ORDINANCE NO. NS-1758

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, TO PROVIDE A SPECIAL USE PERMIT PROCESS FOR TEMPORARY ROCK CRUSHING OUTSIDE THE SM ZONE.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Section 10.10.25(10) of NS-1178 is hereby amended to add (10A) as follows:

(10A) Special Use Permit for Temporary Rock Crushing Outside the SM Zone.

A. Temporary on-site rock crushing for on-site construction and maintenance is permitted outright in any zone if the following standards are met:

1. The subject property has received site plan, tentative plat or final plat approval for the construction or maintenance activity or is an approved public facility project;

2. Rock crushing equipment has a valid Oregon Department of Environmental Quality air contaminant discharge permit;

3. The crushing equipment is capable of providing material meeting "three quarter inch minus reject" (3/4 inch minus) specifications;

4. No off-site materials are brought on site for crushing;

5. Rock crushing equipment is removed from the site within 15 days of completing the crushing activity;

6. Excavated crushed material not used for on-site construction or landscaping is removed to a City approved location within 15 days of completing the crushing activity.

7. The rock crushing equipment is set up as far away as practicable from any property line or existing residence but in no case shall the setback be less than 150 feet.

8. The duration of the temporary rock crushing activity is for no more than 60 consecutive days from the issuance of the permit, unless the applicant obtains an extension of time pursuant to the City of Bend Land Use Permit and Procedures Ordinance;

9. Rock crushing occurs Monday through Friday, between 8:00AM and 5:00PM, and not on legal holidays; and

10. Water is available to provide dust control.

B. Application requirements. An application for a temporary permit for on-site rock crushing shall contain the following;

1. A detailed explanation of the proposed construction and rock crushing activities, including:
   - an approved grading plan,
   - an estimate of the amount material to be processed,
   - the amount of material to be used on site and the amount to be removed if any,
   - the duration and operating characteristics of the rock crushing

activity;

2. An explanation of how the proposal will reduce truck trips or otherwise benefit the community.

3. A map drawn to scale showing:
   - the location of property boundaries,
   - the truck travel route for vehicles accessing the site and rock material being removed from site,
   - the location site for material being removed,
   - setbacks to the rock crushing activity and
   - any topographic features in the immediate vicinity of the proposed rock crusher;

4. Any additional information which will assist in the evaluation of the proposed rock crushing.

5. The application shall be processed pursuant to the City of Bend Land Use Permit and Procedures Ordinance.

C. Revocation of a Temporary Permit for Noncompliance. Any permit for temporary permit for rock crushing granted in accordance with the terms of this ordinance may be revoked if any of the conditions or terms of such permit are violated.

Read for the first time the 18th day of October, 2000.

Read for the second time the 1st day of November, 2000.

Placed upon its passage the 1st day of November, 2000.

YES: 6 NO: 0

Authenticated by the Mayor the 1st day of November, 2000.

Jim Young, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

VOL: 2001 PAGE: 1453
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2001-1453 * Vol-Page Printed: 01/11/2001 14:09:34

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Jan. 11, 2001; 2:09 p.m.

RECEIPT NO: 30718

DOCUMENT TYPE: Ordinance (County or City)

FEE PAID: $31.00

NUMBER OF PAGES: 1

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

ORDINANCE NO. NS-1759

2001-1453-1

AN ORDINANCE VACATING AN ALLEY THAT LIES WITHIN THE NE ¼ OF THE NE ¼ OF SECTION 31, TOWNSHIP 17 SOUTH, RANGE 12 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on June 7, 2000 requesting that the following described area be vacated:

The alley located in Block 20 of Kenwood, all located in the NE ¼ of NE ¼ of Section 31, Township 17 South, Range 12 East, WM, in the City of Bend, Deschutes County Oregon.

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above street right of ways to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 1st day of November, 2000, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and;

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of street right of ways located in Bend, Deschutes County, Oregon, be vacated.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 15th day of November 2000.

Read for the second time the 6th day of December 2000.

Placed upon its passage the 6th day of December 2000.

Yes: 6 No: 0

Authenticated by the Mayor the 6th day of December 2000.

Jim Young

Jim Young, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City Recorder

After Recording, Return to
City Recorder
710 NW Wall
Bend, OR 97701

Blank Page

VOL: 2001 PAGE: 1454
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2001-1454 * Vol-Page Printed: 01/11/2001 14:09:40

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Jan. 11, 2001; 2:09 p.m.

RECEIPT NO: 30718

DOCUMENT TYPE: Ordinance (County or City)

FEE PAID: $36.00

NUMBER OF PAGES: 2

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

2001-1454-1

ORDINANCE NO. NS-1760

AN ORDINANCE VACATING A PORTION OF TWEET PLACE THAT LIES WITHIN THE SE ¼ OF THE NE ¼ OF SECTION 29, TOWNSHIP 17 SOUTH, RANGE 12 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on June 7, 2000 requesting that the following described area be vacated:

SEE EXIBIT "A"

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above street right of ways to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 1st day of November, 2000, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and;

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of street right of ways located in Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 15th day of November 2000.

Read for the second time the 6th day of December 2000.

Placed upon its passage the 6th day of December 2000.

Yes: 6 No: 0

Authenticated by the Mayor the 6th day of December 2000.

Jim Young

Jim Young, Mayor

ATTEST:

Patri S. Stell

Patricia Stell, City Recorder

After Recording, Return to:
City Recorder
710 NW Wall
Bend OR 97701

2001-1454-2

EXHIBIT A

Project No. R6118
DOT
REP 4-6-94 1A-22-17

Section: Bend Parkway, Phase 2
Highway: The Dalles-California
Non-throughway

Description Only For City of Bend Transfer

A parcel of land lying in the SE¼NE¼ of Section 29, Township 17 South, Range 12 East, W.M., Deschutes County, Oregon; the said parcel being that portion of said SE¼NE¼ lying Westerly of the Easterly line of N.E. Tweet Place and Easterly of the following described line:

Beginning at a point opposite and 170 feet Northwesterly of Engineer's Station 200+70 on the center line of the relocated The Dalles-California Highway; thence Southerly parallel with said center line to a point opposite of Engineer's Station 205+90; thence Easterly at right angles to said center line 20 feet; thence Southerly in a straight line to a point opposite and 150 feet Westerly of Engineer's Station 207+00 on said center line; thence Southerly in a straight line to a point opposite and 95 feet Westerly of Engineer's Station 210+40 on said center line which center line is described as follows:

Beginning at Engineer's center line Station 195+00, said station being 976.18 feet South and 191.94 feet East of the Southwest corner of Section 21, Township 17 South, Range 12 East, W.M.; thence South 29° 12' 16" West 123.39 feet; thence on a spiral curve left (the long chord of which bears South 25° 02' 22" West 498.94 feet) 500 feet; thence on a 1145.92 foot radius curve left (the long chord of which bears South 13° 52' 21.5" West 113.23 feet) 113.27 feet; thence on a spiral curve left (the long chord of which bears South 2° 42' 21" West 498.94 feet) 500 feet; thence South 1° 27' 33" East 100.16 feet; thence on a spiral curve right (the long chord of which bears South 2° 42' 21" West 498.94 feet) 500 feet; thence on a 1145.92 foot radius curve right (the long chord of which bears South 15° 28' 43.5" West 177.34 feet) 177.52 feet; thence on a spiral curve right (the long chord of which bears South 28° 15' 06" West 498.94 feet) 500 feet; thence South 32° 25' West 85.66 feet to Engineer's center line Station 221+00.

Bearings are based upon the Oregon Co-ordinate System of 1983, south zone.

The parcel of land to which this description applies contains 12,800 square feet, more or less.

afd

4-6-94

VOL: 2001 PAGE: 1455
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2001-1455 * Vol-Page Printed: 01/11/2001 14:09:49

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Jan. 11, 2001; 2:09 p.m.

RECEIPT NO: 30718

DOCUMENT TYPE: Ordinance (County or City)

FEE PAID: $46.00

NUMBER OF PAGES: 4

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

2001-1455-1

ORDINANCE NO. NS-1761

AN ORDINANCE VACATING A PORTION OF SILVER LAKE BOULEVARD THAT LIES WITHIN THE NW ¼ OF THE NW ¼ OF SECTION 5, TOWNSHIP 18 SOUTH, RANGE 12 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on June 7, 2000 requesting that the following described area be vacated:

SEE EXIBIT "A"

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above street right of ways to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 1st day of November, 2000, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and;

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of street right of ways located in Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 15th day of November 2000.

Read for the second time the 6th day of December 2000.

Placed upon its passage the 6th day of December 2000.

Yes: 6 No: 0

Authenticated by the Mayor the 6th day of December 2000.

Jim Young

Jim Young, Mayor

ATTEST:

Patricia Stell

Patricia Stell, City Recorder

After Recording, Return to:
City Recorder
710 NW Wall
Bend, OR 97701

2001-1455.2

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 19, 1994
DAVID R. WILLIAMS
2886

EXPIRES: JUNE 30, 2000

EXHIBIT "A"

TL 3201
SILVER LAKE BOULEVARD VACATION

PROPERTY DESCRIPTION

A 10.00 foot wide strip of land, containing 2810 square feet, more or less, located in a portion of the Northwest One-Quarter (NW1/4) of the Southeast One-Quarter (SE1/4) of Section 5, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the intersection of the westerly right-of-way line of Silver Lake Boulevard and the northerly right-of-way line of McKinley Avenue said intersection also being the southeast corner of a parcel of land recorded per Warranty Deed Volume 1999, Page 54639, November 12th, 1999; thence along said westerly right-of-way line of Silver Lake Boulevard the following two courses and one curve:

North 00° 00' 00" East a distance of 20.86 feet (RECORD: North, 20.86 feet);
around a 200.00 foot radius curve right 78.57 feet (chord bears North 11° 15' 18" East, 78.07 feet) (RECORD: around a 200.00 foot radius curve right 78.19 feet (chord bears North 10° 44' 28" East, 77.69 feet));
North 22° 30' 36" East a distance of 181.48 feet (RECORD: North 22° 30' 36" East, 181.48 feet) to the southerly right-of-way line of Roosevelt Avenue;

thence along said southerly right-of-way line South 89° 58' 14" East a distance of 10.82 feet to a line 10.00 feet easterly of and parallel to said westerly right-of-way line of Silver Lake Boulevard; thence along said 10.00 foot easterly parallel line the following two courses and one curve:

South 22° 30' 36" West a distance of 185.62 feet;
around a 190.00 foot radius curve left 74.65 feet (chord bears South 11° 15' 18" West, 74.17 feet);
South 00° 00' 00" East a distance of 20.86 feet to a point on said northerly right-of-way line of McKinley Avenue;

thence along said northerly right-of-way line North 90° 00' 00" West a distance of 10.00 feet to the "Point of Beginning ", the terminus of this description.

Subject to: All easements, restrictions and rights-of-way of record and those common and apparent on the land.

JOB # 00214-3201
DATE 4/22/00
BY DS
CHKD. DM

2001-1455-3

JOB # 000207/2700
DATE 4/17/01
BY DJS
CHKD. DM

EXHIBIT "A"

TL 2700
SILVER LAKE BOULEVARD VACATION

PROPERTY DESCRIPTION

A 10.00 wide strip of land containing 1309 square feet, more or less, located in a portion of the Northwest One-Quarter (NW1/4) of the Southeast One-Quarter (SE1/4) of Section 5, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the intersection of the easterly right-of-way line of Silver Lake Boulevard and the northerly right-of-way line of McKinley Avenue, said point also being the southwest corner of Lot 11, Block 154, Second Addition to Bend Park; thence along said northerly right-of-way line of McKinley Avenue North 90° 00' 00" West a distance of 10.00 feet to a point 10.00 feet westerly of and parallel to said easterly right-of-way line of Silver Lake Boulevard; thence along said 10.00 foot westerly parallel line the following two courses and one curve:

North 00° 00' 00" East a distance of 20.86 feet;
around a 130.00 foot radius curve right 51.05 feet (chord bears North 11° 15' 00" East, 50.72 feet);
North 22° 30' 00" East a distance of 58.88 feet;

thence North 90° 00' 00" East a distance of 10.82 feet to the northwest corner of Lot 10, Block 154, Second Addition to Bend Park on said easterly right-of-way line of Silver Lake Boulevard; thence along said easterly right-of-way line the following two courses and one curve:

South 22° 30' 00" West a distance of 63.02 feet;
around a 120.00 foot radius curve right 47.12 feet (chord bears South 11° 15' 00" West, 46.82 feet);
South 00° 00' 00" East a distance of 20.86 feet to the "Point of Beginning ", the terminus of this description.

Subject to: All easements, restrictions and rights-of-way of record and those common and apparent on the land.

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 19, 1994
DAVID R. WILLIAMS
2886

2001-1455-4

JOB # 00404-2600
DATE 4/17/00
BY DJ
CHKD. RM

EXHIBIT "A"

TL 2600
SILVER LAKE BOULEVARD VACATION

PROPERTY DESCRIPTION

A 10.00 wide strip of land containing 1353 square feet, more or less, located in a portion of the Northwest One-Quarter (NW1/4) of the Southeast One-Quarter (SE1/4) of Section 5, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the intersection of the easterly right-of-way line of Silver Lake Boulevard and the southerly right-of-way line of Roosevelt Avenue, said point also being the northwest corner of Lot 8, Block 154, Second Addition to Bend Park; thence along said easterly right-of-way line of Silver Lake Boulevard South 22° 30' 00" West a distance of 135.30 feet to the southwest corner of Lot 9, Block 154, Second Addition to Bend Park; thence leaving said easterly right-of-way line North 90° 00' 00" East a distance of 10.82 feet to a point 10.00 feet westerly of and parallel to said easterly right-of-way line of Silver Lake Boulevard; thence along said 10.00 foot westerly parallel line North 22° 30' 00" East a distance of 135.30 feet to a point on said southerly right-of-way line of Roosevelt Avenue; thence along said southerly right-of-way line North 90° 00' 00" East a distance of 10.82 feet to the "Point of Beginning ", the terminus of this description.

Subject to: All easements, restrictions and rights-of-way of record and those common and apparent on the land.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 19, 1994
DAVID R. WILLIAMS
2686

EXPIRES: JUNE 30, 2000

VOL: 2001 PAGE: 1456
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2001-1456 * Vol-Page Printed: 01/11/2001 14:09:56

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Jan. 11, 2001; 2:09 p.m.

RECEIPT NO: 30718

DOCUMENT TYPE: Ordinance (County or City)

FEE PAID: $41.00

NUMBER OF PAGES: 3

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

2001-1456-1

ORDINANCE NO. NS-1762

AN ORDINANCE VACATING SEWER AND WATER EASEMENTS THAT LIE WITHIN THE NE ¼ OF SECTION 1, TOWNSHIP 18 SOUTH, RANGE 11 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on June 7, 2000 requesting that the following described area be vacated:

SEE EXHIBIT "A"

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above street right of ways to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 1st day of November, 2000, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and;

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of public sewer and water easements located in Bend, Deschutes County, Oregon, be vacated.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 15th day of November 2000.

Read for the second time the 6th day of December 2000.

Placed upon its passage the 6th day of December 2000.

Yes: 6 No: 0

Authenticated by the Mayor the 6th day of December 2000.

Jim Young

Jim Young, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City Recorder

After Recording Return to:
City Recorder
710 NW Wall
Bend OR 97701

2001-1456-2

DAVID EVANS AND ASSOCIATES, INC.
709 NW Wall Street,
Suite 102
Bend, Oregon 97701
Tel: 541.389.7614
Fax: 541.389.7623

BROKEN TOP

COURTYARDS WATERLINE EASEMENT VACATION

A portion of the easement recorded in Volume 329, Page 1813 of the Deschutes County Official Records and located in the northeast ¼ of Section 1 of Township 18 South and Range 11 East of the Willamette Meridian, Deschutes County, Oregon, as shown on the attached map and fully described as follows:

Commencing at a 3" brass cap at the east 1/4 corner of said Section 1; thence North 00°49'44" East 1325.07 feet to a 2" aluminum cap at the north 1/16 corner on the east line of said Section 1; thence leaving said east line South 52°53'48" West 1130.99 feet to a 5/8" iron rod on the easterly right-of-way of Broken Top Drive; thence 134.82 feet along the arc of a 430.00 foot radius curve left (the long chord of which bears North 20°50'14" East 134.28 feet); thence leaving said right-of-way North 54°51'19" East 34.30 feet; thence South 00°10'41" West 3.06 feet; thence South 89°49'19" East 22.85 feet; thence North 00°10'41" East 5.00 feet; thence South 89°49'19" East 10.30 feet; thence North 69°10'41" East 7.10 feet; thence South 20°49'19" East 1.95 feet; thence North 69°10'41" East 20.00 feet; thence North 20°49'19" West 1.95 feet; thence North 69°10'41" East 51.69 feet; thence South 58°19'06" East 22.41 feet; thence North 31°40'54" East 23.67 feet; thence North 58°19'06" West 18.97 feet; thence North 09°59'18" East 79.52 feet; thence North 76°40'54" East 35.77 feet; thence East 35.61 feet; thence North 3.84 feet; thence East 5.09 feet; thence North 13°19'06" West 19.16 feet; thence North 11.59 feet; thence West 0.68 feet; thence North 19.38 feet to the point of beginning; thence North 76°40'54" East 46.03 feet; thence South 13°19'06" East 7.50 feet; thence North 76°40'54" East 20.00 feet; thence North 13°19'06" West 27.50 feet; thence South 76°40'54" West 61.29 feet; thence South 20.55 feet to the point of beginning.

REGISTERED
PROFESSIONAL
LAND SURVEYOR
OREGON
JULY 18, 1980
JERRY C. POWELL
1919

April 19, 2000
O:\PBDX0015\wrtt2vac.doc

2001-1456-3

DAVID EVANS AND ASSOCIATES, INC.

709 NW Wall Street,
Suite 102
Bend, Oregon 97701
Tel: 541.389.7614
Fax: 541.389.7623

EXHIBIT A

BROKEN TOP

COURTYARDS SEWER EASEMENT VACATION

A portion of the easement recorded in Volume 329, Page 1810 of the Deschutes County Official Records and located in the northeast ¼ of Section 1 of Township 18 South and Range 11 East of the Willamette Meridian, Deschutes County, Oregon, as shown on the attached map and fully described as follows:

Commencing at a 3" brass cap at the east 1/4 corner of said Section 1; thence North 00°49'44" East 1325.07 feet to a 2" aluminum cap at the north 1/16 corner on the east line of said Section 1; thence leaving said east line South 67°44'05" West 616.65 feet to a 5/8" iron rod on the southerly right-of-way of Simpson Avenue; thence South 89°28'25" East 5.39 feet to the point of beginning; thence leaving said southerly right-of-way South 40°01'11" West 84.84 feet; thence North 17.34 feet; thence North 11°15'00" West 11.35 feet; thence North 40°01'11" East 47.48 feet to said southerly right-of-way; thence 20.85 feet along the arc of a 560.00 foot radius curve right (the long chord of which bears North 89°27'35" East 20.85 feet) to a 5/8" iron rod; thence South 89°28'25" East 5.39 feet to the point of beginning.

REGISTERED
PROFESSIONAL
LAND SURVEYOR
OREGON
JULY 16, 1980
JERRY C. POWELL
1919

April 20, 2000
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VOL: 2001 PAGE: 1457
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2001-1457 * Vol-Page Printed: 01/11/2001 14:10:04

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Jan. 11, 2001; 2:09 p.m.

RECEIPT NO: 30718

DOCUMENT TYPE: Ordinance (County or City)

FEE PAID: $31.00

NUMBER OF PAGES: 1

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

2001-1457-1

ORDINANCE NO. NS-1763

AN ORDINANCE VACATING A PORTION OF 5TH STREET THAT LIES WITHIN THE SE ¼ OF THE SW ¼ OF SECTION 33, TOWNSHIP 17 SOUTH, RANGE 12 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on June 7, 2000 requesting that the following described area be vacated:

Lot 1, Block 11, of the plat of Keystone Terrace, City of Bend, Deschutes County, Oregon,
And also the adjacent alley lying southerly of said lot 1, Block 11 of Keystone Terrace.

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above street right of ways to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 1st day of November, 2000, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and;

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of street right of ways located in Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 15th day of November 2000.

Read for the second time the 6th day of December 2000.

Placed upon its passage the 6th day of December 2000.

Yes: 6 No: 0

Authenticated by the Mayor the 6th day of December 2000.

Jim Young

Jim Young, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City Recorder

After Recording, Return to:
City Recorder
710 NW Wall
Bend, OR 97701

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VOL: 2001 PAGE: 1458
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2001-1458 * Vol-Page Printed: 01/11/2001 14:10:13

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Jan. 11, 2001; 2:09 p.m.

RECEIPT NO: 30718

DOCUMENT TYPE: Ordinance (County or City)

FEE PAID: $31.00

NUMBER OF PAGES: 1

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

2001-1458.1

ORDINANCE NO. NS-1764

AN ORDINANCE VACATING AN ALLEY THAT LIES WITHIN NE ¼ OF SE ¼ OF SECTION 29, TOWNSHIP 17 SOUTH, RANGE 12 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on June 7, 2000 requesting that the following described area be vacated:

> The ALLEY located in Block 14 of the Riverside Addition to the City of Bend, excepting that portion lying within the Bend Parkway right of way. All located in the NE ¼ of the SE ¼ of Section 29, Township 17 South, Range 12 East, W.M., Deschutes County, Oregon.

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above street right of ways to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 1st day of November, 2000, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and;

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of street right of ways located in Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 15th day of November 2000.

Read for the second time the 6th day of December 2000.

Placed upon its passage the 6th day of December 2000.

Yes: 6 No: 0

Authenticated by the Mayor the 6th day of December 2000.

Jim Young

Jim Young, Mayor

ATTEST:

Patri S. Stell

Patricia Stell, City Recorder

After Recording Return to:
City Recorder
710 NW Wall
Bend OR 97701

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VOL: 2001 PAGE: 1459
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2001-1459 * Vol-Page Printed: 01/11/2001 14:10:18

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Jan. 11, 2001; 2:09 p.m.

RECEIPT NO: 30718

DOCUMENT TYPE: Ordinance (County or City)

FEE PAID: $31.00

NUMBER OF PAGES: 1

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

2001-1459-1

ORDINANCE NO. NS-1765

AN ORDINANCE VACATING AN ALLEY THAT LIES WITHIN NW ¼ OF SE ¼ OF SECTION 29, TOWNSHIP 17 SOUTH, RANGE 12 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on June 7, 2000 requesting that the following described area be vacated:

The ALLEY abutting and north of lots 11 through 14 in Block 1 of the Riverside Addition to the City of Bend. All located in the NW ¼ of the SE ¼ of Section 29, Township 17 South, Range 12 East, W.M., Deschutes County, Oregon.

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above street right of ways to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 1st day of November, 2000, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and;

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of street right of ways located in Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 15th day of November, 2000.

Read for the second time the 6th day of December, 2000.

Placed upon its passage the 6th day of December, 2000.

Yes: 6 No: 0

Authenticated by the Mayor the 6th day of December, 2000.

Jim Young, Mayor

ATTEST:

Patricia Stell, City Recorder

After Recording, Return to:
City Recorder
710 NW Wall
Bend, OR 97701

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VOL: 2001 PAGE: 1460
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2001-1460 * Vol-Page Printed: 01/11/2001 14:12:05

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Jan. 11, 2001; 2:09 p.m.

RECEIPT NO: 30718

DOCUMENT TYPE: Ordinance (County or City)

FEE PAID: $36.00

NUMBER OF PAGES: 2

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

2001-1460-1

ORDINANCE NO. NS-1766

AN ORDINANCE VACATING 7TH STREET THAT LIES WITHIN THE NE ¼ OF THE NW ¼ OF SECTION 33, TOWNSHIP 17 SOUTH, RANGE 12 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

The Bend City Council on September 20, 2000 initiated that the following described area be vacated:

SEE EXHIBIT "A'

and stating the purpose for which the described property is proposed to be used and the reason for such vacation;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above street right of ways to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 1st day of November, 2000, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and;

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of 7TH STREET right-of-way located in Bend, Deschutes County, Oregon, be vacated.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 15th day of November 2000.

Read for the second time the 6th day of December 2000.

Placed upon its passage the 6th day of December 2000.

Yes: 6 No: 0

Authenticated by the Mayor the 6th day of December 2000.

Jim Young, Mayor

ATTEST:

Patricia Stell, City Recorder

After Recording Return to:
City Recorder
710 NW Wall
Bend OR 97701

2001-1460-2

Exhibit "A"

Seventh Street Vacation

A portion of Seventh Street between Blocks 24 and 33 of Wiestoria in Deschutes County, Oregon as shown on the attached map and fully described as follows:

Beginning at the northeast corner of Lot 9 in said Block 24; thence East 80.00 feet to the northwest corner of Lot 14 in said Block 33; thence South 93.05 feet along the west boundary of said lot 14 to the proposed northwesterly right-of-way for Olney Avenue; thence leaving said west boundary , 88.80 feet along the arc of a 270 foot radius curve right (the long chord which bears South 64°48'50" West 88.40 feet) to the east boundary of said Lot 9; thence leaving said proposed northwesterly right-of-way, north 130.67 to the point of beginning.

Also a portion of Seventh Street between Blocks 23 and 34 of Wiestoria in Deschutes County, Oregon and fully described as follows:

Lying north of the alley in Blocks 23 and 34 of Wiestoria in Deschutes County, adjoining the easterly line of Lot 8 in said Block 23 and adjoining the westerly line of Lot 1 in said Block 34; and lying south of the southerly right-of-way for Olney Avenue.

ORDINANCE NO. NS-1767

AN ORDINANCE REPEALING CITY OF BEND SIGN ORDINANCE NO. NS-1672 AND ADOPTING A NEW SIGN ORDINANCE NO. NS-1767.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. TITLE

This ordinance shall be known as the City of Bend Sign Code Ordinance and may be so cited and plead.

Section 2. PURPOSE

This ordinance regulates signs which are visible from streets or which are visible from one site to another. The purpose of the ordinance is to provide reasonable and necessary regulations for the design, construction, placement and maintenance of signs in order to protect the public health, safety and general welfare of the community. The regulations for signs have the following specific objectives:

(1) To ensure that signs are designed, constructed, installed and maintained to assure public and traffic safety;

(2) To reflect and support the desired character and development patterns of the community;

(3) To provide for adequate and effective signs without dominating the visual landscape;

(4) To balance the needs of business with the desire to preserve and enhance the visual character of the City; and

(5) To promote and enhance the City's development as a regional center for business and recreation.

The regulations allow for a variety of sign types and sizes. The sign standards are intended to allow for signs with adequate visibility to streets that abut the site, but not necessarily to streets farther away.

Section 3. DEFINITIONS AND INTERPRETATIONS

As used in this ordinance, words in the present tense include the future; the singular number includes the plural and the plural number includes the singular; unless the context clearly indicates the contrary. The word "shall" is mandatory and not discretionary; the word "may" is permissive; and the term "this ordinance" shall mean the text of this ordinance and all accompanying attachments and amendments. As used in this ordinance, unless the context requires otherwise, the following words and phrases shall mean:

Abandoned Sign means a sign for which there is no valid sign permit or a sign structure without a sign face for more than 90 days and which no application exists.

Accessory Use means a use or activity, such as vending merchants, coffee stands and similar uses that is a subordinate part of the primary use on a developed lot. In general, the primary use of the site is not carried on in an accessory structure. An accessory structure may be attached or detached.

Alteration means the modification of the size, shape, or height of a sign, also includes replacement of sign structure materials with other comparable materials, such as the replacement of wood parts with metal parts. This does not include normal maintenance and repair of an existing sign.

Animated Sign means any sign that incorporates movement by electric, mechanical or kinetic means, including but not limited to: rotation, revolving or wind activation of all or a portion of sign; or incorporating flashing or intermittent light for sign illumination, including rotating or intermittent lighting in windows and on buildings. This definition does not include Time, Date and Temperature signs as defined in this Section.

Awning Sign means any sign or graphic, which is displayed on or is part of a fabric or other structural awning.

Banner means a sign made of any lightweight, non-rigid material such as plastic, fabric, or other flexible material with no enclosing framework.

Billboards refer to *Off-Premise Sign*.

Building Directory Sign means a sign designed to be read on-premise and providing the name, address number or location of the occupants of a building or buildings.

Business Complex means a development on one lot with three or more business tenants located on the lot or in a building that is a minimum of 30,000 gross square feet. Business complex tenants include retail shops, executive or administrative services, medical services, restaurants, professional offices, personal services establishments, and similar uses.

Canopy Roof means a permanent, decorative porch or walkway cover other than an awning, which is attached to a building or is detached.

Canopy Sign means any sign or graphic displayed on a canopy.

Clear Vision Area means the area in which no sign, structure or device is permitted to dangerously limit the visibility of persons in motor vehicles on streets or alleys as defined by the City Zoning Ordinance.

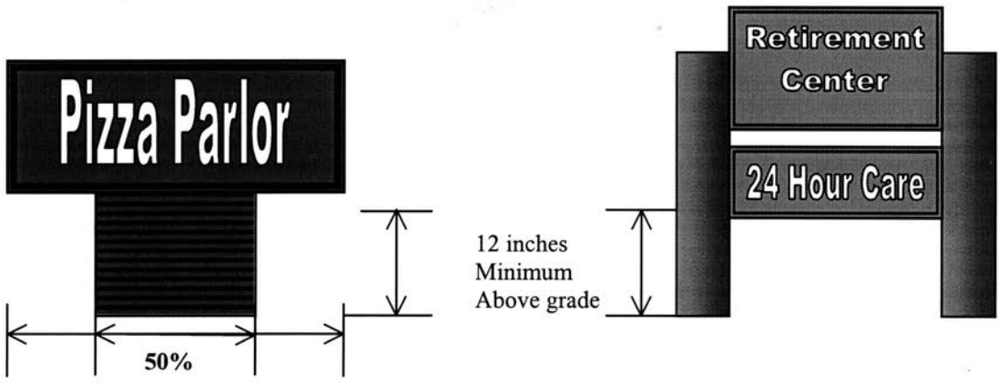
Copy means any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other business activity.

Directional Sign means an on-premise sign designed to be read by a person already on the premises and used only to identify and locate an office, entrance, exit, telephone or similar place, service or route.

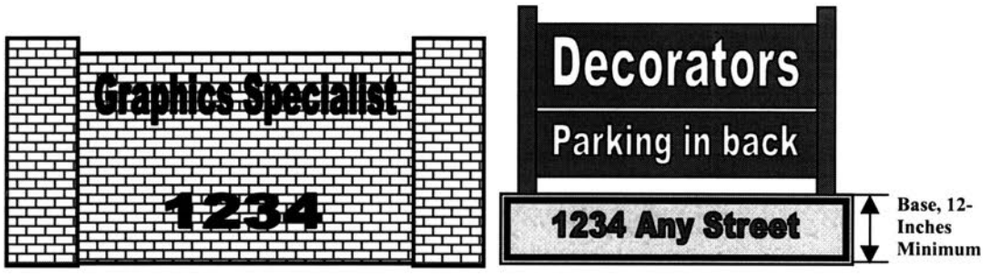
Dominant Facade means that portion of a building façade providing the primary public entrance, which may or may not face the public street. For businesses located on the interior of a building or above the first story of a building, the building elevation providing public access shall be considered the dominant façade.

Freestanding Sign means a sign erected on a freestanding frame and not attached to any building. *Ground-mounted*, *monument* and *pole* signs are specific types of freestanding signs and are further described below;

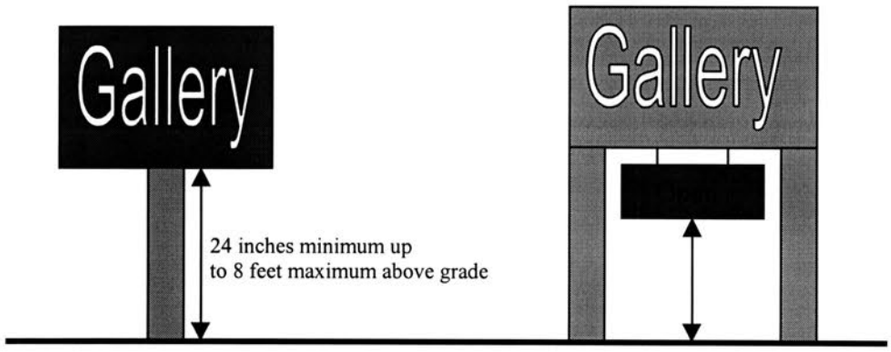
Ground Mounted Sign means a freestanding sign with a 12 inch minimum vertical solid base directly and continuously connected to at least 50% of the sign face width or, is borne by two or more supports which are a minimum of 12-inches but less than 8-feet above grade. -



Monument Sign means a freestanding sign that has a solid supporting base equal to or greater than the width of the sign face, generally made of stone or concrete, with no separations between the sign and base. The supporting base shall be a minimum 12-inch vertical height.



Pole Sign means a freestanding sign connected to the ground by one or more supports, where any portion of the lower edge of the sign device is separated vertically from the ground by air a distance of 8-feet or greater than 24 inches in height as measured from grade.



Grade, Finished means the curb line or in the absence of a curb line, the edges of the street pavement of the primary access street frontage for all freestanding signs. Finished grade for signs mounted on buildings shall be the sidewalk, alley or ground directly below said sign.

Graphic or Mural means any painted design, colored bands, stripes, patterns, outlines or other graphic art techniques, excluding exposed illumination such as neon and fiber optics, installed or painted on a building.

Height, Sign means the vertical distance from finished grade to the top of the highest attached component of the freestanding sign. Any berming, filling or excavating for the purpose of placing the sign shall be computed as part of the sign height. All other signs shall be measured from the lowest element of the sign to the highest element of the sign, including decorative elements.

