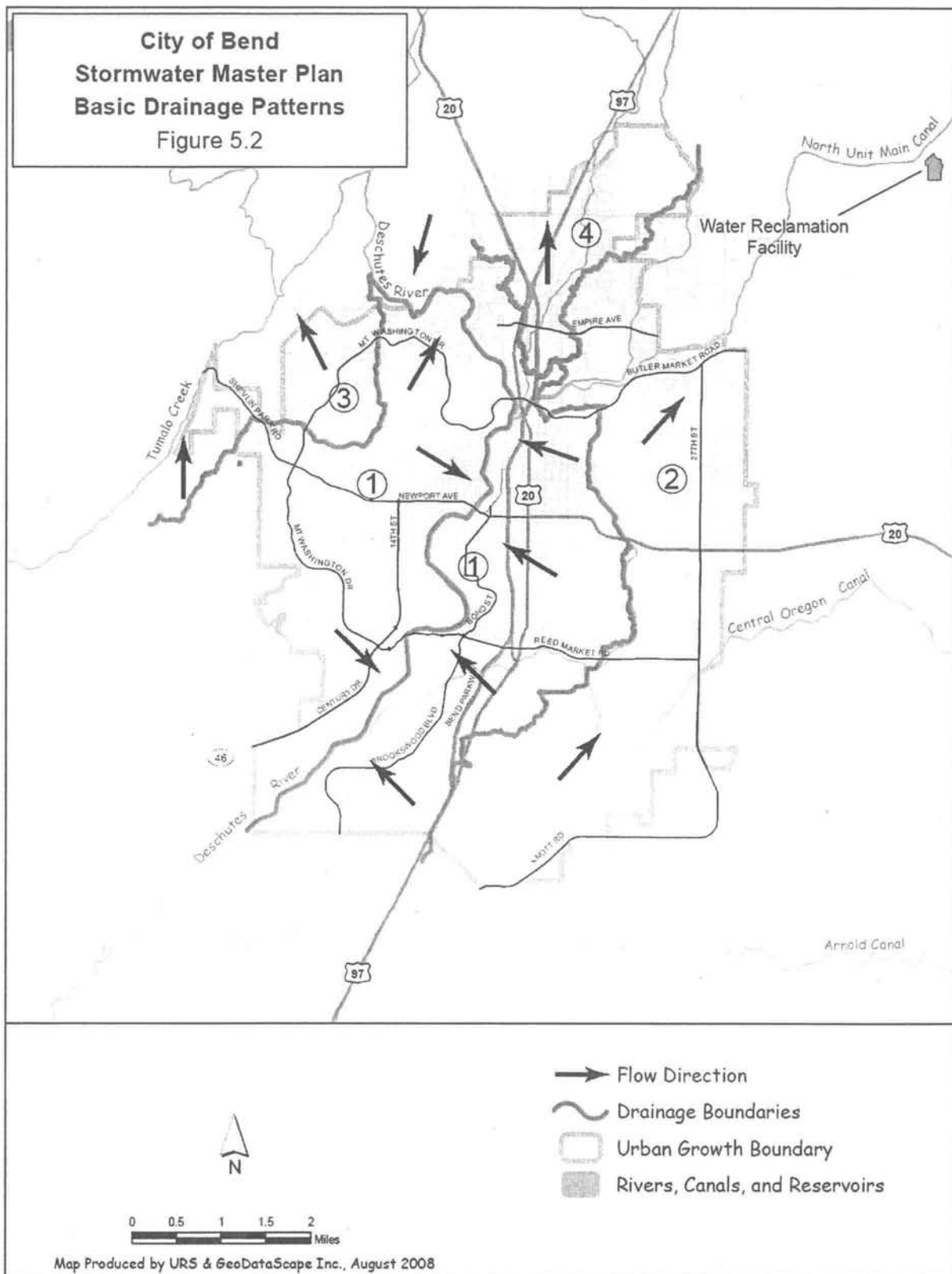
(see attached Figure 5.2). Given the natural drainage patterns and geology of Bend and the regulatory requirements described above, the Stormwater Master Plan provides recommended overarching strategies for the various drainage areas found within the current UGB. These provide some general hints towards strategies for adjacent proposed expansion lands that may already be mostly built out.

- Area 1: In areas that would naturally flow towards the Deschutes River (pockets to the north, west, and south), pipe with flow controls, and treatment prior to discharging to the Deschutes River.
- Area 2: In areas mainly along the eastern boundary of the current UGB and in the south, east of Highway 97, discharge to dedicated stormwater ponds at the water reclamation facility via piping and open channels running parallel along the same route as the proposed southeast sanitary sewer interceptor. Sediment removal at critical locations through detention or filtration.
- Area 3: In areas near the proposed Westside and North Wastewater Interceptors, discharge to dedicated stormwater ponds at the water reclamation facility via piping and open channels running parallel along the same route as the proposed Westside Wastewater Interceptor and north Wastewater Interceptor. Sediment removal at critical locations through detention or filtration.
- Area 4: In roughly the areas to the north from just west of Highway 20 to east of Highway 97, discharge via culverts, drainage pipe and natural drainages to regional treatment facilities, with water quality provided by vegetated ponds or swales

Summary

Given the regulatory drivers requiring that UICs be used only as a last option, and then with additional treatment and monitoring, the City is likely to move more towards a combination of swales, regional controls, and source controls such as permeable pavement. The City anticipates a greater need for additional surface right-of-way for longitudinal swales and for regional controls in proposed UGB lands. Given these considerations along with the fact that the assumptions made in developing the current right-of-way projections included older areas of the City with narrow right-of-ways for which the City stormwater division staff are having challenges finding enough room for retrofits, the Stormwater Division feels dropping right-of-way estimates below current requirements could be problematic. In general a smaller right-of-way may have stormwater benefits should the pavement width be reduced to reduce impervious surface area. However, because of the long-term cost efficiencies when examining total costs (including operation and maintenance) and benefits of using landscape controls over manufactured treatment controls, and because permeable pavements are just beginning to be considered and have not begun widespread use in Bend, the City foresees additional swales/biofilters, regional surface controls and open channels especially in newly developing areas such as the proposed UGB expansion areas. The percent estimated for the UGB based on existing UGB land includes older areas of the City where more narrow right-of-way widths have been problematic to incorporate swales/biofilters in retrofits resulting in significant increased total costs needed for other options. Therefore, City Stormwater Division staff support that the ROW requirements be based on current right-of-way standards within the City.

**City of Bend
Stormwater Master Plan
Basic Drainage Patterns**
Figure 5.2



M E M O R A N D U M



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TO: BEND PLANNING COMMISSION
DESCHUTES COUNTY PLANNING COMMISSION
LIAISONS

FROM: COLLEEN FLORES, GIS COORDINATOR

SUBJECT: METHODOLOGY AND RESULTS OF LAND NEEDS ANALYSIS FOR "OTHER" LANDS.

DATE: OCTOBER 16, 2008 (REVISED DECEMBER 16, 2008)

Purpose

This memorandum presents a summary of the methodology used to estimate the 15 percent need for "other lands" in the City's expanded UGB. The term "other lands" has been used to refer to lands not specifically related to residential or economic use, but instead used for other things such as institutional purposes, open space, and private recreation.

Background

Land need analyses were conducted in order to estimate how much additional land is needed in the City's UGB to provide a 20-year supply of lands for residential, economic, and related uses. Estimates included the anticipated land needs for housing, employment, public schools, public parks, and public and private rights-of-way for roadways. Public testimony and staff recognized that there were *other* types of uses consuming land in the existing UGB as well that were not included in the aforementioned land need estimates, and that these other uses will need to be sufficiently accommodated in the expanded UGB so as not to reduce the land available for housing and employment. For example, recreational uses, churches, clubs, lodges, utilities, and cemeteries are conditionally allowed in all residential zones and may consume land for needed housing if not accounted for in the UGB expansion proposal.

An accounting of the type and extent of these other lands was prepared - the results of which are shown on the third page of this memo. Results were presented to the Bend Planning Commission at its January 28, 2008 work session and discussed in subsequent work sessions and TAC meetings. Based on the results of the analysis and discussion with staff and advice from the TAC, the Planning Commission recommended that the net land need estimates for the expanded UGB be increased by 15 percent to accommodate these "other" uses. The methodology reflects that 12.8 percent of the net

land base in the current UGB is used for the uses described in the following tables. Staff discussions with the TAC and Planning Commission explained that private rights-of-way were included in the estimate for public and private rights-of-way, and therefore should not be included in the estimate for "other" lands. Ultimately, the Planning Commission approved using 15 percent estimate with the assumption that slightly more land for the uses documented in the tables below may be present in the expanded UGB, and that it is difficult to pinpoint exact land need estimates for uses since they are allowed in residential and economic zones.

Another consideration in the discussion of using 15 percent versus 12.8 percent to estimate future land needs for "other" uses was the strong likelihood that more private land (typically in open spaces or common areas) will be used for stormwater treatment facilities in the future. Staff and Planning Commission discussion focused on surface treatment options like swales and retention ponds taking up more space in common areas in the future than are currently represented in the 12.8 percent figure. No direct testimony from the stormwater division was available at the time, but the experiences of staff and the Planning Commissioners supported the conclusion that it is preferable to assume more land will be consumed for these uses in the future. Later testimony from the city's stormwater division (see Wendy Edde letter) supports the conclusion of the Planning Commission in this regard.

The methodology resulting in employment projections for the 20-year planning period featured in the 2008 EOA removed all employment from the lands shown in the tables below to avoid double counting land need for these uses. This is appropriate with respect to uses such as churches, golf courses, lands owned by irrigation districts and utility companies, because their land needs are not tied directly to employment densities used to calculate employment land needs.

Results

Summary of Other Lands in the Existing UGB

Category	Description	Net Acres	% of Total Net Acres
Institutional	This category includes tax lots with land uses occupied on an infrequent basis, such as churches, meeting halls (e.g. granges), un-staffed utilities (e.g. water tanks, power substations), lodges, clubs, and benevolent organizations. See below for more details on these institutional uses.	237	1.34%
Open Space	This category captures both private open spaces (e.g. golf courses, common open areas) and public open spaces <u>not</u> maintained by BMPRD. See below for more details on these open space uses.	2,028	11.46%
TOTAL		2,265	12.80%

Note: There are 17,695 net acres in the existing UGB

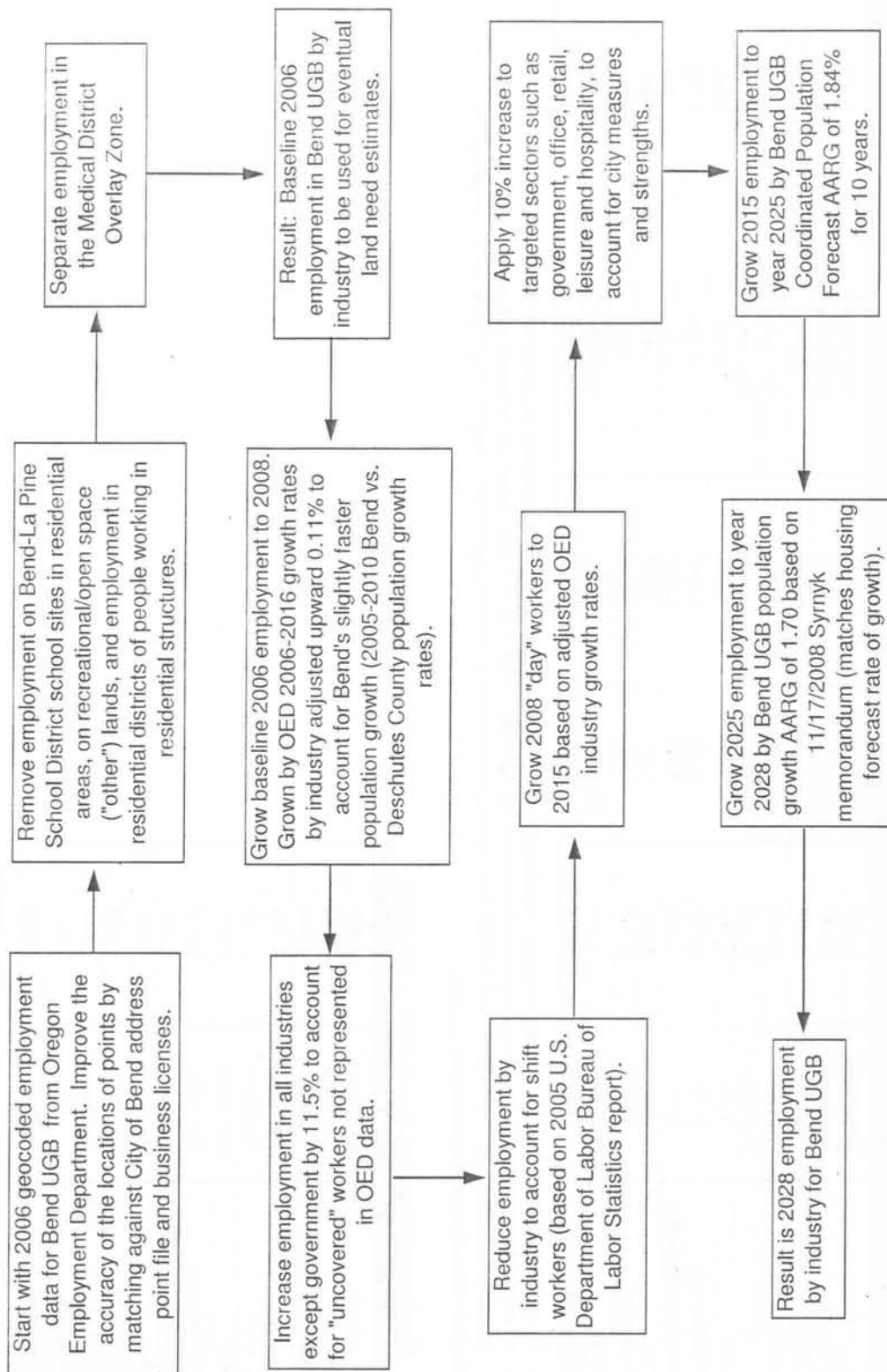
Institutional Use Details

Category	Net Acres
Benevolent/ Fraternal	4
Church	126
Parking lot (for institutional use)	2
Utilities	103
Unclassified	2
TOTAL NET ACRES	237

Open Space Details

Category	Net Acres
Canal	95
Cemetery	53
Common Area	606
Golf Course	886
Irrigation District	161
RV Park	29
Park (not BMPRD)	143
Unbuildable	24
Unclassified	31
TOTAL NET ACRES	2,028

Employment Projections Flow Chart: 2008 Update



M E M O R A N D U M

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TO: **REMAND TASK FORCE (RTF)**
FROM: **BRIAN RANKIN, SENIOR PLANNER; LRP; LEGAL DEPARTMENT**
SUBJECT: **DISCUSSION AND RECOMMENDATION OF REMAND TASK 4.2:
PARK AND SCHOOL LAND NEEDS**
DATE: **7/22/2011**

Introduction

This memo responds to Sub-issue 4.2 of the City of Bend Remand and Partial Acknowledgment 10-Remand-Partial Acknow-001795 (hereafter referred to as Remand and Sub-issue). This Sub-issue is found on pages 59-61 of the Remand order.

This memo includes a discussion of the sub-issue and a staff recommendation. Attached to this memo is a separate document with proposed findings for Sub-issue 4.2 and Pre-remand Record references used in the findings. The findings provide the applicable legal standard, substantial evidence, and an explanation of compliance with the legal standard.¹ The contents of this memo and the attached findings have been reviewed by DLCD staff. Based on discussions with DLCD staff, the City believes that adopting the draft materials contained in the findings will be supported by DLCD staff as satisfactorily addressing the concerns expressed under the sub-issue. The memoranda and findings pertaining to Sub-issues 4.2 and 4.3 have also been reviewed and approved by the staff and legal counsel representing Bend-La Pine Schools and Bend Metro Parks and Recreation District.

Remand Sub-issue 4.2

*"Whether the submittal includes adequate findings to support the amount of land identified as needed for parks and schools"*²

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

¹ Oregon Land Conservation and Development Commission, Remand and-Partial Acknowledgement Order 10-Remand-Partial Acnow-001795, November 2, 2011, p.14.

² Ibid, p. 59.

plans and analyses. The City may, but is not required to, consider any school district plan adopted under ORS 195.110.”³

Discussion of Conclusion

The Sub-issue states the need for 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.”⁴ The Sub-issue does not require a new or modified factual basis or evidence, but does require new findings based on evidence already in the Pre-remand Record. The City’s new findings should also explain the relationship between the factual information relied upon and the districts’ plans and analyses in the Pre-remand Record.