Illegal Nonconforming Sign means a sign not in conformance with the City of Bend Sign Code Ordinance adopted in March of 1983.

Illuminated Sign means a sign, which contains or consists of lights or a light source further described below;

> **Exposed illumination** means a light source that is seen such as neon, fiber optics and bare bulbs.
>
> **External illumination** means an external light source directed to illuminate the exterior surface of the sign.
>
> **Internal illumination** means a source of illumination from within a sign.
>
> **Opaque** means any material which does not allow light to pass through it.
>
> **Translucent** means any material which allows light to pass through it but is not transparent.

Lot means a legally created parcel of land of a size, which meets zoning requirements and allows for setbacks, yards and other open spaces as required by city zoning regulations.

Model means any three dimensional object displayed for advertising purposes including, but not limited to, graphics, logos, models of people, bottles, animals, buildings, ships, and aircraft; sculpture; vehicles; hot air balloons.

Non-Conforming Sign means an existing sign, lawful at the time it was erected, but which does not conform to the requirements of this Code.
Off-Premise Sign means a sign which directs attention to a business, commodity, service or entertainment not conducted, sold or offered on the premises where the sign is located. A "*billboard*" is considered an off-premise sign and is further described as a sign structure erected for the purpose of leasing advertising space to promote an interest other than that of an individual, business, product or service available on the premise the billboard is located on.

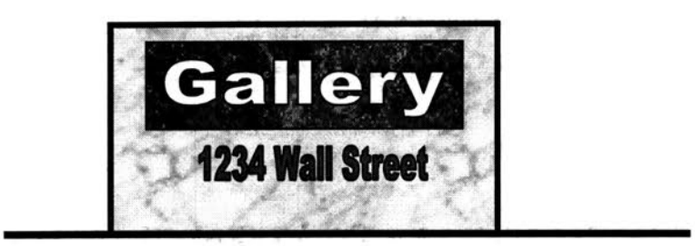
On-Premise Signs means a sign which advertises or directs attention to a business, commodity or service conducted, offered, or sold on the premises.

Permanent Sign means any sign intended to be used for a period greater than 30 consecutive days.

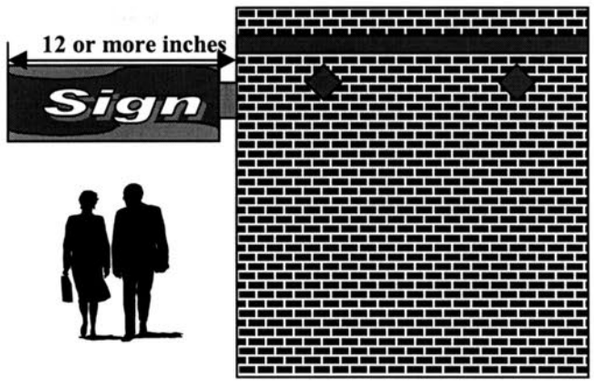
Principal Use means any commercial or industrial enterprise or public or private non-profit entity or business as allowed by the City of Bend Zoning Ordinance.

Principal Use Building means the building in which the principal use of the lot is conducted. Lots with multiple principal uses may have multiple principal buildings. Storage buildings, garages and other accessory structures or uses shall not be considered as the principal use building.

Principal Identity Sign means a freestanding sign, which identifies the principal use conducted on the lot where the sign is located.

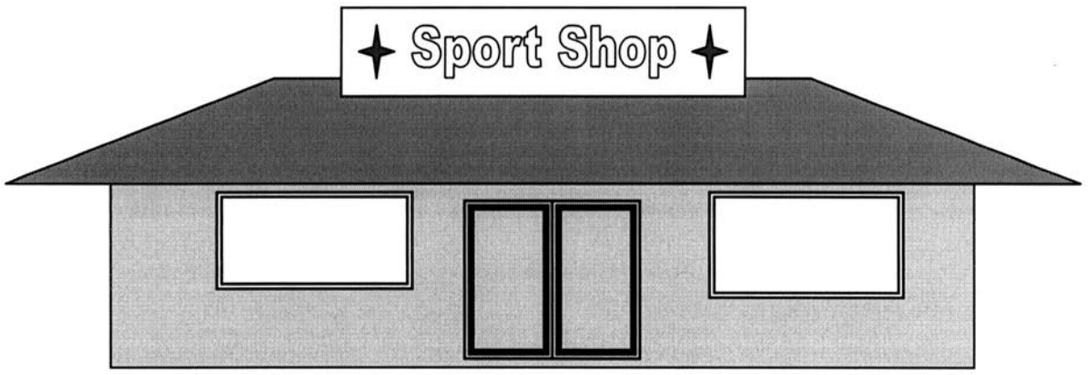


Projecting Sign means a sign attached to and projecting from a structure, building or wall greater than 12 inches and is perpendicular or nearly perpendicular to the building or wall.



Roofline means the top edge of a roof or building parapet; excluding any cupolas, chimneys, or other projections.

Roof Sign means a sign, which is affixed on the slope of the roof or projects higher than the roof line or roof eave. Signs on parapet walls or mansards are considered wall signs.



Setback means the horizontal distance from the property line to the sign, measured at the closest points of each other.

Shopping Center means a development consisting of one or more lots sharing appurtenant facilities, such as driveways, parking and pedestrian walkways; and is designed to provide the public with varied products and services at a single location.

> **Major Shopping Center** means a development consisting of a minimum of two anchor or major tenants and the building is over 30,000 square feet in gross floor area or the lot for the development is six acres or more.
>
> **Minor Shopping Center** means a development consisting of a minimum of three tenants and the building is a maximum of 30,000 square feet in gross floor.

Sign means all or part of any object, structure or device intended to be viewed by the public for advertisement or identification of a business, location, object, person, institution, organization, product, service or event by means including words, pictures, logos, symbols, colors, motion, illumination or projected images. This definition includes the face upon which a sign message is displayed and any freestanding structure for the display of signs.

Sign Area means the total area used for the display of a sign as defined in this Section. See Section 12, Measurements to determine the sign area for specific types of signs.

Sign Band means a continuous portion of the building façade that is unbroken by doors or architectural building features, located between the upper and lower limits as defined in this ordinance.

Sign District means a specified boundary within the City, as designated by City Council and incorporated into the Sign District Map, which is attached to and made a part of this ordinance. See Appendix A

Sign Maintenance means the normal care needed to keep a sign functional, such as cleaning, painting, oiling, changing the light bulbs, and fixing or replacing broken or worn parts. Repairs may be made with the sign in position or with the sign removed.

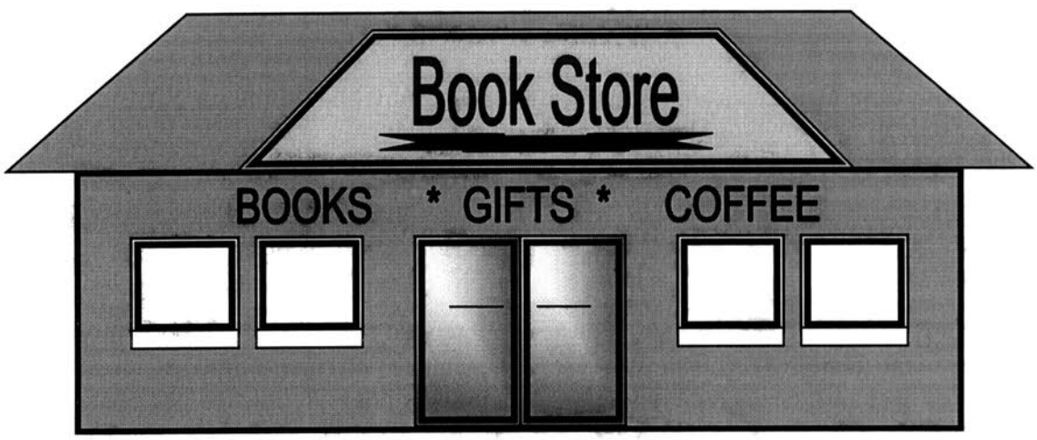
Street Frontage means the width of a legal tax lot measured along the line separating the lot from a street.

Suspended Sign means a sign, which is attached to the underside of a canopy or awning and is supported by the canopy or awning.

Temporary Sign means any sign that is not a permanent sign. Temporary signs include, but are not limited to, signs designed to be transported, including signs with wheels; signs supported by A- or T-frames; balloons used as signs; signs attached to or painted on vehicles parked and visible from the public right-of-way; and pennants.

Time, Date and Temperature Sign means a sign that accurately displays the current time, date and/or temperature. No copy or commercial message is allowed.

Wall Sign means any sign painted on or attached parallel to and within 12 inches of a building wall.



Window Sign means a sign, which is attached to, painted on, or etched on a window. This definition also includes door signs.

Section 4. **APPLICABILITY**

(1) Sign Permits required. To ensure compliance with the regulations of this Ordinance, a Sign Permit shall be required for the following:

(a) All existing signs; and

(b) All new signs; and

(c) Alterations to an existing signs; and

(d) Any relocation of a sign; and

(e) Works of art, graphics and murals on a building.

(2) Sign Standards. The sign standards provided in this Ordinance are intended to apply to signs in each Sign District in the City. Only signs authorized by this Ordinance shall be allowed.

(3) Sign District Boundary. The location of a Sign District boundary line shall follow the following guidelines:

(a) A Sign District boundary line shall be located at the centerline of a public street or alley right-of-way or the center of a river or shall be one lot deep.

(b) In cases where a tax lot has more than one Sign District abutting the lot, the placement and orientation of the Principal Identity sign shall determine the Sign District regulations that apply. In cases where no Principal Identity sign is installed, the dominant Sign District shall be determined to be that Sign District where the dominant building façade faces.

(4) New or Amended Sign Districts. If a new Sign District is created or a Sign District is amended after the enactment of this Ordinance, the Director shall have the authority to make determinations as to the applicability of appropriate sign regulations in compliance with Section 2 (Purpose) until this Ordinance is amended

(5) Amending a Sign District. The City Council of the City shall be authorized to approve an amendment of a Sign District.

Section 5. **SIGNS EXEMPT FROM PERMITS**

The following signs shall be allowed in all Sign Districts and are exempt from permits but may be subject to regulations. These exemptions shall not relieve the sign owner of the responsibilities of sign placement and maintenance, or from other provisions of this ordinance or any other law or ordinance regulating the same.

(1) Flags. Flags mounted on a pole and installed in the ground or on a building are exempt provided that the pole and sign do not exceed the maximum height allowed per the Zoning Ordinance.

No more than three flags per tax lot under 6 acres in size shall be displayed and no more than 6 flags per tax lot over 6 acres in size shall be displayed.

(2) Public service and official signs.

(a) Official signs. Official and legal notices required by a court or governmental agency;

(b) Signs in the public right-of-way. Off-premise signs that are part of and accessory to bus shelters, transit shelters, pay phones, trash receptacles, and other similar uses.

(3) Exempt signs with size and number limitations.

(a) Affiliation signs. Signs that provide notices of service (e.g., trade affiliations, credit cards accepted) provided the signs are attached to the structure. Signs or notices shall not exceed one and one-half square foot in area for each sign, and no more than three signs are allowed for each building or freestanding sign.

(b) Changeable copy sign. Signs with manually changeable copy/text (e.g., chalkboard) limited to one sign per business not to exceed three square feet in area and shall not be internally illuminated.

(c) Gasoline pump signs. Signs identifying the brand, type, and octane rating provided the signs are not internally illuminated and do not exceed two square feet for each pump face.

(d) Name plaques. Commemorative plaques, tables, dates of construction, and the like when carved on stone, concrete, or similar materials or made of bronze, aluminum, or other similar permanent material. Signs shall not exceed two square feet in area and shall not be internally illuminated.

(e) Neighborhood watch signs. Signs located in residential neighborhoods that are designated official neighborhood watch areas and limited to three square feet in area and are not illuminated.

(f) Site address for nonresidential uses. Limited to two for each street address, subject to the following standards:

(A) Individual numbers and letters shall be a minimum of six inches and not more than 12 inches in height.

(B) One address sign shall be placed on the principal identity sign structure and one on the principal building and shall face and/or be visible to the primary access street.

(g) Time, date and/or temperature signs. Time, date and/or temperature signs provided the sign does not exceed a maximum sign area of 10 square feet and shall comply with the placement requirements of Section 14. A time, date and

temperature sign shall not be permitted in Sign District 5 or in any residential zone

(h) Vehicle-oriented safety and directional signs. Signs solely for the purpose of guiding traffic, parking, and loading on private property and limited to 4 square feet in area and 4 feet in height. Signs may include the name or logo of the business within a maximum area of two square feet. No other advertising copy or logos shall be allowed.

(i) Interior building signs. Signs that are not legible and/or intended to be legible from the outside of a building. Strobe lights and other flashing lights shall not be construed as an exempt sign or device when such sign or device is visible from the exterior of the building.

(j) Public ball field fence signs. Interior fence signs at public ball fields shall not exceed 12 feet in height and are not illuminated.

(k) Signs for Open Lot Sales. Signs identifying commodities for outdoor sales of commodities such as building materials, vehicles, storage buildings, pickup canopies, manufactured homes, recreational vehicles, and carports provided that the sign is firmly attached to the item. Signs shall not exceed 2 square feet per sign, 1 sign per commodity and shall not be illuminated.

(4) Exempt Signs Limited by Size and Period of Display. The following exempt signs shall comply with the provisions of Table A.

Table A
Signs Limited by Size and Period of Display – No Permit Required

Sign Type	Maximum Number	Maximum Sign Area	Maximum Height	Time Limit	Additional Requirements
Special Event	1 per lot	4 square feet	4 feet	2 weeks prior to and removed within 7 days after event	Illumination prohibited
Construction	1 per lot	6 square feet in residential zones 32 square feet in all other zones	4 ft. in residential zones 8 ft. in all other zones	2 weeks prior to and removed within 7 days after completion of project	Illumination prohibited
Real Estate	1 per lot	6 square feet in residential zones 32 square feet in all other zones	4 ft. in residential zones 8 ft. in all other zones	Removed within 7 days after listing period or upon sale/lease	Illumination prohibited
Political	None	6 square feet in residential zones 16 square feet in all other zones	4 ft. in residential zones 5 ft. in all other zones	60 days prior to and removed within 7 days after election	Illumination Prohibited
Hand Carried	None	None	None	None	None
Holiday Decorations	None	None	None	60 days prior to and removed within 14 days after the holiday	Shall contain no advertising message

Section 6. **TEMPORARY SIGNS**

The following temporary signs for a land development project or special event of a limited duration shall be allowed with a permit.

(1) Land development sign. A land development sign shall be allowed on a parcel for a development project provided the sign complies with the following:

(a) Parcels less than 4 acres may display one non-illuminated sign up to 32 square feet in area and 8 feet in height.

(b) Parcels over 4 acres may display a maximum of two non-illuminated signs, each sign may be up to 64 square feet in area and 8 feet in height.

(c) The sign may be installed up to two weeks prior to and removed within 7 days after the completion of the development project or within one year of issuance of the permit, whichever occurs first.

(2) Special event sign. A special event sign may be displayed on a lot pertaining to an event occurring on the lot, such as the initial opening of a new business, change in management or other similar events provided the sign complies with the following:

(a) One non-illuminated sign up to 32 square feet in area and 5 feet in height may be displayed per lot.

(b) A special event sign may be displayed a maximum of thirty continuous days up to sixty days per calendar year.

(c) Not more than two special event sign permits shall be issued per lot.

(d) A special event sign may be a banner or a temporary freestanding sign.

Section 7. **PROHIBITED SIGNS**

The following signs or devices are prohibited, and may neither be erected nor maintained:

(1) Any sign or portion of a sign placed so that it obstructs any fire escape, stairway or standpipe; interferes with exits through any window; obstructs any door or required exit from any building; or obstructs any required light or ventilation.

(2) Fluttering, spinning, windblown or inflatable devices including three-dimensional models, pennants, propeller discs and banners that are not exempt.

(3) Benches which display or contain signs.

(4) Signs attached to or painted on vehicles visible from the public right-of-way unless the vehicle is used for transport in the normal day-to-day operations of the business.

(5) Roof signs.

(6) Signs or devices, including searchlights, spot lights and holograms, which contain or are illuminated by flashing, chasing, or intermittent effects and/or signs, that have any movement or are animated signs. This provision shall not prohibit Time, Date and/or Temperature signs as defined in this ordinance.

(7) Signs or structures which may pose a hazard to pedestrians or vehicular traffic, including but not limited to signs which obstruct the clear view of pedestrians and drivers, and signs interfering with the effectiveness of traffic signs or signals.

(8) Signs in the public right-of-way except those permitted in accordance with this ordinance.

(9) Signs affixed to trees, utility poles, fences or other similar structures unless otherwise permitted in this ordinance.

(10) Abandoned signs. Abandoned signs as defined in Section 3 shall be removed at expiration of the sign permit

(11) All other signs that are not expressly exempt from regulation and expressly permitted by this ordinance.

(12) Exposed illumination.

Section 8. ADMINISTRATION OF SIGN PERMITS

The issuance of a sign permit shall be based on plans which demonstrate full compliance with all provisions of this section and other applicable City, State or Federal regulations.

(1) Applications. Applications for all signs covered by this ordinance shall be submitted on forms provided by the City. Any sign or graphic, which cannot be clearly defined, shall be administratively assigned to an appropriate sign category and those standards applied. The completed application shall be accompanied by the specified fee and the following information:

(a) Name and address of the property owner, sign owner, sign manufacturer and sign installer.

(b) Drawings showing the design, location, content, and dimensions of the sign, including graphics or murals and the design and dimensions of any measures used to support the sign or used to affix the sign to the building or structure.

(2) Approval and Inspection. After a review of the application shows that the sign meets this ordinance, city laws, rules and regulations, state laws, rules and regulations, the applicant shall receive a permit to construct and install the approved sign. The approved sign shall be constructed and installed within 6 months of the approval date.

(3) Revocation of Permits. Sign permits shall be revoked if a sign is found to be in violation of this ordinance. Sign permits mistakenly issued in violation of this ordinance are void. The sign permit shall be null and void if sign installation is not completed within six months or the signs are not in conformance with the approved permit.

(4) Appeals. Any decision of the Development Services Director or Designee may be appealed within 30 days of the final decision to the Bend Urban Area Planning Commission. A decision of the Planning Commission, which shall be made within 45 days of the appeal, shall be final.

Section 9. COMPREHENSIVE SIGN PLAN

A Comprehensive Sign Plan is intended to integrate the signs proposed for a development project with the design of the structures, into a unified architectural statement. A Comprehensive Sign Plan provides a means for defining common sign regulations for multi-tenant projects, to encourage maximum incentives in the design and display of multiple signs and to achieve, not circumvent the intent of this Ordinance.

(a) Applicability. A Comprehensive Sign plan shall be required for all Major Shopping Centers. A Comprehensive Sign Plan may be submitted for a Minor Shopping Center or Business Complex. Signs shall comply with the provisions of this ordinance and this Section.

(b) Approval Authority. The City shall approve a Comprehensive Sign Plan.

(c) Application Requirements. An application for a Comprehensive Sign plan shall include all information and materials required as follows:

(A) Location: identification of sign locations on the buildings and on the property.

(B) Materials: description of the type of sign and sign materials including construction materials and proposed lighting if any. Any graphics, murals, neon lighting or outline lighting must be specified on the signage plan.

(C) Size: itemization of sign size or sign band area at identified locations.

(D) Letter style: description of dominant letter style and letter height to be used on the signs. Modifications to the lettering style to accommodate federally registered trademarks will be allowed, however, the Review Authority may limit the logo size.

(E) Color scheme: listing of the colors to be used on each sign.

(d) Revisions to Comprehensive Sign Plans. The Review Authority may approve revisions to a Comprehensive Sign plan if the intent of the original approval is not affected. Revisions that would substantially deviate from the original approval shall require the approval of a new Comprehensive Sign Plan.

(e) Comprehensive Sign Plan Standards. A Comprehensive Sign Plan shall comply with the following standards:

(A) The signs shall enhance the overall development, be in harmony with, and relate visually to other signs included in the Comprehensive Sign plan, to the structures and/or developments they identify, and to the surrounding development;

(B) The Comprehensive Sign plan shall accommodate future revisions that may be required because of changes in use or tenants; and

(C) The Comprehensive Sign Plan shall comply with the standards of this Ordinance, except that flexibility may be allowed with regards to sign area, number, location, and/or height to the extent that the Comprehensive Sign Plan will enhance the overall development and will more fully accomplish the purposes of this Ordinance.

(1) Wall Signs.

i. Number. A Principal Identity sign shall be allowed on the dominant building façade providing public access.

ii. Size. The sign area allowed shall be as allowed in the Sign District in which the development is located.

iii. Maximum Sign Height. If the wall on which the sign is located is within 50 lineal feet of a public street, the maximum height, including a group of signs or sign cabinets, shall not exceed 36 inches. In no case shall a sign or group of signs or sign cabinet exceed 60 inches in height.

iv. Secondary Wall Signs. A secondary wall sign must face or be visible to either a public right-of-way or the on-site parking area.

v. Maximum Size for Secondary Wall Sign. The permitted size of any secondary wall sign is 50 percent of the size permitted for the primary wall sign. In no case shall the maximum sign area exceed 100 square feet.

(2) Freestanding Signs.

i. **Minor Shopping Center and Business Complex.**

a. Number. One freestanding Principal Identity sign shall be permitted for the entire development. Freestanding Principal Identity signs on individual tax lots located within the development are not allowed.

b. Size. Such sign may be a maximum of 11 feet in height and a maximum of 80 square feet in area.

c. Additional Freestanding Sign. One additional Principal Identity freestanding sign may be permitted when there is a minimum of two access streets. The access streets shall be a minimum of 500 lineal feet in length each. The signs shall be separated by a minimum of 300 lineal feet.

d. The freestanding signs shall be either a monument or ground mounted type sign and shall be designed to blend with the architectural integrity of the center or complex.

ii. **Major Shopping Centers**.

a. Number. One freestanding Principal Identity signs shall be permitted for the entire development. Freestanding Principal Identity signs on individual tax lots located within the development are not allowed except as allowed below.

b. Size. Such sign may be a maximum of 15 feet in height and a maximum of 120 square feet in area.

c. Additional Freestanding Sign. One additional freestanding Principal Identity sign may be permitted when there is a minimum of two access streets. The property shall be a minimum of 500 lineal feet in length each. The signs shall be separated by a minimum of 300 lineal feet.

d. Pad Sites or Individual Tax Lots. In lieu of the additional Principal Identification sign, each pad located within a major shopping center may have one freestanding sign. The sign shall not exceed 5-feet in height and 40 square feet in area.

Section 10. COMPLIANCE WITH ORDINANCE PROVISIONS

It shall be unlawful for any person or entity to construct, improve, alter, install, repair or relocate any sign without a permit issued in accordance with this ordinance. The City may impose additional requirements deemed necessary to promote the health, safety, and general welfare of the public. Where conditions set forth herein is less restrictive than comparative conditions imposed by any other provision of this ordinance, by provision of any other local ordinance resolution, regulation, or by provision of state statute or administrative regulation, the more restrictive shall govern.

Section 11. FEES

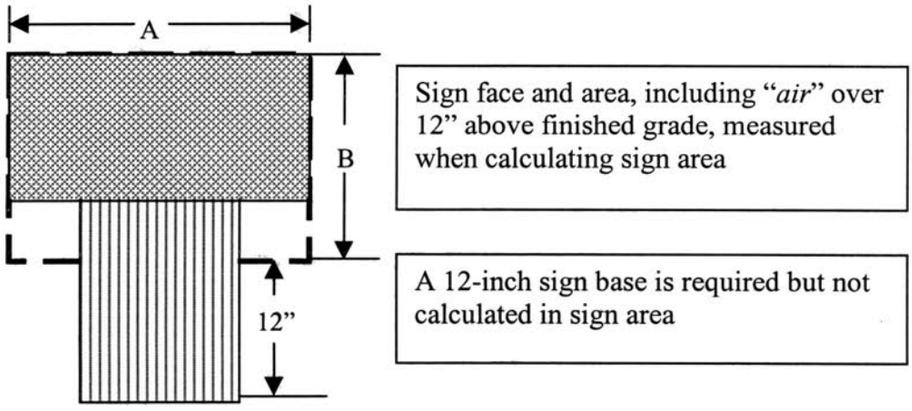
Fees for permits and applications, including an annual permit renewal fee, shall be set by Resolution of the City Council.

Section 12. MEASUREMENTS

The following criteria shall be used in measuring a sign or building façade in order to determine compliance with this ordinance:

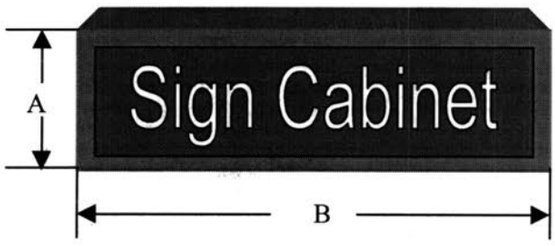
(1) Measurements.

(a) Sign area, freestanding signs. The sign area shall be the extreme outer dimension of the freestanding structure. The first 12 inches in vertical height of a supporting base are not calculated in the overall sign area, however, all remaining area above the 12 inch minimum base requirement shall be calculated, including the air space.



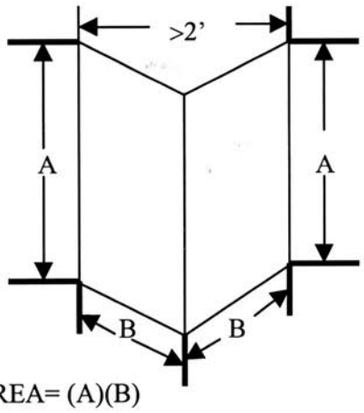
TOTAL AREA = (A)(B)

(b) Sign Area, Cabinet. The sign area is determined by calculating the measurements of the outer dimensions of the frame or cabinet surrounding the sign.



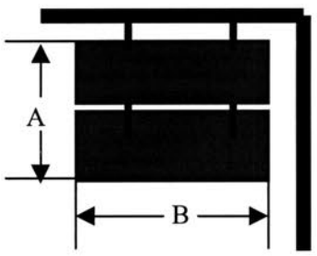
TOTAL AREA = (A) (B)

(c) Backed (double-faced) signs. When two sign faces supported by the same sign structure are placed back-to-back, or the distance between each sign face does not exceed two feet at any point, the signs shall be regarded as a single sign. The sign area shall be the area of the larger sign.



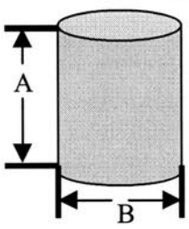
TOTAL AREA= (A)(B)

(d) Multiple cabinets. For freestanding and projecting signs that contain multiple cabinets on one structure, the modules together are counted as one sign face in order to compute the sign area.



TOTAL AREA= (A)(B)

(e) Round or three-dimensional signs. Where a sign consists of one or more three-dimensional objects (i.e., balls, cubes, clusters or objects, sculpture, or statue-like trademarks), the sign area shall be measured as their maximum visible surface area from any vantagepoint.



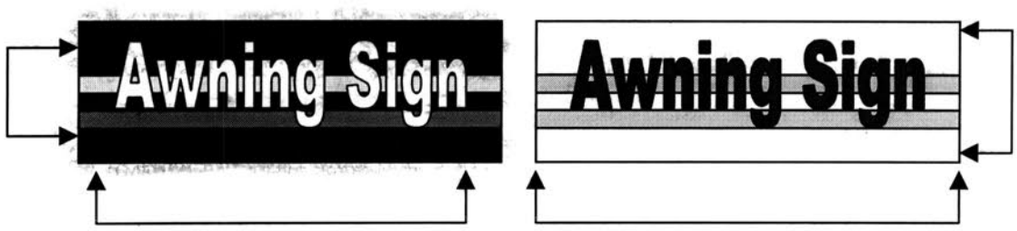
TOTAL AREA = (A) (B)

(f) Individual sign elements. When signs are constructed of individual elements, the area of all sign elements, which together convey a single, complete message, shall be considered as a single sign. The sign area is determined by calculating the area of an imaginary rectangle drawn around the sign elements. Sign elements will be measured as one unit when the distance between the elements is less than two times the dimension of each element.

TOTAL AREA = (A) (B) + (C) (D)

(g) Supporting framework or bracing on sign mounted to the building that is clearly incidental to the display itself shall not be computed as sign area.

(h) Signs on awnings and canopies. When signs are incorporated into the awning, or canopy, the sign area is determined by computing the area of an imaginary rectangle drawn around the sign copy including all translucent areas of an illuminated awning or canopy. When the ends of awnings, and canopies are parallel and contain signs, only one side is counted in addition to the sign on the front, however, when a canopy is a freestanding structure, all sign faces shall be calculated.



Opaque Background Translucent Background

(2) Height of Freestanding Signs. The overall height of a freestanding sign or sign structure is measured from the average finished grade at the base of the sign to the highest points of the sign structure.

(3) Clearances. Clearances are measured from the finished grade directly below the sign to the bottom of the sign structure.

(4) Corner signs. Diagonal corner signs that face more than one street must be assigned to a street frontage by the applicant. The sign must meet all standards for the street frontage it is assigned to.

(5) Measurement of Dominant Façade. The portion of a principal buildings dominant façade shall be calculated using the width of the first story exterior wall as described. Exterior wall dimensions shall be measured at the base of the ground floor, excluding screening walls, fences, etc. Alcoves, entryways and extruding portions shall be measured through as though along a flat wall of a building. Only the dominant façade shall be used for sign area calculations. The total sign area for the entire building may not exceed the total sign area allowed based on the dominant façade.

(6) Measurement of Street Frontage. Street frontage shall be measured along the property line abutting the street right-of-way where access to the site is obtained. For the purpose of determining the size, height and placement of a principal identity sign, a property line abutting the Bend Parkway right-of-way shall not be considered as street frontage

Section 13. SIGNS DISTRICT BOUNDARIES

Sign District boundaries are as defined in Appendix A Sign District Map, attached to and incorporated into this Ordinance. Sign permits will be issued for signs allowed within a Sign District or for signs meeting standards outlined in Section 6. Signs exempted under Section 5 of this ordinance require no permit. Installation of signs without a permit is a violation of this ordinance.

Section 14. TYPE OF SIGNS PERMITTED IN EACH SIGN DISTRICT

Refer to Section 15 for Standards for Specific Types of Signs and Section 16 for General Requirements for signs allowed in Tables C-H.

Table C
SPECIFIC SIGNS PERMITTED IN
SIGN DISTRICT 1

Primarily a highway commercial use area, applies to all land as set forth in the Sign District Map

(1) FREESTANDING SIGNS		
(a) Principal Identity Sign. Allowed. See Section 15 for Standards and Section 16 for General Requirements including illumination. (A) Principal Buildings 30,000 gross square feet in area or less or lots less than 6 acres in size may have one monument or ground-mounted type sign. Said sign may be up to 11-feet in height including the minimum 12-inch base and a total area of 80 square feet. More than one sign may be allowed. See Section 15. (B) Principal Buildings over 30,000 gross square feet in area or lots less over 6 acres in size may have one monument or ground-mounted type sign. Said sign may be up to 15-feet in height including the minimum 12-inch base and a total area of 120 square feet. More than one sign may be allowed. See Section 15. (C) Exception. A pole type sign may be allowed only when it can be shown that it is physically impractical to install a monument or ground-mounted type sign in compliance with this ordinance. A pole sign shall be located in a clear vision area only and shall not exceed 64 square feet in total area and 16-feet in height.		
(b) Building Directory	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(c) Drive-Up Menu Board	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(d) Off-Premise Sign	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(2) BUILDING SIGNS		
(a) Awning or Canopy	Allowed	(a-d): Sign area. The maximum combined sign area shall not exceed 1 ½ square feet for each lineal foot of the width of the dominant façade up to 200 square feet. In order to accommodate narrow dominant facades, a minimum of 30-square feet shall be allowed. See Section 15 for Standards and Section 16 for General Requirements including illumination
(b) Projecting Sign	Allowed	
(c) Wall Sign	Allowed	
(d) Window Sign	Allowed	
(e) Building Directory	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(f) Drive-Up Menu Board	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(g) Roof Sign	Not Allowed	
(h) Suspended Sign	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(i) Off-Premise	Not Allowed	
(3) OTHER SIGNS		
(a) Temporary Signs	Allowed	See Section 6
(b) Exempt Signs	Allowed	See Section 5

Table D
SPECIFIC SIGNS PERMITTED IN
SIGN DISTRICT 2

Primarily an industrial or commercial use area applies to all land as set forth in the Sign District Map.

(1) Freestanding Signs

(a) Principal Identity. Allowed See Section 15 for Standards and Section 16 for General Requirements including illumination.

(A) Principal Buildings 30,000 gross square feet in area or less or lots less than 6 acres in size may have one monument or ground-mounted type sign. Said sign may be up to 11-feet in height including the minimum 12-inch base and a total area of 80 square feet. More than one sign may be allowed. See Section 15.

(B) Principal Buildings over 30,000 gross square feet in area or lots less over 6 acres in size may have one monument or ground-mounted type sign. Said sign may be up to 15-feet in height including the minimum 12-inch base and a total area of 120 square feet. More than one sign may be allowed. See Section 15.

(C) Exception. A pole type sign may be allowed only when it can be shown that it is physically impractical to install a monument or ground-mounted type sign in compliance with this ordinance. A pole sign shall be located in a clear vision area only and shall not exceed 64 square feet in total area and 16-feet in height.