Discussion and Staff’s Recommendation

The City has worked cooperatively with Bend Metro Park and Recreation District and Bend-La Pine Schools to proactively plan for and construct new park and school facilities for decades. This cooperation is formally demonstrated by policies in the City’s General Plan which recognize the park and school districts’ plans for new facilities as well informally by all three entities participating in ongoing planning and construction projects. The City of Bend and Bend Metro Park and Recreation District have entered into an Urban Services Provider Agreement (IGA) pursuant to ORS 190.003 to share pertinent information, collaborate in planning, land acquisition, development, and maintenance of parks, open space, trails, and related facilities.

These partnerships were also manifested in the City’s original UGB proposal. Representatives from the park and school districts formally participated on the City’s Technical Advisory Committees leading up to the last UGB expansion proposal. During the TAC process and public hearings, the districts provided the City with formal comments regarding their land needs that were incorporated into the City’s UGB expansion proposal. Based on the districts’ testimony, the City proposed to add 474 net acres for new park lands for Bend Metro Park and Recreation District and 192 net acres for new schools operated by Bend-La Pine Schools.

LCDC had questions regarding the City’s factual basis for the land need estimates, some objectors questioned if the park and school land was needed at all, and both LCDC and objectors questioned if some or all of the land need could be met on land already owned by the districts. During hearings before LCDC, the Commission agreed the factual basis was adequate to justify the “overall amount” of land needed for parks and schools, but nonetheless established two sub-issues in the remand related to park and school land need: 1) Sub-issue 4.2 requiring additional findings explaining the land need for the districts, and 2) Sub-issue 4.3 requiring the City to demonstrate the extent the need could be met by lands owned by the districts located inside and outside of the current UGB. Sub-

³ Oregon Land Conservation and Development Commission, Remand and-Partial Acknowledgement Order 10-Remand-Partial Acnow-001795, November 2, 2011, p. 61.

⁴ Ibid, p. 61.

issue 4.3 will be addressed in a separate memorandum and findings that explain how the land needs determined in Sub-issue 4.2 are met inside and outside the current UGB.

The options available to the Remand Task Force on this sub-issue include the following:

1. Use the existing factual basis and land need estimates for park and school land needs “as is,” add no new factual evidence to the record, and revise the findings to clarify how the City arrived at the estimate. In the case of park land need, the evidence presents two land need estimates: one for 362 acres based on Bend Metro Park and Recreation District’s Level of Service Standards; another estimate of 474 acres based on the previous UGB expansion proposal. See Pre-remand Record 2724-2727 for the evidence related to park land need. The RTF could recommend using either estimate, but staff is recommending the 362-acre need estimate for reasons discussed below and in the proposed findings.
2. Use some other land need estimates and analysis resulting in a possibly larger or smaller estimate based on a combination of existing information in the Pre-remand Record and new information.

The evidence and factual basis relied upon resulting in the land need estimates has not been challenged and is not the subject of the sub-issue. At issue are the findings explaining the need estimate and the relationship between the need estimate and the districts’ plans. In the case of parks, since two different land need estimates exist in the Pre-remand Record, the City must explain why one need estimate is more reliable than the other. If new evidence is entered into the record on this subject, then it may be the subject of a future appeal.

Staff recommends using the 362-acre need estimate rather than the higher 474-acre park land need estimate. The 474-acre estimate is based on the previous UGB expansion proposal. It therefore may not accurately represent the need for Community and Neighborhood Parks and trails associated with any new UGB expansion. Given the location dependent nature of the 474-acre land need estimate for parks, the lower 362-acre land need estimate based on population increases during the 20-year planning period and Level of Service standards is more practical at this stage and is what staff is recommending the City rely upon for the current UGB expansion proposal.

The conclusion also references “any school district plan adopted under ORS 195.110”.⁵ The *2005 Sites and Facilities Plan*, which is the evidentiary basis for Bend-La Pine Schools’ land need estimate, was not a plan adopted under ORS 195.110. This Statute essentially specifies required elements in a new school facility plan, nearly all of which are addressed by the *2005 Sites and Facilities Plan*. However, since the *2005 Sites and Facilities Plan* was not adopted under ORS 195.110 as such, it is not possible to go back in time to revise and re-adopt the *2005 Sites and Facilities Plan* per these requirements. Even if it were possible, using a new plan would represent new evidence. Bend-La Pine Schools has since completed a new sites and facilities study per ORS 195.110 in

⁵ Ibid, p. 61.

2010, but has not been formally adopted by the Bend La-Pine Schools Board of Directors. However, in both cases, since new evidence is not required in this remand sub-issue and would require re-opening the record, also introducing the threat of new appeals, the City recommends not electing to “consider any school district plan adopted under ORS 195.110.”⁶

Conclusion

Staff recommends option 1, above; using an estimate of 192 acres for public schools, and using the 362-acre park land need estimate. This option does not require additional evidence. LCDC has already concluded the existing factual basis supports this option, and the factual basis would therefore not be the subject of further appeals. Any option that requires adding new information to the record presents risks that may outweigh their benefits. This recommendation is also supported by Bend-La Pine Schools and the Bend Metro Park and Recreation District. The attached findings further explain the reasons why the factual basis for the land need estimates are reasonable, related to the districts’ planning documents, demonstrate coordination between the City and districts, and is likely to be acceptable to LCDC.

⁶ Ibid, p. 61.

Remand Sub-issue 4.2 - 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 district’s plans and analyses. The City may, but is not required to, consider any school district plan adopted under ORS 195.110.”¹

Applicable 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 parks and schools. 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.”²

City’s Position

Remand Sub-issue 4.2 requires additional findings explaining the evidence it used to determine the amount of land needed for parks and schools and how the evidence relates to the districts’ plans and analyses. The City is not changing the evidentiary basis for the school and park land need analysis and is not considering subsequent facility planning done by the school and park districts after December 22, 2008 because this represents new information that was not available when the City adopted the UGB expansion. The City is relying on evidence that was provided by Bend-La Pine Schools specifically for the purpose of predicting public school land needs as part of the City’s UGB expansion proposal. Therefore, the City’s new findings simply explain the evidence relied upon by the City, and how the evidence is related to school and park plans that existed as of December 22, 2008.

As explained in detail by the findings, the amount of land needed for K-12 schools in the 20 year planning period is 192 acres and the amount of land needed for parks in the planning period is 362 acres. The acreage for parks has been reduced from the 474 acres used in the City’s original decision, based on a land need analysis tied to population growth explained in the new findings included in this report. The acreage for schools remains the same as the City’s original decision because the same evidentiary basis is being used.

¹ Oregon Land Conservation and Development Commission, Remand and-Partial Acknowledgement Order 10-Remand-Partial Acknow-001795, November 2, 2011, p. 61.

² Ibid, p. 59.

FINDINGS FOR REMAND SUB-ISSUE 4.2

Findings

1. The conclusion of Remand Sub-issue 4.2 does not require any new evidence be added to the record.
2. OAR 660-024-0040(1) describes three broad types of land uses:
 - a. Housing
 - b. Employment
 - c. Other urban uses such as public facilities, streets and roads, school, parks, and open space
3. The City's residential land need analysis determines the amount of land needed for housing. (Add record cite once final.)
4. The City's employment land need analysis (Employment Opportunities Analysis or EOA) and related findings determine how much land is needed for employment uses. The EOA and related findings do not consider land needs for public parks and schools. (Note: the City will add the proper record cite once these findings are compiled in a final form.)
5. The City's "Other (non-employment) Land" analysis does not include public schools or public parks owned by Bend Metro Park and Recreation District. (Note: the City will add the proper record cite once these findings are compiled in a final form.)
6. A land need analysis was prepared by Bend-La Pine Schools and relied upon by the City to determine the public school land need between years 2008-2028 and does not include private schools. Pre-remand Record 10560.
7. A land need analysis by the Bend Metro Park and Recreation District computed net land needs for their park facilities based on the City's forecasted population increase between 2008 and 2028 of 38,512 people and the Park District's Comprehensive Plan Target Levels of Service. Pre-remand Record 2724.
8. An estimate of public and private rights-of-way for roadways did not include any of the lands included for public parks and public schools. Pre-remand Record 2168-2178.
9. These forgoing findings demonstrate the land need estimates for Bend-La Pine Schools and Bend Metro Park and Recreation District do not involve double counting with other components of the City's land need analyses.

Consistency between City and School District Plans Demonstrating Compliance with ORS 197.296(6)(a)

10. Pre-remand Record page 10560 contains a letter from Bend-La Pine Public Schools illustrating the methodology used to determine public school land needs. The City relied on this methodology to estimate the 20-year land needs for Bend-La Pine Schools. The estimate developed by Bend-La Pine School District and relied on by the City is based on selected data contained in the Bend-La Pine Schools *2005 Sites and Facilities Plan*, but does not exactly duplicate the land need analysis of the *2005 Sites and Facilities Plan*. The following reasons describe why the City and Bend-La Pine School District are relying upon the methodology and estimates included in Pre-remand Record page 10560 rather than simply adopting and using the *2005 Sites and Facilities Plan*:

- a. The *2005 Sites and Facilities Plan* has not been adopted in its entirety into the evidentiary Pre-remand Record, but the evidence in Pre-remand Record 10560 relied upon to determine the 20-year need for school land is part of the Pre-remand Record. Since additional evidence is not required in this remand sub-issue and the City is not adding the *2005 Sites and Facilities Plan* to the record, the information in Pre-remand Record 10560 is the best available information in the Pre-remand Record to determine the 20-year land need for school between the years 2008-2028. The remand order does not require new evidence, rather, it requires the City explain the relationship between the *2005 Sites and Facilities Plan* and evidence in Pre-remand Record 10560. The City also finds that no evidence was submitted into the Pre-remand Record that undermined the credibility of this data.
- b. The *2005 Sites and Facilities Plan* time period is years 2005-2025, rather than the Remand Order's 20-year planning period of years 2008-2028. The evidence and methodology contained in Pre-remand Record page 10560 allows the City to more accurately predict land needs for the 2008-2028 planning period because it ties the need for new acres of schools by level to numbers of occupied housing units that will be built in the planning period. Numbers of occupied housing units is a measurement unit that is known and has been approved by LCDC.³ The method for calculating school land need in Pre-remand Record page 10560 is better adapted to the analysis of estimating future land needs for the Bend UGB than the *2005 Sites and Facilities Plan*. Rather than using a static land need estimate from the 2005-2025 time period as is afforded by the *2005 Sites and Facilities Plan*, the

³ See page 31 of January 8, 2010 DLCD Directors Report.

FINDINGS FOR REMAND SUB-ISSUE 4.2

methodology developed by the Bend-La Pine School District included in the Pre-remand Record page 10560 enables the City to relate the land need estimate for schools to the number of new housing units in the planning period regardless of the exact dates of the 20-year planning period.

11. The methodology outlined in the letter (Pre-remand Record 10560) is based upon, but not identical to the *2005 Sites and Facilities Plan* conducted by Bend-La Pine Schools. This plan and its recommendations are described in Chapter 3 of the City's General Plan. Pre-remand Record 1279.
12. The General Plan recognizes the need to add up to six additional elementary schools, two new middle schools, and one new high school in the planning area by 2025. Pre-remand Record 1276. The District's land need estimate in Pre-remand Record 10560 corresponds to six new elementary schools. The evidence relied upon to calculate the school land need in Pre-remand Record 10560 does not exactly match the estimate of land need in the *2005 Sites and Facilities Plan* referenced by the General Plan for reasons discussed in Finding #9, but is generally consistent with the need for six new elementary schools, two new middle schools, and an additional high school.
13. The General Plan recognizes the importance of coordinating with Bend-La Pine Schools on a regular basis to place new schools in residential areas and create consistency between the City's General Plan and District's *2005 Sites and Facilities Plan*. Pre-remand Record 1276.
14. The City's General Plan policies numbers 13, 14, 17, and 18 in Chapter 3 pertain to Bend-La Pine Schools and are not the subject of the Remand Order. Pre-remand Record 1279.
15. The policies listed above discuss the need for the City and Bend-La Pine Schools to work together to find ideal sites and locations for new schools, recognize the Bend-La Pine Schools' *2005 Sites and Facilities Plan* as the document governing the Bend-La Pine Schools' development of schools, the need to provide safe routes to school, and need for timely construction of school facilities. Pre-remand Record 1279.
16. The General Plan text and policies are also generally consistent with the District's methodology to determine school land needs (in Pre-remand Record 10560) because the factors used in the District's methodology are based on the District's *2005 Sites and Facilities Plan*. Much of the data relied upon in the *District's 2005 Sites and Facilities Plan* is based on data supplied by the City of Bend and found in the General Plan.

FINDINGS FOR REMAND SUB-ISSUE 4.2

17. The District's *2005 Sites and Facilities Plan* was not adopted under ORS 195.110. The District and City are not required to consider a plan under ORS 195.110. Since the evidence being relied upon to determine school land needs was found to be adequate by LCDRC and it is not possible to retroactively prepare and adopt the *2005 Sites and Facilities Plan* per ORS 195.110, the City finds it is not necessary to add new evidence in the form of a new school siting plan to the record. Similarly, any new plans prepared by Bend-La Pine Schools consistent with ORS 195.110 would represent new evidence that is not required by the conclusion of Sub-issue 4.2. For these reasons, the City is relying on evidence contained in the existing Pre-remand Record pertaining to school land need.
18. The preceding General Plan text and referenced policies demonstrate that there has been sufficient coordination and cooperation between the City of Bend and Bend-La Pine Schools to adequately address future school land needs through the 20-year planning period.
19. The preceding findings demonstrate consistency between City's General Plan text, policies, the Bend-La Pine School District's *2005 Sites and Facilities Plan* to the extent it is utilized in evidence found in Pre-remand Record 10560, and the approach to determine land needs for schools. These findings demonstrate a "coordinated process between the affected public school district and the local government" as required by ORS 197.296(6)(a).

Methodology to Determine 20-year Land Needs for Public Schools Demonstrating Compliance with OAR 660-024-0040(1)

20. Consistent with the Remand, the City and Bend-La Pine Schools estimate a need for 192 net acres of land for new school facilities between the years 2008 and 2028. The approach to determine the 20-year land need for Bend-La Pine Schools described in Pre-remand Record 10560, and in Findings 20 through 24 below, uses the following three-step equation:

Step 1: (Acres of Land Needed for K-12 Schools per Occupied Housing Unit) X

Step 2: (Number of Occupied Housing Units in 20-year Planning Period) =

Step 3: Acres of Land Needed for K-12 Schools in 20-year Planning Period

21. **Step 1:** Acres of Land Needed for K-12 Schools per Occupied Housing Unit is calculated by using the following equation and data described below:

(Acres of Land Needed per Student in K-12 Schools) X

(Number of Students in K-12 Schools per Occupied Housing Unit) =

Acres of Land Needed (for K-12 Schools) per Occupied Housing Unit

- a. Acres of Land Needed per Student in K-12 Schools is calculated by averaging the different amounts of land needed for schools per

FINDINGS FOR REMAND SUB-ISSUE 4.2

student at the elementary, middle, and high school grade levels. The school site size and design capacity for schools by level below are based on the *2005 Bend-La Pine Schools Sites and Facilities Plan*.

- i. 15 acres per elementary school / 600 students per elementary school (grades K-5) = .025 acres per elementary student
- ii. 25 acres per middle school / 800 students per middle school (grades 6-8) = .03125 acres per middle school student
- iii. 50 acres per high school / 1,500 students per high school (grades 9-12) = .0333 acres per high school student
- iv. The average acres per student for grades K-12 is calculated by averaging .025 acres per elementary student, .03125 acres per middle school student, and .0333 acres per high school student. The resulting Acres of Land Needed per Student in K-12 Schools is .029 acres.

- b. A Portland State University study for the Bend-La Pine School district determined the Number of Students in K-12 Schools per Occupied Housing Unit is .397. Pre-remand Record 10560. According to Pre-remand Record 10560, this statistic is from the *2005 Bend-La Pine Schools Sites and Facilities Plan*.

- c. Using the resulting figures from a. and b. above, it is possible to calculate the Acres of Land Needed (for K-12 Schools) per Occupied Housing Unit as follows:

$$\begin{aligned} & (.029 \text{ Acres of Land Needed per Student in K-12 Schools}) \times \\ & (.397 \text{ Students in K-12 Schools per Occupied Housing Unit}) = \\ & .011513 \text{ Acres of Land Needed (for K-12 Schools) per Occupied Housing Unit} \end{aligned}$$

22. Step 2: The Number of Occupied Housing Units in the 20-year period approved by LCDC is 16,681.⁴

23. Step 3: The 20-year land need for Bend-La Pine Schools K-12 students is calculated based on the data explained in Steps 1 and 2, above, as follows:

$$\begin{aligned} & \textbf{Step 1:} (.011513 \text{ Acres of Land Needed for K-12 Schools per Occupied Housing Unit}) \times \\ & \textbf{Step 2:} (16,681 \text{ Occupied Housing Units in 20-year Planning Period}) = \\ & \textbf{Step 3:} 192 \text{ Acres of Land Needed for K-12 Schools in 20-year Planning Period} \end{aligned}$$

24. The foregoing findings demonstrate substantial evidence required by ORS 197.626 and Statewide Planning Goal 2.

⁴ Department of Land Conservation and Development, Director's Report Bend UGB Order 001775, January 8, 2010, p. 31.

FINDINGS FOR REMAND SUB-ISSUE 4.2

25. The foregoing findings demonstrate how the 20-year need for public school land is calculated in order to satisfy OAR 660-024-0040(1) and the conclusion of the Remand Sub-issue 4.2 with respect to public school land needs.

Consistency between City and Bend Metro Park and Recreation District Plans Demonstrating Compliance with ORS 197.296(6)(a)

26. Pre-remand Record page 2724-2727 contains a letter from Bend Metro Park and Recreation District illustrating the methodology to determine the District's park land needs. The City is relying on this data as an element of the Goal 2 adequate factual base to estimate the 20-year land needs for Neighborhood Parks, Community Parks, and trails owned and maintained by the Bend Metro Park and Recreation District.
27. The methodology outlined in the letter (Pre-remand Record 2724-2727) is based on the District's *2005 Park, Recreation and Greenspaces Comprehensive Plan*. This plan is recognized by the City's General Plan. This plan and its recommendations are described in Chapter 3 of the City's General Plan. Pre-remand Record 1268-1273. (Note: The discussion of park land needs and Table 3-2 of the General Plan in Pre-remand Record 1268-1273 will be revised to reflect the park land need estimates once the estimate of park need is approved by DLCD and the RTF. The text and table in the General Plan are not the subject of the remand order.)
28. The General Plan text and policies recognize the need to add 475 acres of new Neighborhood and Community Parks and trails to meet the needs of a growing population during the 2008-2028 planning period. Pre-remand Record 1273 (text) and 1278 (policies). (Note: The discussion of park land needs and Table 3-2 of the General Plan in Pre-remand Record 1268-1273 will be revised to reflect the park land need estimates once the estimate of park need is approved by DLCD and the RTF. The text and table in the General Plan are not the subject of the remand order.)
29. Neighborhood Parks have service radii of ¼ to ½ miles, are to be located as centrally as possible to the neighborhoods which they serve, and also to be conveniently accessible within a 10-15 minute walk. Pre-remand Record 2725. The text and policies of the City's General Plan support developing a system of parks and other park facilities consistently with the Bend Metro Park and Recreation District's *2005 Park, Recreation and Greenspaces Comprehensive Plan*. Pre-remand Record 1271 (text) and 1278 (policies numbered 5 and 8).
30. Community Parks have service radii of 1 to 2 miles and are to be centrally located in the portion of the community being served, may be designed

FINDINGS FOR REMAND SUB-ISSUE 4.2

- and located so as to serve the entire community, and should be strategically located and uniformly dispersed throughout the community. Pre-remand Record 2725. The text and policies of the City's General Plan support developing a system of parks and other park facilities in a manner consistent with the Bend Metro Park and Recreation District's *2005 Park, Recreation and Greenspaces Comprehensive Plan*. Pre-remand Record 1271 (text) and 1278 (policies numbered 5 and 8).
31. The text and policies of the City's General Plan support developing a system of trails along the Deschutes River, Tumalo Creek, major canals, and along routes shown on the Bend Urban Area Bicycle and Primary Trail System Plan in a manner consistent with the Bend Metro Park and Recreation District's *2005 Park, Recreation and Greenspaces Comprehensive Plan*. Pre-remand Record 1271 (text) and 1278-1279 (policies numbered 9 through 12).
32. The text of the City's General Plan recognizes the importance of coordinating with the Bend Metro Park and Recreation District to provide sufficient land for new parks as the city grows in a manner consistent with the Bend Metro Park and Recreation District's *2005 Park, Recreation and Greenspaces Comprehensive Plan*. Pre-remand Record 1270 (text) and 1278-1279 (policies numbered 5 through 12 and policy 19). This text demonstrates consistency with the requirements of Goal 2 and ORS 197.015(5) to coordinate with affected local governments.
33. The General Plan recognizes the importance of coordinating with the Bend Metro Park and Recreation District to provide sufficient land for new trails such as completing a 96-mile off-street recreational trail system and the Bend Urban Area Bicycle and Primary Trail System Plan consisting of recreational and transportation trails connecting neighborhoods, parks, and schools consistent with the City's Transportation Systems Plan. Pre-remand Record 1270 (text) 1278-1279 (policies numbered 9 through 12 and policy 19).
34. Policy number 20 of Chapter 3 of the City's General Plan discusses the City's encouragement of co-locating parks and schools. Pre-remand Record 1279.
35. The text of the City's General Plan recognizes the importance of coordinating with the Bend Metro Park and Recreation District to provide sufficient land for new parks as the city grows. Pre-remand Record 1270 (text) and 1278-1279 (policies numbered 5 through 12 and policy 19).
36. The Intergovernmental Agreement (IGA) between the City of Bend and Bend Metro Park and Recreation District specifies each entity's responsibilities with respect to coordinating, planning, constructing, and

FINDINGS FOR REMAND SUB-ISSUE 4.2

maintaining park and trail facilities within the Bend UGB and parks district. Pre-remand Record 2524-2528.

37. The General Plan text and policies are also consistent with the Bend Metro Park and Recreation District's methodology to determine park land needs (in Pre-remand Record 10560) because the factors used in the District's methodology are based on the *2005 Park, Recreation and Greenspaces Comprehensive Plan*.
38. The preceding referenced General Plan text and policies and IGA demonstrate that there has been sufficient coordination and cooperation between the City of Bend and the Bend Metro Park and Recreation District to adequately address future park land needs through the 20-year planning period.
39. The preceding findings demonstrate consistency between City's General Plan text, policies, the Bend Metro Park and Recreation District's *2005 Parks, Recreation and Green Spaces Comprehensive Plan* and the approach to determine land parks and trails. These findings demonstrate a "coordinated process between the affected park district and the local government" as required by ORS 197.296(6)(a).

Methodology to Determine 20-year Land Needs for Neighborhood and Community Parks and Trails Owned and Maintained by Bend Metro Park and Recreation District Demonstrating Compliance with OAR 660-024-0040(1)

40. The Bend Metro Park and Recreation District's *2005 Park, Recreation and Greenspace Comprehensive Plan* contains target Levels of Service (LOS) standards for Neighborhood and Community Parks as well as trails based on ratios of these facilities to population. Pre-remand Record 2724.
41. Pre-remand Record 2724 presents the LOS ratios from the *2005 Park, Recreation and Greenspace Comprehensive Plan* as follows:
 - a. Neighborhood Parks LOS of 2 acres per 1,000 person population
 - b. Community Parks LOS of 5 acres per 1,000 person population
 - c. Trails LOS of 2.4 acres per 1,000 person population (based on a BMPRD's standard of 1 mile of trails per 1,000 persons assuming a 20' wide trail right-of-way resulting in 2.4 acres/mile of trail)
42. Between the years 2008 and 2028 in the 20-year planning period, Bend's population is forecasted to increase by 38,512. Pre-remand Record 2724. (Note: an additional citation to revised findings containing this population increase will be added once the final findings are prepared.)

FINDINGS FOR REMAND SUB-ISSUE 4.2

43. Applying the LOS standards to the additional population that will need to be served in the 20-year planning period results in the following 20-year land needs for these specific park types:
 - a. Neighborhood Parks: 77 acres
 - b. Community Parks: 193 acres
 - c. Trails: 92 acres
 - d. Total Neighborhood and Community Park and Trail land needs: 362 acres
 - e. (Note: text in the General Plan (Pre-remand Record 1271 and 1273) describing needed acres of parks will be updated to reflect these revised figures.)
44. Community Parks have service radii of 1 to 2 miles and are to be uniformly dispersed throughout the community. Pre-remand Record 2725.
45. Neighborhood Parks have service radii of ¼ to ½ miles and are to be sited to be as central as possible to the neighborhoods which they serve. Neighborhood Parks should also be conveniently accessible within a 10-15 minute walk of the neighborhood which they serve. Pre-remand Record 2725.
46. Bend Metro Park and Recreation District provided a land needs assessment for Neighborhood and Community Parks, and trails based on the previously adopted UGB expansion. This assessment of need showed a need for 474 acres of land for these facilities after subtracting land for these facilities owned by Bend Metro Parks and Recreation District. This land need estimate is not being relied upon because it is based on the size and location of the prior-UGB expansion and is no longer valid. Pre-remand Record 2726.
47. Since the 475-acre land need estimate is based on a UGB expansion that was not acknowledged and the new boundary will likely be smaller and in a different location, the park land need estimate of 475 acres is no longer valid. In addition, the 475-acre need estimate is based on a slightly higher population estimate of 118,335 people in 2028 than the City's estimate of 115,063. Pre-remand Record 2726. However, the approach relied upon by the City to predict future land need for parks described in Finding 42, above, continues to be accurate because it is based on Levels of Service and accommodating additional population growth as approved by LCDRC (see page 25 of Director's Report, January 8, 2010).
48. Therefore, the City is relying upon the 362-acre land need estimate for Community and Neighborhood Parks and trails derived from the LOS standards, and also recommended by Bend Metro Park and Recreation District (see last paragraph of Pre-remand Record 2727).

FINDINGS FOR REMAND SUB-ISSUE 4.2

49. The foregoing findings demonstrate substantial evidence required by ORS 197.626.
50. The foregoing findings demonstrate how the 20-year need for park land for Bend Metro Park and Recreation District is calculated in order to satisfy OAR 660-024-0040(1) and the conclusion of the Remand Sub-issue 4.2.

BEND AREA GENERAL PLAN

CULTURAL AMENITIES

Central Oregon's abundance of scenic and recreational amenities is complemented by a rich and diverse cultural climate of theater, music, and art in Bend. Performing arts can be seen throughout the year at the *Community Theatre of the Cascades* in downtown Bend. The Community Theatre has been putting on professional caliber productions since the early 1980s. In addition, the Central Oregon Community College *Magic Circle Theatre* is the venue for both college and community programs. In recent years, the downtown *Tower Theater* building was renovated and is now used for lectures, concerts and other community events.

The Munch & Music series of evening concerts in the park during the summer is another opportunity for the community to gather together to enjoy free music, fine food, and friends in beautiful surroundings. The community college Central Oregon Symphony, jazz band, and choir perform several times a year for area residents.

The visual arts are represented with public art on street corners, at public buildings, and through exhibits at several public and private galleries in downtown Bend and elsewhere in the community. Several times each year the downtown merchants sponsor "Art Hops" when painters, sculptors, weavers and other artisans demonstrate their craft in the downtown stores. In addition to these amenities, the community supports other cultural events to celebrate cultural and ethnic diversity in Central Oregon.

Just south of the urban area is The High Desert Museum, a nationally renowned, living, participatory museum with a wide variety of indoor and outdoor exhibits on nature, art, science, pioneer life, and Native American life on the high desert plateau. The museum also offers a year-round education program of classes, lecture series, and field excursions.

PARK AND RECREATION FACILITIES

The City of Bend has a long history of park development, beginning with the creation of Drake and Shevlin Parks in 1921. Drake Park, including Mirror Pond on the Deschutes River, has become part of the identity and heart of the community. For decades Bend's citizens and visitors have enjoyed the many parks for their beauty, for sporting events, for community celebrations, and for casual recreation.

Since 1974 all of the public parks and recreation facilities within the urban area have been developed and managed by the Bend Metropolitan Park and Recreation District, a separate special district that serves the Bend area. The Park and Recreation District's 2005 *Parks, Recreation and Green Spaces Comprehensive Plan* assesses the district's



BEND AREA GENERAL PLAN

services and operations, and establishes the framework for park and recreation facility planning and development within and adjacent to the Bend urban area. The classification, development and delivery standards in the district's *Parks, Recreation and Green Spaces Comprehensive Plan* as they may be amended, have been incorporated by reference as policies in this chapter of the Bend Area General Plan.

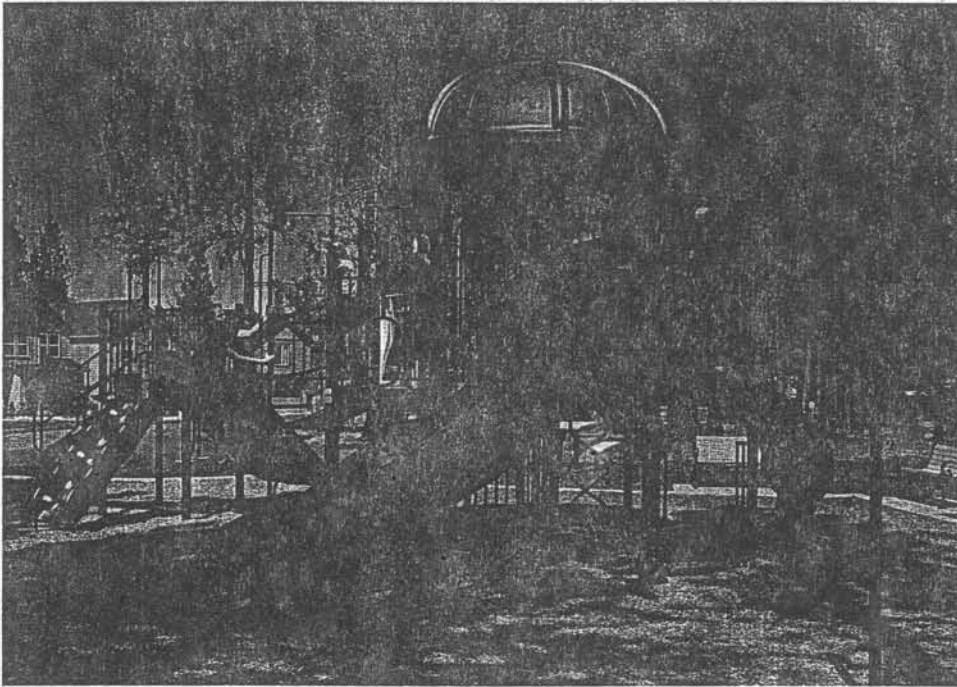


Figure 3-2

The playground at Hollygrape Park completed in 2003, located within the River Canyon Estates neighborhood.

The Bend Metropolitan Park and Recreation District operates more than 70 park and open space sites in the urban area, and more than 2,400 acres of park land and open space in and around the urban area including two large regional park sites. The older neighborhoods in the central part of the urban area are generally well represented with parks that were developed before the 1970's. The district's 1995 Serial Levy funded significant rehabilitation and expansion of the older parks. Rapid residential growth has resulted in increased SDC funded park development in the newer areas of Bend since 2000. In the period 2000 – 2008, the district added 18 small neighborhood parks, 5 large community parks and 25.5 miles of recreation trail. The Bend Senior Center was completed in 2001 and the Juniper Swim and Fitness Center was extensively renovated in 2005-2006. In addition to the local park and recreation district facilities, Pilot Butte State Park—a volcanic cinder cone in the center of town with a commanding view of the urban area—is a favorite spot for residents and visitors.

The Bend Metropolitan Park and Recreation District also provides a large and diverse recreation and fitness program for Central Oregon residents. These programs offer a wide



BEND AREA GENERAL PLAN

range of year-round activities for youngsters and adults. The park and recreation district cooperates with the Bend La Pine School District through a joint use agreement to share indoor facilities and operate recreational programs.

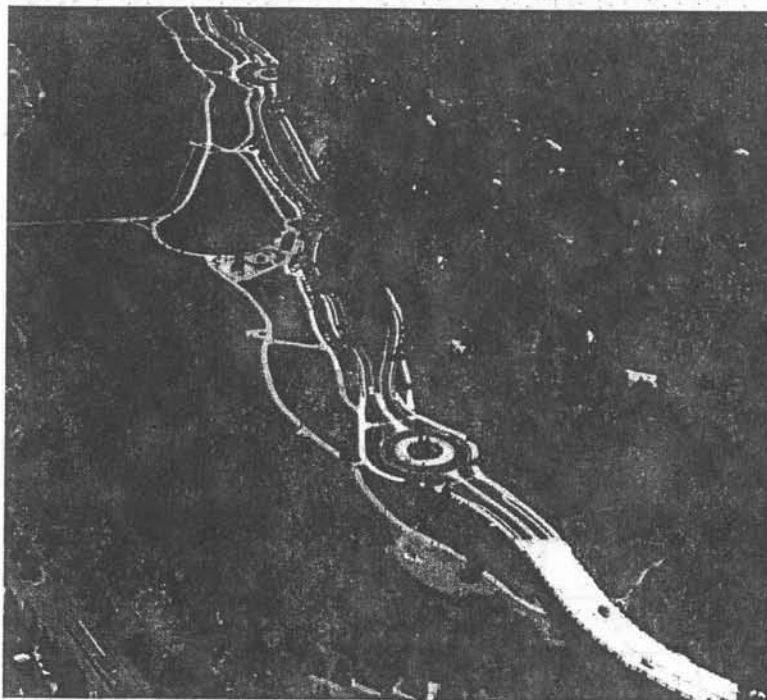


Figure 3-3

Farewell Bend Park, Reed Market Road extension and the Healy Bridge were co-developed in 2002-2006

There is strong community interest in adding more park and recreation facilities to meet the ever increasing needs created by the expanding urban population. The Bend Metropolitan Park and Recreation District Board has identified the following priorities for future development:

- ☐ acquisition of new parks, natural areas and open space to meet the needs of a growing community;
- ☐ completion of a 96-mile off-street recreation trails system as identified in the district's Trails Master Plan;
- ☐ development of new neighborhood parks as identified in the district's Neighborhood Parks Plan;
- ☐ development of community parks and sports fields as identified in the BMRPD Comprehensive Plan;
- ☐ development of a new community recreation center to provide for a broad range of recreation and fitness activities.