(b) Building Directory Sign	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(c) Drive-Up Menu Board	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(d) Off-Premise Sign	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(2) Building Signs		
(a) Awning or Canopy	Allowed	(a-d): Sign area. The maximum combined sign area allowed on a building shall not exceed 1 ½ square feet for each lineal foot of the width of the dominant façade up to 150 square feet. In order to accommodate narrow dominant facades, a minimum of 30-square feet shall be allowed. See Section 15 for Standards and Section 16 for General Requirements including illumination
(b) Projecting Sign	Allowed	
(c) Wall Sign	Allowed	
(d) Window Sign	Allowed	
(e) Building Directory Sign	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(f) Drive-Up Menu Board	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(g) Roof Sign	Not Allowed	
(h) Suspended Sign	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(i) Off-Premise Sign	Not Allowed	
(3) Other Signs		
(a) Temporary Signs	Allowed	See Section 6
(b) Exempt Signs	Allowed	See Section 5

Table E SPECIFIC SIGNS PERMITTED IN SIGN DISTRICT 3 Primarily the downtown business area and the Mixed-Use Riverfront area, applies to all land as set forth in the Sign District Map.		
(1) FREESTANDING SIGNS		
(a) Principal Identity	Allowed	Sign area and height. A monument or ground-mounted type sign may have up to 32 square feet of sign area and a maximum of 5 feet in sign height. A pole type sign is prohibited.
(b) Building Directory	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(c) Drive-Up Menu Board	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(d) Off-Premise Sign	Not Allowed	
(2) BUILDING SIGNS		
(a) Awning or Canopy	Allowed	(a - d): Sign area. The maximum combined sign area shall not exceed 1 ½ square feet for each lineal foot of the width of the dominant façade up to 100 square feet. In order to accommodate narrow dominant facades, a minimum of 30-square feet shall be allowed. Only the dominant façade shall be measured when determining sign area allowances. See Section 15 for Standards and Section 16 for General Requirements including illumination
(b) Projecting Sign	Allowed	
(c) Wall Sign	Allowed	
(d) Window Sign	Allowed	
(e) Building Directory	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(f) Drive-Up Menu Board	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(g) Roof Sign	Not Allowed	
(h) Suspended	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(i) Off-Premise Sign	Not Allowed	
(3) OTHER SIGNS		
(a) Temporary Signs	Allowed	See Section 6
(b) Exempt Signs	Allowed	See Section 5

Table F SPECIFIC SIGNS PERMITTED IN SIGN DISTRICT 4 Primarily a mix of commercial and industrial uses adjacent to residential areas, applies to all land as set forth in the Sign District Map.		
(1) FREESTANDING SIGNS		
(a) Principal Identity Sign	Allowed	Sign area and height. A monument or ground-mounted type sign up to 40 square feet in sign area and a maximum of 8-feet in sign height. Said sign shall not be internally illuminated.
(b) Building Directory	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(c) Drive-Up Menu Board	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(d) Off-Premise Sign	Not Allowed	
(2) BUILDING SIGNS		
(a) Awning or Canopy	Allowed	(a-d): Sign area. The maximum combined sign area shall not exceed 1 ½ square feet for each lineal foot of the width of the dominant façade up to 100 square feet. In order to accommodate narrow dominant facades, a minimum of 20-square feet shall be allowed. Only the dominant façade shall be measured when determining sign area allowances. See Section 15 for Standards and Section 16 for General Requirements including illumination
(b) Projecting	Allowed	
(c) Wall	Allowed	
(d) Window	Allowed	
(e) Building Directory	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(f) Drive-Up Menu Board	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(g) Roof Sign	Not Allowed	
(h) Suspended	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(i) Off-Premise Sign	Not Allowed	
(3) OTHER SIGNS		
(a) Temporary Signs	Allowed	See Section 6
(b) Exempt Signs	Allowed	See Section 5

Table G SPECIFIC SIGNS PERMITTED IN SIGN DISTRICT 5 Primarily a residential use area, applies to all land as set forth in the Sign District Map.		
(1) FREESTANDING SIGNS		
(a) Principal Identity Sign (A) Commercial and professional uses allowed in a residential zone (B) Residential Care and Emergency Facilities (C) Multi-family Dwellings of 10-units or more and Subdivisions (D) Home Occupations allowed in a residential zone	Allowed	(A and B): Number, area and height. One monument or ground-mounted type sign may have up to 32 square feet of sign area and a maximum of 5 feet in height. Sign shall be allowed in lieu of a building sign. (C): Number, area and height. A monument or ground mounted type sign for the purposes of identifying the multi-family dwelling or subdivision shall be allowed. The sign may be up to 32 square feet in area and 5 feet in height and shall be located at the principal entrances to the subdivision. Not more than two such signs shall be allowed. The freestanding sign shall be allowed in lieu of building signs listed below (See 2). (D): Number, area and height. A home occupation shall be allowed one sign. The sign shall not exceed 1 ½ square feet and 4 feet in height. (A-D) Pole type signs are prohibited. See Section 15 for Standards and Section 16 for General Requirements including illumination
(b) Building Directory	Not Allowed	
(c) Drive-Up Menu Board	Not Allowed	
(d) Off-Premise Sign	Not Allowed	
(2) BUILDING SIGNS		
(a) Awning or Canopy	Not Allowed	
(b) Projecting	Not Allowed	
(c) Wall	Allowed	(c - d) Sign area. The maximum combined sign area shall not exceed 12-square feet for each principal use building in lieu of a principal identity sign. Wall and window signs shall be allowed in lieu of a freestanding sign listed above (See 1). (c- d) See Section 15 for Standards and Section 16 for General Requirements including illumination
(d) Window Sign	Allowed	
(e) Building Directory	Not Allowed	
(f) Drive-Up Menu Board	Not Allowed	
(g) Roof Sign	Not Allowed	
(h) Suspended Sign	Not Allowed	
(i) Off-Premise Sign	Not Allowed	
(3) OTHER SIGNS		
(a) Temporary Signs	Allowed	See Section 6
(b) Exempt Signs	Allowed	See Section 5

Table H SPECIFIC SIGNS PERMITTED IN SIGN DISTRICT 6		
The Bend Parkway encompassing the area within a distance of 300 lineal feet as measured from either side of the Bend Parkway right-of-ways.		
Intent. The purpose of the Bend Parkway Overlay District is to preserve and protect the visual intent of the Bend Parkway design. In regards to signs, this intent is to minimize the visual impact of signage as viewed from the Bend Parkway. The Parkway Overlay District shall encompass the area within a distance of 300 lineal feet as measured from either side of the Bend Parkway right-of-ways.		
(1) FREESTANDING SIGNS		
(a) Principal Identity Sign	See the underlying Sign District for specific types of signs allowed	For the purpose of determining the size, height and placement of a principal identity sign, a property line abutting the Bend Parkway right-of-way shall not be considered as street frontage and signs shall not be located adjacent or oriented to the Bend Parkway. However, where an intervening access street between the Bend Parkway right-of-way and a lot exists, and that street serves as the primary access to the lot, a principal identity sign may be placed adjacent to the street frontage consistent with the requirements of the underlying Sign District.
(b) Building Directory		
(c) Drive-Up Menu Board		
(d) Off-Premise Sign	Not Allowed	
(2) BUILDING SIGNS		
(a) Awning or Canopy	See the underlying Sign District for specific types of signs allowed	Lots that are located in Sign District 6 shall be required to locate building signs on the Principal Building dominant façade. However, one sign may be installed on a subordinate façade facing the Bend Parkway provided that the sign is not internally illuminated, including exposed lights and does not exceed 10 percent of the sign area allowance as determined by the underlying Sign District. See Section 15 for Standards and Section 16 for General Requirements including illumination
(b) Projecting		
(c) Wall		
(d) Window		
(e) Building Directory		See Section 15 for Standards and Section 16 for General Requirements including illumination
(f) Drive-Up Menu Board		See Section 15 for Standards and Section 16 for General Requirements including illumination
(g) Roof Sign	Not Allowed	
(h) Suspended Sign	Allowed	See Section 15 for Standards and Section 16 for General Requirements including illumination
(i) Off-Premise Sign	Not Allowed	
(3) OTHER SIGNS		
(a) Temporary Signs	Allowed	See Section 6
(b) Exempt Signs	Allowed	See Section 5

Section 15. STANDARDS FOR SPECIFIC TYPES OF SIGNS

(1) Awning and Canopy Signs. Awning and canopy signs shall be allowed for nonresidential uses. Awning and canopy signs may be permitted only as an integral part of the awning or canopy to which they are attached or applied. Where allowed by Section 14 Tables C-H, awning and canopies shall comply with the following requirements.

(a) Location. Signs may be placed only on awnings or attached canopies that are located on the sign band of the first story façade, see Section 16. Awnings and canopies shall not interfere with trees or traffic signs.

(b) Maximum number and area. The sign area on the awning or canopy shall be deducted from the sign area permitted on the building.

(c) Clearance and Projection. The awning or canopy supporting structure shall maintain a clearance of eight feet above a public right-of-way or finished grade. The valance shall maintain a seven-foot clearance. An awning or canopy shall not extend more than five feet from the building or within 2 feet from the street curb, whichever is less. An awning shall not project more than 12 inches above the roofline. Posts or columns beyond the property line will not be permitted.

(d) Lighting. Illumination shall comply with Section 16.

(2) Building Directory Signs. Building Directory signs shall be allowed for multi-tenant nonresidential buildings. Where allowed by Section 14, Tables C-H, building directory signs shall comply with the following requirements.

(a) Location. Building Directory signs shall be located on the sign band of the first story façade or adjacent to the parking lot, see Section 16. The sign shall not be legible from a public street or right-of-way.

(b) Maximum number, area and height. Not more than one freestanding building directory sign shall be displayed per lot. Not more than one wall-mounted building directory sign shall be displayed per building. The sign area shall not exceed 20 square feet when installed on a building or 32 square feet and eight feet in height if freestanding.

(c) Lighting. Illumination shall comply with Section 16.

(3) Drive-Up Menu Board Signs. Drive-up menu board sign shall be allowed for drive-up service oriented businesses only. Where allowed by Section 14, Tables C-H, drive-up menu board signs shall comply with the following requirements.

(a) Location. Wall-mounted signs shall be located on the sign band of the first story façade, see Section 16. A freestanding sign shall be adjacent to the building on the lot provided the sign is not legible from a public street or right-of-way. Accessory uses may display a drive-up menu board sign on the accessory structure only.

(b) Maximum number, area and height. Not more than two signs shall be displayed per business. When two signs are displayed the maximum sign area allowed for each separate sign is 20 square feet and 8 feet in height if freestanding. The maximum sign area for a single sign is 40 square feet.

(c) Lighting. Illumination shall comply with Section 16.

(4) Off-Premise Signs. Where allowed by Section 14, Tables C-H, off-premise signs shall comply with the following requirements

(a) The maximum number of signs, as described in this section, allowed within the City limits is 41 (*to be verified*). No new sign may be erected unless it replaces an existing sign. Signs must have existed within the Bend Urban Growth Boundary as of December 18, 1985 in order to be included in the maximum number allowed.

(b) Before erecting any new sign, a permit must be secured from the Building Official. Where applicable, evidence must be provided of a State issued permit in accordance with the Oregon Motorists Information Act of 1971.

(c) All signs erected or moved after the effective date of this ordinance shall be located in Sign Districts 1 and 2 on commercial or industrial zoned properties only.

(d) Signs shall not be installed on any building.

(e) All signs shall be spaced a minimum of 500 lineal feet apart.

(f) The sign face shall not exceed 10 ½ feet in vertical height and 24 feet in horizontal length.

(g) The sign shall not exceed 24 feet in height, as measured from finished grade, however, if a variance is granted the maximum height shall not exceed 35 feet.

(h) Internally illuminated and/or animated signs are prohibited. External illumination shall comply with Section 16. Electrical wiring to the sign shall be located underground.

(i) All signs erected or moved shall be installed behind the legal setback line of each parcel of property as determined by the Zoning Ordinance of the City of Bend.

(j) All structural supports for signs shall be constructed of steel.

(k) Only flat, single-faced or double-faced signs shall be permitted. As used in this section, "double-faced" means a sign with two display surfaces visible to traffic from two directions of travel. A "single-faced" sign means a sign with one display surface visible from one direction of travel.

(5) Principal Identity Sign. Where allowed by Section 14, Tables C-H, principal identity signs shall comply with the following requirements.

(a) Sign Type. A Principal Identity sign shall be either a monument or ground-mounted type sign.

Exception: Sign Districts 1 and 2 a pole type sign may be permitted. A pole type sign is permitted only in a clear vision area and only when it is physically impractical to install a freestanding monument or ground-mounted type of sign in compliance with this code.

(b) Number. One Principal Identity sign may be allowed for the principal use conducted on the tax lot provided the tax lot has a primary access street frontage.

Exception: Two freestanding principal identity signs may be allowed as follows:

(A) In Sign District 1 and 2 only, a tax lot with street frontage on two or more arterial streets may install one additional principal identity sign provided that both streets have an *"arterial"* street designation and the signs are separated by a minimum of 300lineal feet.

(B) Individual lots or pads that are part of a Shopping Center or Business Complex shall be, for the purposes of this section, defined as one tax lot and freestanding signs are subject to the requirements specified in Section 9, Comprehensive Sign Plans.

(c) Location. The freestanding sign shall be located and oriented to the principal access street frontage adjoining the public access street.

Lots that abut the Bend Parkway right-of-way shall locate Principal Identity signs adjacent to the street frontage farthest from the Bend Parkway Overlay and shall not be oriented to the Bend Parkway Overlay.

Where an intervening access street separates a lot from the Bend Parkway Overlay, and that street serves as the primary access to the lot, such sign may be installed and oriented towards that street consistent with the requirements of the underlying Sign District. Principal Identity signs are not allowed in a rear yard setback.

(d) Setback. No freestanding sign shall be located within ten feet of a lot line that abuts another lot. Freestanding signs are not permitted in a rear yard setback.

(e) Maximum area. Sign area derived by the length of one street frontage shall not be transferred to another street frontage or combined in order to create a larger sign.

(f) Design Requirements. The sign shall be either a monument or ground-mounted type sign except a pole type sign may be used where allowed in Tables C-H. The sign shall be composed of vertical mounted modular cells or letters. The site address shall be located on the freestanding structure and shall be visible to the primary access street.

(g) Lighting. Illumination shall comply with Section 16.

(h) Placement. Principal Identity signs shall be located adjacent to the street frontage providing public access to the site. See Section 16 for additional placement requirements. (See location above)

(6) Projecting Sign. Where allowed by Section 14, Tables C-H, a projecting sign shall comply with the following requirements.

(a) Location. A projecting sign shall be placed only on the sign band of the first story façade, see Section 16. The sign may not extend above the windowsill of a second story building or above the roof eave and/or roofline.

(b) Clearance. A minimum clearance of eight feet between the bottom of the sign and the finished grade below the sign is required. At alleys when no curb exists a minimum height of 14 feet between the bottom of the sign and the finished grade below the sign is required.

(c) Projection from wall. Where a building is built to the property line for its entire frontage, the projecting sign may extend from the building over a public sidewalk a maximum of 42 inches and the sign structure shall be no wider than 36 inches.

(d) Maximum number, area and height. Only one sign shall be allowed per business. The sign area shall not exceed 20 square feet and shall be deducted from the sign area allowed on a building.

(e) Supporting structure. Sign supports and brackets shall be compatible with the design and scale of the sign.

(f) Lighting. Illumination shall comply with Section 16.

(7) Suspended Sign. Where allowed by Section 14, Tables C-H, a suspended sign shall comply with the following requirements.

(a) Location. Suspended signs shall be placed only under an attached awning or canopy on the first story façade for businesses with direct exterior pedestrian access.

(b) Clearance. A minimum 7-foot clearance is required.

(c) Maximum number, area and height. Only one sign shall be allowed per establishment. The sign shall not exceed six square feet in sign area.

(d) Lighting. Suspended signs shall not be internally illuminated.

(8) Wall Sign. Where allowed by Tables C-H, a wall sign shall comply with the following requirements.

(a) Location. Wall signs shall only be placed on the sign band of the first story façade, See Section 16. The sign shall not be placed to obstruct any portion of a window, doorway, transom, or other architectural detail.

(b) Maximum number, area and height. The number and sign area of wall signs allowed per building shall be consistent with Section 14. The sign area of each wall sign shall be deducted from the maximum sign area permitted on the building.

(c) Projection from wall. The sign shall not project from the surface upon which it is attached more than required from construction purposes and in no case more than 12 inches.

(d) Lighting. Illumination shall comply with Section 16.

(9) Window Signs. Where allowed by Tables C-H, window signs shall comply with the following requirements.

(a) Location. Window signs shall be allowed in the window of a first and second story building.

(b) Maximum number, area and height. The number allowed per building shall be as allowed in each Sign District. See Section 14. The sign area of each window sign shall be deducted from the maximum sign area permitted on the building. Illuminated window signs shall not exceed 15 percent of the window area in which they are displayed.

(c) Lighting. Illumination shall comply with Section 16.

Section 16. GENERAL REQUIREMENTS

(1) Placement.

(a) All Signs. Except as otherwise allowed, all signs shall be located on the lot where the business is conducted.

(b) Building Signs. All signs, including exempt and temporary signs, installed on the building shall be placed on the sign band. A sign band is the continuous portion of the building façade that is unbroken by doors or architectural building features, located between the upper and lower limits defined as follows:

(A) Upper Limit.
The upper limit shall be the windowsill of the second story or in the absence of a windowsill or second story, one-half the distance between the roof eave or roofline immediately above the lintel, awning, canopy or window head of the first story. In no case shall the any element of the sign be placed higher than 24 feet on the building, as measured from finished grade immediately below such sign.

(B) Lower Limit.
The lower limit shall be 5 feet above finished grade on the first story.

(C) Signs installed on the exterior building façade may be placed below the designated sign band when the Building Official can be assured that the public is satisfactorily protected from the sign and the sign is entirely over private property.

(2) Pedestrian area clearance. When a sign extends over a sidewalk, walkway, or other space accessible to pedestrians, the bottom of the sign structure must maintain a minimum

eight-foot clearance as measured from the bottom of the sign structure to the ground directly below the sign. Exceptions are prohibited.

(3) Clear vision area. A clear vision area is a triangular-shaped area located at the intersection of any combination of streets or alleys. The clearance height of the clear vision area is from 24 inches above grade to eight feet above grade. The sides of the triangle extend as follows:

(a) In all commercial and industrial zones the minimum distance shall be 15 feet. However, at the intersection of an alley and a street, the distance shall be 10 feet.

(b) In all residential zones, the minimum distance shall be in relationship to street right-of-way widths as follows, except at intersections of an alley and a street in a residential zone, the minimum distance shall be 15 feet:

Right-Of-Way Width	Clear Vision Measurement
80 feet and more	20 feet
60 feet	30 feet
50 feet	40 feet

(c) The support pole structure for a freestanding sign shall be no greater than a combined total diameter of 12 inches.

(4) Signs extending over the public right-of-way. The City Engineer or Building Official may require signs which are extending into newly created public right-of-way to be modified or relocated when streets are widened, or other improvements are made in the public right-of-way. The modification or moving will be at the owner's expense. If the sign must be moved, and it is in the right-of-way is moved and it is a nonconforming sign it must be brought into conformance when the sign is re-erected.

(5) Clearance from high voltage power lines. No sign or part of a sign support may interfere with any electrical light, power telephone or telegraph wires or supports thereof. All signs must be sufficiently clear of high voltage power lines so those signs can be safely erected and maintained. Signs shall be located not less than six feet horizontally or 12 feet vertically from overhead electrical conductors which are energized in excess of 750 volts.

(6) Sign illumination. The artificial illumination of signs, either from an internal or external source, shall be designed to eliminate negative impacts on surrounding right-of-way and properties. The following standards shall apply to all illuminated signs:

(a) No sign or light source shall create an unduly distracting or hazardous condition to a motorist, pedestrian or the general public. Colored lights or colored sign faces shall not be used at a location or in a manner so as to be confused or construed as traffic control devices;

(b) External light sources shall be directed and shielded to limit direct illumination of any object other than the sign;

(c) Internally illuminated signs and signs with exposed light sources are prohibited in all residential zoned properties and Sign District 4 and 5, except internally illuminated signs used for 24-hour emergency medical facilities provided the sign complies with paragraph (e);

(d) Signs shall not have blinking, flashing, or fluttering lights, or other illuminating devices that have a changing light intensity, brightness or color. Time, Date and Temperature signs may have lights changing only to show changes in time, date and temperature.

(e) When a sign is internally illuminated, including awnings and canopies, the sign copy shall be lighter than the sign background. The background shall use a predominance of deep-toned color or shall be opaque when the light source is on.

(7) Design, Construction, Inspection, and Maintenance

(a) Design. All signs shall be designed, constructed, inspected and maintained in compliance with this ordinance and current State of Oregon Structural Specialty Code including any applicable City, State and Federal Code, Rule, Law or Regulation.

(b) Maintenance. All signs and all components thereof, including without limitation supports, braces, and anchors, shall be maintained in a state of good repair.

(c) Materials. Except those signs listed in Section 5, Exempt Signs, all signs shall be constructed of permanent materials and permanently affixed to a structural support in the ground or on the building.

(d) Supports. All sign permit applications shall include the specific support details. The design of this support will be reviewed by the Building Official for compliance with the current edition of the State of Oregon Structural Specialty Code. The Building Official may require a design prepared by a state-licensed engineer.

Section 17. NONCONFORMING SIGNS

(1) Signs made non-conforming by the adoption of Sign Code Ordinance NS-1375. The owners of any lot or other premises on which exists a sign that did not conform with the requirements of the City of Bend Sign Code Ordinance adopted March 1983 or for which there is no valid sign permit shall be obligated to remove such sign or to bring such sign into conformity with this ordinance on the adoption of this ordinance. Such signs that are not removed or brought into conformance will be deemed illegal and subject to the enforcement procedures of this ordinance.

(2) Except as otherwise provided herein, permanent signs in existence on the effective date of this ordinance, which are not in conformance with the provisions of this ordinance shall be regarded as non-conforming signs.

(3) The owners of any tax lot or other premise on which exists a non-conforming signs shall be obligated to remove such sign or to bring such sign into conformity with the requirements of this ordinance when one of the following conditions occur:

(a) Whenever the sign is damaged by more than 50 percent of its total replacement value or destroyed from any cause whatsoever. Or;

(b) Whenever a request is made for a permit to alter or relocate the existing sign. Or;

(c) Whenever there is a request to change the name of the business. Or;

(d) Whenever a business sells and it's principal use changes.

(4) Exceptions.

(a) Section 17 (3) (c) and (d) apply except in cases where multiple sign cabinets are displayed on a single freestanding sign, in which case the sign faces may be changed, replaced, and/or maintained provided the sign structure is not replaced or relocated. The new sign face must comply with the background color and illumination requirements in this ordinance.

(b) A non-conforming sign may be structurally altered where such alteration is necessary for public safety.

(c) A non-conforming sign may be reconstructed if moved for construction or repair of public facilities and if such reconstruction is completed within one year.

(d) A non-conforming sign face may be replaced, provided the sign area is not increased in size or relocated, and the new sign face complies with the color and illumination requirements in this ordinance.

(e) Any existing sign that exceed the maximum sign area or sign height limitations by not more than 10 percent shall be considered to be a conforming sign for the purposes of this section and need not be altered to comply with this ordinance. When the sign is altered or relocated the sign must conform to the requirements of this ordinance.

(5) Non-Conforming signs; multiple cabinets.

(a) In cases where multiple sign cabinets are displayed on a single freestanding sign, the sign must be brought into conformity with this ordinance within 10 years of the first sign face change.

(b) In cases where a single sign cabinet with multiple listings is displayed on a single freestanding sign, the sign must be brought into conformity within 10 years of the first sign change.

(6) An owner of a non-conforming sign, who wishes to bring the sign closer into conformance with this code, may petition for a variance from the need to bring the sign into total compliance. If in the opinion of the Director, the improvement is appropriate, a variance may be granted.

(7) Historic Landmarks
Signage on designated historic landmark buildings shall be reviewed and approved by the Deschutes County Historic Landmarks Commission prior to submitting the application to the City of Bend for review and approval.

Section 18. VARIANCE CRITERIA

Applicants for a sign permit or an applicant owning or leasing a sign that is not in compliance with the provisions of this ordinance may seek a variance to the provisions of this ordinance by filing a sign variance application with the City of Bend.

Variance requests will not be granted for prohibited signs and/or construction and maintenance standards. Approval of a sign variance shall become void if the work approved by such variance is not commenced and completed within 6 months of the approval date.

(1) Variance Criteria. The variance will not be granted unless the applicant can establish that:

(a) Special conditions exist which are peculiar to the land, structure or building involved and are not applicable to other lands, buildings or structures in the same zone. The City may attach such conditions to granting all or a portion of any variance necessary to achieve the purpose of this ordinance, and;

(b) The strict interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zone under the terms of the ordinance, and;

(c) The special conditions and circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute pecuniary hardship or inconveniences, and;

(d) Granting the variance will meet the objectives of the ordinance and not be injurious to the neighborhood or otherwise detrimental to the public welfare, and;

(e) The request will be the minimum variance necessary to alleviate the special hardships or practical difficulties faced by the applicant in meeting the requirements of this ordinance.

Section 19. **ENFORCEMENT**

(1) Violations. A violation of any provision of this ordinance shall be a Class A Infraction. Each day shall be a separate violation. Violations will be enforced through the Bend Civil Infraction Procedure.

(2) Confiscation. Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeit to the public -and subject to confiscation. The city shall have the right to recover from the owner or person placing such a sign all costs of removal and disposal of such sign, in addition to other remedies within this ordinance.

(3) Violation Declared A Nuisance. The location, erection, construction, maintenance, repair, alteration or use of a sign in violation of this ordinance is declared a nuisance and shall be abated in either the manner provided for in this ordinance or in the same manner as all other nuisances.

Section 20. **SEVERABILITY**

If any part, section, subsections, sentence or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 21. **REPEAL**

This ordinance shall be effective July 1, 2001. The existing City of Bend Sign Code (Bend Code 9-17.1010 – 9-17.8.000) is repealed effective July 1, 2001.

Read for the first time the 15th day of November, 2000.

Read for the second time the 6th day of December, 2000.

Placed upon its passage the 6th day of December, 2000.

YES: 6 NO: 0

Authenticated by the Mayor the 6th day of December, 2000.

Jim Young, Mayor

ATTEST:

Patricia Stell, City Recorder

VOL: 2001 PAGE: 4509
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2001-4509 * Vol-Page Printed: 01/31/2001 09:41:50

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Jan. 31, 2001; 9:41 a.m.

RECEIPT NO: 31469

DOCUMENT TYPE: Ordinance (County or City)

FEE PAID: $31.00

NUMBER OF PAGES: 1

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

2001.4509-1

ORDINANCE NO. NS-1768

AN ORDINANCE VACATING A PORTION OF BROSTERHOUS ROAD RIGHT OF WAY,LOCATED IN SECTION 16, TOWNSHIP 18 SOUTH, RANGE 12 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A request by the adjacent property owners having been presented to the Bend City Council on June 7, 2000 to vacate on Councils own action the following described right of way of Brosterhous Road:

See "Exhibit A" and "Exhibit D", attached.

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said request being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above right of way to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 5th day of July, 2000, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described right of way located in Bend, Deschutes County, Oregon, be vacated.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 20th day of December, 2000.

Read for the second time the 17th day of January, 2001.

Placed upon its passage the 17th day of January, 2001.

Yes: 7 No: 0

Authenticated by the Mayor the 17th day of January, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

After recording return to:
City Recorder
City of Bend
710 NW Wall
Bend, OR 97701

VOL: 2001 PAGE: 24580
RE-RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2001-24580 * Vol-Page Printed: 05/24/2001 12:39:19

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: May. 24, 2001; 12:39 p.m.

RECEIPT NO: 36090

DOCUMENT TYPE: Ordinance (County or City)

FEE PAID: $61.00

NUMBER OF PAGES: 7

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

2001-24580-1

VOL: 2001 PAGE: 20853
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2001-20853 * Vol-Page Printed: 05/03/2001 14:00:24

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: May. 3, 2001; 2:00 p.m.

RECEIPT NO: 35192

DOCUMENT TYPE: Ordinance (County or City)

FEE PAID: $36.00

NUMBER OF PAGES: 2

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

Re-recorded to include exhibits. Previously recorded in Book 2001, Page 20853.

After recording return to: Deputy Recorder, City of Bend, 710 NW Wall

2001-20853-1
2001-14580.2

VOL: 2001 PAGE: 4509

RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2001-4509 * Vol-Page Printed: 01/31/2001 09:41:50

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Jan. 31, 2001; 9:41 a.m.

RECEIPT NO: 31469

DOCUMENT TYPE: Ordinance (County or City)

FEE PAID: $31.00

NUMBER OF PAGES: 1

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

2001. 4509-1

2001-20853-2
2001.21580.3

ORDINANCE NO. NS-1768

AN ORDINANCE VACATING A PORTION OF BROSTERHOUS ROAD RIGHT OF WAY,LOCATED IN SECTION 16, TOWNSHIP 18 SOUTH, RANGE 12 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A request by the adjacent property owners having been presented to the Bend City Council on June 7, 2000 to vacate on Councils own action the following described right of way of Brosterhous Road:

See "Exhibit A" and "Exhibit D", attached.

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said request being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above right of way to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 5th day of July, 2000, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described right of way located in Bend, Deschutes County, Oregon, be vacated.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 20th day of December, 2000.

Read for the second time the 17th day of January, 2001.

Placed upon its passage the 17th day of January, 2001.

Yes: 7 No: 0

Authenticated by the Mayor the 17th day of January, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

After recording return to:
City Recorder
City of Bend
710 NW Wall
Bend, OR 97701

State of Oregon)
SS
County of Deschutes)

I certify that the foregoing City Ordinance has been compared with the original, and that it is a correct transcript therefrom, and of the whole of such original, as the same appears of record at the County Clerk's office in Deschutes County, Oregon.

1-23 20 01

MARY SUE PENHOLLOW, Clerk

By _____ Deputy

 2001.2458.4

EXHIBIT A

A parcel of land containing 35,233 sq. ft. or 0.81 acres, more or less, located in a portion Section 16, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at a point on the north line of the SW ¼ of said Section 16 which bears South 89°46'44" West, 105.53 feet from the Center One-Quarter Corner of said Section 16; thence leaving said north line 136.38 feet along the arc of a 437.60 foot radius non-tangent curve to the right, the long chord of which bears North 02°42'46" East, 135.83 feet to a point on the westerly right-of-way line of Brosterhous (Sipchen) Road as described in Quitclaim Deed Vol. 253, Page 478 of Deschutes County Deed Records as filed on July 6, 1977 in the office of the Deschutes County Clerk; thence along said westerly right-of-way line 359.76 feet along the arc of a 972.44 foot radius non-tangent curve to the right, the long chord of which bears North 10°23'13" East, 357.71 feet; thence leaving said westerly right-of-way line South 20°59'18" West, 280.56 feet; thence 229.94 feet along the arc of a 497.60 foot radius curve to the left, the long chord of which bears South 07°44'51" West, 227.90 feet to a point on the north line of the SW1/4 of said Section 16; thence leaving said north line continuing 366.70 feet along the arc of a 497.60 foot radius curve to the left, the long chord of which bears South 26°36'09" East, 358.46 feet; thence 85.38 feet along the arc of a 535.49 foot radius curve to the right, the long chord of which bears South 43°08'49" East, 85.29 feet to a point on said westerly right-of-way line of Brosterhous (Sipchen) Road as described in Quitclaim Deed Vol. 253, Page 478 of Deschutes County Deed Records as filed on July 6, 1977 in the office of the Deschutes County Clerk; thence along said westerly right-of-way line 229.35 feet along the arc of a 972.44 foot radius non-tangent curve to the right, the long chord of which bears North 25°43'34" West, 228.82 feet; thence leaving said westerly right-of-way line 187.94 feet along the arc of a 437.60 foot radius non-tangent curve to the right, the long chord of which bears North 18°31'09" West, 186.50 feet to the point of beginning, the terminus of this description.

See EXHIBIT "B" attached hereto and hereby incorporated by reference.

SUBJECT TO: All easements, restrictions, and rights-of-ways of record and those common and apparent on the land.