The General Plan recommends the development of a trail system along the Deschutes River in order to provide public access to Bend's most outstanding natural feature. The district has developed and manages the 16 miles of river trail and is working with the city and property owners to develop the remaining planned river trail segments. Several miles of riverfront trails in the Old Mill District are also open to the public. In addition to the river trails, the Bend Urban Area Bicycle and Primary Trail System Plan recommends a system of recreation and transportation trails, connecting neighborhoods, parks, and schools. More information on the urban area trails and a map of the trail system are included in Chapter 7, *Transportation System*.

The Bend Area General Plan also supports and recommends a park and recreation



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system which would place a neighborhood or community park within convenient walking distance of every Bend residence, provide for active recreation space and sport fields as well as protect natural sites within the area. The Bend Metropolitan Park and Recreation District, the Bend-La Pine School District, the city and county work together to coordinate the planning and location of park and school facilities to serve the growing urban population.

Table 3-2 below provides a summary of the area's existing public park and recreation facilities managed by the Bend Metropolitan Park and Recreation District. The number and type of facilities planned by the district through 2020 are also listed in the table. Figure 3-4 is a map of developed park sites in the urban area.

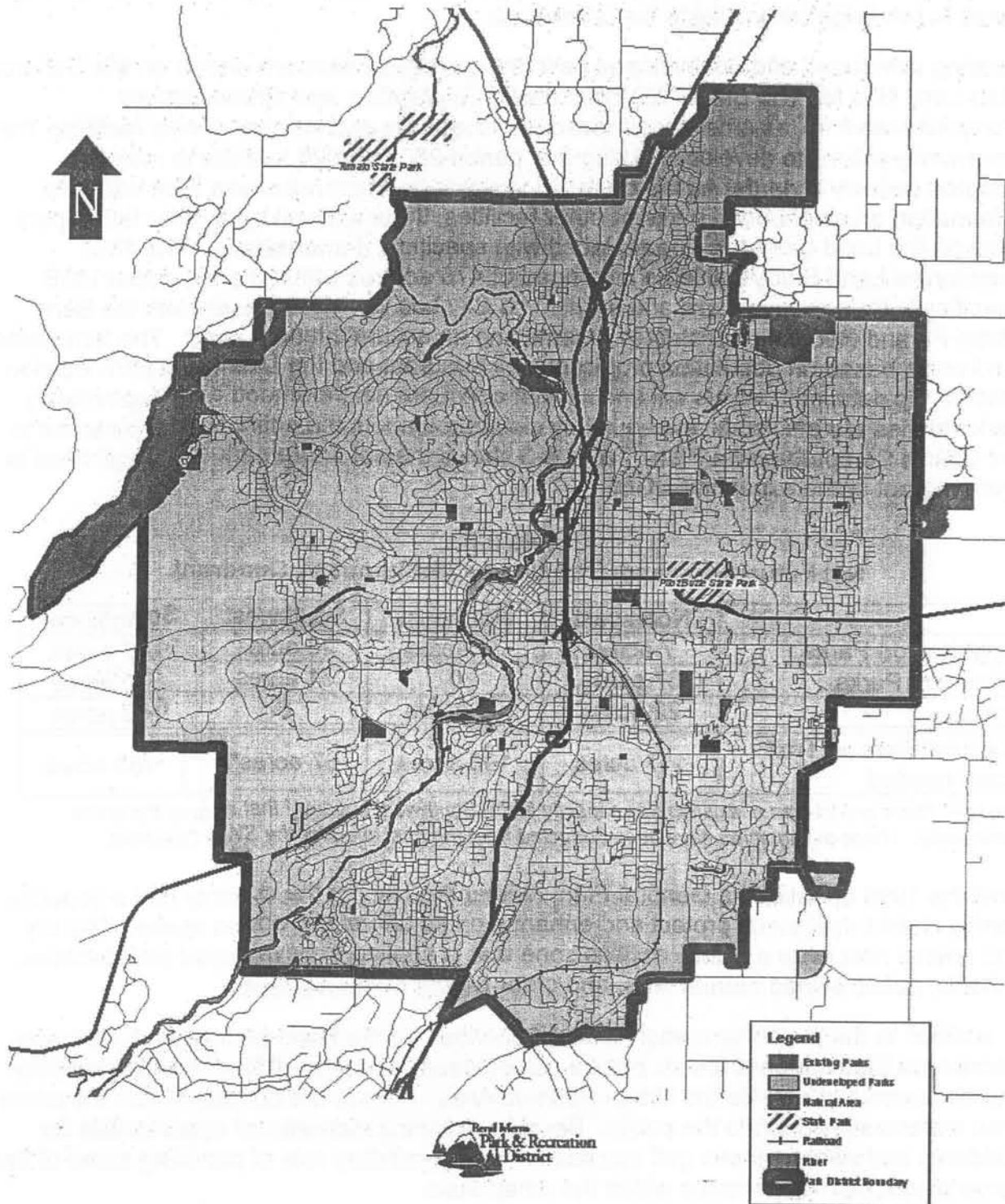
Table 3-2 Public Park and Recreation Facilities in the UGB and Urban Reserve				
TYPE OF FACILITY	EXISTING FACILITIES (2008)		PLANNED 2008-2020	
	Quantity	Acres	Quantity	Acres
PARKS AND NATURAL AREAS				
Neighborhood Parks	29	100.6	8	44.3
Community Parks	12	377.2	3	74.1
Community River Parks	7	78.9	2	6.8
Regional Parks	1	603.0	0	0
Urban Plaza	1	0.15	0	0
Natural Areas	15	123.7	0	0
Total Parks and Natural Areas	65	1,515.4	13	125.2
COMMUNITY FACILITIES	EXISTING		PLANNED	
	Quantity	Sq. Ft.	Quantity	Sq. Ft.
Recreation Centers	3	103,300	0	0
Meeting Centers	2	7,540	0	0
Total Community Facilities	5	110,840	0	0
Bikeways / Pathways / Trails		Miles		Miles
	28	55	6	41

Source: Bend Metropolitan Park and Recreation District *Parks, Recreation and Green Spaces Plan*, City Planning Department parks and open space inventory



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**Figure 3-4
Developed Parks in the Bend Urban Area**



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More detailed descriptions and information on existing and planned park district facilities are found in the district's 2005 *Parks, Recreation and Green Spaces Comprehensive Plan*, available on the BMPRD website. In addition to the facilities listed in the table and shown on the map, the Bend Metropolitan Park and Recreation District has title to more than 982 acres in two large sites outside the urban area.

Existing developed and undeveloped park and recreation sites are shown on the General Plan Land Use Map. The BMPRD 2005 *Parks, Recreation and Green Spaces Comprehensive Plan*, as amended, describes the types and number of new facilities the community will need to develop during the period 2005 – 2020 in order to maintain adopted delivery standards. As the District updates its *Comprehensive Plan* with new information on neighborhood parks or other facilities, the general symbol for future park sites on the Land Use Map will be replaced with specific demarcations. The 2008 Residential Land Study identified a land need of 475 acres within the expanded UGB specifically for new public parks and trails. The City has worked closely with the Bend Metro Park and Recreation District in determining an accurate land need. The forecasted land need is based on population projections by quadrant and the District's park location criteria. This detailed analysis will ensure that adequate neighborhood and community park amenities are efficiently and equitably distributed about the entire UGB pursuant to the District's *Comprehensive Plan*. Table 3-3 shows the net future park and trail need in each quadrant of the expanded UGB.

Table 3-3
Net Future Park and Trail Need at Build-out by Quadrant

	Northwest	Northeast	Southwest	Southeast
Neighborhood Parks	7 acres	31 acres	20 acres	47 acres
Community Parks	87 acres	0	71 acres	73 acres
Trails	22 acres	78 acres	0	62 acres
Total net Park and Trail acres needed	117 acres	108 acres	67 acres*	183 acres

*note – There are 24-acres of existing trail capacity in the Southwest quadrant that serve the entire community. These existing acres have been deducted from the total need for the SW Quadrant.

Until the 1998 update of the General Plan, neither the city nor the county had a separate zoning district designed to protect and enhance parks and public open space. The city and county now have a Public Facilities zone that is applied to developed park facilities, schools, public owned natural areas, and other types of open space.

In addition to the public recreation facilities provided by the Bend Metropolitan Park and Recreation District, there are six private golf courses within the Urban Growth Boundary, and two more just outside the Urban Reserve Area. Four of the courses within the urban area are currently open to the public. Besides providing recreational opportunities for residents and visitors, these golf courses serve a secondary role of providing some of the "large developed" open space within the urban area.



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PUBLIC EDUCATION

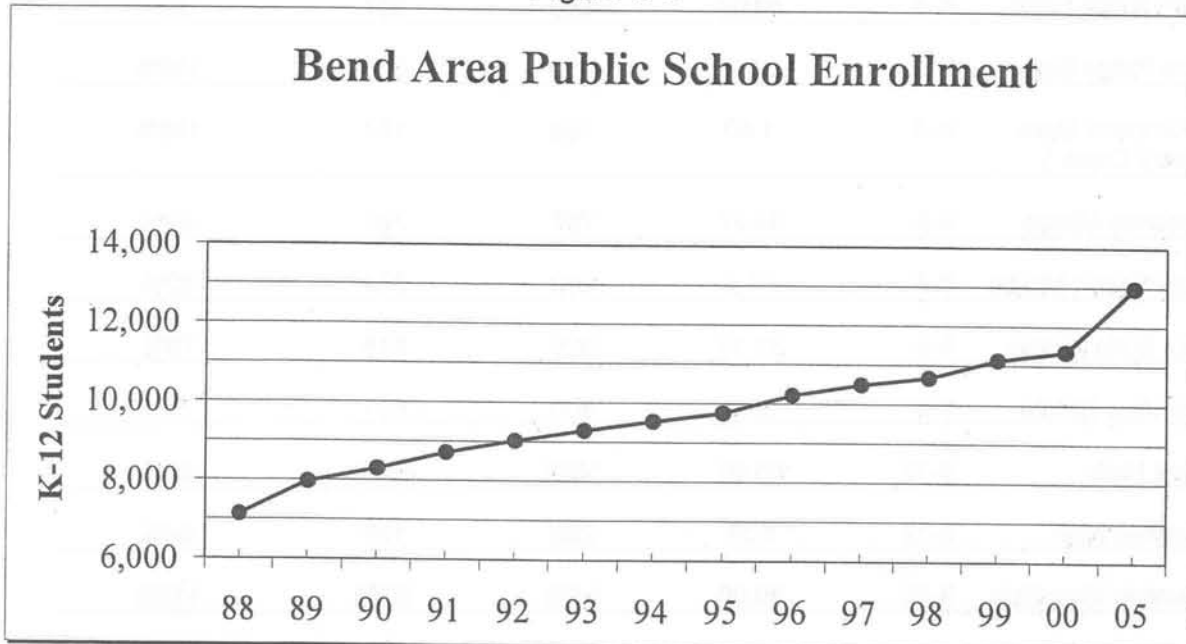
The sections below describe the existing and planned public education facilities in the urban area. In addition to the public school system, there are several private and parochial schools that provide elementary and secondary education.

Bend - La Pine Schools

The Bend-La Pine Schools is the only public school district serving the urban area. As of 2005, the Bend-La Pine Schools operated twelve elementary schools, four middle schools, three comprehensive high schools within or adjacent to the Urban Growth Boundary. These schools serve the Bend urban area and several thousand households outside the urban area. Roughly two-thirds of the students in the Bend schools are from within the urban area. In addition to the Bend schools, Bend-La Pine Schools has schools in Sunriver and La Pine that served about 2000 students in 2005.

During the high growth period of 1988 through 2005, enrollment in the Bend-La Pine Schools increased almost 55 percent. This dramatic increase in students is another indicator that the majority of people moving to Central Oregon are not elderly, but younger families with school age children. Figure 3-5 shows the increase in total enrollment in the Bend schools for period ending in 2005.

Figure 3-5



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**Table 3-4
Bend Urban Area Public School Facilities**

Facility Name	Grades	Site Acres	Existing Capacity	Enrollment Fall 2005	Percent of Capacity
Bear Creek Elem.	K-5	37.40	600	575	96%
Buckingham Elem.	K-5	20.50	600	679	113%
Elk Meadow Elem.	K-5	13.00	600	573	95%
Ensworth Elem.	K-5	9.68	300	267	89%
Jewell Elem.	K-5	16.74	600	674	112%
Juniper Elem.	K-5	30.41	575	409	71%
Kenwood Elem. (Highland)	K-5	4.17	375	365	97%
Kingston Elem. (Westside Village)	K-8	3.00	150	179	119%
High Lakes Elem.	K-5	15.00	600	763	127%
Lava Ridge Elem.	K-5	40.00	600	637	106%
Pine Ridge Elem.	K-5	12.3	300	360	120%
Thompson Elem. (Amity Creek)	K-3	1.40	150	157	105%
Cascade Middle	6-8	34.37	757	707	93%
High Desert Middle	6-8	74.4	800	654	82%
Pilot Butte Middle	6-8	33.13	825	645	75%
Sky View Middle	6-8	25.0	800	601	75%
Bend High	9-12	68.00	1550	1437	93%
Marshall High	9-12	5.34	250	160	64%
Mountain View High	9-12	30.00	1400	1578	113%
Summit High	9-12	48.10	1500	1403	94%

Source: Bend-La Pine School District. Acreage figure may include additional land held by the district.



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Table 3-4 on the previous page compares the student load in 2005 with the design capacity of each school.

In December 2005, the school board accepted an updated Bend-La Pine Schools' Sites and Facilities Plan ("Sites and Facilities Plan") prepared for Bend-La Pine Schools in cooperation with the city and county. This study provides information on enrollment, siting needs, and other factors to help Bend-La Pine Schools determine long term facility improvements or acquisitions during the next 20 years.

Bend La-Pines Schools' estimate of future enrollment levels and school needs is based on the forecast population levels in the urban area and nearby rural lands.

Table 3-5
Enrollment Forecast for the Bend-La Pine School District
By Grade Level and Year

Grade Levels	2005	2010	2015	2020	2025
Grades K to 2	3,173	3,387	3,809	4,419	5,035
Grades 3 to 5	3,267	3,706	4,053	4,624	5,186
Grades 6 to 8	3,398	4,102	4,332	4,820	5,591
Grades 9 to 12	4,911	5,361	6,222	6,527	7,435
Other (non-graded students)	26	30	33	36	40
Totals	14,775	16,586	18,449	20,427	23,286

* Totals may not sum exactly due to rounding

Source: Data provided by the Bend La Pine School District 2005 Sites and Facilities Plan

Table 3-5 shows the student grade levels and the forecast enrollment level for the public schools based on the Sites and Facilities Plan. It can be seen from the data in this figure that total enrollment in the Bend area public schools is expected to increase about 45 percent by the year 2015.

If the population growth and demographic patterns follow the forecasts in the Sites and Facilities Plan, there will be a need for three to six additional elementary schools (depending on size and location), two new middle schools, and one new high school in the planning area by 2025. In 2006 local voters approved a \$119 million bond levy to help meet the need for more schools.

Although the location for new public schools is an important function of the Sites and Facilities Plan, the need for new schools is closely related to residential development and housing densities in the community. The 2008 Residential Land Study identified a land need of 192 new acres within the expanded UGB specifically for public schools. It is extremely important that schools be located with reference to the development pattern indicated on the General Plan. The Bend-La Pine Schools and the City of Bend should continue to coordinate and cooperate so that the General Plan and the Sites and Facilities Plan are consistent.



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Elementary schools in particular can have a significant influence on the location or direction of growth in any given area, and will in themselves attract residential development. They should be centrally located in their service area, and spaced in a way that will permit reasonable locations for future schools as the area continues to grow. The city, county and Bend-La Pine school district will use the most recent studies to evaluate ways to ensure the timely development of new schools in the urban area.

Central Oregon Community College

Central Oregon Community College is the state's oldest two-year college, having been created in 1949. Located on the west slope of Awbrey Butte, the 200 acre campus features a 102 student residence hall, a 38,000 volume college/community library, a 300-seat performing arts center, and several lecture halls. The college has a long-standing policy to encourage community use of its buildings and facilities.

The college enrolls about 3,200 full-time and part-time students each term, plus another 3,000 to 4,000 community education students taking non-credit courses. Degrees offered by COCC include the Associate of Arts degree, the Associate of Science degree, and the Associate of Applied Science degree covering several technical and professional fields. The college serves more than just the Bend area, and its instructional programs extend to a 10,000 square mile service area through a network of community centers in Christmas Valley, La Pine, Madras, Prineville, Redmond, Sisters, and Warm Springs.

In a cooperative arrangement with public and private colleges and universities, the Central Oregon University Center at COCC offers both bachelor's and master's degrees in Bend through traveling professors and video computer. Because of the great interest in the region for a local college that offers bachelor's and master's degrees, the college board and members of the community have set a goal to expand Central Oregon Community College into a fully accredited four year college.

Oregon State University – Cascades Campus

In 2001, Oregon State University established a branch campus on the campus of Central Oregon Community College, in partnership with the University of Oregon and COCC. OSU-Cascades offers 20 different degree options, and had an enrollment of some 700 students in 2007. A strategic plan adopted in 2006 calls for aggressive growth in coming years, with expansions in program and degree offerings to support that growth.



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POLICIES

Historic sites

1. The city shall encourage the preservation, rehabilitation, and reuse of historic structures whenever practical.
2. The city will continue to encourage identification and preservation of significant historical and cultural sites.
3. The preservation of exterior facades shall be the emphasis of the city's and county's encouragement of historic preservation.
4. The city and county will encourage public educational institutions to promote the importance of Bend's history and historic landmarks.

Parks and recreation facilities

5. Subject to the City Development Code , Framework Plan (see Chapter 1) and an Urban Services Provider Agreement with the Bend Metro Park and Recreation District ("BMPRD"), the district has the responsibility to design and build parks, recreation facilities and trails in accordance with its Parks, Recreation and Green Spaces Comprehensive Plan ("Comprehensive Plan") as it may be amended. The City recognizes BMPRD's Comprehensive Plan as the document governing the District's location, design and development of public parks, recreation facilities and open spaces. BMPRD, with the support of the City and County has the responsibility to ensure an equitable distribution of parks and open spaces throughout the District's jurisdiction.
6. Developers are required to meet with BMPRD in advance of designing residential or commercial developments that may affect existing or planned BMPRD facilities. Developers of property in areas where BMPRD has identified the need for additional neighborhood park service shall include a neighborhood park in their development plan of a particular size and in the specific location agreed to by BMPRD.
7. Areas in need of additional neighborhood park development are shown on the BMPRD Neighborhood Parks Plan Map. The city shall encourage private or public parties to develop additional neighborhood parks.
8. The city shall refer to the BMPRD, for its review and recommendations, of all development proposals that include or are adjacent to existing or proposed parks or trails.

Urban Trails

9. The city shall work cooperatively with, irrigation districts, state and BMPRD to develop a series of trails along the Deschutes River, Tumalo Creek, and the major canals so that these water features can be retained as an asset in the urban growth boundary.



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10. The city shall work with the irrigation districts to limit development within the canal easements that would impair the maintenance and operation of the canals.
11. The trails designated on the Bend Urban Area Bicycle and Primary Trail System Plan shall be the basis for developing a trail system that serves the recreation and transportation needs of the community.
12. The city, when practical, shall require connecting links to the urban trail system from all adjacent new developments.

Schools

13. It is in the best interest of the Community to have schools that provide a safe, nurturing environment conducive to learning and to ensure all students receive an excellent education and are prepared for their future. The City shall cooperate with Bend-La Pine Schools to achieve these goals through the proper location of schools throughout the community.
14. The City shall recognize the Bend-La Pine Schools' Sites and Facilities Plan ("Sites and Facilities Plan") as the document governing the Bend-La Pine Schools' development of schools, as it may be amended.
15. The city shall promote the location of a four year university within the UGB and provide a special site location on the General Plan map.
16. The city shall coordinate and facilitate the development of the Central Oregon Community College campus consistent with their adopted master plan.
17. The City shall coordinate with the school district to provide safe routes to school by ensuring that sidewalks, crosswalks and bicycle paths and lanes are provide in the vicinity of all schools wherever practicable.
18. The City shall coordinate with the school district to ensure that new schools are constructed in a timely manner.

Public Agency Coordination

19. City of Bend shall cooperate and communicate with Bend Metro Park and Recreation District and the Bend-La Pine Schools in order that their respective comprehensive planning documents are coordinated and updated to take into account the goals of all three entities.

Co-location of Parks and Schools

20. The city shall encourage the Bend Metro Park and Recreation District and Bend-La Pine Schools to co-locate parks and schools that provide a benefit to the community where appropriate and feasible.
 - Elementary Schools and Neighborhood Parks are suitable for co-location.
 - Community Parks and Middle Schools are suitable for co-location.



M E M O R A N D U M

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TO: BEND CITY COUNCIL
FROM: BRIAN RANKIN, SENIOR PLANNER
SUBJECT: RIGHTS-OF-WAY FOR ROADWAYS VARIABLE: FINAL
MEMORANDUM POST DLCD COMMENTS
DATE: 12/4/08

Summary

This memorandum is the final analysis calculating the amount of existing public and private rights-of-way for roadways in the City of Bend UGB to use as a basis for estimating rights-of-way for roadways in the proposed UGB expansion area. For purposes of this analysis and methodology, rights-of-way are public and private areas used for public and private roadways, including: local roads, roundabouts, collectors, arterials, highways, and rail roads. Public parks, private common areas, public and private parking areas, Areas of Special Interest, public plazas, and public and private schools are not included in this analysis.

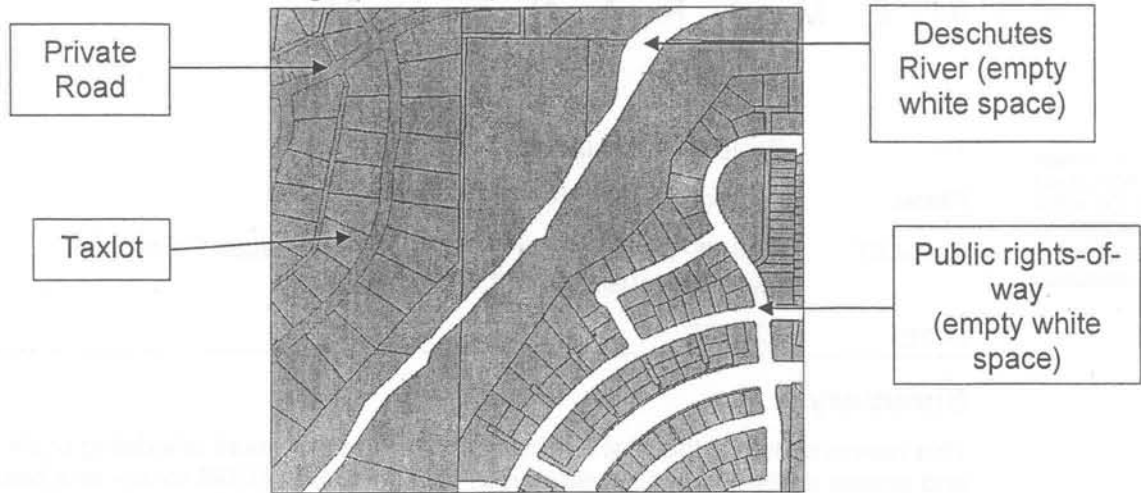
This memorandum has been prepared to replace previous memoranda on the subject. Notably, the methodology has been modified to address refinements suggested by DLCD in their November 21, 2008 letter commenting on the Bend UGB proposal. The data sources used in the methodology are based on the finalized Buildable Lands Inventory (BLI) dated 2/25/08 and summarized 9/2/08. The result of the analysis is a public and private right-of-way for roadways estimate of 21% for the existing Bend UGB.

Estimating Rights-of-Way in the Current UGB

Staff used the city's Geographic Information System (GIS) to calculate critical variables in the rights-of-way analysis. It is important to understand the how lands are represented in GIS data so the subsequent analysis makes sense.

The Deschutes County GIS "taxlots" dataset represents every taxlot inside the Bend UGB. These are polygons that have a discrete area and shape. Examples of the taxlots are shown as red polygons with black borders in Figure 1. The absence of red polygons, or empty white spaces, in Figure 1 represents public rights-of-way and the Deschutes River. Figure 1 also represents taxlots that are used for private roads or private rights-of-way as blue parcels. Throughout the entire UGB, public rights-of-way and ODOT highways are generally represented by the empty white space described above. Some exceptions to this include taxlots owned by ODOT or private Home Owners Associations (HOAs) used for roadways that do not show up as empty white space.

Figure 1: Example of G.I.S. taxlot data



The following methodology is based on the city's original approach with some modifications suggested by DLCD. This methodology does not duplicate DLCD's approach, since staff believes the DLCD methodology is slightly less accurate than what is described below. Generally, the approach is to identify net developed acreage inside the existing UGB and divide it by the appropriate gross acreage associated with the net developed acres. This approach requires establishing an accurate numerator (net developed acres) and a denominator (gross acres associated with net developed acres), to calculate a corresponding percentage of land that is developed. Once the percent of developed land is known, it is possible to assume the remaining fraction of land is "undeveloped", and in this case, used as rights-of-way as previously defined. DLCD suggested omitting a consideration of gross vacant acres in the calculation. Staff believes a better approach is to consider gross vacant acres in calculating net-developed acres by subtracting gross vacant acres from the supply of net developed and gross vacant acres (resulting in the numerator). Staff agrees with DLCD that gross vacant acres should also be subtracted from the total of gross acres associated with the net developed acres (resulting in the denominator). Other minor modifications to the numerator and denominator are required to result in an accurate estimate of rights-of-way for roadways.

The following define the critical variables needed to perform the calculation to estimate rights-of-way for roadways in the Bend UGB. Acreages below are from the Final BLI dated 9/2/08. Other acreage figures are from a GIS analysis conducted by the City of Bend GIS coordinator. Where possible, figures are provided to illustrate the acreage totals summarized below. These figures are also helpful to illustrate that other analysis performed by the city to estimate land uses for institutional/open spaces, do not duplicate or double count lands in these analyses. Variables used in the rights-of-way analysis are described below and figures are included at the end of this memorandum:

1. Calculate the total gross area of the Bend UGB. This area is 21,247 gross acres. This area is shown in Figure 2: Gross Acres of Bend UGB.

2. Calculate the total area of lands in net developed and gross vacant parcels (taxlots) inside the UGB. This area is 17,691 acres and is shown in Figure 3: Net Developed and Gross Vacant Parcels.
3. Calculate the area of taxlots that are serving as private rights-of-way used for roadways and parcels owned by ODOT that are used for the Bend Parkway or other state rights-of-way. This area is 446 acres and is shown in Figure 4: Tax Lots Serving As rights-of-way for Roadways. These parcels are included in the analysis because they are used as roadways, not open spaces or common areas, and if not included would underestimate the amount of land used for public and private roadways.
4. Calculate the area of the Deschutes River, which is not represented as a taxlot, but as empty white space. Since the empty white space is otherwise used to depict rights-of-way for roadways, the area of the river must be subtracted from the area of the UGB so as not to overestimate areas used for rights-of-way. The gross acres shown as the Deschutes River is 175 acres. This acreage was calculated by city staff and is shown in Figure 5: Deschutes River.
5. Calculate "vacant acres" and "vacant acres-pending land use" for all land inside the UGB since development of these lands will require additional rights-of-way and rights-of-way have not been dedicated from these lands. DLCD suggested removing these lands from this methodology altogether. Staff believes these acres should be removed from the lands shown in Figure 3 so the resulting acreage represents only net developed acres. These acres should also be removed from the acreage shown in Figure 2, so the gross acres associated with net developed lands are not overestimated. The acreage totals for "vacant acres-platted lots" and "redevelopable" are not considered because, in general, these lands have already dedicated rights-of-way or are otherwise considered "developed".

The "vacant acres" and "vacant acres-pending land use" variables have two main constituents: residential and economic lands. Residential lands have General Plan designations of RL, RS, RM, and RH. Economic lands have General Plan designations of CB, CC, CG, CL, IG, IL, IP, ME, MR, PF, PO, PO/RM/RS, and SM. Acreage totals include lots with split zones.
 - a. There are 640 gross acres of "vacant" residential land in the UGB excluding the Medical District Overlay Zone. The Medical District Overlay Zone contains 49 gross acres of "vacant" land. There are 689 total gross acres of "vacant" residential land including the MDOZ.
 - b. There are 561 gross acres of residential "vacant - pending land use" lands and 12 gross acres of "vacant acres-pending land use" in the MDOZ. The residential "vacant acres-pending land use" total is 573 gross acres.
 - c. The 689 gross acres of "vacant" and 573 gross acres of "vacant acres-pending land use" are shown in Figure 6: Residential Vacant and Vacant-Pending Land Use Acres.

- d. The Final BLI demonstrates there are 1,108 gross acres of "vacant" economic lands and 126 gross acres of economic "vacant – pending land use" in the Bend UGB. Therefore, the total gross acreage of economic land is 1,234 acres.
- e. The 1,234 gross acres of "vacant" and "vacant-pending land use" economic lands are shown in Figure 7: Economic Vacant and Vacant-Pending Land Use Acres.

The calculation to determine the area representing rights-of-way for roadways in the Bend UGB is described below.

1.	Total net developed and gross vacant acres of taxlots in Bend UGB:	17,691
2.	Minus net acres of private rights-of-way and ODOT parcels that are represented as taxlots in the GIS data:	446
3.	Minus gross acres of "vacant" and "vacant acres – pending land use" residential and MDOZ land:	1,262
4.	Minus gross acres of "vacant" and "vacant acres – pending land use" economic lands:	1,234
5.	Equals the total <u>net developed</u> acres of taxlots in Bend UGB:	14,749
6.	Total gross acres in the Bend UGB:	21,247
7.	Minus the gross acres of the Deschutes River not represented as a taxlot, but as empty white space in the GIS data:	175
8.	Minus the gross acres of residential and economic "vacant" and "vacant acres – pending land use":	2,496
9.	Equals the total gross acres of the Bend UGB not including the area Deschutes River associated with the net developed acres:	18,576
10.	% of UGB in developed taxlots (#5 divided by #8):	79%
11.	% of UGB in public and private rights-of-way (100 minus #9):	21%

The analysis illustrates that approximately 21% of the Bend UGB is used for public and private rights-of-way for roadways. This is further supported by research done by the Victoria Transport Policy Institute's October 25, 2005 study titled *Transportation Land Valuation, Evaluating Policies and Practices that Affect the Amount of Land Devoted to Transportation Facilities*, by Todd Litman. Page 4, Table 2, of this study illustrates the road supply as a percentage of urbanized area for a variety of cities throughout the world, but is similar to the estimate for the Bend UGB. For example, New York has 22%, London, UK 23%, Tokyo, Japan 24%, and Paris, France 25% of their urban areas used for roadways. The estimate established for the Bend UGB of 21% is within these ranges.