05-05-00

REGISTERED
PROFESSIONAL
LAND SURVEYOR

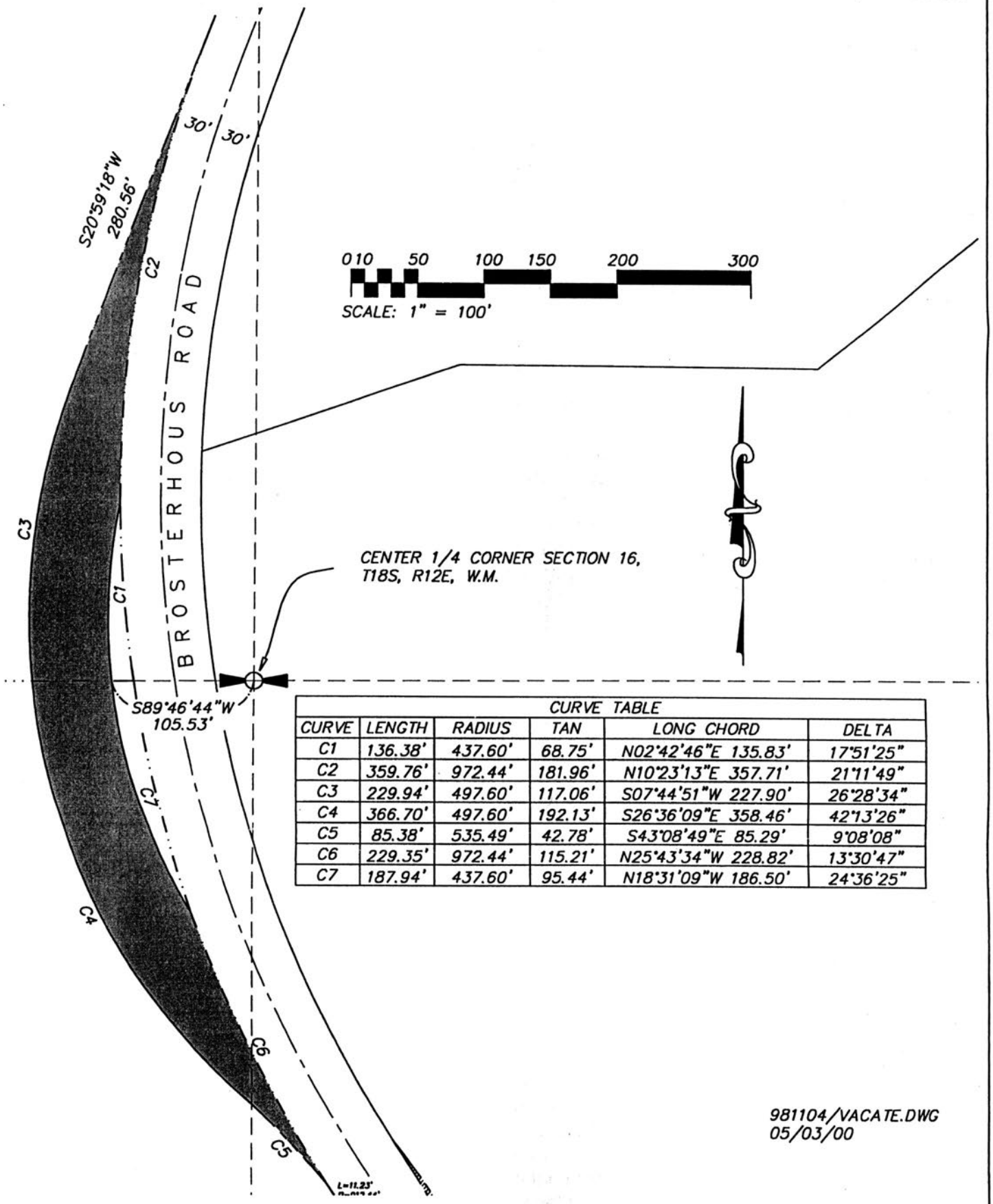
OREGON
JULY 1, 1989
PETER A. MANLEY
2214

Renews 12-31-00

2001.24580.5

EXHIBIT "B"

PORTION OF SIPCHEN ROAD (BROSTERHOUS) TO BE VACATED
LOCATED IN SECTION 16, T18S, R12E, W.M., CITY OF BEND DESCHUTES COUNTY, OREGON



CURVE TABLE					
CURVE	LENGTH	RADIUS	TAN	LONG CHORD	DELTA
C1	136.38'	437.60'	68.75'	N02°42'46"E 135.83'	17°51'25"
C2	359.76'	972.44'	181.96'	N10°23'13"E 357.71'	21°11'49"
C3	229.94'	497.60'	117.06'	S07°44'51"W 227.90'	26°28'34"
C4	366.70'	497.60'	192.13'	S26°36'09"E 358.46'	42°13'26"
C5	85.38'	535.49'	42.78'	S43°08'49"E 85.29'	9°08'08"
C6	229.35'	972.44'	115.21'	N25°43'34"W 228.82'	13°30'47"
C7	187.94'	437.60'	95.44'	N18°31'09"W 186.50'	24°36'25"

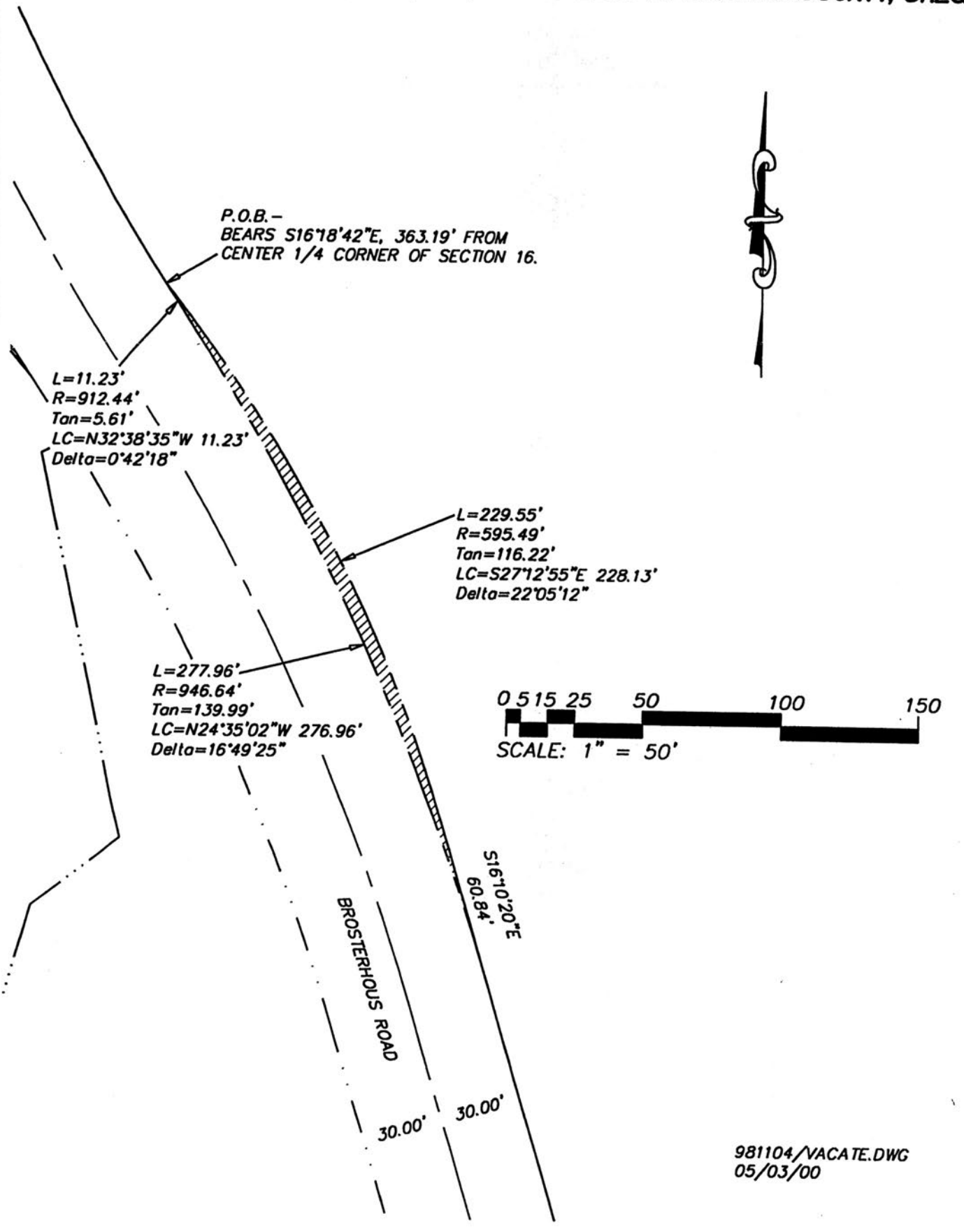
981104/VACATE.DWG
05/03/00

2007.24580.6

EXHIBIT "C"

PORTION OF SIPCHEN ROAD (BROSTERHOUS) TO BE VACATED

LOCATED IN SECTION 16, T18S, R12E, W.M., CITY OF BEND DESCHUTES COUNTY, OREGON



981104/VACATE.DWG
05/03/00

2001.24580-7

EXHIBIT D

A parcel of land containing 909 sq. ft. or 0.02 acres, more or less, located in a portion Section 16, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at a point on the on the easterly right-of-way line of Brosterhous (Sipchen) Road as described in Quitclaim Deed Vol. 253, Page 478 of Deschutes County Deed Records as filed on July 6, 1977 in the office of the Deschutes County Clerk which bears South 16°18'42" East, 363.19 feet from the Center One-Quarter Corner of said Section 16; thence leaving said westerly right-of-way line 229.55 feet along the arc of a 595.49 foot radius curve to the right, the long chord of which bears South 27°12'55" East, 228.13 feet; thence South 16°10'20" East, 60.84 feet to a point on said easterly right-of-way line; thence along said easterly right-of-way line the following two (2) curves:

277.96 feet along the arc of a 946.64 foot radius non-tangent curve to the left, the long chord of which bears North 24°35'02" West, 276.96 feet; 11.23 feet along the arc of a 912.44 foot radius curve to the right, the long chord of which bears North 32°38'35" West, 11.23 feet to the point of beginning, the terminus of this description.

See EXHIBIT "C" attached hereto and hereby incorporated by reference.

SUBJECT TO: All easements, restrictions, and rights-of-ways of record and those common and apparent on the land.

05-05-00

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 1, 1988
PETER A. MANLEY
2214

Renews 12-31-00

ORDINANCE NO. NS-1769

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RL, URBAN LOW DENSITY RESIDENTIALTO RS, URBAN STANDARD DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated October 23, 2000, file number PZ-00-325.

Section 2. Section 7(1) of Ordinance NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the property described as:

Exhibit "A"

from Urban Low Density Residential (RL) to Urban Standard Density Residential (RS).

Read for the first time the 17th day of January, 2001.

Read for the second time the 7th day of February, 2001.

Placed upon its passage the 7th day of February, 2001.

YES: 7 NO: 0

Authenticated by the Mayor the 7th day of February, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

Exhibit A
Zone Change

A portion of Lot 30, Quail Pine Estates, Phase II located in the Southwest one-quarter of Section 7, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the Southwest corner of said Lot 30; thence along the Westerly lot line of said Lot 30, North 00°01'01" East 74.00 feet; thence leaving said Westerly line North 89°33'44" East 204.47 feet; thence along the Easterly lot line of said Lot 30 South 58°40'19" West 144.13 feet; thence leaving said Easterly line and along the Southerly line of said Lot 30 South 89°33'44" West 81.37 feet to the point of beginning and terminus of this description.

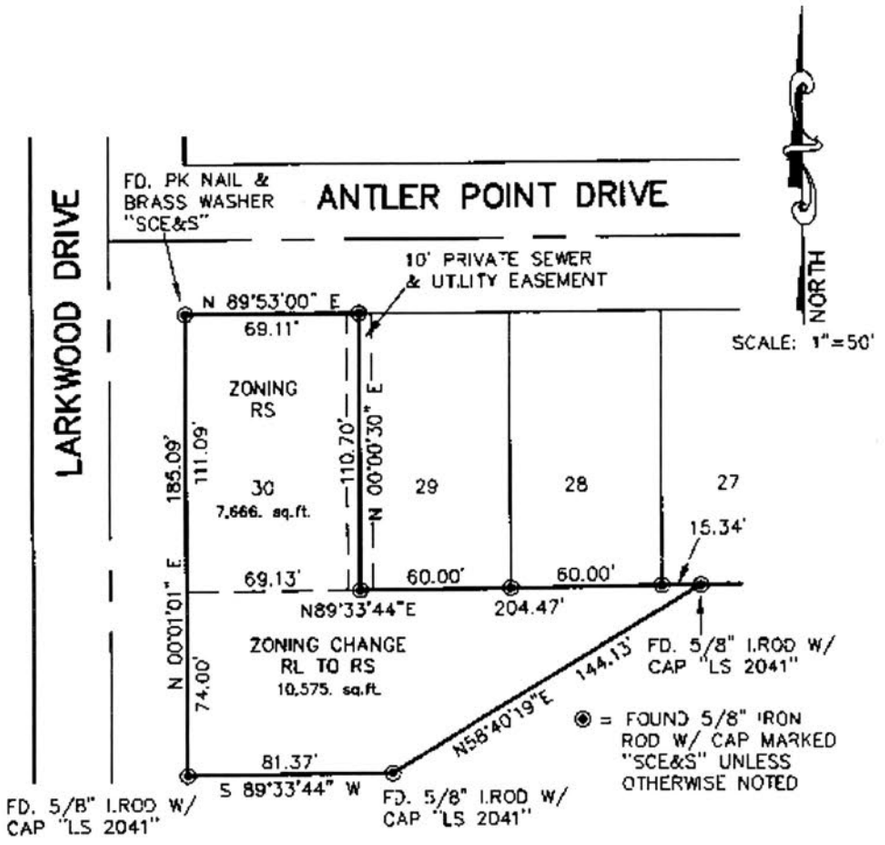
Containing 10,575 square feet more or less.

C:\My Documents\98-4739 ZONE CHANGE.rtf

Sun Country Engineering & Surveying, Inc.

ZONE CHANGE

LOT 30, QUAIL PINE ESTATES, PHASE II,
CITY OF BEND, DESCHUTES COUNTY, OREGON



SUN COUNTRY ENGINEERING & SURVEYING, INC.
920 S.E. ARMOUR ROAD BEND, OREGON 97702 PHONE 382-6662

47398-01

ORDINANCE NO. NS-1770

AN ORDINANCE EXTENDING LIMITATIONS ON SIGNS ORIENTED TOWARDS THE BEND PARKWAY; AND DECLARING AN EMERGENCY.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 8.005 of the City of Bend Sign Code shall be extended for an additional six months from the effective date of this ordinance. Section 8.005 provides:

> **8.005 Limitation. No sign permits for billboards or outdoor advertising signs or ground mounted signs which exceed 10-feet in vertical height and 8-feet in horizontal width shall be issued pursuant to the City of Bend Sign Code, nor shall any such signs be installed, which are oriented toward the Bend Parkway, within a distance of two-hundred feet from each side of the Bend Parkway right-of-way. This limitation shall be for a period of six months from the effective date of this ordinance, or until a new sign code regulating these signs is adopted, whichever happens first. A sign shall be considered as oriented toward the Bend Parkway if it would have not have been installed but for the potential of display to, and viewing from, traffic on the Bend Parkway.**

Section 2. The existing regulations of the City of Bend Sign Code were developed prior to the construction of the Bend Parkway; and these regulations do not adequately deal with the new sign regulation situation presented by the Bend Parkway. Because signs oriented toward the Bend Parkway have been installed along portions of the Parkway that have been opened to public travel, it is necessary and desirable for the protection of the public health, safety and welfare to not permit any signs described in this amendment until there is an opportunity to review the kind of sign regulation that will be required by this new situation, and develop whatever regulations are necessary to provide whatever sign regulation is needed. Therefore an emergency is declared to exist, and this ordinance shall take effect immediately upon its passage.

Read for the first time the 7th day of February, 2001.

Read for the second time the 21st day of February, 2001.

Placed upon its passage the 21st day of February, 2001.

YES: 7 NO: 0

Authenticated by the Mayor the 21st day of February, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1771

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RS, URBAN STANDARD DENSITY RESIDENTIAL TO RH, URBAN HIGH DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated January 31, 2001 file number PZ-00-363.

Section 2. Section 7(1) of Ordinance NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the property described as;

Lots 9 and 10, Block 45; Center Addition
Deschutes County, Oregon

from Urban Standard Density Residential (RS) to Urban High Density Residential (RH).

Read for the first time the 7th day of March, 2001.

Read for the second time the 21st day of March, 2001.

Placed upon its passage the 21st day of March, 2001.

YES: 7 NO: 0

Authenticated by the Mayor the 21st day of March, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1772

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RL, URBAN LOW DENSITY RESIDENTIAL TO RS, URBAN STANDARD DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated January 31, 2001, file number PZ-00-438.

Section 2. Section 7(1) of Ordinance NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the property described as:

Tax Map No 18-12-80-300

That portion of the North Half of the Southeast Quarter (N1/2 SE ¼) of Section Eight (8), Township Eighteen (18) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon, described as follows:

Starting at the East Quarter corner of Section 8; thence North 89° 53' 48" West along the North line of said N1/2 SE ¼, 880.0 feet to a steel pin; thence South, 772.5 feet to a steel pin marking the POINT OF BEGINNING of the tract hereby described; thence West, 903.0 feet to a steel pin on the Easterly right of way line of the Old The Dalles California Highway; thence Southerly along the Easterly right of way line of said Highway 248 feet, more or less, to a steel pin; thence East, 1000.4 feet to a steel pin; thence North, 225.0 feet to a steel pin marking the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying within roads, streets or highways.

from Urban Low Density Residential (RL) to Urban Standard Density Residential (RS).

Read for the first time the 7th day of March, 2001.

Read for the second time the 21st day of March, 2001.

Placed upon its passage the 21st day of March, 2001.

YES: 7 NO: 0

Authenticated by the Mayor the 21st day of March, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS - 1773

GRANTING TO CENTRAL ELECTRIC COOPERATIVE, INC., AN OREGON COOPERATIVE CORPORATION, ITS SUBSIDIARIES, AFFILIATES AND THEIR SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE FOR A PERIOD OF TWENTY (20) YEARS TO CONSTRUCT, MAINTAIN AND OPERATE, IN, ON AND UNDER THE PRESENT AND FUTURE STREETS, ALLEYS, BRIDGES AND PUBLIC PLACES OF THE CITY OF BEND, DESCHUTES COUNTY, OREGON, ELECTRIC LIGHT AND POWER LINES AND APPURTENANCES FOR THE PURPOSE OF SUPPLYING ELECTRICITY AND ELECTRIC SERVICE TO THE CITY OF BEND, THE INHABITANTS THEREOF AND OTHERS, SUBJECT TO THE TERMS AND CONDITIONS AND TO THE MAKING OF PAYMENTS SPECIFIED IN THE ORDINANCE.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. The City of Bend, Oregon, hereinafter called the "City," does hereby grant to Central Electric Cooperative, Inc., an Oregon cooperative corporation, its subsidiaries, affiliates and their successors and assigns, hereinafter called "Grantee," the right and franchise for the period of twenty (20) years from and after the effective date of this ordinance, to construct, maintain, and operate in, on and under the present and future streets, alleys, bridges and public places of the City, hereinafter referred to as "streets", electric light and power lines, with all the necessary or desirable appurtenances relating thereto, for the purpose of supplying electricity and electric service to the City and to the inhabitants thereof, subject to the terms and conditions and to the making of payments hereinafter specified.

Section 2. The City acknowledges that Grantee has been granted exclusive service territories within the city limits of the City by the Public Utilities Commission of Oregon ("PUC") for the purpose of supplying electricity and electric service to the City and to the inhabitants thereof. The City further acknowledges and hereby agrees that during the term of this Agreement that it will not compete in any way with Grantee's supplying electricity and electric service to the City and to its inhabitants.

Section 3. The locations and methods of installation and maintenance of all Grantee's poles, wires, fixtures, underground lines, and appurtenances thereto (hereinafter referred to as "facilities") shall be subject at all times to regulation by the City, and all such facilities shall be so constructed and maintained as to interfere as little as practicable with street or other traffic. Nothing herein however shall be construed to change or modify Oregon law regarding Grantee's ability to recover costs for any relocation of its facilities. All of such facilities shall be installed and at all times maintained by Grantee in accordance with good electrical practice. Grantee shall change the location of or remove any pole, conduit, structure or facility within the public right of way when the City determines that the public convenience requires such changes or removal. The expense of said change shall be paid by Grantee unless Grantee's pole, conduit, structure or facility existed prior to the particular public right of way, in which case the City shall pay the expense for such removal or change.

Section 4. The service to be furnished hereunder by Grantee shall be continuous and shall be adequate for the requirements of the City and its inhabitants, subject to accidents, interferences or interruptions beyond the reasonable control of Grantee, and shall be furnished under such rules and regulations as Grantee may institute from time to time for the proper conduct of its business. Such service and all rates and charges therefore and all rules and regulation pertaining thereto or to the making of any necessary and proper extension of service shall be subject at all times to any rules, regulations, and orders lawfully prescribed by the PUC and such rules and regulations adopted by the governing authority of Grantee.

Section 5. When necessary, in order to permit any duly authorized person to move

any building or structure across or along any of said streets, Grantee shall temporarily raise or remove its facilities upon such streets, upon reasonable notice in advance from the City, and at such time and in such manner as may be reasonably necessary to accommodate such moving, consistent with the maintenance of proper service to Grantee's customers; provided, however, that the cost to Grantee of such temporary raising or removal, and of any interruption of Grantee's service to its customers caused thereby, shall first be paid or satisfactorily secured to Grantee by the owner or mover of such building or other structure. Nothing contained in this Section shall preclude the City from requiring Grantee to remove or relocate its facilities when required in accordance with Section 3 of this franchise.

Section 6. The City shall have the right, upon reasonable notice to Grantee and without payment or charge therefore, to attach its fire alarm, police signal wires or traffic control systems to the poles of Grantee, but at its own risk and only in accordance with the standards of the National Electric Safety Code. If there is not sufficient space available thereon for said purposes, Grantee's structures may be changed, altered, or rearranged only by Grantee at the expense of the City so as to provide proper clearance for such wires or appurtenant facilities. Such facilities shall be subject to interference by Grantee only when and to the extent necessary for the proper construction, maintenance, operation or repair of Grantee's facilities.

Section 7. Grantee shall protect and save the City, its officers, employees and agents harmless against and from any and all damage claims, and any and all loss, liability, cost or expense, occasioned by any act or omission of Grantee in the construction, maintenance, operation or repair of Grantee's property or any use thereof; except such claims, loss, liability, cost or expense which may result from the negligent acts or omissions of the City.

Section 8. Grantee shall have the right and privilege of trimming all trees which overhang said streets, in such a manner and to such an extent as recommended by the PUC. Nothing contained in this Section shall prevent Grantee, when necessary and with the approval of the owner of the property on which they may be located and with the approval of the City, from cutting down and removing any trees which overhang said streets.

Section 9. Franchise Fee

(a) Grantee shall pay to the City a franchise fee or charge equivalent equal to five percent (5%) of Grantee's gross operating revenue as the same is defined herein. Grantee shall also pay the City's utility license fee if required by ordinance (Bend Code 3.100 to 3.124).

(b) For purposes herein, "gross operating revenue," shall mean Grantee's gross revenues from the sale and use of electricity and electric service within the corporate limits of the City and including revenue from the use, rental or lease of operating facilities of Grantee relating to the sale or use of electricity, other than revenues derived from business done with the government of the United States or any agency thereof, and reduced by Grantee's wholesale cost of electricity. At the election of Grantee, Grantee may also deduct uncollectible accounts of customers within the City from gross operating revenue.

(c) The franchise fee shall be offset against the sum total of the license fee required by City ordinance and any other occupation or excise taxes levied by the City against Grantee with respect to Grantee's electric business within the corporate limits of the City.

(d) The franchise fee shall be paid monthly on or before the 20th of each month during the term hereof, and shall be computed upon the gross operating revenue accruing during the previous calendar month or portion thereof. The City license fee shall be paid as required by City ordinance.

Section 10. Grantee hereby agrees to comply with all City ordinances relating to the conduct of Grantee's business. Grantee shall be in default of this franchise if it fails to comply with any term or condition or fulfill any obligation of the franchise within 30 days after written notice by the City specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within the 30-day period, this provision shall be complied with if Grantee begins correction of the default within the 30-day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. If Grantee is in default of this franchise, the City may revoke this franchise whereupon all rights of Grantee shall immediately be divested without a further act upon the part of Grantor.

Section 11. This ordinance shall take effect thirty (30) days after its enactment by the Council and approval by the Mayor, but shall become null and void unless within sixty (60) days after such effective date Grantee shall file with the City Grantee's written acceptance of the terms, conditions and obligations to be complied with or performed by it hereunder.

Read for the first time this 21st day of March, 2001.

Read for the second time this 4th day of April, 2001.

Placed upon its passage this 4th day of April, 2001.

YES: 7 NO: 0

Authenticated by the Mayor this 4th day of April, 2001.

Bill Friedman, MAYOR

ATTEST:

Patricia Stell, City Recorder

Accepted this 25 day of April, 2001.

CENTRAL ELECTRIC COOPERATIVE, INC.,

By: _____

Title: Chief Operating Officer

(Text that is ~~struck through~~ is deleted;
text that is underlined is added.)

ORDINANCE NO. NS-1774

AN ORDINANCE AMENDING ORDINANCE NO. NS-1767, THE BEND SIGN CODE

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Ordinance No. NS-1767, Section 11, is amended to read as follows:

FEES. Fees for permits and applications, ~~including an annual permit renewal fee~~, shall be set by Resolution of the City Council.

Section 2. Ordinance No. NS-1767, Section 15 (4), is amended to read as follows:

(4) Off-Premise Signs. Where allowed by Section 14, Tables C-H, off-premise signs shall comply with the following requirements

(a) The maximum number of ~~signs~~ billboards, as described in this section, allowed within the City limits is ~~41 *(to be verified)*~~ 44. An inventory of billboards existing on the date of adoption of this ordinance is attached hereto as Attachment 1. No new ~~sign~~ billboard may be erected unless it replaces an existing ~~sign~~ billboard. ~~Signs~~ Billboards must have existed within the Bend Urban Growth Boundary as of December 18, 1985 in order to be included in the maximum number allowed.

(b) Before erecting any new ~~sign~~ billboard, a permit must be secured from the Building Official. Where applicable, evidence must be provided of a State issued permit in accordance with the Oregon Motorists Information Act of 1971.

(c) All ~~signs~~ billboards erected or moved after the effective date of this ordinance shall be located in Sign Districts 1 ~~and~~ or 2 on commercial or industrial zoned properties only. Billboards are not permitted west of the Deschutes River.

(d) ~~Signs~~ Billboards shall be freestanding and shall not be installed on any building.

(e) All ~~signs~~ billboards shall be spaced a minimum of 500 lineal feet apart.

(f) The sign face shall not exceed the maximum size permitted by the State issued permit or 10 ½ feet in vertical height and 24 feet in horizontal length, whichever is less. Extensions beyond the sign face shall not be permitted.

(g) The ~~sign~~ billboard shall not exceed 24 feet in height, as measured from finished grade, however, if a variance is granted the maximum height shall not exceed 35 feet.

(h) Internally illuminated and/or animated ~~signs~~ billboards are prohibited. External illumination shall comply with Section 16. Electrical wiring to the ~~sign~~ billboard shall be located underground.

(i) All ~~signs~~ billboards erected or moved shall be installed behind the legal setback line of each parcel of property as determined by the Zoning Ordinance of the City of Bend.

(j) All structural supports for ~~signs~~ billboards shall be constructed of steel.

(k) Only flat, single-faced or double-faced ~~signs~~ billboards shall be permitted. As used in this section, "double-faced" means a ~~sign~~ billboard with two display surfaces visible to traffic from two directions of travel. A "single-faced" ~~sign~~

billboard means a sign with one display surface visible from one direction of travel.

Section 3. Ordinance No. NS-1767, section 17, is amended to read as follows:

NONCONFORMING SIGNS

(1) **Signs made non-conforming by the adoption of Sign Code Ordinance NS-1375.** The owners of any lot or other premises on which exists a sign that did not conform with the requirements of the City of Bend Sign Code Ordinance adopted March 1983 or for which there is no valid sign permit shall be obligated to remove such sign or to bring such sign into conformity with this ordinance on the adoption of this ordinance. Such signs that are not removed or brought into conformance will be deemed illegal and subject to the enforcement procedures of this ordinance. The following signs, as they are configured as of the date of passage of this ordinance, have been determined to be illegal, non-conforming signs under this sub-paragraph:

(A) Freestanding sign for Red Lion, South, Tax Lot No. _____;
(B) Freestanding sign for Bear Prints, Tax Lot No. _____;
(C) Roof sign for Backstrom Builders, Tax Lot No. _____;
(D) Freestanding sign for Denny's Restaurant, Tax Lot No. _____; and
(E) Roof sign for Sweetheart Donuts, Tax Lot No. _____.

(2) Except as otherwise provided herein, permanent signs in existence on the effective date of this ordinance, which are not in conformance with the provisions of this ordinance shall be regarded as non-conforming signs.

(3) The owners of any tax lot or other premise on which exists a non-conforming sign shall be obligated to remove such sign or to bring such sign into conformity with the requirements of this ordinance when one of the following conditions occur:

(a) Whenever the sign is damaged by more than 50 percent of its total replacement value or destroyed from any cause whatsoever. or;

(b) Whenever a request is made for a permit to alter or relocate the existing sign. or;

(c) Whenever there is a request to change the name of the business. or;

(d) Whenever a business sells and it's principal use changes.

(4) Exceptions.

(a) Section 17 (3) (c) and (d) apply except in cases where multiple sign cabinets are displayed on a single freestanding sign, in which case the sign faces may be changed, replaced, and/or maintained provided the sign structure is not replaced or relocated. The new sign face must comply with the background color and illumination requirements in this ordinance.

(b) A non-conforming sign may be structurally altered where such alteration is necessary for public safety.

(c) A non-conforming sign may be reconstructed if moved for construction or repair of public facilities and if such reconstruction is completed within one year.

(d) A non-conforming sign face may be replaced, provided the sign area is not increased in size or relocated, and the new sign face complies with the color and illumination requirements in this ordinance.

(e) Any existing sign that exceeds the maximum sign area or sign height limitations by not more than 10 percent shall be considered to be a

conforming sign for the purposes of this section and need not be altered to comply with this ordinance. When the sign is altered or relocated the sign must conform to the requirements of this ordinance.

~~(5) Non-Conforming signs; multiple cabinets.~~

~~(a) In cases where multiple sign cabinets are displayed on a single freestanding sign, the sign must be brought into conformity with this ordinance within 10 years of the first sign face change.~~

~~(b) In cases where a single sign cabinet with multiple listings is displayed on a single freestanding sign, the sign must be brought into conformity within 10 years of the first sign change.~~

(6) An owner of a non-conforming sign, who wishes to bring the sign closer into conformance with this code, may petition for a variance from the need to bring the sign into total compliance. If in the opinion of the Director, the improvement is appropriate, a variance may be granted.

(7) Historic Landmarks.

Signage on designated historic landmark buildings shall be reviewed and approved by the Deschutes County Historic Landmarks Commission prior to submitting the application to the City of Bend for review and approval.

Read for the first time the 21st day of March, 2001.

Read for the second time the 4th day of April, 2001.

Placed upon its passage the 4th day of April, 2001.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 4th day of April, 2001.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

ATTACHMENT NO. 1

CITY OF BEND
BILLBOARD INVENTORY
March 14, 2001

No	Orientation	Identifying Landmark/Business
1.	HWY. 20 E.	FORBES ROAD
2.	HWY. 20 E.	T. MERRITT
[redacted]	HWY. 20 E.	JIM SMOLICH CAR DEALER
[redacted]	HWY. 20 E.	VACANT LOT WEST OF DEAN SWIFT
[redacted]	HWY. 20 E.	PILOT BUTTE AUTORAMA
6.	HWY. 20 E.	PROFESSIONAL AUTOBODY WEST OF PURCELL
7.	HWY. 20 E.*	CROSSROADS COMPLEX on SUBWAY tax lot * Not installed as of March 14, 2001
8.	DIVISION S.	CARRERA MOTORS
9.	DIVISION S.	WILSON (BEND REDI MIX) Oriented to Bend Parkway
10.	DIVISION S.	AUNE AND PARKWAY
11.	DIVISION N	THE OFFICE
12.	DIVISION N.	OLNEY STREET
13.	DIVISION N.	VAIL STREET
14.	HWY. 97 N.	VACANT LOT SOUTH OF GRANDVIEW RD SOUTH OF SPACE AGE FUEL
15.	HWY. 97 N.	SOUTH OF CLAUSEN RD
16.	HWY. 97 N.	LOTTERY SIGN SOUTH OF COOLEY RD
17.	HWY. 97 N.	HIGH MTN MAN. HOMES SOUTH OF COOLEY
18.	HWY. 97 N.	VACANT LOT SOUTH OF BEND RECREATION, YAMAHA
19.	HWY. 97 N.	VACANT LOT NORTH OF U-HAUL
19.	HWY. 97 N.	CORNER LOT AT EMPIRE AND HWY 97
20.	HWY. 97 N.	PAY N PAK
21.	HWY. 97 N.	PIONEER GAS
22.	HWY. 97 N.	OB RILEY ROAD AND HWY 97
23.	HWY. 97 N.	SOUTH OF HAMPTION INN
24.	HWY. 97 N.	PARKWAY & 2ND ST & Hwy 97
[redacted]	HWY. 97. N.	Hwy 97 & ADDISON N. OF PACIFIC POWER
[redacted]	HWY. 97 N.	UNDERWOOD NORTH OF THURSTON (BACKSTROM)
[redacted]	HWY 97 N.	SOUTH OF KEARNEY NORTH OF GREENWOOD
28.	HWY. 97 S.	UNDERPASS & R.R. TRACK
29.	HWY. 97 S.	CLEVELAND
30.	HWY. 97 S.	BROSTERHAUS (CROWN VILLA)
31.	HWY. 97 S.	CANAL (BIG 5)
32.	HWY. 97 S.	SOUTH OF REED LANE
33.	HWY. 97 S.	SOUTH OF POWERS ROAD
34.	HWY. 97 S.	NORTH OF BADGER RD/ OLD COAST TO COAST
35.	HWY. 97 S.	CARNATION AUTO
36.	GREENWOOD	1ST ST. & RR TRACK
37.	NELS ANDERSON	N. PARKWAY
38.	CENTURY DRIVE	
39.	WILSON	9TH STREET
40.	BUTLER MARKET	R.R. TRACK
41.	REVERE	R. R. TRACK
42.	REED MARKET *	R.R. TRACK
43.	COLORADO *	
44.	*	

* Not installed as of March 14, 2001
* Removed, not relocated as of March 14, 2001
* Removed, not relocated as of March 14, 2001

[redacted]

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ORDINANCE NO. NS-1775

AN ORDINANCE REPEALING ORDINANCE NO. NS-1556, CITY OF BEND LAND USE PERMIT & REVIEW PROCEDURES, AS AMENDED, AND ADOPTING THE NEW LAND USE REVIEW AND PROCEDURES ORDINANCE ATTACHED HERETO AS EXHIBIT 'A'.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Ordinance NO. NS-1556, and all subsequent amendments thereto, is hereby repealed.

Section 2. The City Council hereby adopts a new Chapter 10-16 of the City Code, the City of Bend Land Use Review and Procedures Ordinance, attached hereto as Exhibit 'A'.

Read for the first time the 4th day of April, 2001.

Read for the second time the 18th day of April, 2001.

Placed upon its passage the 18th day of April, 2001.

YES: 7 NO: 0

Authenticated by the Mayor the 18th day of April, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

Exhibit A – Ordinance No. NS-1775

CHAPTER 10-16

CITY OF BEND LAND USE REVIEW AND PROCEDURES ORDINANCE

Section 1. INTRODUCTION AND DEFINITIONS
Section 2. GENERAL PROVISIONS
Section 3. LEGISLATIVE PROCEDURES
Section 4. DEVELOPMENT ACTION PROCEDURES
Section 5. REVIEW OF LAND USE ACTION APPLICATIONS
Section 6. DESCHUTES RIVER CORRIDOR DESIGN REVIEW PROCEDURES
Section 6B. REFINEMENT PLAN REVIEW PROCEDURES
Section 7. LAND USE ACTION HEARINGS
Section 8. LAND USE ACTION DECISIONS
Section 9. RECONSIDERATION
Section 10. APPEALS
Section 11. PROCEEDINGS ON REMAND
Section 12. LIMITATIONS ON APPROVALS
Section 13. DECLARATORY RULING

Section 1. INTRODUCTION AND DEFINITIONS

(1) Introduction and application.
(2) Definitions.

(1) Introduction and application.

A. This ordinance is enacted to provide a uniform procedure for the grant or denial and processing of applications, approvals and determinations by the City of Bend under the applicable City comprehensive plan, land use regulations, subdivision and partition ordinance, and other ordinances which by their terms incorporate by reference the procedures in this ordinance. This ordinance shall be known as the City of Bend Land Use Review and Procedures Ordinance.

B. The provisions of this ordinance do not apply to the issuance, suspension, or revocation of any on-site sewage disposal, sign, building, electrical or plumbing permits except as they relate to Planning Division consideration of permitted uses.

C. Notwithstanding any reference to the contrary, this ordinance shall not apply to applications for land use or development approval for lands lying outside the city limits of the City of Bend.

D. Notwithstanding Section 1(1)(A), outside the City limits where authorized by an intergovernmental agreement, the functions of the City Planning Director and City Review Authority identified herein may be exercised by their counterparts in accordance with the respective intergovernmental agreements.

(2) Definitions.

The following definitions apply to this ordinance:

A. Definition-Argument.
"Argument" means assertions and analysis by a party regarding the satisfaction or violation of legal standards. "Argument" does not include assertion of facts not already in the record.

B. Definition-De novo review.
"De novo review" means a hearing by the review body as if the action had not previously been heard and as if no decision had been rendered, except that all testimony, evidence and other material from the record of the previous consideration will be considered a part of the record on review.

C. Definition-Development action.
"Development action" means the review of any permit, authorization or determination that the City of Bend Development Services Department is requested to issue, give or make that either:

A. Involves the application of a City zoning ordinance or the City subdivision and partition ordinance and is not a land use action as defined below; or

B. Involves the application of standards other than those referred to in subsection A.

For illustrative purposes, the term "development action" includes review of any condominium plat, permit extension, duplexes or triplexes under 3,600 square feet where permitted as an outright use, road name change, sidewalk permit, setback determination, and lot coverage determination.

D. Definition-Evidence.
"Evidence" means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards relevant to the decision.

E. Definition-Hearings Body.
"Hearings Body" as used herein includes the Hearings Officer, Planning Commission, or City Council of the City of Bend.

F. Definition-Land use action.
"Land use action" includes any consideration for approval of a quasi-judicial plan amendment or zone change, any consideration for approval of a land use permit, and any consideration of a request for a declaratory ruling (including resolution of any procedural questions raised in any of these actions).

G. Definition-Land use permit.

"Land use permit" includes any approval of a proposed development of land under the standards in the City zoning ordinances or subdivision or partition ordinances involving the exercise of significant discretion in applying those standards.

By way of illustration, "land use permit" includes review of conditional use permits, partition, master plan, commercial design review, riverfront design review, site plan, site plan change of use, modification of approval, administrative determination. declaratory ruling, subdivision variance, subdivision, and variance.

H. Definition-Legislative changes.
"Legislative changes" generally involve broad public policy decisions that apply to other than an individual property owner. These include, without limitation, amendments to the text of the comprehensive plans, zoning ordinances, or the subdivision or partition ordinance and changes in zoning maps not directed at a small number of properties.

I. Definition-Modification of application.
"Modification of application" means the applicant's submittal of new information after an application has been deemed complete and prior to the close of the record on a pending application that would modify a development proposal by changing one or more of the following previously described components: proposed uses, operating characteristics, intensity, scale, site lay out (including but not limited to changes in setbacks, access points, building design, size or orientation, parking, traffic or pedestrian circulation plans), or landscaping in a manner that requires the application of new criteria to the proposal or that would require the findings of fact to be changed. It does not mean an applicant's submission of new evidence that merely clarifies or supports the pending application.

J. Definition-Party.
"Party" as used herein is one who takes part or participates in a land use action. A party includes any person who has standing, a state achieved by appearing on the record at a hearing (including appeals) or presenting written evidence in conjunction with an administrative action or hearing, or by being a property owner who's property would be burdened by a solar access permit. The City may designate a representative for persons whose participation consists only of signing a petition.

K. Definition-Planning Director.
"Planning Director," as used in this ordinance shall refer to the Development Services Director of the City of Bend or his or her designee.

L. Definition-Proceeding.
"Proceeding" as used herein refers to the review of a land use action either administratively by the Planning Director or through the public hearing process by the Hearings Body.

M. Definition-Quasi-judicial.
"Quasi-judicial" zone change or plan amendment generally refers to a plan amendment or zone change affecting a single or limited group of properties and that involves the application of existing policy to a specific factual setting. (The distinction between legislative and quasi-judicial changes must ultimately be made on a case-by-case basis with reference to caselaw on the subject.)

N. Definition-Review Authority.
"Review Authority" as used in this ordinance includes the Planning Director, Planning Commission, Hearings Officer, or City Council of the City of Bend.

O. Definition-Supplemenation of Application.
"Supplementation of Application" as used herein refers to an applicant's submittal of additional evidence or argument that merely clarifies or supports a pending application, but which does not constitute a "modification of application" as defined herein.

P. Definition-120-day.
"120-day," as used in this ordinance shall have the meaning found in ORS 227.178(2).

Section 2. GENERAL PROVISIONS

(1) Preapplication conference.
(2) Application requirements.
(3) Acceptance of application.
(4) Incomplete applications.
(5) False statements on application and supporting documents.
(6) Withdrawal of application.
(7) Applicable standards.
(8) Notice to Division of State Lands.
(9) Conflicting procedures.
(10) Time computation.

(1) Pre-application requirements.

A. Pre-application Conference. A pre-application conference with the City of Bend is required for complex applications or for applicants who are unfamiliar with the land use process. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the applicable land use ordinances, to provide for an exchange of information regarding applicable requirements of the comprehensive plan, zoning ordinance or land division ordinance and to identify issues likely to arise in processing an application. The city zoning ordinance may require that a pre-application conference be held for particular types of applications.

B. Public Meeting. The applicant for a Land Use Action for a Bend Area General Plan Map Amendment, Zoning Map Amendment, Conditional Use Permit, Subdivision or, Site Plan Review for new development or an alteration/addition to an existing building exceeding 10,000 square feet shall present the proposal at a public meeting prior to submitting the land use application to the City Planning Division. The presentation shall be made at either, a regular or special meeting with a neighborhood association recognized by the City of Bend whose boundaries the subject property lies within, or a public meeting arranged and conducted by the applicant. The presentation at the public meeting shall include the following:

1. A map depicting the location of the subject property proposed for development.
2. A visual description of the project including a site plan, tentative subdivision plan and elevation drawings of any structures if applicable.
3. A description of the nature of the use including but not limited to, sizes and heights of structures, proposed lot sizes, density, etc.
4. The expected or anticipated impacts from the development.
5. Any mitigation proposed by the applicant to alleviate the expected/anticipated impacts.
6. Provide opportunity for public comments. Applicants are encouraged to reconcile as many public concerns as possible prior to submittal of their application.

C. Public Meeting Notification. If a proposal as referenced in Section 10-16.1(B) above is presented at a recognized neighborhood association meeting, the applicant shall notify the administrative body of such association to schedule the presentation. It shall be the responsibility of the administrative body of the neighborhood association to schedule the meeting/presentation and provide adequate notification to the

residents of the affected neighborhood of the date, time and location of the meeting/presentation. However, it shall be the applicant's responsibility to provide the information listed in Section 10-16.1(C) (1)(b. and c.) below to the administrative body for the neighborhood association. Such meeting shall be held no less than 15 and no more than 45 days from the date that the applicant made the request for presentation to the neighborhood association. If the applicant chooses to present the proposal at a public meeting arranged and conducted by the applicant, the following provisions shall be applicable:

1. The applicant shall send mailed notice of the public meeting to all property owners within 500 feet of the boundaries of the subject property. The property owner list shall be compiled from the Deschutes County Tax Assessor's property owner list from the most recent property tax assessment roll. The notice shall be sent a minimum of 15 days prior to the public meeting, and shall include at a minimum:

   a. Date, time and location of the public meeting.
   b. A brief written description of the proposal and proposed use, but with enough specificity so that the project is easily discernable.
   c. The location of the subject property, including address (if applicable), nearest cross streets and any other easily understood geographical reference, and a map (such as a tax assessors map) which depicts the subject property.

(2) Application requirements.

A. Property Owner. For the purposes of this section, the term "property owner" shall mean the owner of record or the contract purchaser and does not include a person or organization that holds a security interest.

B. Applications for development or land use actions shall:
   1. Be submitted by the property owner or a person who has written authorization from the property owner as defined herein to make the application;
   2. Be completed on a form prescribed by the city;
   3. Include supporting information required by the zoning or land division ordinances and that information necessary to, in the judgement of the Planning Director, demonstrate compliance with applicable criteria;
   4. Be accompanied by the appropriate filing fee;
   5. Provide proof of ownership in the form of a Deed, or other recorded document; and
   6. In the case of applications for a quasi-judicial plan amendment or zone change, may be accompanied by applications for a specific development proposal.
   7. Include an affidavit from the applicant attesting that the public meeting required by Section 10-16.1(B) and (C) of this ordinance was conducted in accordance with the provisions listed therein. If the public meeting was arranged and conducted by the applicant, the notification materials listed in Section10-16.1(C)(1)(a-c) must also be submitted.

C. The following applications are not subject to the ownership requirement set forth in subsection B.1. of this section:
   1. Applications submitted by or on behalf of a public entity or public utility having the power of eminent domain with respect to the property subject to the application; or
   2. Applications for development proposals sited on lands owned by the state or the federal government.

(3) Acceptance of application.

A. Development action and land use action applications shall not be accepted until the Planning Director has determined that the requirements of subsection (2) of this Section have been met and; the application is complete or the application is deemed to be complete under state law.

B. An application is complete when, in the judgment of the Planning Director, complete information to address all criteria has been provided by the applicant.

C. Acceptance of an application as complete shall not preclude a determination at a later date that additional criteria needs to be addressed or a later determination that additional information is needed to adequately address applicable criteria.

(4) Incomplete applications.

A. If an application is incomplete, the Planning Director shall, within thirty (30) days of receipt of the application, notify the applicant in writing of exactly what information is missing. The applicant may amend the application or submit a new application supplying the missing information.

B. The applicant shall have thirty (30) days from the date of notice from the Planning Director to supply the missing information.

C. If the applicant submits the missing information within the 30-day period specified in subsection B of this section, the application shall be deemed complete upon receipt of the missing information.

D. If an applicant does not submit the missing information within the 30-day period specified in subsection B of this section, the application may be processed in accordance with Section 5 (5) of this ordinance.

(5) False statements on application and supporting documents.

If the applicant or the applicant's representative or apparent representative makes a misstatement of fact on the application regarding property ownership, authority to submit the application, acreage, or any other fact material to the acceptance or approval of the application, and such misstatement is relied upon by the Review Authority in making a decision whether to accept or approve the application, the Planning Director may upon notice to the applicant and subject to an applicant's right to a hearing declare the application void.

(6) Withdrawal of application.

An applicant may withdraw an application in writing at any time prior to the time a land use action decision becomes final. If the land owner is not the applicant, no consent to withdraw the application is needed from the land owner.

(7) Applicable standards.

The standards and criteria applicable to an application shall be the standards and criteria applicable at the time the application was first submitted if the application and requested information, if any, are received within one hundred eighty (180) days of the time the application was first submitted.

(8) Notice to State Agencies.

In addition to any notice required by this ordinance, written notice shall be provided to state agencies as prescribed below.

A. Division of State Lands. The city shall notify the Oregon Division of State Lands (DSL) of any application that involves lands that are wholly or partially within areas that are identified as a

significant wetland in the city's Local Wetland Inventory. Notice shall be in writing using the DSL *Wetland Land Use Notification Form*, and shall be sent within five working days of acceptance of a complete application. [See ORS 227.350]

B. Department of Fish and Wildlife. The city shall notify the Oregon Department of Fish and Wildlife (ODFW) in writing of any application for development activities within the riparian corridor. A mitigation recommendation shall be obtained from ODFW. Approval of the proposed development shall include a condition requiring compliance with the ODFW mitigation recommendations. [See OAR 635-415]

C. Parks and Recreation Department. The city shall notify the Oregon Parks and Recreation Department (OPRD) in writing of any application for a proposed change, improvement, or activity within the ¼ mile boundary of either the Upper Deschutes Scenic Waterway or the Middle Deschutes Scenic Waterway. A landowner proposing a change, improvement, or activity within a State Scenic Waterway shall notify OPRD using the form provided by OPRD. The proposed change, improvement, or activity shall not be approved by the city unless either OPRD has given its written approval, or OPRD has not responded within one year from the date of notification. [See OAR 736-40]

D. Other agencies. The city shall notify other state agencies, as appropriate, that have statutory or administrative rule authority to review or issue state permits for local land use actions.

(9) Conflicting procedures.

Notwithstanding the provisions of this section, where other provisions of the City of Bend Code or City of Bend ordinances specify procedures with greater opportunity for public notice and comment, those procedures shall apply.

(10) Time computation.

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, legal holiday or any day on which the city is not open for business pursuant to a city ordinance, in which case it shall also be excluded.

Section 3. LEGISLATIVE PROCEDURES

(1) Hearing required.
(2) Notice.
(3) Initiation of legislative changes.
(4) Review Authority.
(5) Final decision.
(6) Corrections.

(1) Hearing required.

No legislative change shall be adopted without review by the Planning Commission or Hearing Officer and a final public hearing before the City Council. Public hearings before the Planning Commission shall be set at the discretion of the Planning Director, unless otherwise required by state law.

(2) Notice.

A. Published Notice.
   1. Notice of a legislative change shall be published in a newspaper of general circulation in the City at least ten (10) days prior to each public hearing.
   2. The notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration.

B. Posted Notice. Notice shall be posted at the discretion of the Planning Director.

C. Individual Notice. Individual notice to property owners, as defined in Section 2(2)(A) of this ordinance, shall be provided at the discretion of the Planning Director.

(3) Initiation of legislative changes.

A legislative change may be initiated by application of individuals upon payment of required fees as well as by the City Council or the Planning Commission. Any quasi-judicial change initiated by an individual that includes a plan amendment and/or zone change for specific real property may be accompanied by the appropriate applications for a specific development proposal. Approval of such a plan amendment and/or zone change accompanied by a specific development proposal may be conditioned upon initiation of the development proposal within a specified time period, at the discretion of the Hearings Body, to ensure no greater intensity of use than that contemplated in the quasi-judicial proceeding. Approvals of quasi-judicial plan amendments/and or zone changes that are not accompanied by applications for a specific development proposal shall be based on evaluation of the highest impact uses authorized in the proposed zone.

(4) Review Authority.

A. The following shall serve as hearings or review body for legislative changes in this order:
   1. The Planning Commission or Hearings Officer.
      a. For quasi-judicial actions the Hearings Officer shall serve as the initial Hearings Body.
      b. For legislative actions the Planning Commission shall serve as the initial Hearings Body.
   2. The City Council, subject to Section 10 of this ordinance.

B. Any legislative or quasi-judicial change initiated by the City Council shall be reviewed by the Planning Commission or Hearings Officer prior to action being taken by the City Council.

(5) Final decision.
All legislative changes shall be adopted by ordinance.

(6) Corrections.
The City's comprehensive plans and zoning ordinances, subdivision ordinance, and development procedures ordinance may be corrected by order of the City Council to cure editorial and clerical errors.

Section 4. DEVELOPMENT ACTION PROCEDURES

(1) Review of development action applications.
(2) Decision.
(3) Review of development action.

(1) Review of development action applications.

A. A development action application may be handled administratively by the Planning Director without public notice or hearing.

B. The Planning Director has the discretion to determine that for the purposes of this ordinance a development action application should be treated as if it were a land use action application.

(2) Decision.

A. Development action applications acted upon without notice or hearing shall be approved or denied by the Planning Director or his/or her designee within 30 days of the Planning Director's acceptance of the application.

B. Notice of a decision shall be provided to the applicant or the applicant's representative.

C. The decision may be appealed under Section 4(3) of this ordinance.

D. A development action decision becomes final when no further appeal under this ordinance is available.

(3) Review of development action.

If the authority under which a development action is undertaken provides a means of review or appeal of a decision independent from this procedures ordinance, the review or appeal shall be in accordance with the procedures independently provided and not in accordance with this ordinance. If the authority under which a development action is reviewed does not provide a means of review or appeal of a decision, then review or appeal shall be in accordance with Section 10 of this ordinance.

Section 5. REVIEW OF LAND USE ACTION APPLICATIONS

(1) Effect of determinations made outside of established processes.

(2) Process for land use action applications.

(3) Administrative land use decisions with prior notice.

(4) Administrative decision without prior notice.

(5) Final action in land use actions.

(6) Temporary approval.

(7) Supplementation of application within first 30 days of submittal.

(8) Modification of application.

(9) Availability of administrative decisions.

(1) Effect of determinations made outside of established processes.

Any informal interpretation or determination, or any statement describing the uses to which a property may be put, made outside the declaratory ruling process (Section 13) or outside the process for approval or denial of a land use permit (Sections 5-8) shall be deemed to be a supposition only. Such informal interpretations, determinations, or statements shall not be deemed to constitute final City action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

(2) Process for land use action applications.

A. Except for comprehensive plan amendments and zone changes and other instances where a hearing is required by state law or by other ordinance provision, the Planning Director may decide upon a land use action application administratively either with prior notice, as prescribed under Section 5(3) or without prior notice, as prescribed under Section 5(4) or may refer the application to the Hearings Body for hearing. The Planning Director shall take such action within 45 days of the date the application is accepted or deemed accepted as complete. This time limit may be waived at the option of the applicant.

B. The Planning Director's choice between or among administrative or hearing procedures to apply to a particular application or determination shall not be an appealable decision.

C. Zone change and plan amendment applications shall be referred to a hearing before the Review Authority.

(3) Administrative land use decisions with prior notice.

A. Notice of the application shall be sent at least fourteen (14) days prior to the issuance of a decision to persons entitled to notice under Section 7(3). Such notice shall include all the information specified under Section 7(4) A. except for the information specified in subsections 7 and 10 of Section 7 (4) A.

B. Any person may comment in writing on the application within fourteen (14) days from the date notice was mailed or a longer period as specified in the notice.

C. The Planning Director's decision to approve, deny or send to a hearing shall be made within forty-five (45) days after an application is accepted as complete. This time limit may be waived by the written consent of the Applicant.

D. Notice of the Planning Director's decision and the appeal period shall be sent to all persons entitled to notice under Section 7(3) and to all persons who commented. The notice shall contain the applicable information required under Section 7(4).

E. The applicant, all persons entitled to notice under Section 7(3) and all other persons commenting as provided in this section constitute parties to the administrative decision. Any party can appeal the decision in accordance with Section 10, "Appeals," of this ordinance.

(4) Administrative decision without prior notice.

The procedures for administrative decisions without prior notice shall be the same as those set forth in subsection 5(3) of this section, except that no prior notice shall be given.

(5) Final action in land use actions.

A. Except as otherwise provided, the City shall take final action, including consideration of appeals to the council, in land use actions within one hundred twenty (120) days after the application is deemed complete.

B. If the applicant refuses or fails to submit missing information within the 30 days specified in Section 2(4) of this ordinance, the application shall be deemed complete, for purposes of processing the application, on the 31st day after the application was first submitted, and final action of City Council, if required, shall be taken within one hundred fifty-one (151) days after the application was first received unless otherwise provided.

C. The periods set forth in this section during which a final decision on an application must be made may be extended for a reasonable period of time to a date certain at the written request of the applicant.

D. Applications for the following determinations or approvals are exempt from the 120-day time limit established by this section:
   1. Quasi-judicial comprehensive plan amendments;
   2. Revocation proceedings;
   3. Verification of nonconforming uses;
   4. Lot of record determinations;
   5. Initiation of approval determinations;
   6. Consideration of remanded applications; and
   7. Legislative Actions.

(6) Temporary approval.

A. The purpose of temporary land use approval is to allow an applicant in certain hardship or emergency situations to proceed without notice to those ordinarily entitled to notice with a land use action proposed in an application made to the Planning Division before the Division completes its review of the proposed use. In all cases, an applicant receiving temporary approval must obtain final approval on the submitted application pursuant to the procedures specified in this ordinance.

B. Subject to subsection (E) of this section, the City Council or the Planning Director may authorize a temporary land use approval, provided:
   1. An application for the land use approval has been accepted as complete.
   2. A fee for review of the temporary approval has been paid.

3. The applicant has demonstrated good and sufficient cause for such a temporary approval.
4. It appears that the application will be given final approval in substantially the form submitted by the applicant.
5. The applicant accepts each and every risk of loss and damage that may result if the application is denied, and further agrees in writing to hold City, its officers, agents and employees harmless from such loss and damage.
6. The applicant agrees in writing to restore the site to its original condition if the application for the land use approval is denied.
7. The applicant posts a bond or other form of security acceptable to the Review Authority in an amount sufficient to cover the costs of restoration required by subsection 6 above.

C. For the purposes of this section, "good cause" shall include only hardship or emergency situations arising due to factors that, through the exercise of ordinary diligence, the applicant could not have foreseen. "Good cause" does not include an applicant's request for a temporary permit for reasons of convenience only.

D. A temporary use approval shall not be granted for variances, zone changes or plan amendments.

E. The scope of the temporary approval shall be limited to allow the applicant to proceed only with that portion of the proposed use justifying the applicant's claim of hardship or emergency.

F. A temporary use approval shall expire as follows:
1. Six months from the date of approval, if no decision has been reached on the underlying application.
2. On the date the appeal period runs on the decision on the underlying application.
3. On the date that all appeals of the decision on the underlying application are decided and final.

G. A decision to approve a temporary use application is not appealable.

(7) Supplementation of application within first 30 days of submittal.
An applicant shall not submit any evidence to supplement its application during the 30 days following submittal of its application, except to respond to a request for additional information made under Section 2(4). Any evidence submitted by an applicant in violation of this section will not be considered in determining whether the application is complete and will be returned to the applicant.

(8) Modification of application.

A. An applicant may modify an application at any time during the approval process up until the issuance of an administrative decision, or the close of the record for an application reviewed under a hearings process, subject to the provisions of Section 5(7) and this section.

B. The Review Authority shall not consider any evidence submitted by or on behalf of an applicant that would constitute modification of an application (as that term is defined in Section 1) unless the applicant submits an application for a modification, pays all required modification fees and agrees in writing to restart the 120-day time clock as of the date the modification is submitted. The 120-day time clock for an application, as modified, may be restarted as many times as there are modifications.

C. The Review Authority may require that the application be re-noticed and additional hearings be held.

D. Up until the day a hearing is opened for receipt of oral testimony, the Planning Director shall have sole authority to determine whether an applicant's submittal constitutes a modification. After such time, the Hearings Body shall make such determinations. The Review Authority 's determination on whether a

submittal constitutes a modification shall be appealable only to LUBA and shall be appealable only after a final decision is entered by the City on an application.

Section 6. DESCHUTES RIVER CORRIDOR DESIGN REVIEW PROCEDURES

(1) Deschutes River Corridor Design Review Procedures.

(1) Deschutes River Corridor Design Review Procedures.
For all property subject to the Deschutes River Design Review process pursuant to the City Zoning Ordinance, the following procedures shall apply:

A. There shall be two types of review for Design Review depending on the level and type of activity proposed. Notwithstanding these provisions, the Planning Director may refer any application to the Planning Commission for approval. The Planning Commission's consideration shall be subject to land use permit procedures.
   1. Development Action review shall be performed by the Planning Director for the following activities:
   a. Minor alterations of 10 percent or less to an existing building facade facing river.
   b. Changes in window or door placement visible from the river.
   c. Changes in parking locations.
   d. Fill or removal activity within 10 feet of the ordinary high water mark of the Deschutes River.
   e. New construction or additions that are not visible from the river due to topography, vegetation or existing development.

   2. Notwithstanding Section 7(2), land use permit review shall be performed by the Planning Commission for the following activities:
   a. Appeal of a Development Action decision.
   b. New construction and new development.
   c. Master Plan approval for large scale projects.
   d. Variances to application under Section 10.10.22A. of the City Zoning Ordinance, Deschutes River Corridor Design Review Combining Zone.
   e. Fill and removal activities associated with new development or for creation of fire breaks in association with appropriate fire prevention authorities.

B. Procedures: The applicant shall request approval for a procedure in writing to the Planning Division on forms provided by the city. The request shall include a site plan and a description of work and materials that will be used. The Review Authority shall review the request and respond to the applicant in writing of the decision and any conditions placed on the decision.

C. Land Use Permit Procedures: Land Use permit review shall be conducted by the Planning Commission as follows:
   1. Notice for land use permit applications shall be as set forth in Section 7(3), Notice of Hearing or Administrative Action, and Section 7(4), Contents of Notice. The Commission may hold a public hearing for any Land Use Action applications. The hearings procedure shall be as set forth in Section 7, Land Use Action Hearings.
   2. Appeals of the decision of the Planning Commission shall be to the City Council, subject to the procedures and restrictions set forth in Section 10, Appeals.

D. Where the procedures in this section conflict with other provisions of this ordinance with respect to Deschutes River Corridor Design Review, the provisions of this section shall prevail.

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Section 6B. REFINEMENT PLAN REVIEW PROCEDURES

(1) Refinement Plan Development and Approval Process.
(2) Refinement Plan Content.
(3) Land Use Review.
(4) Amendments and Adjustments to the Refinement Plan.

(1) Refinement Plan Development and Approval Process.

(a) Initiation. The process to establish a refinement plan shall be initiated by the City Council. The Planning Commission or interested property owners may submit requests to the City Council to initiate the refinement plan process. If owners request initiation of a refinement plan process, the City Council may require an application fee to cover the cost of creating the plan.

(b) Steering Committee. The City Council may appoint a steering committee to guide development of the plan. The steering committee may include persons representing affected property owners, neighbors, city staff, agencies, special districts and the community at large. The role of the steering Committee is advisory to the Planning Commission and the City Council.

(2) Refinement Plan Content.
At a minimum, a refinement plan shall include the following text and diagrams:

(a) Plan Objectives. A narrative shall set forth the goals and objectives of the plan.

(b) Site and Context. A map of the site and context shall identify the project area.

(c) Land Use Diagram. The land use diagram shall indicate the distribution and location of planned land uses, including open space and parks, within the area covered by the refinement plan.

(d) Density. If residential uses are proposed, a narrative shall describe planned residential densities.

(e) Facilities Diagram. The facilities diagram shall depict the general location and extent of major components of sanitary sewer, water, and other essential facilities proposed to be located within the area covered by the refinement plan and needed to support the land uses described in the plan.

(f) Circulation/Transportation Diagram. The circulation diagram shall indicate the proposed street pattern for the refinement plan area, including pedestrian pathways and bikeways. Design standards and street cross sections shall be included, if different than normal City standards.

(g) Design and Development Standards. If standards differ from normal City standards, design and development standards shall be included in the plan.

(2) Land Use Review.

Except as set forth below, the review procedures for Land Use Activity Categories outlined in Section 3 of this code shall apply for all property subject to a RP overlay zone.

(a) Administrative Review. The following activities shall be reviewed administratively. The Director, at his or her discretion, may refer a Type I application to the Planning Commission.

(A) Development Action permits.

(B) Land use permits conforming to the standards of the refinement plan.

(C) Administrative amendments to the refinement plan.

(D) Minor amendments to the refinement plan

(E) Lot line adjustments consistent with the refinement plan.

(b) Planning Commission Review. The Planning Commission shall review the following activities:

(A) Type II variance

(B) Lot line adjustments that are not consistent with the refinement plan.

(c) City Council Review. The following activities shall be reviewed by the City Council as either a quasi-judicial or legislative amendment.

(A) Major amendments to the refinement plan.

(B) Appeals of land use decisions.

(4) Amendments and Adjustments to the Refinement Plan.

Amendments to an approved refinement plan are classified as administrative, minor, or major amendments.

(a) Administrative Amendments. Administrative amendments may be approved by the City Planning Director pursuant to development action procedures. Public notice of administrative amendments is not required. Administrative amendments include:

(A) Street, easement, sidewalk, and trail relocations that result in a location change of less than 50 feet from what is depicted on refinement plan diagrams.

(B) Public park relocations that result in a location change of less than 100 feet from what is depicted on refinement plan diagrams.

(C) Increases in the size of public neighborhood parks, provided that transportation connections remain consistent with the refinement plan.

(D) Reductions in the size of public neighborhood parks, provided the reductions are less than 10% of park area depicted on refinement plan diagrams and that the reductions do not result in a park that is less than 20,000 square feet in size.

(E) Changes related to street trees, street furniture, fencing, or signage that were approved as part of the refinement plan.

(F) A change in the utility plan other than what would be necessary for other authorized adjustments.

(b) Minor Amendments. A minor amendment to a refinement plan shall be processed as a land use decision. Notice of the pending decision shall be provided to all owners of land within or abutting the Refinement Plan district(s) in question. The Hearings Body decision shall include findings demonstrating that the change will not affect adversely:

i. the purpose and objectives of the refinement plan,
ii. the functioning of the refinement plan, or
iii. the coordination of transportation and infrastructure provision to properties within the refinement plan area.

Minor amendments are those that result in any of the following:

(A) A change in the circulation/transportation plan that requires an identified transportation element to be moved 50 to 100 feet from the location depicted on the refinement plan circulation/transportation diagram.

(B) A change in the circulation/transportation plan that requires a required transportation element including local street, easement, sidewalk or trail to be shifted 50 to 100 feet in any direction from what is depicted on the refinement plan circulation/transportation diagram.

(C) A change in the land use diagram that reduces the size of a public park or facility more than 10%, or moves the location more than 100 feet from the location depicted on the land use diagram.

(c) Major Amendment. A major amendment to a refinement plan shall be processed as a comprehensive plan amendment affecting the existing refinement plan. The amendment shall follow either quasi-judicial or legislative procedures and meet plan amendment and zone change criteria. Findings must additionally demonstrate that the change will not affect adversely:

i the purpose and objectives of the refinement plan,
ii the functioning of the refinement plan, or
iii. the coordination of transportation and infrastructure provision to properties within the refinement plan area.

Major amendments are those that result in any of the following:

(A) A change in land use plan boundary or density, unless as part of the original approvals an alternative design was approved outlining acceptable plan designation options

(for example, a residential designation may be approved as an alternative use for a park site).

(B) A change in the circulation/transportation plan that causes a required transportation element, including a trail, to be added, eliminated or moved more than 100 feet from the location depicted on the refinement plan circulation/transportation diagram.

(C) A change in the land use diagram that adds or eliminates a designated public park or facility.

(D) A change in development standards, except those set forth as minor or administrative amendments.

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Section 7. LAND USE ACTION HEARINGS

(1) **Filing of staff report for hearing.**
(2) **Hearings Body.**
(3) **Notice of hearing or administrative action.**
(4) **Contents of notice.**
(5) **Burden of proof.**
(6) **Nature of evidence.**
(7) **Limitation on oral presentations.**
(8) **Standing.**
(9) **Record.**
(10) **Disclosure of ex parte contacts.**
(11) **Disclosure of personal knowledge.**
(12) **Challenge for bias, prejudgment of personal interest.**
(13) **Hearings procedure.**
(14) **Setting the hearing.**
(15) **Close of the record.**
(16) **Continuances or record extensions.**
(17) **Objections to jurisdiction, procedure, notice or qualifications.**
(18) **Reopening the record.**

(1) Filing of staff report for hearing.

A. At the time an application, that in the judgment of the Planning Director requires a hearing, is deemed complete, a hearing date shall be set.

B. A staff report shall be completed seven days prior to the hearing. If the report is not completed by such time, the hearing shall be held as scheduled, but any party may at the hearing or in writing prior to the hearing request a continuance of the hearing to a date that is at least seven days after the date the initial staff report is complete. Pursuant to subsection 7(16)(A)(3), grant of a continuance under these circumstances shall be at the discretion of the Hearings Body.

C. A copy of the staff report shall be mailed to the applicant, shall be made available at a reasonable cost to such other persons who request a copy and shall be filed with the Hearings Body.

D. Notwithstanding subsection 7(1)(B) above, oral or written modifications and additions to the staff report shall be allowed prior to or at the hearing.

(2) Hearings Body.