Figure 2: Gross Acres of Bend UGB

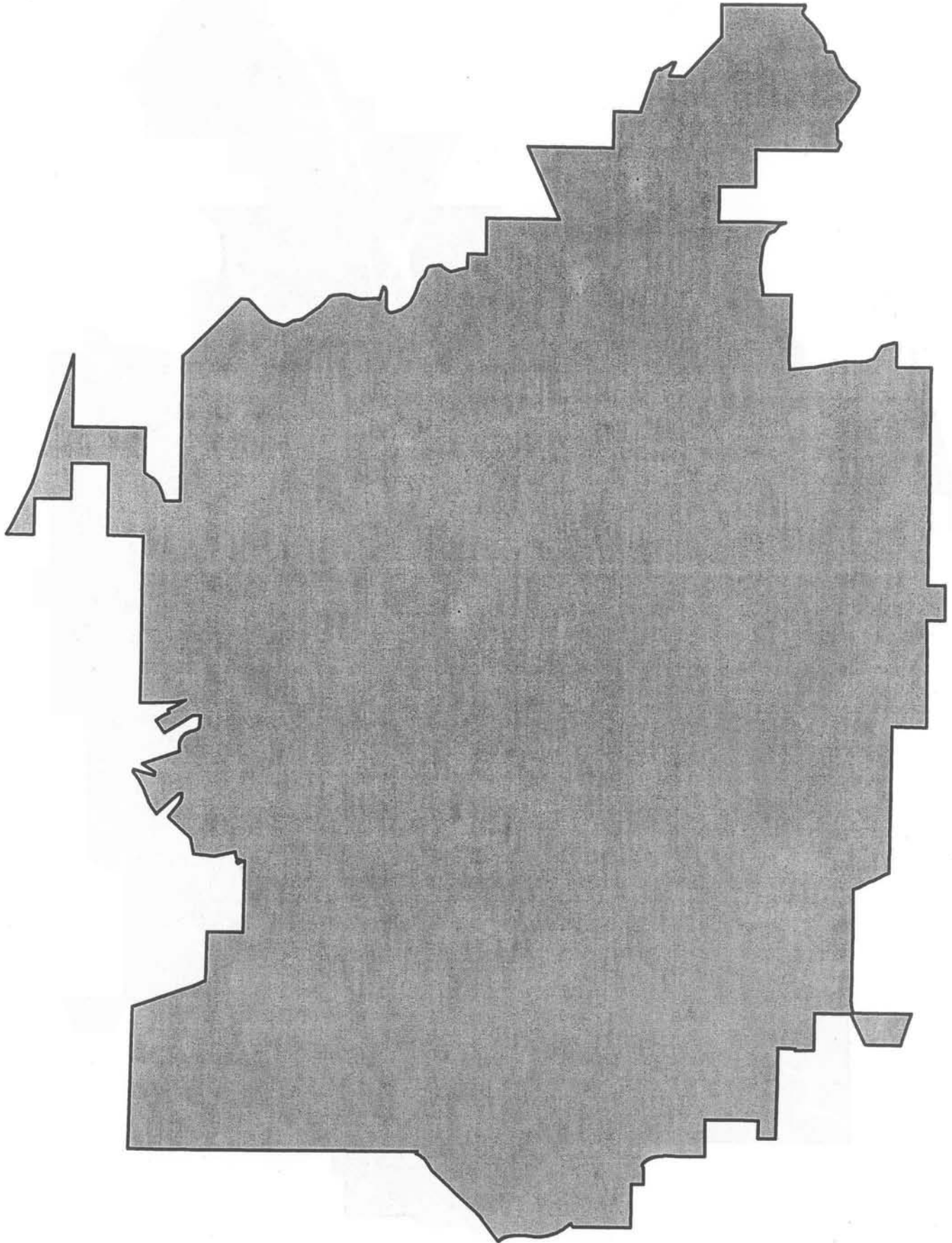


Figure 3: Net Developed and Gross Vacant Parcels

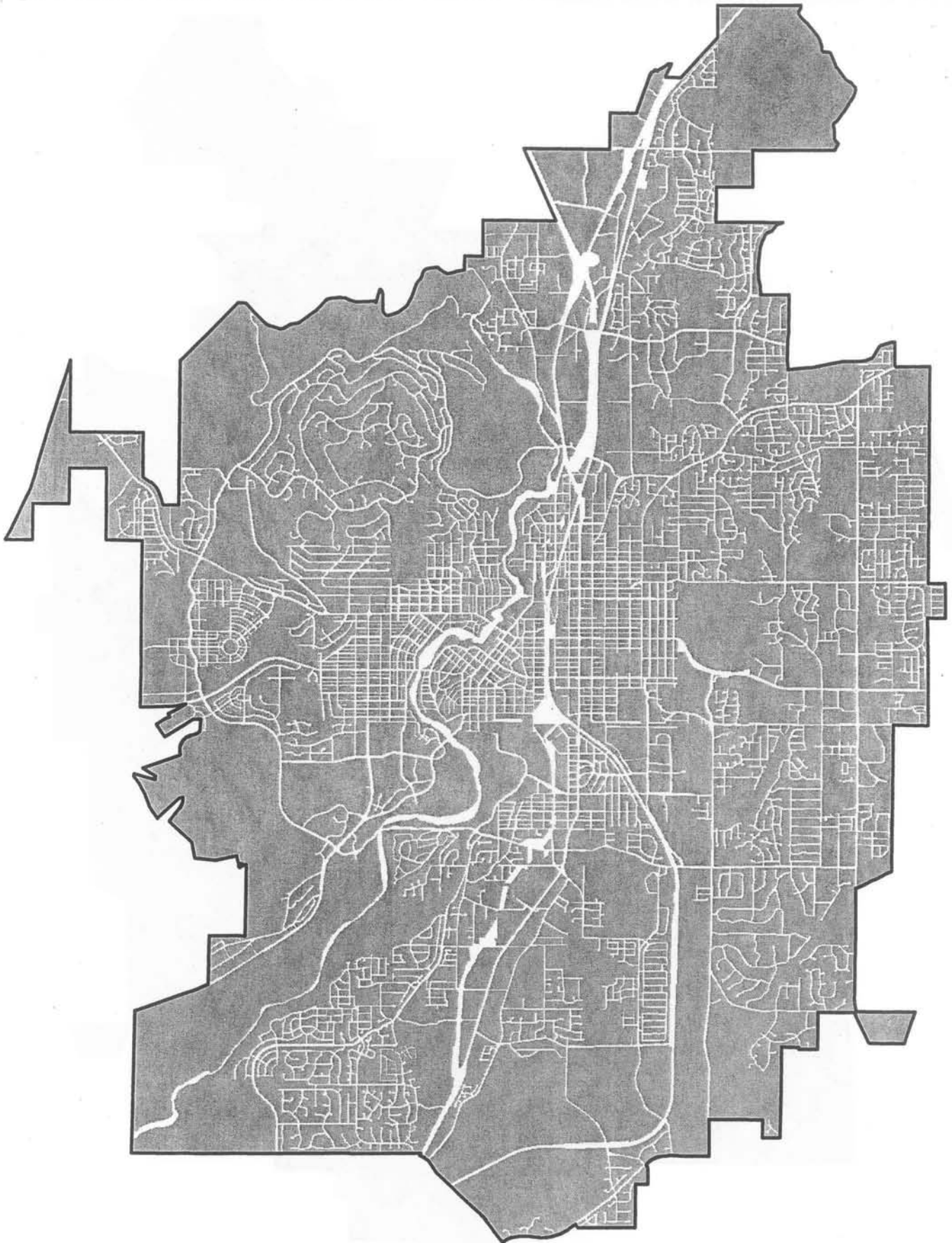


Figure 4: Taxlots Serving as Rights-of-Way for Roadways

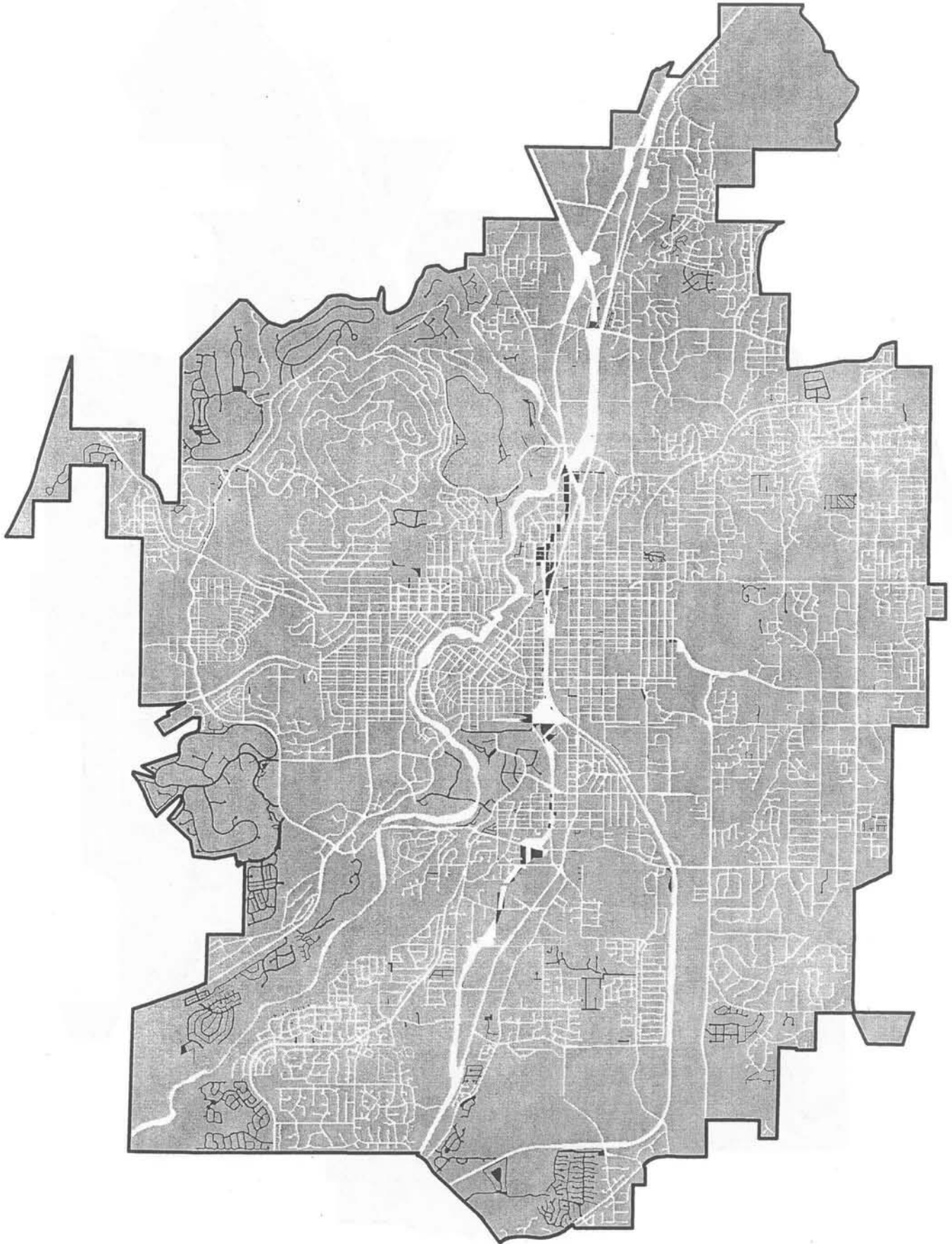


Figure 5: Deschutes River

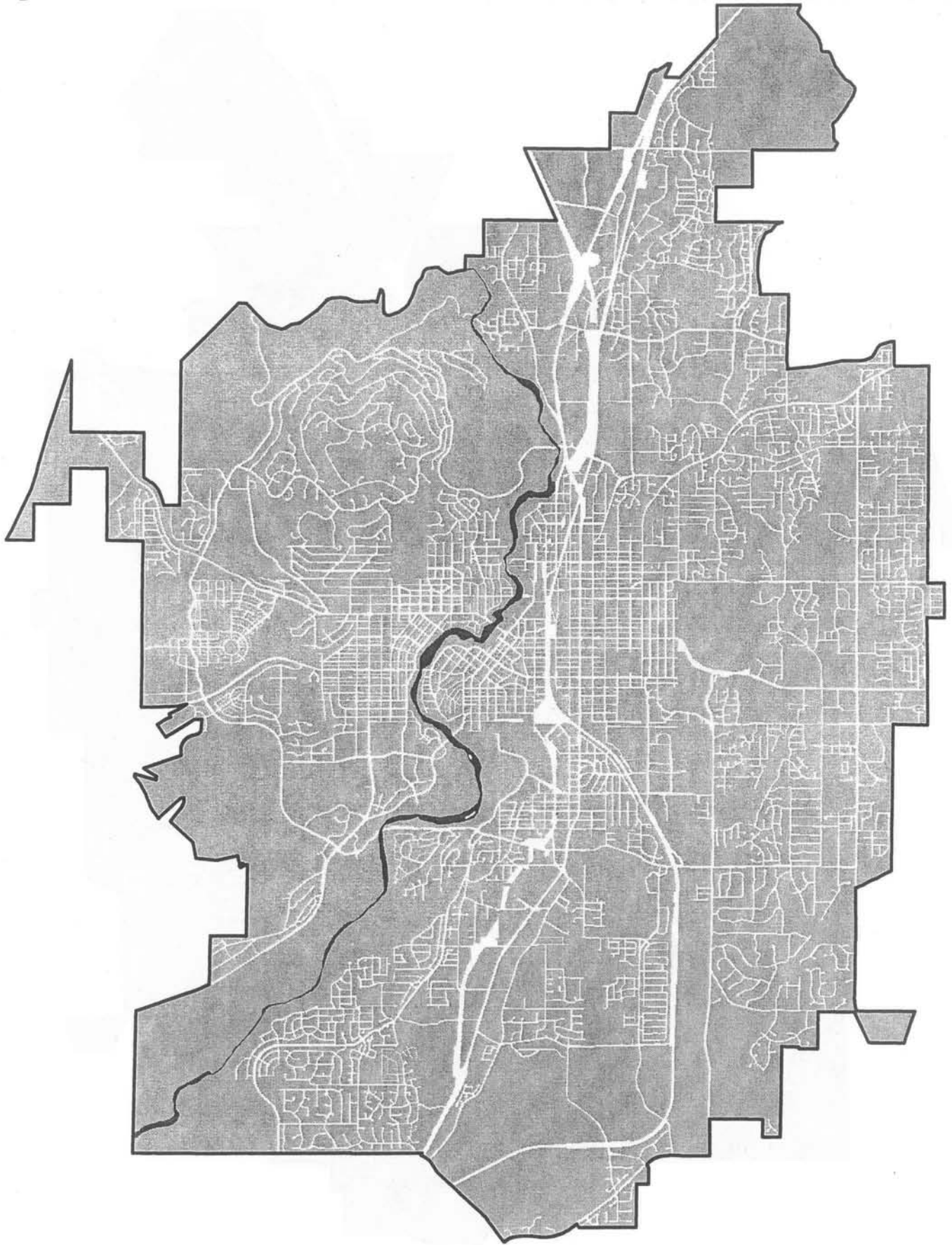


Figure 6: Residential Vacant and Vacant-Pending Land Use Acres

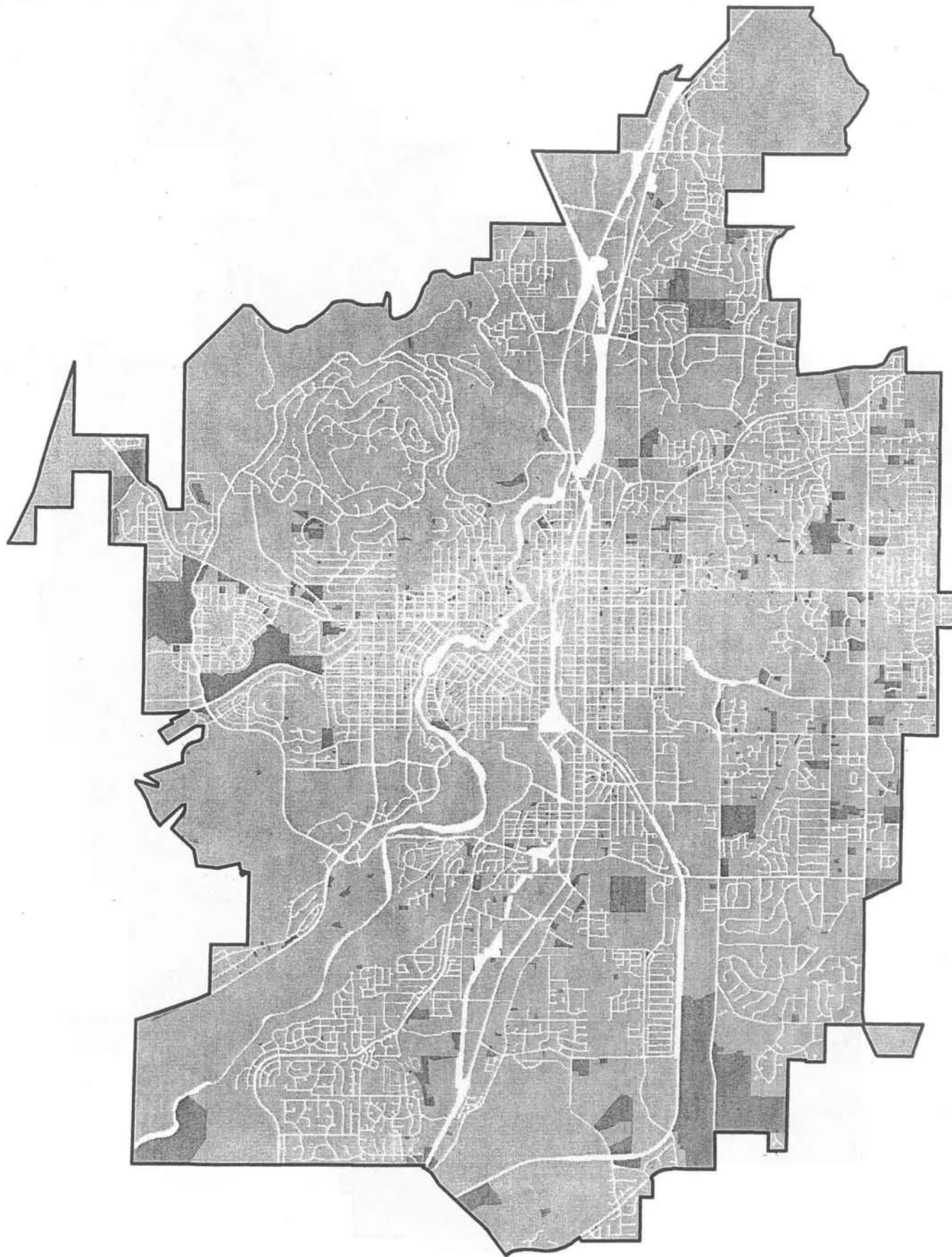


Figure 7: Economic Vacant and Vacant-Pending Land Use Acres

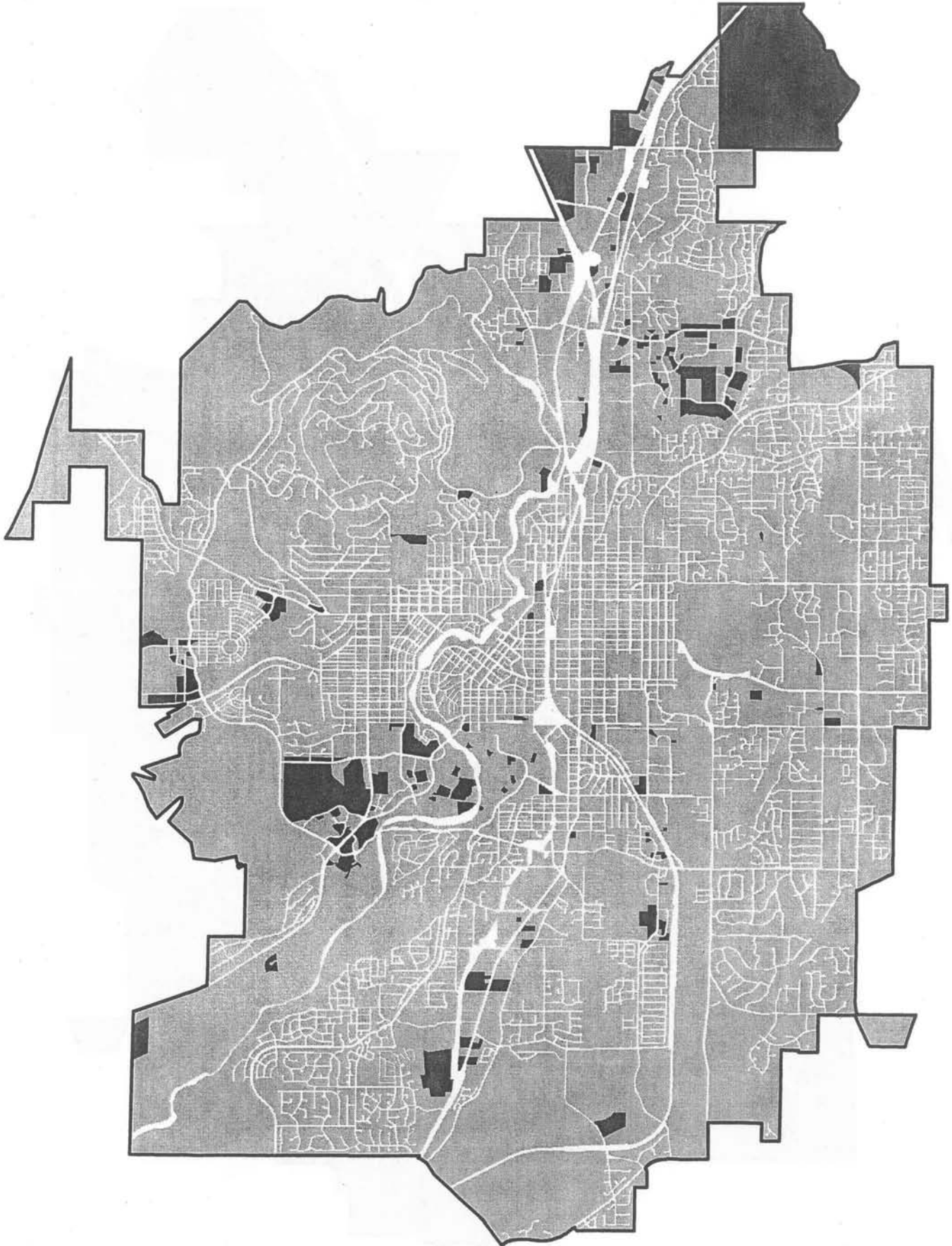
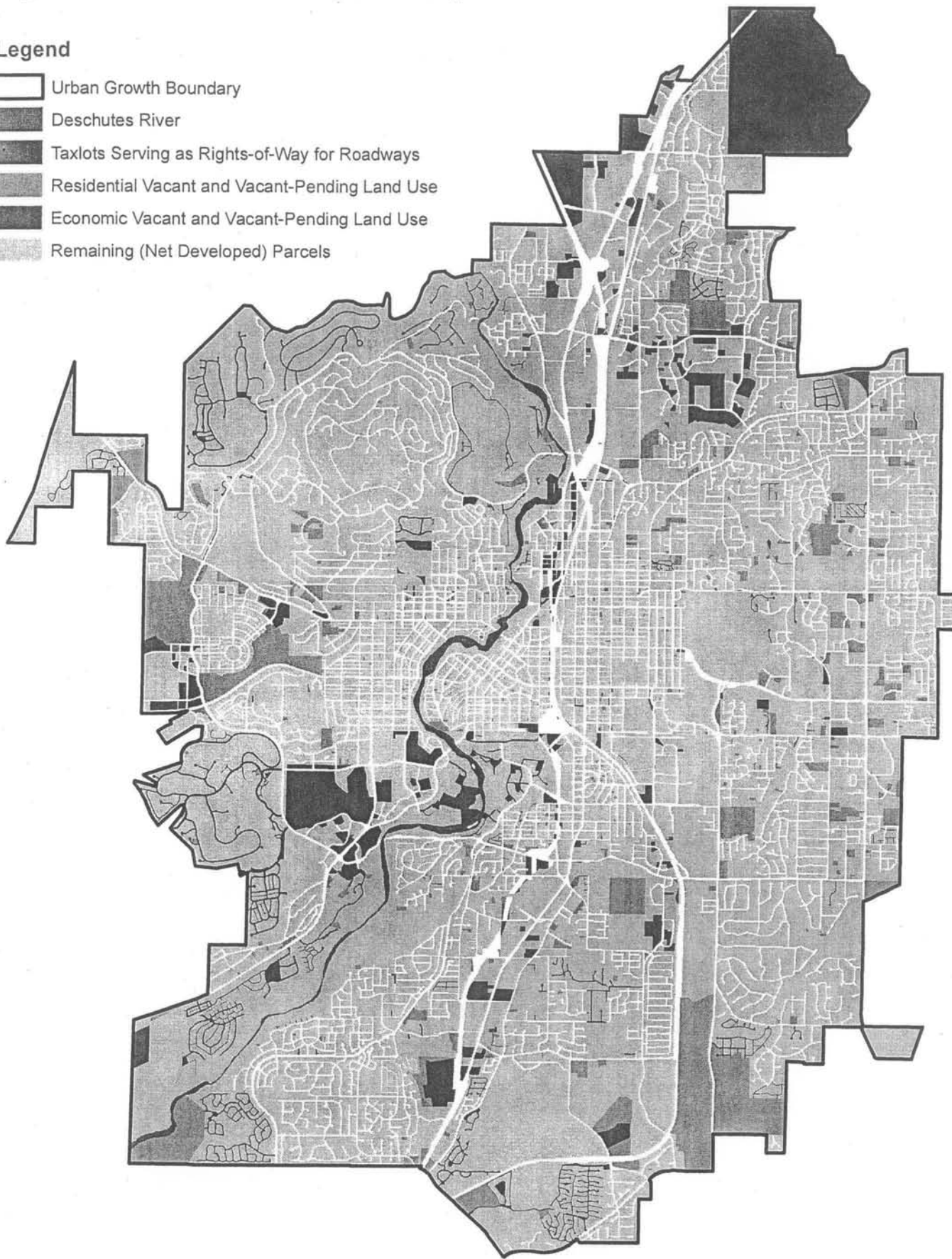


Figure 8: All Lands Used in ROW Analysis

Legend

-  Urban Growth Boundary
-  Deschutes River
-  Taxlots Serving as Rights-of-Way for Roadways
-  Residential Vacant and Vacant-Pending Land Use
-  Economic Vacant and Vacant-Pending Land Use
-  Remaining (Net Developed) Parcels



**INTERGOVERNMENTAL AGREEMENT
REGARDING COORDINATED PLANNING AND URBAN SERVICES**

PARTIES:

THIS AGREEMENT is entered into by and between Bend Metropolitan Park And Recreation District, a special district of the State of Oregon, hereinafter referred to as DISTRICT and THE CITY OF BEND, a municipal corporation of the State of Oregon, hereinafter referred to as CITY. This agreement amends the previous Intergovernmental Agreement Regarding Coordinated Planning and Urban Services between CITY and DISTRICT.

RECITALS:

- A. CITY is a municipal corporation of the State of Oregon, authorized to provide services to citizens living within its boundaries.
- B. DISTRICT is a parks and recreation special service district organized in accordance with the provisions of ORS 266.010 et. seq. formed to provide park and recreation facilities and services for the inhabitants of DISTRICT.
- C. CITY and DISTRICT have entered into this Agreement pursuant to ORS 190.003 et. seq. to carry out their respective responsibilities under ORS Chapter 195 and ORS 197.175.

NOW, THEREFORE, IT IS HEREBY AGREED BETWEEN THE PARTIES AS FOLLOWS:

AGREEMENTS CONCERNING EXCHANGE OF INFORMATION:

1. DISTRICT and CITY will exchange planning related information:
 - (a) To the extent that such information is reasonably available to the CITY, it will provide to DISTRICT available information concerning economic growth, building activity, population trends and projections, and maps; location and characteristics of natural resources and hazards; planned transportation improvements, opportunities for joint development of sites; long-range land use plans; and availability of public services.
 - (b) DISTRICT will provide CITY available information concerning recreation needs, level of use, service capacity, new site acquisitions, transportation facility needs, availability of facilities for community use, maps, and planned construction or closure of facilities.

2. DISTRICT and CITY will consult with each other and consider the information provided by each other when planning for sites, facilities and services. In particular, the information provided will be taken into account when evaluating potential sites and when planning for the construction of new facilities, additions to existing facilities, and closure of facilities, as well as when developing or amending comprehensive plans, zoning plans, and the development code.

AGREEMENTS CONCERNING PLANNING ROLES AND RESPONSIBILITIES:

3. DISTRICT and CITY will collaborate in planning for the parks, recreation and open space needs of the City of Bend and adjacent urbanizable area.

4. CITY shall be responsible for preparing, maintaining, updating and administering a comprehensive plan, within the planning area and developing ordinances for the area within its jurisdiction. These elements shall satisfy the statewide planning goals and shall be coordinated with all providers of urban services.

5. DISTRICT shall be responsible for preparing, maintaining and updating a comprehensive parks, recreation and open space plan for the area within its boundaries, including the City of Bend and adjacent urbanizable area for the purposes of meeting statewide Planning Goal 8 requirements and ensuring long-range public parks, recreation and open space facilities/services.

6. CITY is responsible for the planning, land acquisition, development, construction and maintenance of on-street and off-street bikeways for the purpose of implementing the transportation element of the Comprehensive Plan. DISTRICT is responsible for the planning, land acquisition, development, construction and maintenance of off-street bikeways that meet recreation needs within the area covered by the Park and Recreation Plan. DISTRICT and CITY shall coordinate their plans to maintain consistency in identifying these bikeways and in carrying out those goals.

7. CITY is responsible for the planning, land acquisition, development, construction and maintenance of urban trails, as identified in the Urban Trail Plan, for the purpose of implementing the transportation element of the Comprehensive Plan. DISTRICT is responsible for the planning, land acquisition, development, construction and maintenance of urban trails and recreation needs within the area covered by the Park and Recreation Plan. DISTRICT and CITY shall coordinate their plans to maintain consistency in identifying these trails and in carrying out those goals.

AGREEMENTS CONCERNING LAND USE ORDINANCES AND ACTIONS:

8. CITY's and DISTRICT'S staffs shall cooperate with each other in achieving the best solutions to the community's public parks, recreation and statewide land use Goal 8 open

space needs. In order to do so, each party shall use best efforts to give notice of activities covered by this Agreement at the earliest possible date to facilitate early and meaningful involvement by the other party. CITY will assist DISTRICT in scheduling, facilitating and participating in work sessions with CITY's Planning Commission and Council regarding DISTRICT issues.

9. CITY will give DISTRICT the opportunity to actively participate in all land use decisions by CITY which relate to or affect parks, recreation and related open space within the area covered by the Bend Area General Plan, which is subject to CITY's planning authority, prior to the decision by CITY. For purposes of this Agreement, the term: "land use actions" includes applications for land divisions, planned unit developments and zone changes, and proposed amendments to the comprehensive plan map or policies, zoning map or ordinance, or the development code. For purposes of this agreement, the term "actively participate" includes the following:

(a) CITY will promptly deliver to DISTRICT a copy of each proposed land use action. CITY staff shall deliver to DISTRICT a copy of all proposals for Development Code, Comprehensive Plan, and facilities plan amendments in a timely manner allowing DISTRICT a minimum of 14 days for review and comment prior to any public hearing on them.

(b) DISTRICT may propose amendments to the Development Code, zoning map or ordinance, or comprehensive plan map or policies which implement adopted DISTRICT policies found in the Park and Recreation Plan.

10. DISTRICT will give CITY the opportunity to actively participate in the preparation and updating of its comprehensive parks, recreation and open space "plan", prior to the final decision by DISTRICT. For purposes of this agreement, the term "actively participate" includes the following:

(a) DISTRICT will give CITY a copy of each proposed amendment to its plan as well as notice of the commencement of the process of an update of the plan, in a timely manner, not less than 14 days prior to any public hearing on the proposals, to allow CITY to review and comment on the proposals.

(b) CITY may propose amendments to the plan which implement adopted policies found in the CITY's comprehensive plan.

(c) The CITY will invite the DISTRICT to participate in pre-application meetings for land use decisions that affect parks, recreation and related open space.

11. DISTRICT shall notify CITY of DISTRICT proposals which relate to or affect land use or development within the area covered by the Bend General Area Plan which is subject to CITY's planning authority, prior to final action by DISTRICT.

12. DISTRICT and CITY shall provide notice under Sections 9(a) and 10 sufficiently in advance of any action to allow the notified party an opportunity to review and comment on the subject matter of the notice before publication of the staff report. If the notified party has concerns about the proposed action, DISTRICT's and CITY's staffs shall meet in an effort to resolve such concerns. Unresolved concerns shall be described in an attachment to the staff report.

13. DISTRICT and CITY will promptly respond to any notice to avoid unnecessary delay in action by the other. Either party may proceed with proposed actions in the absence of a timely response.

14. CITY and DISTRICT will each designate staff members to receive notices and to serve as liaison to each other and provide prompt response to review requests.

AGREEMENTS CONCERNING URBAN SERVICES:

15. CITY is designated in the Bend General Area Plan as the appropriate general services provider to citizens residing within its boundaries. By agreement of the parties, DISTRICT is designated as the service provider for parks and recreation and open space for the area covered by the Bend General Area Plan subject to CITY's planning jurisdiction.

16. CITY and DISTRICT may enter into intergovernmental agreements to share responsibility for providing certain park and recreational services, including planning, constructing and maintaining service facilities. No such agreement shall be inconsistent with this Agreement.

AGREEMENTS CONCERNING REVIEW AND MODIFICATION OF THE AGREEMENT:

17. This Agreement commences immediately and will automatically renew every year on July 1 unless terminated by one party giving the other party, prior to May 1, written notice of intent to terminate on the following July 1. In the event such notice is given, the parties will meet not later than June 1 to discuss the reasons for termination. If agreement to continue is not reached by June 30, this Agreement shall terminate.

18. The parties will meet to negotiate resolution of problems or conflicts concerning interpretation or implementation of the terms of this Agreement. A neutral third party may be used, if the parties agree, to help facilitate the negotiations.

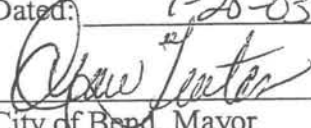
19. This Agreement may be amended by written application from one party to the other, and written concurrence by the responding party. Amendments shall be ratified by each governing body or delegated signatories, and made part of this Agreement.

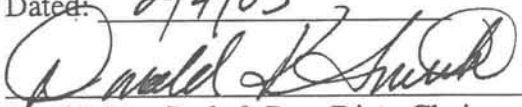
20. The parties shall jointly review this Agreement at least every three (3) years from the date of signing hereof, to evaluate the effectiveness of the processes set forth herein and to propose any necessary amendments. The results of the evaluation and any proposed amendments will be reviewed with each governing body.