The following shall serve as the Hearings Body in this order:

1. Hearings Officer.
2. Planning Commission, where the Hearings Officer cannot hear the matter due to a conflict of interest.
3. City Council subject to Section 10 of this ordinance.

(3) Notice of hearing or administrative action.

A. Individual Mailed Notice.
1. Except as otherwise provided for herein, notice of a land use application shall be mailed at least twenty days prior to the hearing for those matters set for hearing, or at least fourteen (14) days prior to issuance of a written decision for those matters to be processed administratively with notice. Written notice shall be sent by mail to the following persons:
a. The applicant.
b. Owners of record of property as shown on the most recent property tax assessment roll of property located:
1. Within 100 feet of the property that is the subject of the notice and where any structure being proposed is less than or equal to 45 feet in height. The notice boundary shall increase by 200 feet for every 15-foot increment of structure height above 45 feet.
2. The required notice area boundary shall be measured from the opposite side of any street rights of way, rivers, and/or canals adjacent to the subject property from which the notice area originates.
3. The Applicant shall bear the cost (i.e. mailing, etc.) of any increased notice area required by a structure with height in excess of 45 feet.
c. For a solar access or solar shade exception application, only those owners of record identified in the application as being burdened by the approval of such an application.
d. The tenants of a mobile home park when the application is for the rezoning of any part or all of a mobile home park.
2. Notwithstanding subsection (A)(1)(b)(1) of this section, all owners of property within 250 feet of property that is the subject of a plan amendment application or zone change application shall receive notice.
3. Mailed notice per ORS 227.160 – 227-185 shall be provided to all property owners affected by a proposed text or plan amendment.
4. The failure of a property owner to receive mailed notice shall not invalidate any land use approval if the Planning Division can show by affidavit that such notice was given.
5. The Planning Director may increase the minimum notice area required under subsection (A)(1)(b)(1) at his or her sole discretion.

B. Posted Notice.
1. Notice of a land use action application for which prior notice procedures are required shall be posted on the subject property by the applicant/property owner for at least 10 continuous days prior to any date set for receipt of comments. Such notice shall, where practicable, be visible from any adjacent public way. Failure of applicant/property owner to maintain posting of the sign for 10 continuous days shall not invalidate a land use approval.
2. Posted notice of an application for a utility facility line approval shall be by posting the proposed route at intervals of not less than 500 feet. The notice shall be posted as close as practicable to, and be visible from, any public way in the vicinity of the proposed route.
3. Notice of a solar access application shall be posted as near as practicable to each lot identified in the application.

C. Published Notice. In addition to notice by mail and posting, notice of an initial hearing shall be published in a newspaper of general circulation in the City at least ten (10) days prior to the hearing.

(4) Contents of notice.

A. All mailed notices of a land use action hearing shall:

1. Describe the nature of the applicant's request and the nature of the proposed uses that could be authorized.
2. List the criteria from the zoning ordinance and the general plan applicable to the application at issue.
3. Set forth the street address or easily understood geographical reference to the subject property.
4. State the date, time and location of any hearing or date by which written comments must be received.
5. State that any person may comment in writing and include a general explanation of the requirements for submission of testimony and the procedures for conduct of testimony, including, but not limited to, a party's right to request a continuance or to have the record held open.
6. If a hearing is to be held, state that any interested person may appear and provide evidence.
7. State that failure to raise an issue in person at a hearing or in writing precludes appeal by that person to the Land Use Board of Appeals (LUBA), and that failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue precludes appeal to LUBA based on that issue.
8. State the name of a city representative to contact and the telephone number where additional information may be obtained.
9. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
10. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a reasonable cost.
11. All mailed notices shall contain the following statement: ORS197 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.

B. All mailed and published notices for hearings shall contain a statement that recipients may request a copy of the staff report at a reasonable cost.

C. All mailed and published notices concerning applications necessitating an exception to one of the statewide land use planning goals shall state that a goal exception is proposed and shall summarize the issues in an understandable manner.

(5) Burden of proof.
Throughout all local land use proceedings the burden of proof rests on the applicant.

(6) Nature of evidence.
All relevant evidence shall be received.

(7) Limitation on oral presentations.
The Hearings Body may set reasonable time limits on oral testimony.

(8) Standing.

A. Any interested person may appear and be heard in a land use action hearing, except that in appeals heard on the record, a person must have participated in a previous proceeding on the subject application.

B. Any person appearing on the record at a hearing (including appeals) or presenting written evidence in conjunction with an administrative action or hearing shall have standing and shall be a party. A person whose participation consists only of signing a petition shall not be considered a party.

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C. Additionally, any owner of property to be burdened by a solar access permit shall be considered a party at every stage of the solar access permit decision process.

(9) Record.

A. An audio tape recording of the hearing shall be made.

B. All exhibits presented shall be marked to show the identity of the person offering the exhibit.

C. Exhibits shall be numbered in the order presented, and shall be dated.

D. When exhibits are introduced, the exhibit number or letter shall be read into the record.

(10) Disclosure of ex parte contacts.

Prior to making a decision, the Hearings Body or any member thereof shall not communicate directly or indirectly with any party or his or her representative in connection with any issue involved in a pending hearing except upon notice and opportunity for all parties to participate. Should such communication - whether written or oral - occur, the Hearings Body member shall:

A. Publicly announce for the record the substance of such communication; and

B. Announce the parties' right to rebut the substance of the ex parte communication during the hearing.

C. Communication between City staff and the Hearings Body shall not be considered to be an ex parte contact.

(11) Disclosure of personal knowledge.

A. If the Hearings Body or any member thereof uses personal knowledge acquired outside of the hearing process in rendering a decision, the Hearings Body or member thereof shall state the substance of that knowledge on the record and allow all parties the opportunity to rebut such statement on the record.

B. For the purposes of this section, a site visit by the Hearings Body shall be deemed to fall within this rule. After the site visit has concluded, the Hearings Body must disclose its observations and conclusions gained from the site visit in order to allow for rebuttal by the parties.

(12) Challenge for bias, prejudgment or personal interest.

Prior to or at the commencement of a hearing, any party may challenge the qualification of the Hearings Body, or a member thereof, for bias, prejudgment or personal interest. The challenge shall be made on the record and be documented with specific reasons supported by facts. Should qualifications be challenged, the Hearings Body or the member shall disqualify itself, withdraw or make a statement on the record of its capacity to hear. A Planning Commission member with a conflict identified under ORS 197 must disqualify him or herself after disclosure.

(13) Hearings procedure.

A hearing shall be conducted as follows:

A. The Hearings Body shall explain the purpose of the hearing and announce the order of proceedings, including reasonable time limits on presentations by parties.

B. A statement by the Hearings Body regarding pre-hearing contacts, bias, prejudice or personal interest shall be made.

C. Any facts received, noticed or recognized outside of the hearing shall be stated for the record.

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D. Challenges to the Hearings Body's qualifications to hear the matter shall be stated and challenges entertained.

E. The Hearings Body or his or her designee shall list applicable substantive criteria, explain that testimony and evidence must be directed toward that criteria or other criteria in the comprehensive plan or land use regulations that the person believes to apply to the decision, and that failure to address an issue with sufficient specificity to afford the decision-maker and the parties an opportunity to respond precludes appeal to LUBA based on that issue. The failure of the applicant to raise a constitutional or other issues related to the proposed conditions of approval with sufficient specificity to allow the Hearings Body to respond to the issue precludes the applicant from pursuing an action for damages in circuit court.

F. Order of presentation:
1. Open the hearing.
2. Staff report.
3. Proponents' presentation.
4. Opponents' presentation.
5. Proponents' rebuttal.
6. Opponents' rebuttal may be allowed at the Hearings Body's discretion.
7. Staff comment.
8. Questions from or to the chair may be entertained at any time at the Hearings Body's discretion.
9. Close the hearing.

G. The record shall be available for public review at the hearing.

H. A form of preliminary statement incorporating the provisions of this section is set forth as Appendix A to this ordinance for use by the City Council.

(14) Setting the hearing.

A. After an application is deemed accepted a hearing date shall be set. A hearing date may be changed by the city staff, or the Hearings Body up until the time notice of the hearing is mailed. Once the notice of hearing is mailed any changes in the hearing date shall be processed as a continuance in accordance with Section 7(16) of this chapter.

B. If an applicant requests that a hearing date be changed, such request shall be granted only if the applicant agrees that the extended time period for the hearing shall not count against the 120-day time limit set forth in Section 5(5) of this ordinance.

(15) Close of the record.

A. Except as set forth herein, the record shall be closed to further testimony or submission of further argument or evidence at the end of the presentations before the Hearings Body.

B. If the hearing is continued or the record is held open under Section 7(16), further evidence or testimony shall be taken only in accordance with the provisions of that section.

C. Otherwise, further testimony or evidence will be allowed only if the record is reopened under Section 7(18).

D. An applicant shall be allowed, unless waived, to submit final written arguments in support of its application after the record has closed within such time limits as the Hearings Body shall set. The Hearings Body shall allow applicant at least seven days to submit its argument, which time shall be counted against the 120-day clock.

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(16) Continuances or record extensions.

A. Grounds.

1. Prior to the date set for an initial hearing, an applicant shall receive a continuance upon any request if accompanied by a corresponding extension of the 120 day clock. If a continuance request is made after the published or mailed notice has been provided by the City, the Hearings Body shall take evidence at the scheduled hearing date from any party wishing to testify at that time after notifying those present of the continuance.
2. Any party is entitled to a continuance of the initial evidentiary hearing or to have the record left open in such a proceeding in the following instances:

a. Where additional documents or evidence are submitted by any party; or

b. Upon a party's request made prior to the close of the hearing for time to present additional evidence or testimony.

For the purposes of subsection (A)(2) of this section, "additional documents or evidence" shall mean documents or evidence containing new facts or analysis that are submitted after notice of the hearing.

3. The grant of a continuance or record extension shall be at the discretion of the Hearings Body.

B. Except for continuance requests made under subsection (16)(A)(1) of this Section, the choice between granting a continuance or leaving the record open shall be at the discretion of the Hearings Body. After a choice has been made between leaving the record open and granting a continuance, the hearing shall be governed thereafter by the provisions that relate to the path chosen.

C. Continuances.

1. If the Hearings Body grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial hearing.
2. An opportunity shall be provided at the continued hearing for persons to rebut new evidence and testimony received at the continued hearing.
3. If new written evidence is submitted at the continued hearing, any person may request prior to the conclusion of the continued hearing that the record be left open for at least 7 days to allow submittal of additional written evidence or testimony. Such additional written evidence or testimony shall be limited to evidence or testimony that rebuts the new written evidence or testimony.

D. Leaving record open.

If at the conclusion of the hearing the Hearings Body leaves the record open for additional written evidence or testimony, the Hearings Body shall allow for response to written evidence or testimony submitted during the period the record is held open.

E. A continuance or record extension granted under this section shall be subject to the 120-day time limit unless the continuance or extension is requested or otherwise agreed to by the applicant. When the record is left open or a continuance is granted after a request by an applicant, the time period during which the 120-day clock is suspended shall include the time period made available to the applicant and any time period given to parties to respond to the applicant's submittal.

(17) Objections to jurisdiction, procedure, notice or qualifications.

Any objections not raised prior to the close of oral testimony are waived. Parties alleging procedural error shall have the burden of proof at LUBA as to whether the error occurred and whether the error has prejudiced the party's substantial rights.

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(18) Reopening the record.

A. The Hearings Body may at its discretion reopen the record, either upon request or on its own initiative. The Hearings Body shall not reopen the record at the request of an applicant unless the applicant has agreed in writing to an extension or a waiver of the 120-day time limit.

B. Procedures.

1. Except as otherwise provided for in this section, the manner of testimony (whether oral or written) and time limits for testimony to be offered upon reopening of the record shall be at the discretion at the Hearings Body.

4. The Hearings Body shall give written notice to the parties that the record is being reopened, stating the reason for reopening the record and how parties can respond. The parties shall be allowed to raise new issues that relate to the new evidence, testimony or criteria for decision-making that apply to the matter at issue.

Section 8. LAND USE ACTION DECISIONS

(1) Decision.
(2) Findings as to application acceptance date.
(3) Findings as to legal lot of record status.
(4) Notice of decision.
(5) Decision on plan amendments and zone changes.
(6) Reapplication limited.
(7) Proposed order.
(8) Compliance with ORS 227.350.
(9) Correction of clerical errors.

(1) Decision.

A. Approval or denial of a land use action shall be based upon and accompanied by a written statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based upon the criteria standards and facts set forth.

B. Any portion of an application not addressed in a Review Authority's decision shall be deemed to have been denied.

C. A decision on a land use action is not final until the Review Authority issues a written decision, the decision or notice of the decision has been mailed and the appeal period to the next higher Review Authority within the City has run.

D. Unless a temporary use permit has been issued, no building permit shall issue until a decision is final. Appeal of a final decision to LUBA does not affect the finality of a decision for purposes of issuing building permits. If an applicant elects at his or her own discretion to proceed under a land use action with a pending LUBA appeal, he or she shall proceed only if:
   a. The applicant accepts each and every risk of loss and damage that may result if the application is denied, and further agrees in writing to hold City, its officers, agents and employees harmless from such loss and damage.
   b. The applicant agrees in writing to restore the site to its original condition if the application for the land use approval is denied.
   c. The applicant posts a bond or other form of security acceptable to the Review Authority in an amount sufficient to cover the costs of restoration of the site to its pre-approval condition.

(2) Findings as to application acceptance date.

Each decision shall include findings as to when the proposed land use action application was deemed complete and formally accepted as such by the Planning Director.

(3) Findings as to legal lot of record status.

Each decision shall include a finding that the property subject to the proposed land use action is a legal lot of record as that term is defined in the City of Bend Zoning Ordinance.

(4) Notice of decision.

A Review Authority's decision shall be in writing and mailed to all parties; however, one person may be designated by the Review Authority to be the recipient of the decision for a group, organization, group of petitioners or similar collection of individual participants.

(5) Decision on plan amendments and zone changes.

Except as set forth herein, the Hearings Body shall have authority to make decisions on all quasi-judicial zone changes and plan amendments. No quasi-judicial plan amendment or zone change shall be effective unless adopted by the City Council.

(6) Reapplication limited.

A. If a specific application is denied on its merits, reapplication for substantially the same proposal may be made at any time after the date of the final decision denying the initial application.

B. Notwithstanding subsection A of this section, a final decision bars any reapplication for a nonconforming use verification or for a determination on whether an approval has been initiated, unless the applicant comes forward with new evidence that was not available at the time the decision was made, and which could not, through reasonable dilligence, have been discovered by the applicant prior to the decision. A lot of record determination shall be subject to reapplication under subsection A only if the applicant presents new factual evidence not submitted with the prior application.

(7) Proposed order.

The Review Authority may request that any prevailing party draft a set of proposed findings and conclusions.

(8) Compliance with ORS 227.350.

A. Final approval of any activity referred to in ORS 227.350(1) regarding state-identified wetlands must include the notice statements required by ORS 227.350(3).

B. Individual notice to the applicant and the owner of record consistent with ORS 227.350(5) shall be provided, unless notice in the written decision notice satisfies that requirement.

C. Failure of the City to provide notice as required in this section shall not invalidate City approval.

D. This section shall not become operative until the Division of State Lands makes available to the City a copy of the applicable portion of the Statewide Wetland Inventory.

(9) Correction of clerical errors.

Upon its own motion or the motion of a party, the City Council may, subject to any applicable public notice and hearing requirements, enact an ordinance correcting clerical or typographical errors in plan amendment or zone change ordinances and any maps appended thereto implementing decisions of the Review Authority. Such changes shall be entered only if the council is able to make a finding that the decision of the Review Authority, including appendices, is not accurately reflected in the implementing ordinances.

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Section 9. RECONSIDERATION

(1) Reconsideration.

(2) Procedure.

(3) Limitation on reconsideration.

(1) Reconsideration.

A. An applicant may request that the Review Authority's decision be reconsidered as set forth herein. A request for reconsideration shall be accompanied by a fee established by the City and by applicant's written consent that the 120-day time clock will not run during the period of the reconsideration and the resulting extended appeal period.

B. Grounds for reconsideration of an administrative decision are limited to the following instances:
   1. The applicant's submission of additional documents or evidence that merely clarifies or supports, the pending application directed to one or more discreet aspects of the approval. The new information shall not constitute a modification of application as defined herein.
   2. Correction of an error in a condition established by the Review Authority where the condition is not supported by the record or is not supported by law;
   3. Correction of errors that are technical or clerical in nature.

C. Grounds for reconsideration of the Hearing Body's decision are limited to the following instances where an alleged error substantially affects the rights of the applicant:
   1. Correction of an error in a condition established by the Review Authority where the condition is not supported by the record or is not supported by law;
   2. Correction of errors that are technical or clerical in nature.

(2) Procedure.

A. A request for reconsideration shall be filed with the Planning Director within twelve (12) days of the date the decision was mailed. The request shall identify the condition or issue to be considered and shall specify how the applicant would be adversely affected if the issue were to remain uncorrected.

B. Upon receipt of a request for reconsideration of a Hearings Body's decision, the Planning Director shall notify all parties to the proceeding of the request and allow for a ten-day comment period on the request. At the end of the comment period, the Hearings Body shall determine whether the request for reconsideration has merit. No comment period or prior notice shall be required for an administrative reconsideration.

C. The Review Authority shall modify the decision upon a determination that the request has merit and the issue substantially affects the applicant. Notice of the modification shall be sent to all parties to the proceeding. If the Review Authority determines that no modification is warranted, a determination shall issue to that effect.

D. Filing a request for a reconsideration shall not be a precondition for appealing a decision.

E. Filing a request for reconsideration stays the deadline for any party to file an appeal of the Review Authority's decision. A new 12-day appeal period for all parties to the proceeding shall commence upon mailing of a modification or upon mailing a determination that a modification is not warranted. If an opponent files an appeal and an applicant has requested reconsideration, the opponent's appeal shall be stayed pending disposition of the request for modification. If the decision is not modified, the appeal will be processed in accordance with the procedures set forth in Section 10. If the decision is modified, the appellant must within 12 days of the mailing of the modified decision file in writing a statement requesting that its appeal be activated or the appeal will be invalidated.

(3) Limitation on reconsideration.
No decision shall be reconsidered more than once before the same Review Authority.

Exhibit A
Ordinance NS-1775

Section 10. APPEALS

(1) Who may appeal.

(2) Filing appeals.

(3) Notice of appeal.

(4) Determination of jurisdictional defects.

(5) Transcript requirement for appeals to City Council.

(6) Consolidation of multiple appeals.

(7) Scope of review.

(8) Hearing on appeal.

(9) Development action appeals.

(10) Rehearing.

(11) Remands.

(12) Withdrawal of an appeal.

(1) Who may appeal.

A. The following may file an appeal:
   1. A party;
   2. In the case of an appeal of an administrative decision without prior notice, a person entitled to notice, a person adversely affected or aggrieved by the administrative decision, or any other person who has filed comments on the application with the Planning Division; and
   3. A person entitled to notice and to whom no notice was mailed. A person who, after such notices were mailed, purchases property to be burdened by a solar access permit shall be considered a person to whom notice was to have been mailed; and

B. A person to whom notice is mailed is deemed notified even if notice is not received.

(2) Filing appeals.

A. To file an appeal, an appellant must file a completed notice of appeal on a form prescribed by the Planning Division and pay an appeal fee.

B. Unless a request for reconsideration has been filed, the notice of appeal and appeal fee must be received at the offices of the City services no later than 5:00 PM on the twelfth day following mailing of the decision. If a decision has been modified on reconsideration, an appeal must be filed no later than 5:00 PM on the twelfth day following mailing of the decision as modified. Notices of Appeals shall not be received by facsimile machine.

C. If the City Council is the Hearings Body and the council declines review, the appeal fee will not be refunded.

D. The appeal fee shall be paid by cash or check or money order, except that local, state or federal governmental agencies may supply a purchase order at the time of filing.

(3) Notice of appeal.

The Notice of Appeal shall contain:

A. A description of the decision which is being appealed, including the date of decision.

B. A statement describing the interest the person who is appealing has in the decision. Only persons who have proper standing as provided by the law, and who have participated in the decision being appealed (if provision for such participation was provided in the previous proceeding) may appeal the decision. The statement of interest must demonstrate the person's standing and participation.

C. A description of the issues sought to be raised by the appeal; and a statement that the issues were raised during the proceeding that produced the decision being appealed. This description must include the specific criteria relied upon as the basis for the appeal, and an explanation of why the decision has not complied with the standards or requirements of the criteria. The issues raised by the appeal must be stated with sufficient specificity to afford the reviewing authority an opportunity to resolve each issue raised.

D. In the case of an appeal to the City Council, the Notice of Appeal shall include the following additional information to assist the Council in deciding whether to grant discretionary review of the decision being appealed:

(1) How the appeal presents issues that have significant public policy or community wide implications for the City, as opposed to more limited issues which primarily involve the directly affected property or persons involved in the land use decision being appealed.

(2) Why it is necessary or desirable for the City Council to review these issues; and why the issues cannot be adequately and fairly reviewed by the Land Use Board of Appeals.

E. If the appeal asks for City Council discretionary review of the decision being appealed, and the person appealing wants to present additional evidence (beyond that already in the record made as part of the decision being appealed), then the Notice of Appeal shall also contain:

(1) A statement summarizing the new evidence and the criteria to which it will relate.

(2) An explanation why the proposed new evidence was not submitted as part of the record made in the decision being appealed. Evidence that is substantially similar to evidence already in the record of the decision being appealed will not be allowed. Evidence that could have been submitted in the record of the decision being appealed will not be allowed unless there is a compelling reason that justifies its presentation as part of the appeal.

(4) Determination of jurisdictional defects.

A. Any failure to conform to the requirements of Sections 10(2) and 10(3) shall constitute a jurisdictional defect.

B. Determination of jurisdictional defects in an appeal shall be made by the Review Authority to which an appeal has been made.

Exhibit A
Ordinance NS-1775

(5) Transcript requirement for appeals to City Council.

A. Except as otherwise provided in this section, appellants shall provide a complete transcript of any hearing appealed from the Hearings Officer or Planning Commission, from audio recordings provided by the City.

B. Appellants shall submit the transcript to the Planning Division no later than the close of the day 5 days prior to the date set for a de novo appeal hearing or, in on-the-record appeals, the date set for receipt of written arguments. Unless excused under this section, an appellant's failure to provide a transcript shall cause the Council to decline to consider the appellant's appeal further and shall, upon notice mailed to the parties, cause the lower Hearings Body's decision to become final.

C. An appellant shall be excused from providing a complete transcript if appellant was prevented from complying by: (1) the inability of the Planning Division to supply appellant with an audio recording of the prior proceeding; or (2) defects on the audio recording of the prior proceeding that make it not reasonably possible for applicant to supply a transcript. Appellants shall comply to the maximum extent reasonably and practicably possible.

(6) Consolidation of multiple appeals.

A. If more than one party files a notice of appeal on a land use action decision, the appeals shall be consolidated and noticed and heard as one proceeding.

B. In instances of multiple appeals where separate appellants have asked for a differing scope of review, any grant of de novo review shall control over a separate request for a more limited review on appeal.

(7) Scope of review.

A. Before Hearings Officer or Planning Commission. The review on appeal before the Hearings Officer or Planning Commission shall be de novo.

F. Before the Council:

(1) Review of land use decisions by the City Council on appeal shall be discretionary. A decision by the City Council to not grant discretionary review of the appeal shall be the final determination of the City, and the appeal of the decision shall be to the Land Use Board of Appeals as provided by law. The City Council's decision whether to grant discretionary review shall be made without testimony or argument from persons interested in the appeal, except as specifically permitted by the City Council.

(2) The scope of review for appeals that are granted discretionary review by the City Council shall be:

(a) Restricted to the issues raised in the Notice of Appeal, or as prescribed by the City Council for decisions called up by the City Council for review.

(b) Be conducted during an appeal hearing before the City Council on the record made as part of the decision being appealed, unless the City Council has permitted the presentation of new evidence as part of the appeal.

(c) De novo review if the City Council so chooses.

Exhibit A
Ordinance NS-1775

(3) The record for discretionary review by the City Council shall include:

(a) The land use application or request which is the subject of the appeal, any staff report, and all written comments, exhibits, or any other materials or information considered by the decision maker in the proceedings that produced the decision being appealed.

(b) A written transcript of all proceedings before the decision maker, or a stipulated written summary of the proceedings submitted by all of the parties to the appeal.

(4) An appeal hearing before the City Council shall be conducted according to such procedures as the City Council shall prescribe, which shall include an opportunity for presentations by the parties to the appeal.

(5) Decisions reviewed by the City Council can be affirmed, remanded, reversed, or modified in whole or in part by the City Council.

(8) Hearing on appeal.

A. The appellant and all other parties to the decision below shall be mailed notice of the hearing on appeal at least ten (10) days prior to any de novo hearing or deadline for submission of written arguments.

B. Except as otherwise provided in this chapter, the appeal shall be heard as provided in Section 7, "Land Use Action Hearing." The applicant shall proceed first in all de novo appeals.

C. The order of Hearings Body shall be as provided in Section 7(2) of this ordinance.

D. The record of the proceeding from which appeal is taken shall be a part of the record on appeal.

E. The record for a review on the record shall consist of the following:
1. A written transcript of any prior hearing;
2. All written and graphic materials that were part of the record below;
3. The Review Authority's decision appealed from;
4. Written arguments, based upon the record developed below, submitted by any party to the decision;
5. Written comments submitted by the Planning Commission or individual Planning Commissioners, based upon the record developed below; and
6. A staff report and staff comment based on the record: and
7. Other information deemed relevant by the Review Authority.

F. No oral evidence, argument or comment other than staff comment based on the record shall be taken. The council shall not consider any new factual information.

(9) Development action appeals.
Notice of the hearing date set for appeal shall be sent only to the applicant. Only the applicant, his or her representatives, and his or her witnesses shall be entitled to participate. Continuances shall be at the discretion of the Hearings Body, and the record shall close at the end of the hearing.

(10) Rehearing.
Rehearings shall not be allowed.

(11) Remands.
Applications shall not be remanded to a lower level Review Authority after appeal.

Exhibit A
Ordinance NS-1775

(12) Withdrawal of an appeal.
An appeal may be withdrawn in writing by an appellant at any time prior to the rendering of a final decision. Subject to the existence of other appeals on the same application, in such event the appeal proceedings shall terminate as of the date the withdrawal is received. An appeal may be withdrawn under this section regardless of whether other non-filing parties have relied upon the appeal filed by the appellant.

Exhibit A
Ordinance NS-1775

Section 11. PROCEEDINGS ON REMAND

(1) **Purpose.**

(2) **Hearings Body.**

(3) **Notice and hearings requirements.**

(4) **Scope of proceeding.**

(5) **Effect of reversal.**

(1) Purpose.
This chapter shall govern the procedures to be followed where a decision of the City has been remanded by LUBA or the appellate courts or a decision has been withdrawn by the City following an appeal to LUBA.

(2) Hearings Body.
The Hearings Body for a remanded or withdrawn decision shall be the Hearings Body from which the appeal to LUBA was taken, except that in voluntary or stipulated remands, the council may decide that it will hear the case on remand. If the remand is to the Hearings Officer, the Hearings Officer's decision may be appealed under this ordinance to the council, subject to the limitations set forth herein.

(3) Notice and hearings requirements.

A. The City shall conduct a hearing on any remanded or withdrawn decision, the scope of which shall be determined in accordance with the applicable provisions of this section, the LUBA or Appellate Court decision, and applicable state law. Unless state law requires otherwise, only those persons who were parties to the proceedings before the City shall be entitled to notice and be entitled to participate in any hearing on remand.

B. The hearing procedures shall comply with the minimum requirements of state law and due process for hearings on remand and need comply with the requirements of Section 7 only to the extent that such procedures are applicable to remand proceedings under state law.

(4) Scope of proceeding.

A. On remand, the Hearings Body shall review those issues that LUBA or the Appellate Court required to be addressed. In addition, the Council shall have the discretion to reopen the record in instances in which it deems it to be appropriate.

B. At the Council's discretion, a remanded application for a land use permit may be modified to address issues involved in the remand or withdrawal to the extent that such modifications would not substantially alter the proposal and would not have a significantly greater impact on surrounding neighbors. Any greater modification would require a new application.

C. If additional testimony is required to comply with the remand, parties may raise new, unresolved issues that relate to new evidence directed toward the issue on remand. Other issues that were resolved by LUBA or the Appellate Court or that were not appealed shall be deemed to be waived and may not be reopened.

Exhibit A
Ordinance NS-1775

(5) Effect of reversal.
A land use decision reversed by LUBA or the Court of Appeals that results in a final appellate judgment or order of reversal cannot be further heard by the City in the absence of an amended or a new application. Submission of a revised application shall be governed by the time limit set forth in Section 8(6).

Exhibit A
Ordinance NS-1775

Section 12. LIMITATIONS ON APPROVALS

(1) Expiration of approval.

(2) Initiation of use.

(3) Extensions to avoid environmental or health hazards.

(4) Modification of approval.

(5) Transfer of permit.

(6) Revocation of Approvals.

(1) Expiration of approval.

A. Scope.
   1. Except as otherwise provided herein, this section shall apply to and describe the duration of all approvals of land use permits provided for under this ordinance, the zoning ordinances and the land division ordinance.
   2. This section does not apply to:
      a. Those determinations made by declaratory ruling, such as verifications of nonconforming uses, lot of record determinations and expiration determinations that involve a determination of the legal status of a property, land use or land use permit rather than whether a particular application for a specific land use meets the applicable standards of the zoning ordinance. Such determinations, whether favorable or not to the applicant or land owner, shall be final unless appealed and shall not be subject to any time limits;
      b. Temporary use permits of all kinds, which shall be governed by applicable ordinance provisions specifying the duration of such permits; or
      c. Quasi-judicial map changes.

B. Duration of Approvals.
   1. Except as otherwise provided under this section or under applicable zoning ordinance provisions, a land use permit is void one year after the date the discretionary decision becomes final if the use approved in the permit is not initiated within that time period.
   2. Except as otherwise provided under applicable ordinance provisions, preliminary approval of plats or master plans shall be void after one year from the date of preliminary approval, unless the final plat has been submitted to the Planning Division for final approval within that time period, an extension is sought under this section or the preliminary plat or master plan approval has been initiated as defined herein.
   3. In the case of a land use approval authorized under applicable approval criteria to be completed in phases, each phase must be initiated within the time specified in the approval, or initiated within one (1) year of completion of the prior phase if no timetable is specified.

C. Extensions.
   1. The Planning Director may grant one extension of up to one year for a land use approval or a phase of a land use approval, unless the applicable criteria have changed, if:
      a. An applicant makes a written request for an extension of the development approval period;
      b. The request, along with the prescribed fee, is submitted to the city prior to the expiration of the

approval period;

D. Procedures.
   1. A determination of whether a land use has been initiated shall be processed as a declaratory ruling.
   2. Approval of an extension granted under this section is an administrative decision, is not a land use decision described in ORS 197.015 or this ordinance. An extension is not subject to appeal as a land use decision and shall be processed under this ordinance as a development action, except to the extent it is necessary to determine whether the use has been initiated.

E. Effect of Appeals. The time period set forth in subsection B of this section shall be tolled upon filing of an appeal to LUBA, until all appeals are resolved.

(2) Initiation of use.

A. For the purposes of this Chapter, development action undertaken under a land use approval described in Section 12(1), has been "initiated" if it is determined that:
   1. The proposed use has lawfully occurred;
   2. Substantial construction toward completion of the land use approval has taken place; or
   3. Where construction is not required by the approval, the conditions of a permit or approval have been substantially exercised and any failure to fully comply with the conditions is not the fault of the applicant.

B. For the purposes of this section, "substantial construction" has occurred when the holder of a land use approval has physically altered the land or structure or changed the use thereof and such alteration or change is directed toward the completion and is sufficient in terms of time, labor or money spent to demonstrate a good faith effort to complete the development.

(3) Extensions to avoid environmental or health hazards.

A. In addition to extensions granted pursuant to Section 12(1)(C) and notwithstanding any other provision of the Bend Code, a one-time extension may be granted to a tentative plat approval and any associated land use permits regarding the time for final plat approval where conditions of the approval, or extensions thereof, require or can be read to require approvals from other agencies for sewer or water systems and (1) the applicant can show that without such extension or extensions, a health or environmental hazard or risk thereof would continue to exist, be exacerbated or likely would be created and (2) the applicant submits a time frame and plan for meeting the outstanding conditions with the concurrence of a homeowner's association having an ownership interest in project lands and such concurrence is demonstrated in the application.

B. Such an extension shall be administrative, in writing, and not subject to appeal and shall, subject to the termination provisions of Section C of this subsection, be granted for a time period not to exceed one year.

C. In lieu of submittal of the time frame and plan and concurrence of the homeowner's association with the application, that requirement of section A of this subsection may be satisfied by conditioning approval of the extension to require establishment of the agreed-to time frame and plan within the first 60 days of the extension period, which time line and plan shall thereupon be deemed to be a condition of the extension approval.

D. An extension under this section shall be conditioned upon adherence to the time lines and plan proposed in the extension application or as agreed to pursuant to Section C of this subsection.

Exhibit A
Ordinance NS-1775

E. Failure to demonstrate compliance with any extension condition shall, after notice and hearing under this ordinance, result in termination of the extension granted under this section.

(4) Modification of approval.

A. An applicant may apply to modify an approval at any time after a period of 60 days has elapsed from the time a land use action approval has become final.

B. Unless otherwise specified in a particular zoning ordinance provision, the grounds for filing a modification shall be that a change of circumstances since the issuance of the approval makes it desirable to make changes to the proposal, as approved. A modification shall not be filed as a substitute for an appeal or to apply for a substantially new proposal or one that would have significant additional impacts on surrounding properties.

C. An application to modify an approval shall be directed to one or more discrete aspects of the approval, the modification of which would not amount to approval of a substantially new proposal or one that would have significant additional impacts on surrounding properties. Any proposed modification, as defined in this section, shall be reviewed only under the criteria applicable to that particular aspect of the proposal. Proposals that would modify an approval in a scope greater than allowable as a modification shall be treated as an application for a new proposal.

D. An application for a modification shall be processed as a land use action.

E. The effect, if any, of a modification upon the original approval time limitation shall be established in the modification decision.

(5) Transfer of permit.

A. A land use action permit shall be deemed to run with the land and be transferable to applicant's successors in interest.

B. The Planning Division may require that an applicant record a notice of land use permit and conditions of approval agreement in the Deschutes County Records. Such an agreement shall set forth a description of the property, describe the permit that has been issued and set forth the conditions of approval. The Planning Director is authorized to sign the notice and agreement on behalf of the City.

C. The terms of the approval agreement may be enforced against the applicant and any successor in interest.

(6) Revocation of Approvals.

A. Approvals shall be subject to revocation according to standards set forth in the applicable zoning ordinances.

G. Revocations shall be processed as a declaratory ruling under this ordinance. Section 5(2) notwithstanding, a public hearing shall be held in all revocation proceedings.

Exhibit A
Ordinance NS-1775

Section 13. DECLARATORY RULING

(1) Availability of declaratory ruling.

(2) Persons who may apply.

(3) Procedures.

(4) Effect of declaratory ruling.

(5) Interpretation.

(1) Availability of declaratory ruling.

A. Subject to the other provisions of this section, there shall be available for the City's comprehensive plans, zoning ordinances, the subdivision and partition ordinance and this ordinance a process for:
   1. Interpreting a provision of a comprehensive plan or ordinance (and other documents incorporated by reference) in which there is doubt or a dispute as to its meaning or application;
   2. Interpreting a provision or limitation in a land use permit issued by the City or quasi-judicial plan amendment or zone change in which there is doubt or a dispute as to its meaning or application;
   3. Determining whether an approval has been initiated or considering the revocation of a previously issued land use permit, quasi-judicial plan amendment or zone change;
   4. Determining the validity and scope of a nonconforming use; and
   5. Determination of other similar status situations under a comprehensive plan, zoning ordinance or land division ordinance that do not constitute the approval or denial of an application for a permit.

   Such a determination or interpretation shall be known as a "declaratory ruling" and shall be processed in accordance with this chapter. In all cases, as part of making a determination or interpretation the Planning Director (where appropriate) or Hearings Body (where appropriate) shall have the authority to declare the rights and obligations of persons affected by the ruling.

B. A declaratory ruling shall be available only in instances involving a fact-specific controversy and to resolve and determine the particular rights and obligations of particular parties to the controversy. Declaratory proceedings shall not be used to grant an advisory opinion on a specific quasi-judicial land use application. Declaratory proceedings shall not be used as a substitute for seeking an amendment of general applicability to a legislative enactment.

C. Declaratory rulings shall not be used as a substitute for an appeal of a decision in a land use action or for a modification of an approval. In the case of a ruling on a land use action a declaratory ruling shall not be available until 60 days after a decision in the land use action is final.

D. The Planning Director may refuse to accept and the Hearings Officer may deny an application for a declaratory ruling if:
   1. The Planning Director or Hearings Officer determines that the question presented can be decided in conjunction with approving or denying a pending land use action application or if in the Planning Director or Hearings Officer's judgment the requested determination should be made as part of a decision on an application for a quasi-judicial plan amendment or zone change or a land use permit not yet filed; or
   2. The Planning Director or Hearings Officer determines that there is an enforcement case pending in circuit court in which the same issue necessarily will be decided as to the applicant and the

applicant failed to file the request for a declaratory ruling within two weeks after being cited or served with a compliant.

The Planning Director or Hearings Officer's determination to not accept or to deny an application under this section shall be the City's final decision.

(2) Persons who may apply.

A. Section 2(2)(B) notwithstanding, the following persons may initiate a declaratory ruling under this chapter:
   1. The owner of a property requesting a declaratory ruling relating to the use of the owner's property;
   2. In cases where the request is to interpret a previously issued quasi-judicial plan amendment, zone change or land use permit, the holder of the permit; or
   3. In all cases arising under Section 13(1), the Planning Director.

   No other person shall be entitled to initiate a declaratory ruling.

B. A request for a declaratory ruling shall be initiated by filing an application with the Planning Division and, except for applications initiated by the Planning Director, shall be accompanied by such fees as have been set by the Planning Division. Each application for a declaratory ruling shall include the precise question on which a ruling is sought. The application shall set forth whatever facts are relevant and necessary for making the determination and such other information as may be required by the Planning Division.

(3) Procedures.

Except as set forth in this chapter or in applicable provisions of a zoning ordinance, the procedures for making declaratory rulings shall be the same as set forth in this ordinance for land use actions. Where the Planning Division is the applicant, the Planning Division shall bear the same burden that applicants generally bear in pursuing a land use action.

(4) Effect of declaratory ruling.

A. A declaratory ruling shall be conclusive on the subject of the ruling and bind the parties thereto as to the determination made.

B. Section 8(6) notwithstanding, and except as specifically allowed therein, parties to a declaratory ruling shall not be entitled to reapply for a declaratory ruling on the same question.

C. Except when a declaratory ruling is made by the City Council, the ruling shall not constitute a final policy of the City of Bend.

(5) Interpretation.

Interpretations made under this chapter shall not have the effect of amending the interpreted language. Interpretation shall be made only of language that is ambiguous either on its face or in its application. Any interpretation of a provision of the comprehensive plan or other land use ordinance shall consider applicable provisions of the comprehensive plan and the purpose and intent of the ordinance as applied to the particular section in question.

Exhibit A
Ordinance NS-1775

APPENDIX A
(Section 7(13)(H)

PRELIMINARY STATEMENT IN LAND USE ACTION HEARINGS OR APPEALS BEFORE THE COUNCIL

INTRODUCTION

This is a hearing on (insert application type and number).

Applicant requested (set forth what the applications are and what is being requested.)

(If an appeal) These applications were previously considered by the (Planning Director). [or, if Hearings Officer or Planning Commision after a public hearing held on (insert date). Evidence and testimony were received at that hearing.] The (Planning Director, Hearings Officer or Planning Commission) (denied/approved) the applicant's requests.

BURDEN OF PROOF AND APPLICABLE CRITERIA

The applicant has the burden of proving that he/she is entitled to the land use approval sought. The standards applicable to the application(s) before us are as follows: (list applicable criteria)

HEARINGS PROCEDURE

The procedures applicable to this hearing provide that the (Hearings Body) will hear testimony, receive evidence and consider the testimony, evidence and information submitted into the record on appeal as well as that evidence constituting the record in the prior proceeding. The record as developed to this point is available for public review at this hearing.

Testimony and evidence at this hearing must be directed toward the criteria set forth in the notice of this hearing and listed in this statement. Testimony may be directed to any other criteria in the comprehensive land use plan of the City or land use regulations which any person believes apply to this decision.

Failure on the part of any person to raise an issue with sufficient specificity to afford the (Hearings Body) and parties to this proceeding an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue.

The failure of the applicant to raise a constitutional or other issues related to the proposed conditions of approval with sufficient specificity to allow the Hearings Body to respond to the issue precludes the applicant from pursuing an action for damages in circuit court.

Exhibit A
Ordinance NS-1775

ORDER OF PRESENTATION

The hearing will be conducted in the following order. The staff will give a report of the prior proceedings and the issues raised by the applications on appeal. The applicant will then have an opportunity to make a presentation and offer testimony and evidence. Opponents will then be given a chance to make a presentation. After both proponents and opponents have made a presentation, the proponents will be allowed to make a rebuttal presentation. At the Hearings Body's discretion, opponents may be recognized for a rebuttal presentation. At the conclusion of this hearing, the staff will be afforded an opportunity to make any closing comments. The Hearings Body may limit the time period for presentations.

Questions to and from the Hearings Body may be entertained at any time at the Hearings Body's discretion. Cross-examination of witnesses will not be allowed. However, if any person wishes a question be asked of any person during that person's presentation, please direct such question to the Hearings Body after being recognized. The Hearings Body is free to decide whether or not to ask such questions of the witness.

PRE-HEARING CONTACTS

I will now direct a question to the other members of the Hearings Body. If any member of the Hearings Body, including myself, has had any pre-hearing contacts, now is the time to state the substances of those pre-hearing contacts so that all persons present at this hearing can be fully advised of the nature and context of those contacts and with whom contact was made. Are there any contacts that need be disclosed?

At this time, do any members of the Hearings Body need to set forth the substance of any ex parte observations or facts of which this body should take notice concerning this appeal?

Any person in the audience has the right during the hearings process to rebut the substance of any communication or observation that has been placed in the record.

CHALLENGES FOR BIAS, PREJUDGMENT, OR PERSONAL INTEREST

Any party prior to the commencement of the hearing may challenge the qualifications of the Hearings Body or any member thereof of bias, prejudgment or personal interest. This challenge must be documented with specific reasons supported by facts.

I will accept challenges now.

Should any Hearings Body member be challenged, the member may disqualify himself or herself, withdraw from the hearing or make a statement on the record of their capacity to hear the appeal.

(Hearing no challenges, I shall proceed.)

VOL: 2001 PAGE: 20849
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2001-20849 * Vol-Page Printed: 05/03/2001 13:51:26

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: May. 3, 2001; 1:50 p.m.

RECEIPT NO: 35189

DOCUMENT TYPE: Ordinance (County or City)

FEE PAID: $36.00

NUMBER OF PAGES: 2

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

ORDINANCE NO. NS-1776

2001-20849-1

AN ORDINANCE REPEALING ORDINANCE 1680 AND VACATING A PORTION OF OLNEY AVENUE ,AS SHOWN ON THE PLAT OF LYTLE ACRES, THAT LIES WITHIN THE NE ¼ OF THE NE ¼ OF SECTION 32, TOWNSHIP 17 SOUTH, RANGE 12 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

The Bend City Council initiated that the following described area be vacated:

SEE EXHIBIT "A'

and stating the purpose for which the described property is proposed to be used and the reason for such vacation;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above street right of ways to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 4th day of April, 2001, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and;

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of Olney Avenue right-of-way located in Bend, Deschutes County, Oregon, be vacated.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 4th day of April 2001.

Read for the second time the 18th day of April 2001.

Placed upon its passage the 18th day of April 2001.

Yes: 7 No: 0

Authenticated by the Mayor the 18th day of April 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

After recording return to:

Deputy Recorder
City of Bend
710 NW Wall
Bend OR 97701

2001-20849.2

HW&A HICKMAN, WILLIAMS & ASSOCIATES, INC.

OLNEY AVENUE RIGHT-OF-WAY

Exhibit "A"
LEGAL DESCRIPTION

All that certain real property located within a portion of the Northeast ¼ of the Northeast ¼ of Section 32, Township 17 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon. Said property also being a portion of the lands shown on that certain plat entitled "PLAT OF LYTLE ACRE TRACTS", an unofficial plat on file at the Deschutes County Surveyor's office as file number CS08070, being more particularly described as follows:

BEGINNING at the Northwest corner of tract 18, as shown on said plat; Thence along the Easterly right-of-way of Hill Street as shown on said plat, Northerly 28.00 feet to the Southwest corner of tract 7, as shown on said plat; Thence continuing along said Easterly right-of-way, North 18.00 feet to the Northwest corner of the property described in "resolution 583" recorded in volume 117, page 532, Deschutes County official records; Thence Easterly along a line 18.00 feet Northerly of and parallel to the South line of said tract 7 a distance of 200.00 feet more or less to a point of intersection with the property line common to tract 7 and tract 8, as shown on said plat, said point also being the Northeasterly corner of the property described in said "resolution 583"; Thence continuing Easterly along a line 10.00 feet Northerly of and parallel to the Southerly line of said Tract 8, said line also being the Northerly line of the property described in volume 115, page 416 Deschutes County official records, a distance of 113.60 feet more or less, to a point of intersection with the Westerly right-of-way of the Bend Parkway as shown on that certain map entitled "BEND PARKWAY UNIT 1, MAP OF SURVEY" on file at the Deschutes County Surveyor's office as file number CS12851; Thence along said right-of-way, South 15°07'45" East a distance of 1.31 feet, more or less, to a point of intersection with the Northerly prolongation of the Northwesterly right-of-way line of the "N.W. OLNEY AVENUE REALIGNMENT" as described in volume 451, page 0409 through page 0411, Deschutes County official records; Thence along said Northwesterly right-of-way 111.22 feet, more or less along the arc of a non-tangent curve to the left, the chord of which bears South 60°25'50" West a distance of 110.65 feet, more or less to the Northwesterly corner of Parcel G as described in said volume 451, page 0409 through page 0411; Thence Westerly along a line 10.00 feet Southerly of and parallel to the North line of tract 17, as shown on said Plat a distance of 17.78 feet more or less to a point of intersection with the property line common to tracts 17 and 18, as shown on said plat; Thence Northerly along said common property line 10.00 feet more or less to the Northeast corner of tract 18, as shown on said plat; Thence Westerly along the Northerly line of said tract 18, 200.00 feet more or less to the **POINT OF BEGINNING**

SUBJECT TO: All easements, restrictions, and rights-of-ways of record and those common and apparent on the land

03-21-01
REGISTERED
PROFESSIONAL
LAND SURVEYOR
OREGON
JULY 9, 1988
PETER A. MANLEY
2214
EXPIRES 12-31-02

JOB #: COB45832
DATE: 3/22/01
BY: Jon Weishaupt
CHKD: _____

After recording return to:
Deputy Recorder
City of Bend
710 NW Wall
Bend, OR 97701

VOL: 2001 PAGE: 20850
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2001-20850 * Vol-Page Printed: 05/03/2001 13:51:31

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: May. 3, 2001; 1:50 p.m.

RECEIPT NO: 35189

DOCUMENT TYPE: Ordinance (County or City)

FEE PAID: $36.00

NUMBER OF PAGES: 2

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

ORDINANCE NO. NS-1777

2001-20850-1

AN ORDINANCE REPEALING ORDINANCE 1682 AND VACATING A PORTION OF THE ALLEY IN BLOCK 160,AS SHOWN ON THE SECOND ADDITION TO BEND, THAT LIES WITHIN THE NE ¼ OF THE SE ¼ OF SECTION 5, TOWNSHIP 18 SOUTH, RANGE 12 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

The Bend City Council initiated that the following described area be vacated:

SEE EXHIBIT "A'

and stating the purpose for which the described property is proposed to be used and the reason for such vacation;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above street right of ways to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 4th day of April, 2001, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and;

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above-described portion of the alley right-of-way located in Bend, Deschutes County, Oregon, be vacated.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 4th day of April 2001.

Read for the second time the 18th day of April 2001.

Placed upon its passage the 18th day of April 2001.

Yes: 7 No: 0

Authenticated by the Mayor the 18th day of April 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

After recording return to:
Deputy Recorder
City of Bend
710 NW Wall
Bend OR 97701

2001-2088.2

HW&A HICKMAN, WILLIAMS & ASSOCIATES, INC.

Exhibit "A"
RIGHT-OF-WAY DESCRIPTION

A strip of land 15' wide located within a portion of the Southeast One-Quarter (SE1/4) of Section 5, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon. Said strip being a portion of the alleyway of Block 160 as shown on the plat of "Second Addition to Bend Park" as recorded on August 1, 1918 in plat cabinet A, page 13 in the office of the Deschutes County Clerk, being more particularly described as follows:

BEGINNING at the Southwest corner of Lot 4, Block 160, as shown on said map; Thence South 15.00 feet to the Northwest corner of Lot 13, Block 160, as shown on said map; Thence East 200.00 feet along the Southerly line of said alleyway to the Northeast corner of Lot 16, Block 160, as shown on said map, said point also being on the Westerly right-of-way of Division Street as shown on said map (now called Pelton Place); Thence along said Westerly right-of-way North 15.00 feet to the Southeast corner of Lot 1, Block 160, as shown on said map; Thence West 200.00 feet along the Northerly line of said alleyway to the **POINT OF BEGINNING**

SUBJECT TO: All easements, restrictions, and rights-of-ways of record and those common and apparent on the land.

REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
PHILIP R. BALDNER
2468
Exp. 12/31/2001

JOB #: COB46832
DATE: 3/8/01
BY: Jon Weishaupt
CHKD: Phil Baldner

After Recording Return to:
Deputy Recorder
City of Bend
710 NW Wall
Bend, OR 97701

VOL: 2001 PAGE: 20851
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2001-20851 * Vol-Page Printed: 05/03/2001 13:53:15

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: May. 3, 2001; 1:50 p.m.

RECEIPT NO: 35189

DOCUMENT TYPE: Ordinance (County or City)

FEE PAID: $31.00

NUMBER OF PAGES: 1

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

2001-20851-1

ORDINANCE NS-1778

AN ORDINANCE RENAMING THE NORTH/SOUTH SEGMENT OF LIBERTY LANE TO CARLY LANE AND DESIGNATING THE NAME OF LIBERTY LANE ONLY FOR THE CURRENT EAST/WEST ROAD SEGMENT WITHIN THE CITY OF BEND, OREGON.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. That the street name of the north/south segment of Liberty Lane be changed to Carly Lane and the name of Liberty Lane be designated only for the current east/west road segment.

Section 2. The effective date for the renaming of this street shall be 30 days following the adoption of this ordinance.

Read for the first time the 4th day of April 2001.

Read for the second time the 18th day of April 2001.

Placed upon its passage the 18th day of April 2001.

YES: 7 NO: 0

Authenticated by the Mayor the 18th day of April 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

After recording, return to:
Deputy Recorder
City of Bend
710 NW Wall
Bend OR 97701

2001-20852-1

ORDINANCE NS-1779

AN ORDINANCE RENAMING THE NORTH/SOUTH SEGMENT OF YEOMAN ROAD TO PURCELL BOULEVARD AND DESIGNATING THE NAME OF YEOMAN ROAD ONLY FOR THE CURRENT EAST/WEST ROAD SEGMENT AND ANY FUTURE IMPROVEMENT OF THE EAST/WEST RIGHT-OF-WAY WITHIN THE CITY OF BEND, OREGON.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. That the street name of the north/south segment of Yeoman Road be changed to Purcell Boulevard and the name of Yeoman Road be designated only for the current east/west road segment any future improvement of the east/west right-of-way.

Section 2. The effective date for the renaming of this street shall be 30 days following the adoption of this ordinance.

Read for the first time the 4th day of April 2001.

Read for the second time the 18th day of April 2001.

Placed upon its passage the 18th day of April 2001.

YES: 7 NO: 0

Authenticated by the Mayor the 18th day of April 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

After Recording Return to:
Deputy Recorder
City of Bend
710 NW Wall
Bend OR 97701

VOL: 2001 PAGE: 20852
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2001-20852 * Vol-Page Printed: 05/03/2001 13:53:13

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: May. 3, 2001; 1:50 p.m.

RECEIPT NO: 35189

DOCUMENT TYPE: Ordinance (County or City)

FEE PAID: $31.00

NUMBER OF PAGES: 1

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

49
Hoyle

DESCHUTES COUNTY OFFICIAL RECORDS
MARY SUE PENHOLLOW, COUNTY CLERK

2002-21283

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D-ODN Cnt=1 Stn=2 SHIRLEY
$245.00 $11.00 $10.00 $5.00

DESCHUTES COUNTY CLERK

CERTIFICATE PAGE

This page must be included if document is re-recorded. Do Not remove from original document.

ORDINANCE NO. NS-1780

AN ORDINANCE MAKING DETERMINATIONS AND FINDINGS OF FACT AND APPROVING CENTRAL BEND DEVELOPMENT PROGRAM AREA PLAN 2001 IN THE CITY OF BEND

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. FINDINGS OF FACT. The Bend City Council makes the following findings of fact:

A. By nonemergency Odinance No. NS-1499, approved on September 6, 1989, the City of Bend adopted an urban renewal plan known as the "Central Bend Development Program Area Plan."

B. The City of Bend, by Ordinance No. NS-1740, pursuant to ORS 457.045(2), delegated the powers of the urban renewal agency for the City of Bend to a seven member board known as the "Bend Development Board."

C. The Bend Development Board has determined that the Central Bend Development Program Area Plan requires amendments, and that the amended plan should supercede the plan approved under ordinance No. NS-1499 on September 6, 1989. To that end, the Bend Development Board has prepared a Central Bend Development Program Area Plan 2001 and report on the plan.

D. The Bend Development Board has held two public hearings on the Central Bend Development Program Area Plan 2001 and has allowed public involvement at all stages of development of the plan.

D. The Central Bend Development Program Area Plan 2001 and report are attached to this ordinance, and by reference, are made a part of this ordinance, as if the whole text thereof were set forth herein.

E. The Central Bend Development Program Area Plan 2001 and report on the plan were forwarded to the Bend Urban Area Planning Commission for recommendations.

F. The Bend Urban Area Planning Commission has found that the Central Bend Development Program Area Plan 2001 conforms to the Bend Comprehensive Plan and the economic development provisions of the comprehensive plan. The Planning Commission has had an opportunity to make recommendations on the Central Bend Development Program Area Plan 2001 and the report on the plan.

H. The Central Bend Development Program Area Plan 2001 and report has been provided to the governing body for each taxing district that is affected by the Central Bend Development Program Area Plan 2001. No objections have been received from any taxing district except the Deschutes Public Library System, which has requested that an additional $1.8 million be spent from urban renewal funds for the Heritage Square project. The Bend City Council has considered this request and declines to include it in the Central Bend Development Program Area Plan 2001.

I. The Bend City Council held a public hearing on adoption of the Central Bend Program Area Plan 2001, after providing notice of the hearing as provided by law. The public hearing opened on March 21, 2001 at a regular meeting of the City Council, and closed on April 18, 2001 at a regular meeting of the City Council. The record was left open in the interim period between these meetings for receipt of public comment. The City Council has considered all public testimony and written comment received at the public hearing.

Return to: City of Bend, PO Box 431, Bend, OR 97709 – Recorder

Section 2. DETERMINATIONS: The Bend City Council hereby determines that:

A. The Central Bend Development Program Area is a single, contiguous urban renewal area of 236 acres which is blighted.

B. That the rehabilitation and redevelopment of the area as provided by the Central Bend Development Program Area Plan 2001 is necessary to protect the public health, safety or welfare of the City of Bend.

C. That the Central Bend Development Program Area Plan 2001 conforms to the comprehensive plan and economic development plan of the City of Bend as a whole and provides an outline for accomplishing the urban renewal projects the urban renewal plan proposes.

D. Provision has been made in the Central Bend Development Program Area Plan 2001 to house displaced persons within their financial means in accordance with ORS 281.045 to 281.105 and, except in the relocation of elderly or disabled individuals, without displacing on priority lists persons already waiting for existing federally subsidized housing.

E. That acquisition of all real property provided for by the Central Bend Development Program Area Plan 2001 is necessary.

F. Adoption and carrying out of the Central Bend Development Program Area Plan 2001 is economically sound and feasible.

G. The City of Bend shall assume and complete any activities prescribed it by the Central Bend Development Program Area Plan 2001.

Section 3. APPROVAL OF CENTRAL BEND DEVELOPMENT PROGRAM AREA PLAN 2001. The Bend City Council hereby approves, by nonemergency ordinance, the Central Bend Development Program Area Plan 2001, which is attached hereto and made a part hereof by reference as if fully set forth in the text of this ordinance.

Section 4. EFFECTIVE DATE. This ordinance, and the Central Bend Development Program Area Plan 2001 shall be effective 30 days after the adoption of this ordinance. This ordinance, and the Central Bend Development Program Area Plan 2001 incorporated herein shall be conclusively presumed valid for all purposes 90 days after adoption, pursuant to ORS 457.135.

Read for the first time the 18th day of April, 2001.

Read for the second time the 2nd day of May, 2001.

Placed upon its passage the 2nd day of May, 2001

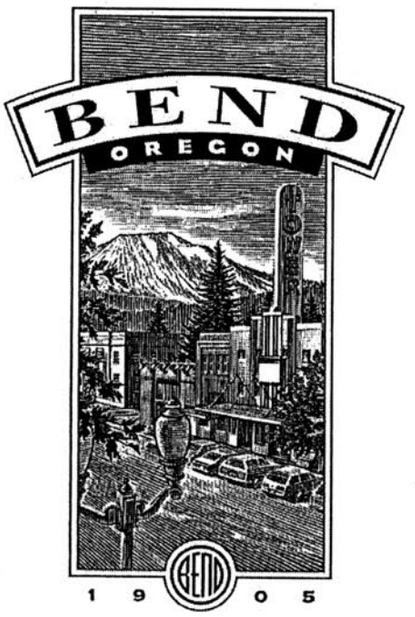
YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 2nd day of May, 2001

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder



Central Bend Development Program Area Plan 2001

Amended Plan Prepared by the Bend Development Board
Bend, Oregon
February 2001

Ordinance NS-1780

Central Bend Development Program Area Plan 2001

Bend Development Board

Bob Woodward, Chair
Louann Thomas, Vice Chair
Ron Federspiel
Tom Gellner
Robin Lee
Chris Telfer
Dean Wise

Bend City Council

Bill Friedman, Mayor
John Schubert, Vice Mayor
Bruce Abernethy
Kathie Eckman
John Hummel
Kyla Merwin
Oran Teater

Bend Development Board Staff

Ken Hobson, Downtown Development Manager
Terri Shepherd, Support Staff

Ordinance NS-1780

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PART THREE – PLAN REPORT

SECTION 100 INTRODUCTION

The Central Bend Development Plan, a 236 acre Urban Renewal Plan within the City of Bend, consists of Part 1 - Text, and Part 2 - Exhibits. This Plan has been prepared by the Bend Development Board, an Urban Renewal Agency, pursuant to the provisions found within the Oregon Revised Statutes, ORS Chapter 457, the Oregon Constitution, and all applicable laws and ordinances.

> "The Bend Development Board's mission is to sustain and enhance the Program Area's livability and economic vitality for its residents, businesses and visitors."

SECTION 110 CITY/AGENCY RELATIONSHIP

The relationship between the City of Bend, an Oregon municipal corporation and the Bend Development Board as an urban renewal agency created pursuant to ORS Chapter 457 shall be as contemplated by ORS Chapter 457. Nothing contained in this Plan, nor City's approval of this Plan, nor City's supplying of services or personnel, nor the budgetary requirements of this Plan shall in any way be construed as departing from or disturbing the relationship contemplated by ORS Chapter 457. It is the intention of City in approving this Plan and of City and the Board in implementing the Plan that the Board shall not be the agent of City nor shall City have any responsibility for the Board except as specifically provided by Chapter 457.

SECTION 200 DEFINITIONS

The following definitions will govern this Plan unless the context otherwise requires:

"Acquisition" means the act or process of acquiring fee title or interest other than fee title of real property (including the acquisition of development rights of remainder interest).

"Activity Area" means any designated portion or element of the Central Bend Development Area in which authorized urban renewal actions are being undertaken by the Bend Development Board.

"Agency" means the Bend Development Board which, in accordance with ORS 457, is the Urban Renewal Agency of the City of Bend, Deschutes County, Oregon.

"Blighted Areas" means areas which, by reason of deterioration, faulty planning, inadequate or improper facilities, deleterious land use or the existence of unsafe structures, or any combination of these factors, are detrimental to the safety, health or welfare of the community. A blighted area is characterized by the existence of one or more of the following conditions:

(1) The existence of buildings and structures, used or intended to be used for living, commercial, industrial or other purposes, or any combination of those uses, which are unfit or unsafe to occupy for those purposes because of any one or a combination of the following conditions:

(a) Defective design and quality of physical construction;
(b) Faulty interior arrangement and exterior spacing;
(c) Overcrowding and a high density of population;
(d) Inadequate provision for ventilation, light, sanitation, open spaces and recreation facilities; or
(e) Obsolescence, deterioration, dilapidation, mixed character or shifting of uses.

(2) An economic dislocation, deterioration or disuse of property resulting from faulty planning;

(3) The division or subdivision and sale of property or lots of irregular form and shape and inadequate size or dimensions for property usefulness and development;

(4) The layout of property or lots in disregard of contours, drainage and other physical characteristics of the terrain and surrounding conditions;

(5) The existence of inadequate streets and other rights-of-way, open spaces and utilities;

(6) The existence of property or lots or other areas which are subject to inundation by water;

(7) A prevalence of depreciated values, impaired investments and social and economic maladjustments to such an extent that the capacity to pay taxes is reduced and tax receipts are inadequate for the cost of public services rendered.

(8) A growing or total lack of proper utilization of areas, resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to the public health, safety and welfare; or

(9) A loss of population and reduction of proper utilization of the area, resulting in its further deterioration and added costs to the taxpayer for the creation of new public facilities and services elsewhere.

"Board" or "Development Board" means the appointed Bend Development Board, which functions as the Bend Urban Renewal Agency as authorized by ORS Chapter 457.

"Board of County Commissioners" means the elected governing body of the County of Deschutes, Oregon.

"Central Bend Development Program Area", "Development Program Area" or "Program Area" means an Urban Renewal Area located in the City of Bend, Oregon which includes a 236 acre sector of the City containing the Central Business District and adjacent commercial, industrial and residential areas.

"City" means the City of Bend, Deschutes County, Oregon.

"City " or "Council" means the elected, governing body of the City of Bend, Oregon.

"County" means the County of Deschutes, State of Oregon.

"County Facility" means offices and courts and similar facilities occupied or to be occupied for county purposes.

"Exhibit" means an attachment, either narrative or graphic, to the Central Bend Development Plan, within the Central Bend Development Program Area, Part Two - Exhibits.

"Main Street" means the program developed by the National Main Street Center, a demonstration project for the National Trust for Historic Preservation, the principle of which is to guide the conservation, restoration and the redevelopment of downtown.

"ORS" means Oregon Revised Statutes (State Law). ORS 457 is the chapter regulating the urban renewal process.

"Plan" or "Development Plan" means the Urban Renewal Plan for the Central Bend Development Program Area. The Plan consists of Part One - Text and Part Two - Exhibits.

"Preservation" means the act or process of applying measures to sustain the existing form, integrity, and material of a building or structure, and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.

"Project" means any undertaking or activity within the Central Bend Development Program area, such as a public improvement, street project, or loan program which is authorized and for which implementing provisions are set forth in the Urban Renewal Plan.

"Project Area" means the entire Central Bend Development Program Area--a 236 acre, single geographic portion of the City of Bend, Oregon.

"Protection" means the act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss or attack, or to cover or shield the property from danger or injury. In the case of buildings and structures, such treatment is generally of a temporary nature and anticipates future historic preservation treatment; in the case of archeological sites, the protective measures may be temporary or permanent.

"Reconstruction" means the act or process of reproducing by new construction the exact form and detail of a vanished building, structure, or object, or a part thereof, as it appeared at a specific period of time.

"Redeveloper" means any individual or group which acquires property from the Bend Development Board or which receives financial assistance for the physical improvement of publicly or privately held structures and land from the Development Board.

"Rehabilitation" means the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, and cultural values.

"Report on the Plan or "Report" means the text and graphic exhibit of a report which explains existing conditions, activities, procedures and proposals of the Plan of the Central Bend Development Program.

"Restoration" means the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

"Riverfront" means all publicly owned property abutting the Deschutes River designated for park, recreation, or transportation uses.

"Stabilization" means the act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

"State" means the State of Oregon and its various agencies, divisions and departments.

"Tax Increment Financing" means a method of financing Urban Renewal Projects as authorized by ORS Chapter 457, which uses the tax revenues generated by the increased taxable values in a defined area to pay for improvements within that area.

"Text" means Part One of this Urban Renewal Plan for the Central Bend Development Program.

"Urban Renewal Law" means Oregon Revised Statutes, Chapter 457 (ORS 457) the State Urban Renewal Law. This development Program was prepared to meet all the requirements of the State Urban Renewal Law.

SECTION 300 LEGAL BOUNDARY DESCRIPTION

The following is a legal description of the boundary of the Central Bend Development Program Area.

Commencing at a point which is the intersection of the east right-of-way line of First Street with the north right-of-way line of Olney Avenue, said point bears west 406.76 (plus or minus) feet and south 370.00 (plus or minus) feet from the common corner to sections 28, 29, 32 and 33, Township 17 south, range 12 east, Willamette Meridian, City of Bend, Deschutes County, Oregon. Thence south along said First Street right-of-way line to a point on the south right-of-way line of Franklin Avenue, then west along said line to the east right-of-way line of Division Street, thence south along said line to the south right-of way line of Hastings Place, thence west along said line to the west right-of-way line of Hill Street, thence north along said line to the south right-of-way line of Florida Avenue, thence west along said line to the west right-of-way line of Broadway, thence northerly along said line to a point on the north right-of -way line of Franklin Avenue which is the intersection of the southeasterly line of Tax Lot 5301, Deschutes county, Oregon Tax Assessor]Nat 17 12 32 BD. Thence northeasterly along said southeasterly line to the rear corner of said lot, thence northwesterly along rear lot line to the prevalent waterline of Mirror Pond of the Deschutes River. Thence northeasterly along said water line to the north right-of-way line of Portland Avenue, thence east along said line to the west right-of -way line of Hill Street, thence north along, said line to the north right-of-way line of Olney Avenue, thence east along said line to the point of beginning.

The boundary described from Assessor Plats, Deschutes County Records, Bend, Oregon. The area encompassed by said boundary contains 236 acres (plus or minus).

Exhibit 1 of Part Two of this Plan, graphically describes the boundary as is verbally set forth above.