ANNEXATION:

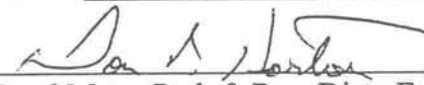
21. DISTRICT and CITY recognize that the CITY will be annexing part or all of the urban growth boundary. Further, this agreement is made to expressly allow the CITY to annex territory to the CITY pursuant to a voter approved annexation plan as provided for in ORS 195.220.

22. DISTRICT AND CITY recognize that the DISTRICT may annex part or all of the area within the urban growth boundary. Further, this agreement is made to expressly allow the District to Annex territory to the District Pursuant to a voter approved annexation plan as provided for in ORS 195.220.

Dated: 1-28-03

City of Bend, Mayor

Dated: 2/4/03

Bend Metro Park & Rec. Dist., Chairman
VICE

Dated: 1-22-03

City of Bend, City Manager

Dated: 2/5/03

Bend Metro Park & Rec. Dist., Exec. Dir.



Received
11/24/2008

Don Horton, Executive Director
200 NW Pacific Park Ln
Bend, OR 97701
tel: 541.389.7275 fax: 541.388.5429
www.bendparksandrec.org

November 24, 2008

Via: E-mail and Hand Delivery

BEND CITY COUNCIL
DESCHUTES COUNTY COMMISSION
c/o Damian Syrnyk, AICP, Senior Planner
City of Bend
710 NW Wall Street
Bend, OR 97701

**RE: Park and Trail Framework Plan
Urban Growth Boundary (UGB) Amendment
City of Bend Planning File No. PZ 07-361**

The Bend Metro Park and Recreation District ("District") has been working closely with the City and County Staff throughout the UGB planning process.

Land Needs Estimate

Based on the UGB population forecast and adopted target levels of service ("LOS") in the District's 2005 Park, Recreation and Greenspaces Comprehensive Plan ("Comprehensive Plan"), the gross need for future park and trail need, within the expanded UGB was estimated at 362 acres.

Park and Trail Framework Plan

The District's Comprehensive Plan target LOS standards for neighborhood and community parks as well as trails were used to establish the gross (i.e. non-locational) estimate of future park and trail need. Figure 1. shows the gross estimate of future need for each class of facility based upon an adjusted 2028 population forecasted increase of 38,512.

Figure 1. Estimated Gross Park Need

Facility Class	Comp Plan Target LOS	Future Need (acres)
Neighborhood Parks	2 acres/1,000	77 acres
Community Parks	5 acres/1,000	193 acres
Trails	2.4 acres/1,000	92 acres
Total acres needed		362 acres



National Gold Medal Award Winner

00769

Because the gross estimates of future park need were made prior to the release of the October 10, 2008 Alternative 4 UGB map (later reiterated), which included final draft boundaries and zoning designations, no park location planning had been done. More refined, quadrant-based planning has now been done by the City and District Staff. This quadrant-based location planning has been previously referred to in the record as the “park framework plan”.

The park framework plan will function to ensure that adequate neighborhood and community park amenities are efficiently and equitably distributed about the entire UGB pursuant to the Bend Urban Area General Plan and the District’s Comprehensive Plan. It is critical to refine the future park need based upon “location criteria” included in the Comprehensive Plan.

Community parks have service radii of 1 to 2 miles and the relevant location criteria are:

- Individual community parks should be centrally located in the portion of the community being served;
- Some community parks may be designed and located so as to serve the entire community;
- Collectively, community parks should be strategically located and uniformly dispersed throughout the community.

Typically, with the exception of the larger sites along the Deschutes River, community parks are located to serve specific areas of the District. Therefore the UGB was divided into quadrants.

Neighborhood parks have service radii of $\frac{1}{4}$ to $\frac{1}{2}$ miles and the relevant location criteria are:

- Located as central as possible to the neighborhood which it serves;
- Conveniently accessible within 10 – 15 minutes on foot.

Because neighborhood parks serve much smaller areas than community parks, their distribution and total net need is not as sensitive to the quadrant based analysis. However, the analysis can reveal the equity of neighborhood park service across the District and can help refine overall future need. Calculating only the gross level of neighborhood park service needed does not effectively reveal localized service deficiencies. Final locations of future neighborhood parks in the new UGB areas will be largely determined through the development process pursuant to policies and analysis in the District’s Neighborhood Parks Plan, an element of the Comprehensive Plan.

With the release of the UGB map and with the population data for each quadrant the District along with City Staff’s assistance has begun park framework planning. The quadrants used in the framework plan analysis are defined as either east or west of Hwy 97 (the Bend Parkway) and; as either north or south of the Hwy 20 – Greenwood/Newport Avenue – Shevlin Park Rd line. Figure 2 shows the net future park and trail need in each of the four expanded UGB quadrants.

Figure 2. Net Future Park and Trail Need at Build-out by Quadrant

Population at Build-out	Total UGB:	118,335				
- Per Quadrant:			18,350	38,275	30,279	31,432
NEIGHBORHOOD PARKS	Acres		NW	NE	SW	SE
Developed Neighborhood Park acres:	97	29	28	30	10	
Undeveloped Neighborhood Park acres:	34	0	18	10	6	
Existing Neighborhood Park total acres:	131	29	46	40	16	
Additional net Neighborhood Park acres needed to meet 2ac./1,000 target:	105	7	31	20	47	
COMMUNITY PARKS	Acres		NW	NE	SW	SE
Developed Community Park acres:	245	5	109	80	51	
Undeveloped Community Park acres:	184	0	151	0	33	
Existing Community Park total acres: ¹	429	5	260	80	84	
Additional net Community Park acres needed to meet 5ac./1,000 target:	231	87	0²	71	73	
TRAILS	Miles/Acres		NW	NE	SW	SE
Existing Trail Miles	61	9.0	5.9	40.4	5.5	
Trail Acres (20' wide ROW = 2.4 ac./mile)	146	22	14	97	13	
Additional net Trail acres needed to meet 2.4ac./1,000 target:	138	22	78	-24³	62	

Figure 3 shows the net total acres needed for parks and trails within the entire future UGB and within the individual quadrants.

Figure 3. Net Park and Trail Acres Needed

	UGB	NW	NE	SW	SE
Total additional net Park and Trail Acres Needed:	474	117	108	67	183

It is our understanding from discussions with the City Staff, that this information in Figures 2 and 3 will be added to the adopted UGB Framework Plan Map

Analysis and Conclusion

The 474 net acres of park and trail need shown in the quadrant-based analysis demonstrates that locational factors significantly impact future needs within the expanded UGB. This is particularly true for community parks where the excess 69 acres of existing capacity in the NE quadrant cannot be practically redistributed to the other three quadrants. It is also true for

¹ Community River Parks that do not provide the full range of basic community park amenities have been adjusted out. (See BMPRD Comprehensive Plan, Community River Parks, pg. 7-16)

² While the analysis shows an excess of 69 acres of community park service in the NE quadrant, this service cannot be distributed to other quadrants and therefore it is not deducted from the total net need.

³ A disproportionate amount of the Deschutes River Trail which serves the entire community is located within the SW Quadrant. This excess river trail acreage has been deducted from the net trail need.

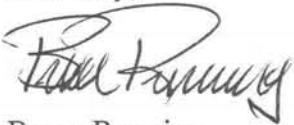
neighborhood parks because of their much smaller service areas. The combined need for neighborhood and community park acres when determined by quadrant is 336 net acres as compared to 270 gross acres shown in the earlier analysis. However, the overall need for residential lands includes 327 surplus acres, some of which might be used to accommodate the additional 66 acres of park need identified in the quadrant-based analysis.

The overall, 474 acre quadrant-based prediction of park and trail need is also somewhat skewed by the large amount of future trail acreage identified. Some of the needed trail right-of-way will be acquired in fee title and therefore will decrease the total of buildable acres in the expanded UGB. Other future trail acres, however, may be accommodated on easements across otherwise buildable parcels and therefore should not be deducted from the overall total of available acres. In addition, a significant portion of future trail routes follow canal ditch roads that are otherwise accounted for in the provision for 15% open space in the overall UGB land need. While it is impossible to say exactly how much of the predicted need for trail acreage is excessive, it seems safe to assume that the quadrant-based analysis results in some over prediction of combined park and trail need. It appears from the framework plan analysis that 362 acres of gross park and trail need may be sufficient although the quadrant-based prediction shows a greater need.

Recommendation

The District recommends retaining the 362 acres estimate of future park and trail need within the UGB. It will be necessary to review particular UGB areas as they are proposed for annexation in order to ensure that adequate parks and trails are provided for future users. The General Plan and Development Code amendments submitted jointly by the Bend Metro Park and Recreation District and the Bend La Pine School District are critical in facilitating implementation of the park and trail framework plan.

Sincerely,



Bruce Ronning
Director of Planning and Development

c: City of Bend and Deschutes County Planning Staff



520 NW Wall Street
Bend, Oregon 97701-2699
(541) 383-6000



December 5, 2005

To: Damian Syrnyk, Senior Planner
City of Bend
From: John M. Rexford, Assistant Superintendent-Operations
Bend-La Pine Public Schools
Re: School Land Requirements for UGB Expansion
Cc: Sharon Smith, Legal Counsel
Bryant, Lovlien & Jarvis

As you review the needs for additional residential lands and related public spaces, please consider the following concept for calculation of school land requirements. It is based on Dr. Richard Lycan's "Enrollment Forecasts for the Bend-La Pine School District 2005-2020" dated March 31, 2005. This document developed through the Population Research Center at Portland State University estimates .397 public school (K-12) students will be generated per occupied housing unit. In addition, consistent with most state guidelines and the adopted facilities plan of the District, the school district identifies the need for 15-acre school sites to serve 600 Grade K-5 students; 25-acre sites to serve 800 Grade 6-8 students; and 50-acre school sites to serve 1,500 Grade 9-12 students.

Based on these guidelines:

15 acres/600 K-5 students	=	.025 acres per student
25 acres/800 6-8 students	=	.03125 acres per student
50 acres/1,500 9-12 students	=	.0333 acres per student

Pro-rated by grade level	=	.029 acres per student (K-12)
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.397 K-12 Students per Occupied Housing Unit	*	
.029 acres per K-12 Student	=	.011513 acres School Land per Occupied Housing Unit

Thank you for your consideration of this concept.

010560

M E M O R A N D U M

710 WALL STREET
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BEND, OR 97709
[541] 388-5505 TEL
[541] 388-5519 FAX
www.ci.bend.or.us

TO: **UGB REMAND TASK FORCE (RTF)**
FROM: **BRIAN SHETTERLY, SENIOR PLANNER; LRP; LEGAL DEPARTMENT**
SUBJECT: **DISCUSSION AND RECOMMENDATION OF REMAND TASK 4.3:
PARK AND SCHOOL LAND NEEDS IN UGB EXPANSION AREA**
DATE: **JULY 22, 2011**

Introduction

This memo addresses Sub-issue 4.3 of the City of Bend Remand and Partial Acknowledgment 10-Remand-Partial Acknow-001795 (hereafter referred to as Remand and Sub-issue). This Sub-issue is found on pages 61-63 of the Remand order.¹

This memo includes a discussion of this sub-issue, but there is no staff recommendation at this time. We are introducing this sub-issue to the Remand Task Force at this time, since it is linked to Sub-Issue 4.2. However, as discussed below, it will not be possible to draft final findings addressing Sub-Issue 4.2 until later in the remand process, when tentative decisions about the size and location of the UGB expansion have been made. At that time, as with other sub-issues, draft findings will be prepared for Task Force review, providing the applicable legal standard, substantial evidence, and an explanation of compliance with the legal standard for Sub-Issue 4.3. This memo has been reviewed by DLCD staff, who are in agreement with its contents.

Remand Sub-issue 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."*²

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

¹ Oregon Land Conservation and Development Commission, Remand and-Partial Acknowledgement Order 10-Remand-Partial Acnow-001795, November 2, 2011, p.61.

² Ibid. p. 61.

UGB, particularly if those lands were determined to not be suitable for urbanization.”³

Discussion of Conclusion

Draft findings for Sub-Issue 4.2 establish the estimated amount of land that will be needed for park and school facilities during the planning period, and the methodologies used to calculate those estimates. Findings for Sub-Issue 4.2 also show that the City coordinated with the parks and school districts in considering needed land for these uses. Findings for Sub-Issue 4.2 do not consider the extent to which these needed acres may be found within the existing UGB or in the proposed expansion area.

In Sub-Issue 4.3, which is the subject of this memo, LCDC requires findings demonstrating how much of the estimated land need for parks and schools can be reasonably accommodated inside the existing UGB. These additional findings will take into account undeveloped properties owned by Bend Metro Parks and Recreation District (BMPRD) or Bend-La Pine Schools (BLPS), either within the existing or proposed UGB (or outside of it, in the case of certain rural park needs) that are available to meet the estimated need. The boundary determination will not be influenced by the presence or absence of park- or school-owned lands, and will be conducted per Goal 14, ORS 197.298, OAR 660-024-0060 as directed by the Remand Order.

Addressing Sub-Issue 4.3

In its remand order, LCDC does not dispute the City’s estimates of acreage that will be needed for future schools and parks. Those estimates were based on formulas provided, respectively, by Bend-La Pine Schools (Pre-remand Record 10560) and the BMPRD (Pre-remand Record 2724). The school district’s recommended formula resulted in an estimated a need of 192 total acres, and the park district’s methodology resulted in a final, estimated need for 362 acres to accommodate forecast growth during the planning period.

Rather than objecting to these estimates, the Commission agreed with the Director’s Decision, which “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 (the City’s) prior UGB, and (for parks) whether some portion of the need (rural facilities) could be located on lands outside of the UGB.”⁴ For this sub-issue, on remand, the Council will need to adopt new findings that:

- Confirm or adjust estimates of needed acreage for public parks and schools during the planning period;
- Clearly explain the extent to which the needed acres may be accommodated on existing district ownerships inside and outside the

³ Ibid., p. 63.

⁴ Ibid., p. 61

current UGB consistent with the goals and laws pertaining to the UGB boundary analysis and Remand Order; and

- Note that any new land acquisitions intended to help meet needs within the existing UGB will displace acreage that is currently designated to accommodate either housing or employment and related uses, thus adding to the amount of acreage needed for those uses in the expansion area.

Based on the previous Buildable Lands Inventory and discussions with the park and school districts' staff, we expect to find that existing ownerships of BMPRD and BLPS, either within the current UGB or in the expansion area, will not be sufficient to meet the estimated needs. That amount of excess demand will become an additional increment of total acres needed for expansion.

As discussed in findings for Sub-Issue 4.2, the estimates of acres needed for parks and schools are based on increases in either population or housing units in the Bend urban area. However, the facilities provided by both BMPRD and BLPS are also location-sensitive. Depending on where an expanded UGB is located, it's possible that some part of the needed acreage for new facilities may be met by existing facilities. For example, the forecast growth in the number of housing units between 2008 and 2028 (16,681) indicates the need for several new elementary schools. If the expanded UGB were located in the vicinity where BLPS owns land suitable for a new elementary school and the *2005 Sites and Facilities Study* recommends siting a new elementary school in this area, then the need for additional acreage for a new elementary school in that area might be reduced. As with school facilities, the land need for new parks is based in part on the location of existing and future neighborhoods. Again, depending on the specific location of an expanded UGB, the estimated acreage need for parks may be somewhat lower or higher than an estimate based solely on population growth.

In its 2009 UGB adoption, the City did not make any distinction between acres needed within the current UGB and acres that would be needed in the expansion area for parks and schools. Any new land that either district might acquire within the current UGB to accommodate needed facilities would be designated for employment or housing purposes in the City's Buildable Lands Inventory, and thus assumed to be used for residential or employment uses. When acreage assumed to be used for residential or employment land uses is used for park or school uses, an equivalent amount of new land would need to be made available for either residential, or employment uses. That additional acreage would be found within the UGB expansion area. Thus, the amount of acres needed for future parks and schools need not be broken down into categories of acres needed within the current UGB and acres needed within the expansion area. The total estimated amount of needed acreage remains the same, regardless of the degree to which the need is met within the current UGB or in the expansion area. This makes sense from the districts' standpoints as well, since once the UGB expansion is complete, they will locate new facilities to optimally serve the entire area within new UGB rather than distinguish between the current UGB and expansion area.

Nevertheless, findings responding to this sub-issue will consider and account for properties within the current and new UGB that are already owned by BMPRD and BLPS and are available to help meet future needs.

Conclusion

Staff recommends that no action be taken by the Remand Task Force with respect to Sub-Issue 4.3 at this time. Rather, as it becomes clearer where the UGB will be located, this issue will be re-visited and resolved. Findings drafted at that time will be very clear as to the total acreage need for parks and schools, the extent to which that need is expected to be met on current ownerships or future acquisitions, and whether those will be within the current UGB or in the expansion area. Staff anticipates there will be sufficient evidence in the record in the form of the revised Buildable Lands Inventory and parcel database pertaining to the lands outside the UGB to address this sub-issue without adding new information to the record.