SECTION 400 GOALS AND OBJECTIVES FOR THE CENTRAL BEND DEVELOPMENT PROGRAM AREA

The primary goals of the Central Bend Development Program and this Plan are to improve the function, condition and appearance of the Development Program Area, by eliminating existing blight and blighting influences, and strengthening economic and environmental conditions.

These guiding principles more specifically identify the purposes of this Plan:

1. Improve the function, condition and appearance of the development area.
2. Create a downtown people center by giving high priority to the river and downtown core projects.
3. Incorporate the "Bend Character"/high desert character into all project designs.
4. Preserve and enhance local historic landmarks and design as part of the Bend experience.
5. Develop projects with sound economic principles that will be conducive to successful investments.
6. Give high priority to human scale and livability.
7. Improve and provide a balanced plan for adequate parking and traffic circulation.
8. Increase the downtown's role as a center for government and business activity.
9. Protect and enhance the livability of existing residential neighborhoods within the Development Program Area and encourage new residential uses in the program area.
10. Create a town square character by maintaining and developing cultural, historic and entertainment resources.

A. HOUSING AND AREA AMENITIES

1. GENERAL GOAL:

   To give high priority to increasing the number of residential accommodations in the Development Program Area for a mix of age and income groups, taking into consideration differing life styles; and to provide a quality environment in which people can live, recognizing that residents of The Development Program Area and adjacent areas are essential to the growth, stability and general health of a city.

2. SPECIFIC GOALS:

a. Coordinate and better organize the efforts of all agencies that are involved in the provision of housing, both public and private.

Specifically:

(1) Develop economic or other incentives to reduce the slippage rate of existing housing units from the market in the Development Program Area and encourage the building of additional housing units.

(2) Encourage the fullest use of public and private programs to ensure that future Program Area housing accommodates a mix of low, moderate and high-income people.

(3) Provide, in addition to existing federal programs, comprehensive plans for the relocation of all displaced residents.

(4) Establish a mechanism within the neighborhoods that can provide the people living in them a voice in making decisions affecting the area as well as responsibility for those decisions.

(5) Recognize the differing needs and problems of the various groups who will be housed, including those groups who naturally gravitate to the Program Area. Provide housing and services commensurate with their physical and social needs. These groups include the single, retired, the elderly, students and the handicapped.

(6) Translate the "Bend Character" as defined by rivers, parks, trees, topography, vistas, and spirit into design concepts that will guide future development and use of existing structures.

(7) Enhance the livability of the Development Program Area through creation of a pleasurable environment providing:

(a) A multi-model transit system including pedestrian ways and bicycle facilities, to connect Program Area housing and adjacent neighborhoods with open spaces, the retail Program Area, and medical and/or other support facilities.

(b) Parks, places to talk, play (both children and adult activities), look, think and enjoy.

(c) Other public use facilities such as restaurants, plazas, rest rooms, skating rink, etc.

(d) Accessible service outlets for residential areas; e.g. drugstores, medical facilities, and grocery stores.

(e) Adequate lighting in all parts of the Development Program Area in accordance with City lighting standards as established by ordinance.

(f) Appropriate police, fire and health protection.

(g) A variety of tourist attractions; e.g., use of the river.

(h) Clean air and reasonable noise levels.

B. COMMERCE

1. GENERAL GOAL:

Maintain and enhance the role of the Development Area as a center for obtaining retail goods and consumer services, providing an atmosphere conducive to investment.

2. SPECIFIC GOALS:

a. Maintain a compact retail area.

b. Encourage retail use of ground-level space, including shops and restaurants on first floors below office buildings or housing. Keep parking and other non-retail uses from breaking up the sidewalk retail frontage.

c. Encourage clusters of general and specialty retailing in the Development Program Area.

d. Encourage development that will create interaction along the riverfront.

e. Create a system of pedestrian ways which:

(1) Connect the retail Program Area with the riverfront, offices, residential areas, and parking facilities.

(2) Create a pleasant shopping environment in the retail Program Area, providing on-street amenities, landscaping and distinctive infrastructure treatment as appropriate to the specific location. Shelter from the weather in the form of canopies, awnings or similar treatment will be given consideration when they can be effectively integrated into historic

building facades and the existing character of the street.

(3) Reduce stress by eliminating pedestrian/vehicle conflicts. Investigate the feasibility of altering store loading schedules and/or locations.

f. Provide amenities for shoppers: street furniture, public art and features such as water fountains, meeting rooms, places to sit, rest, wait, observe; shoppers' lockers, day-care facilities, bicycle storage, and public restrooms.

g. Encourage renovation of deteriorated retail facilities.

h. Amend land use codes as appropriate to enhance mixed-use potential in the Development Program Area.

C. RIVERFRONT DEVELOPMENT

1. ASSETS AND POTENTIAL

Although Bend is in an outdoor recreational area center, the riverfront is one of the few urban places which provides people with an opportunity to enjoy open spaces and, more particularly, the special qualities of a body of water. The riverfront provides a setting for play as well as work, relaxation as well as group interaction, the opportunity to create for the people of Bend a combination of unique activities through which city life can be enhanced.

a. These goals are based on the assumptions that the highest priority should be given to the human element; to enhancing livability; and to fulfilling the human need for open space.

b. The riverfront should offer contrast and relief from the formal character of downtown.

c. The very nature of the river and the riverfront makes possible the realization of a broad range of unique activities, not possible elsewhere in the city.

d. The riverfront should be a place which will act as a magnet, drawing people back into the heart of the city ... a community focus.

e. Through careful planning, landscaping and development, strive to capture the beauty and drama of the Deschutes-a great northwest river with a colorful past.

2. IMMEDIATE GOALS:

a. Establish a mechanism for public involvement in the development of the riverfront. Directly involve individuals as well as organizations.

b. Establish a public policy for the development of publicly owned riverfront land, keeping in mind the potential for uses and the community involvement which may not exist on private lands.

c. Support activities, which take advantage of the water.

d. Support programs to make the Deschutes River free of pollution and safe for water-oriented activities and wild life.

3. LONG-RANGE GOALS:

a. Work cooperatively with the Parks District and others to insure "the riverfront" is useable for a full range of activities.

b. Good physical and visual access should be developed from the downtown to the waterfront and to the water itself.

(1) The riverfront must be pedestrian oriented.

(2) Facilities for automobiles should be avoided on the riverfront.

(3) Pedestrian ways should penetrate automobile traffic barriers to the greatest extent possible.

(4) Develop a network of trails, paths, walks which provide wide-ranging connections to all of downtown.

(5) Create a "promenade" feeling, a setting for mingling and communicating.

c. The two banks of the river should be connected visually and by safe, pleasant pedestrian/bicycle ways.

d. Develop permanent facilities to provide public-oriented commercial, retail, service, gathering and entertainment activities.

D. PARKING AND CIRCULATION

1. Provide an efficient, balanced network of circulation and enhance the accessibility of parking.

2. Encourage maximum accommodation to walking in the Program Area.

a. Reduce air and noise pollution and pedestrian/vehicle conflicts to provide a healthier, more pleasant atmosphere for walking.

b. In recognition of Bend's snowy weather, covered walkways, malls and other appropriate pedestrian ways should be developed to serve the entire core and to link open spaces and parks.

c. Support safe pedestrian access across bridges.

3. Encourage use of bicycles as an alternative mode of transportation by supporting the development of a network of bikeways serving the Program Area and connecting pathways to adjacent areas.

4. Establish a public parking policy by developing an identifiable system of parking in the Development Program Area which will best serve all Downtown activities. Such system should:

a. Analyze parking needs which will best serve planned land uses in the Development Program Area.

b. Provide parking facilities for automobiles appropriate for both long-term and short-term parking in conjunction with good pedestrian access to the Development Program Area.

c. Provide protected parking for bicycles downtown and at peripheral parking sites.

d. Provide convenient and safe locations for parking for citizens with disabilities.

e. Plan and provide when and where appropriate for public transit facilities within the Development Program Area that interconnect with a citywide transit and transportation plan.

E. OFFICE DEVELOPMENT

1. GENERAL GOAL:

Strengthen the Development Program Area's role as an important center for administrative, financial, personal and professional business, service, and governmental activities.

2. SPECIFIC GOALS:

a. Provide sites for expansion of existing office tenants and proactively seek to retain such tenants and to connect

potential office tenants and businesses with available land and buildings in the Program Area.

b. Encourage the use of rehabilitated historic buildings as office space.

c. Encourage, at the street level, pedestrian-oriented spaces and activities such as plazas, retailing, restaurants, etc.

d. Strengthen pedestrian access from office facilities to retail and public areas.

e. Utilize office building rooftops for supportive open-space and other amenities.

f. Provide adequate off-street loading facilities in new buildings.

g. Encourage shared parking and transportation demand management strategies through a variety of programs.

h. Facilitate and encourage the location of additional government offices, particularly in those areas where office and government uses are now predominant.

F. CULTURE AND ENTERTAINMENT

1. GENERAL GOAL:

Promote the Development Program Area as the entertainment and cultural center of the community.

2. SPECIFIC GOALS:

a. Encourage public sponsorship of entertainment.

b. Partner with Central Oregon Arts Association and other like organizations to promote facilities for the performing and fine arts.

c. Provide incentives for new and existing buildings to create entertainment facilities within them for public use.

d. Provide spaces for community entertainment, exhibition, itinerant commerce and meeting facilities.

G. HISTORIC PRESERVATION

1. GENERAL GOAL:

Support historic preservation by consultation with Deschutes County's Historical and Cultural Resources Office in the redevelopment of historic structures and sites and in façade treatment programs.

2. SPECIFIC GOALS:

   a. Define in clear and specific terms the criteria to be used for the classification of historic structures.

   b. Protect historic buildings from incompatible development.

   c. Encourage coordination among those owners revitalizing historic structures to create a common or compatible atmosphere.

H. ENVIRONMENTAL

1. GENERAL GOAL:

   Create in the Development Program Area an urban setting with a definite sense of place and identity by developing strong boundaries, emphatic focal points, unique physical designs for identifiable areas and by enhancing special views such as of the riverfront and of historically or architecturally significant buildings.

2. SPECIFIC GOALS:

   a. Sharpen the visual identity of sub-areas, such as Minnesota Street, Heritage Square and the Deschutes County government center.

   b. Encourage the creation of visual amenities and physical facilities that might not otherwise be built.

   c. Give careful consideration to the design of street furniture, planting, signing and lighting.

   d. Encourage careful consideration of climatic conditions in the design and redesign of buildings.

   e. Give careful consideration to the number, location and design of billboards and business and directional signs.

I. FINANCING THE COST OF DEVELOPMENT

1. GENERAL GOAL:

   Before undertaking the development, rehabilitation or redevelopment of public or private property, investigate the availability and potential use of programs and techniques that would reduce financing costs.

2. SPECIFIC GOALS:

   a. Work with private sector partners to leverage investment utilizing the most appropriate financing methods including loan and grant programs of the Bend Development Board.

b. Investigate the use of federal government loan and grant programs for use in conjunction with public and private development.

c. Utilize and refer businesses to federal, state and other agencies or programs as appropriate to their development proposals.

SECTION 500 LAND USE PLAN

The use and development of all land within the Central Bend Development Area shall comply with the City's Comprehensive Plan and implementing ordinances, the City Charter, or any other applicable local, state or federal laws. The Bend Development Board will make recommendations from time to time to the City's development staff, Planning Commission and Council regarding changes to local codes that would facilitate appropriate development while enhancing the overall livability of the Program Area.

SECTION 600 PROJECT ACTIVITIES

In order to achieve the objectives of this Plan, the following activities will be undertaken on behalf of the City of Bend by the Bend Development Board, in accordance with applicable federal, state, county and city laws, policies and procedures.

A. REHABILITATION AND CONSERVATION

1. Intent. It is the intent of this Plan to encourage viable economic use of existing structures that strengthen the area and to promote the preservation of historical structures that can be economically rehabilitated.

2. Rehabilitation and conservation may be achieved, but is not limited to, the following ways:

   a. By owner and/or tenant activity, with or without financial assistance by the Development Board;

   b. By the enforcement of existing City codes and ordinances;

   c. By acquisition of property by the Development Board for rehabilitation by the Development Board or resale for rehabilitation by others.

   d. By the appropriate redevelopment of building facades supported in part by policies and financing of the Bend Development Board.

3. Financial Assistance for Building Rehabilitation. The Development Board, with funds available to them, is authorized to promulgate rules and guidelines, make grants to qualified public and private non-profit agencies and to establish loan programs and provide below market interest rate loans to owners of buildings which are in need of rehabilitation.

a. Straight Loans with terms and interest rates to be determined by the Development Board. Interest rates shall be sufficient to cover the costs of the Development Board and its staff in processing and servicing such loans;

b. Deferred Payment Loans by commercial building owners or owner-occupied housing in need of resources for rehabilitation. A lien shall be placed on the property and the loan shall be due and payable only when the property title changes from the party receiving the loan;

c. A Special Loan Reserve Fund may be established by the Development Board and placed in an interest bearing reserve account for the purpose of guaranteeing below market interest rate loans provided to non-residential building owners by local banks, savings and loan companies or other local financial institutions. The Development Board is authorized to negotiate and establish such loan payments with such local financial institutions and to establish and adopt appropriate rules and guidelines for their use.

d. The Development Board may function as the City's agent in processing and servicing low interest rate housing rehabilitation loans made available from funds provided by the Federal and/or State Government and their agencies.

e. The Development Board may assist local businesses in securing low interest rate loans from the federal and state government and their agencies.

f. The Development Board may assist the owners of historically significant buildings or property in securing official historic designation of their property from state and federal government agencies and assist in preparing documents necessary for such owners to receive loans and grants for the restoration, rehabilitation and preservation of such officially designated historic buildings or places.

B. ACQUISITION, DISPOSITION AND REDEVELOPMENT

It is the intent of this Plan to authorize the Development Board to acquire property within the Development Program Area as stated in this subsection to achieve the objectives of the Plan, and specifically, for any purpose listed in Subsection 600-B-2 below. The Development Program Board is further authorized, as stated in this subsection, to dispose of property by sale, lease, or other conveyance for redevelopment by public or private parties where such redevelopment achieves the objectives of this Plan.

1. General Authority Property acquisition, including limited interest acquisition, is hereby made a part of this Plan and may be used to achieve the objectives of this Plan based on any one of the following criteria:

   a. Where existing conditions do not permit practical or feasible rehabilitation of a structure, and it is

determined that acquisition of such properties and demolition of the improvements thereon are necessary to remove substandard and blighting conditions;

b. Where detrimental land uses or conditions such as incompatible uses, or adverse influences from noise, smoke or fumes exist, or where there exists over-crowding, excessive dwelling unit density or conversions to incompatible types of uses, and it is determined that acquisition of such properties and demolition of the improvements are necessary to remove blighting influences and to achieve the objectives of this Plan;

c. Where it is determined that the property is needed to provide public improvements and facilities as follows:

(1) Right-of-way acquisition for streets, alleys or pedestrian ways;

(2) Property acquisition for City government offices and other City or public use; and

(3) Property acquisition for public off-street parking or park facilities.

d. Where the owner of real property within the boundaries of the Development Program Area wishes to convey title of such property by any legal means, including by gift; or

e. Where the existing property owner is either unwilling or unable to achieve the objectives of this Plan or where acquisition is necessary to the implementation of this Plan.

f. Where opportunities exist with publicly owned or controlled land for redevelopment to enhance the goals and objectives of this Plan.

2. Land Acquisition for Public Improvements and Facilities. The Development Board may acquire real property for public improvements and facilities authorized in the Plan by any legal means, including eminent domain, without amendment of the Plan.

3. The Development Board may acquire real property by willing conveyance of the property owner(s) for any project authorized in this Plan after a Minor Amendment of the Plan to identify the real property. Such amendment shall include the anticipated disposition of said real property, whether by retention, resale, lease or other legal use, together with an estimated time schedule for such acquisition and disposition.

4. The Development Board may acquire, by any legal means including eminent domain, for any purpose including conveyance and redevelopment by private parties, the real property specifically identified in this Plan. The Development Board may acquire additional real property, by any means including eminent domain,

for redevelopment by private parties only after adoption of a Minor Amendment of the Plan identifying the property, pursuant to Section 1200. Such amendment shall include the anticipated disposition of said real property, whether by retention, resale, lease or other legal use, together with an estimated time schedule for such acquisition and disposition.

Part 2, Exhibit 2 of the plan lists the properties that may be acquired and provides the anticipated purpose of their disposition and an estimated time schedule for such acquisition and disposition.

C. RELOCATION ACTIVITIES

If in the implementation of the Plan, persons or businesses should be displaced by action of the Development Board, the Development Board will provide assistance to persons or businesses to be displaced in accordance with statutory requirements and any other applicable laws or regulations.

Prior to acquiring any property that will cause households, businesses, offices or other uses to be displaced, the Development Board will prepare, adopt, and maintain a Relocation Policy. Such policy will be available to interested parties at the Development Board's office and will set forth the relocation program and procedures, including eligibility for and amounts of relocation payments, services available and other relevant matters.

D. PUBLIC IMPROVEMENTS

1. Intent. Public facilities, including parks, streets and alleys, off-street parking facilities and public utility systems may be improved or constructed within public rights-of-way, on easements, on public property or on property acquired for public use. Where street improvements in locations not within the Development Program Area are essential for access and circulation to, from and within the Development Program Area, the Agency may undertake such improvements. Prior to undertaking such projects, the projects must be specifically identified in the Plan. Projects not currently identified in the Plan shall be added by Minor Amendment. See Section 1200.

2. Public improvements may include the construction or reconstruction of streets and alleys including sidewalks and pedestrian amenities described on Exhibit 3 (13) of Part Two of this Plan, including the pedestrian amenities described in this subsection.

   a. New curbs and gutters, including curb extensions into on-street parking areas;

   b. New sidewalks and distinctive cross-walks;

   c. Trees, shrubs, flowering plants, ground covers, and other plant materials including irrigation systems, soil preparation and/or containers to support same;

d. Tables, benches and other street furniture including kiosks, phone booths, drinking fountains, decorative fountains, street lights and traffic control devices;

e. Special graphics for directional and informational purposes;

f. Sidewalk awnings, canopies and other weather- sheltering devices for the protection of pedestrians.

g. Included in Part 2 Exhibit 3 are the Bond/Wall and Arizona/Colorado Couplet Projects which may include closely related improvements on nearby streets to address issues of potential neighborhood cut-through traffic; portions of these projects are located in close proximity to but outside the boundaries of the Development Program Area. The construction of the Bend Parkway has limited access to the Program Area and these projects facilitate ingress and egress to the Area from the south. Providing ease of access and lessened congestion for motorists is critical to the economic vitality of the Program Area and for its residents.

3. Public improvements may also include public water, sanitary sewer and storm sewers systems within the Development Program Area as needed and specifically those systems shown on Exhibit 4-B in Part 2 of this Plan.

4. Public improvements may also include the Heritage Square Project, (See Exhibit 4). This project will consist of a mix of public spaces parking facilities and related elements.

5. Public improvements may also include a Riverfront Connection Project. This project includes specific project elements related to improving pedestrian and vehicular circulation between the core of the Development Program Area and the riverfront. It may include acquisition and improvement of pedestrian easements; development of a pedestrian corridor on Brooks Street with special paving, street furniture and other pedestrian amenities; a change in use of the Mirror Pond Parking lot to further enhance the connected-ness of the downtown retail area to the riverfront; and development of a new pedestrian area and/or redevelopment of the overlook adjacent the Rademacher House.

6. Public improvements may also include planning and development of public off-street parking facilities, including both surface parking lots and structured parking facilities, within the Development Program Area. Structures may also include spaces for retail or office uses, especially on the ground level. In particular, parking facilities may be developed for the use of a parking and transit facility or other government buildings, cultural or hospitality facilities or a conference/convention center within the Development Program Area.

7. Public improvements may include restroom facilities whether stand-alone or incorporated as a part of a larger public or private project.

8. Further, public improvements may include public parks and recreation development.

9. This plan authorizes the under-grounding and relocation of any electrical or communication lines that may be required in completing any authorized project.

10. The Board is authorized to financially assist in the removal and relocation of the electrical distribution substation adjacent to the Pacific Power and Light Corporation property identified on the acquisition list.

E. OFF-SITE FACILITIES

To encourage the development or redevelopment of private or Development Board controlled property within the Development Program Area, the Development Board may construct, install, pay for, or otherwise cause certain public facilities that are physically located off the property itself to be installed or provided when, in the public interest, such action would benefit and further the objectives of this plan.

F. ADMINISTRATIVE ACTIVITIES

1. The Board may obtain staff services from City and City may provide the personnel necessary to staff the Board on such terms and conditions as the Board and City may from time to time agree. Further, the Development Board may retain the services of independent professional people or organizations to provide technical services such as:

   a. Preparation of market, feasibility or socio-economic studies;

   b. Preparation of design, architectural, engineering, landscaping, environmental, planning, redevelopment, or other developmental plans or studies.

   c. Providing accounting or audit services;

   d. Providing special rehabilitation, restoration or renovation feasibility and cost analysis studies;

   e. Assisting in preparation of the annual financial report required under Section 800 of this Plan;

   f. Property acquisition and disposition appraisals;

   g. Providing of legal services; and

   h. Providing financial and financing services.

2. The Development Board may acquire, rent or lease office space and office furniture, equipment and facilities necessary for it to

conduct its affairs in the management and implementation of this Plan.

3. The Development Board may invest its reserve and contingency funds in interest-bearing accounts or securities.

4. To implement this Plan, the Development Board may borrow money, accept advances, loans or grants from any legal source, issue urban renewal bonds and receive tax increment proceeds as provided for in Section 700 of this Plan.

5. The Development Board shall have all of the powers and responsibilities authorized under the provisions of ORS Chapter 457.

G. PRIVATE/NON-PROFIT, PUBLIC OR ARTS FACILITIES

1. The Board plans to assist in the development of performing arts facilities within the program area. Such facilities would help establish the Program Area as the entertainment and cultural center of the metropolitan area as called for in Sec. 400 F (1) (A). This is critical in terms of attracting and strengthening commercial and residential development. The Development Board's role is limited to land acquisition, site development and land disposition to a public or non-profit entity and development of parking for such facilities.

H. PROPERTY PREPARATION, IMPROVEMENT, DISPOSITION AND REDEVELOPER OBLIGATIONS

1. Property Disposition. The Development Board is authorized to sell, lease, exchange, subdivide, transfer, assign, pledge, encumber by mortgage or deed of trust, or otherwise dispose of any interest in real property which it has acquired in accordance with the provisions of this Plan. Prior to disposition the Development Board may prepare the site for redevelopment including, but not limited to the following activities: demolition, environmental remediation and other site preparation.

   Over the course of the Plan, the Development Board may re-evaluate the need for certain public improvements. If the Board finds that an improvement no longer serves the objectives of this plan, property acquired for such public improvement may be offered for development by private parties provided that the property is identified by means of a minor amendment pursuant to procedures as set forth in this plan.

   All real property acquired by the Development Board in the Development Program Area, if any, shall be disposed of to a Redeveloper for the uses permitted in this Plan at its fair re-use value. Real property acquired by the Development Board may be disposed of to any other public entity, without financial consideration, in accordance with this Plan. All persons and

entities obtaining property from the Development Board shall be considered as redevelopers and shall use the property for the purposes designated in this Plan, and shall commence and complete development of the property within a period of time which the Development Board fixes as reasonable, and shall comply with other conditions which the Development Board deems necessary to carry out the objectives of this Plan.

The Development Board shall provide adequate safeguards to ensure that the provisions of this Plan will be carried out to prevent the recurrence of blight. All real property owned or leased by participants, shall be made subject to this Plan. Leases, deeds, contracts, agreements, and declarations of restrictions by the Development Board may contain restrictions, covenants, covenants running with the land, rights of reverter, conditions subsequent, equitable servitude, or any other provisions necessary to carry out this Plan.

2. Redeveloper's Obligations. Any Redeveloper and its successors or assigns within the Development Program Area, in addition to the other controls and obligations stipulated and required of him by the provisions of this Plan, shall also be obligated by the following requirements:

   a. The Redeveloper shall obtain necessary approvals of proposed developments from all Federal, State and/or local agencies that may have jurisdiction on properties and facilities to be developed or redeveloped within the Development Program Area;

   b. The Redeveloper shall submit all plans and specifications for construction of improvements on the land to the Development Board for review and distribution to appropriate reviewing bodies as required by the City and shall comply with all applicable requirements of existing City codes and ordinances;

   c. The Redeveloper shall commence and complete the development of such property for the uses provided in this Plan within a reasonable period of time as determined by the Development Board;

   d. The Redeveloper shall not effect or execute any agreement, lease, conveyance, or other instrument whereby the real property or part thereof is restricted upon the basis of age, race, color, religion, sex, marital status, or national origin in the sale, lease or occupancy thereof;

   e. The Redeveloper shall accept all conditions and agreements as may be required by the Development Board in return for receiving assistance from the Development board, including financial assistance (if any);

   f. The Redeveloper shall maintain developed and/or undeveloped property under his ownership within the area in a clean, neat, and safe condition.

I. OWNER PARTICIPATION

Property owners within the Development Program Area proposing to improve their properties and receiving financial assistance from the Development Board shall be considered as Owner Participants and shall improve their property in accordance with all applicable provisions of this Plan and with all applicable codes, ordinances, policies, plans and procedures of the City of Bend.

J. DEVELOPMENT OPPORTUNITY FUND

The Board is establishing a fund for projects not now identified specifically in this plan where said projects would further the policies and priorities of this Plan and where significant financial resources and other commitments are leveraged by the Board's participation. There are clearly opportunities that will arise that cannot be foreseen today or that are not yet fully developed and ready for implementation. This fund will allow the Board to have the ability to respond to those and should be empowering to neighborhood and business interests within the district.

These projects may involve any or all of the potential partners identified in this section. There may be certain requirements for applying for these funds established by the Board, but in all cases the Board shall have final authority in supporting, to the extent it deems advisable, any project proposed for funding or other support.

SECTION 700 METHODS FOR FINANCING THE PROJECT

A. GENERAL DESCRIPTION OF THE PROPOSED FINANCING METHODS.

The Development Board may borrow money and accept advances, loans, grants and any other legal form of financial assistance from the Federal Government, the State, City, County or other public body, or from any sources, public or private, for the purposes of undertaking and carrying out this Development Plan, or may otherwise obtain financing as authorized by ORS Chapter 457.

B. TAX INCREMENT FINANCING.

The Bend Development Board proposes to finance the Plan, and the projects undertaken with respect to the Plan, in whole or in part, through tax increment financing as authorized by Article IX, section Ic of the Oregon Constitution and ORS 457.420 through 457.460. Such financing is authorized by the statute when the plan contains the following provision: The ad valorem taxes, if any, levied by a. taxing district in which all or a portion of an urban renewal area is located, shall be divided as provided in section 1c, Article IX of the Oregon Constitution, and ORS 457.440.

Nothing in this section is intended to inhibit the ability of the Bend Development Board to refinance or refund existing bonded indebtedness that may be issued under the Plan.

The maximum amount of indebtedness that may be issued or incurred under this Plan shall be $21,543,923. This amount is the amount of the principal of indebtedness and does not include indebtedness incurred to refund or refinance existing indebtedness. This amount has been based upon good faith estimates of the scope and costs of projects, including but not limited to increases in costs due to reasonably anticipated inflation, in the existing urban renewal plan and the schedule for their completion as completion dates were anticipated as of December 5, 1996.

C. PRIOR INDEBTEDNESS.

Any indebtedness permitted by law and incurred by the Development Board or the City in connection with preplanning for this Central Bend Development Program and Plan shall be repaid from the Board's proceeds from the Development Program when and if such funds are available.

D. BUDGET

The Board shall adopt and use a fiscal year ending June 30 accounting period. Each year the Board shall develop a budget in conformance with the provisions of ORS 294 and ORS 457.460 which shall describe its resources and revenue, proposed expenditures and activities. The Board shall submit its proposed budget to the City of Bend Budget Committee for its review and approval and the Board shall not undertake any activities nor expend any funds except as provided in the approved budget.

SECTION 800 ANNUAL FINANCIAL STATEMENT REQUIRED

A. ANNUAL STATEMENT

ORS Section 457.460 requires that the Bend Development Board, by August 1 of each year, prepare a statement containing:

1. The amount of money actually received during the preceding fiscal year under subsection (4) of ORS 457.440 and from indebtedness incurred under subsection (6) of ORS 457.440;

2. The purposes and amounts for which any money received under subsection (4) of ORS 457.440 and from indebtedness incurred under subsection (6) of ORS 457.440 were expended during the preceding fiscal year;

3. An estimate of monies to be received during the current fiscal year under subsection (4) of ORS 457.440 and from indebtedness incurred under subsection (6) of ORS 457.440;

4. A budget setting forth the purposes and estimated amounts for which the monies which have been or will be received under

subsection (4) of Ors 457.440 and from indebtedness incurred under subsection (6) of ORS 457.440 are to be expended during the current fiscal year; and

5. An analysis of the impact, if any, of carrying out the urban renewal plan on the tax rate for the preceding year for all taxing bodies included under Ors 457.430.

B. PUBLICATION

The statement required by subsection "A" of this Section 800 shall be filed with the City Council and notice shall be published in "The Bulletin," a newspaper of general circulation in the City, that the statement has been prepared and is on file with the City and the Development Board and the information contained in the statement is available to all interested persons. The notice shall be published once a week for not less than two successive weeks before September 1 of the year for which the statement is required. The notice shall summarize the information required under paragraph 1 to 4 of subsection "A" of this section and shall set forth in full the information required under paragraph 5 of subsection "A" of this section.

SECTION 900 CITIZEN PARTICIPATION

The activities and projects identified in this Plan, the development of subsequent plans, procedures, activities and regulations, and the adoption of amendments to this Plan shall be undertaken with the participation of citizens, owners, and tenants as individuals and organizations who reside within or who have financial interest within the Development Program Area and with the general citizens of the City.

SECTION 1000 NON-DISCRIMINATION

In the preparation, adoption and implementation of this Plan, no public official or private party shall take any action or cause any person, group or organization to be discriminated against on the basis of age, race, color, religion, sex, marital status or national origin.

SECTION 1100 RECORDING OF THIS PLAN

A copy of the Ordinance approving this Plan under ORS 457.095 shall be sent to the Bend Development Board. Following receipt of such Ordinance, this Plan shall be recorded by the Bend Development Board with the Recording Officer of Deschutes County.

SECTION 1200 PROCEDURES FOR CHANGES OR AMENDMENTS IN THE APPROVED CENTRAL BEND DEVELOPMENT PROGRAM PLAN

The Plan will be reviewed and analyzed periodically and will continue to evolve during the course of project execution and on-going planning. It is

anticipated that this Plan will be changed or modified from time to time or amended as development potential and conditions warrant, as planning studies are completed, as financing becomes available, or as local needs dictate. All amendments or changes to the Plan will be made in writing in accordance with this Section 1200. The amendments or changes may be Substantial Amendments, Council Approved Amendments or Minor Amendments as hereinafter defined.

A. SUBSTANTIAL AMENDMENTS.

Substantial Amendments shall require the same notice, hearing and approval procedure required by statute for adoption of the original plan. Substantial amendments consist solely of:

1. Adding land to the urban renewal area, except for an addition of land that totals not more than one percent of the existing area of the urban renewal area.

2. Increasing the maximum amount of indebtedness that can be issued or incurred under the plan.

B. COUNCIL APPROVED AMENDMENTS

Council Approved Amendments shall be adopted in the same manner as Substantial Amendments except that the additional notice provisions of ORS 457.120 shall not apply.

Council Approved Amendments consist solely of:

1. Revisions to the duration of the Plan as set forth in section 1300-A.

2. Adding a new project, activity or program which: (a) serves or performs a substantially different function from any project, activity or program specified in this Plan; and (b) is estimated to cost (excluding administrative costs) in excess of $500,000, adjusted annually from 1991 at a rate equal to the construction cost index applicable to the Central Bend Development Program Area.

3. Making other changes in the Plan which alter the basic planning principles or objectives of this Plan.

C. MINOR AMENDMENTS.

All Amendments or changes in this Plan that are not Substantial Amendments or Council Approved Amendments as specified above shall be considered Minor Amendments. Minor Amendments shall include, but not be limited to, identification of property for acquisition pursuant to projects, activities, or programs specified in Subsections 600 B. 3 and 4 of this Plan.

D. AMENDMENT TO THE CITY'S COMPREHENSIVE PLAN OR ANY OF ITS IMPLEMENTING ORDINANCES.

Should the Bend City Council legally amend the City's Comprehensive Plan or any of its implementing ordinances, and should such amendment cause a change to this Plan, such City Council amending action shall automatically amend this Plan without the Bend Development Board, Planning Commission or City Council initiating a Plan amendment procedure pursuant to this Section 1200. In the event of such amendment, the Text and/or Exhibits of this Plan, if applicable to this Plan, shall be changed accordingly by a duly recorded Resolution of the Bend Development Board at the next regular business meeting following official notice from the City Council that such amendment to the City's Comprehensive Plan or any of its implementing ordinances has been approved.

SECTION 1300 DURATION AND VALIDITY OF APPROVED URBAN RENEWAL PLAN

A. DURATION OF URBAN RENEWAL PLAN.

This Plan, with the exception of Section 700-B hereof and any agreements executed by the Development Board which contain provisions regarding their duration, shall remain in full force and effect for a period of not more than twenty-five (25) years from the effective date of such Plan. Following the expiration of the twenty-five year period, the Development Board shall not initiate new projects or incur additional indebtedness. Collection of tax increment revenues may continue beyond this period to the minimum extent necessary to defease indebtedness existing as of the end of the duration period.

B. VALIDITY.

Should a court of competent jurisdiction find any word, clause, sentence, section or part of this Plan to be invalid, the remaining words, clauses, sentences, sections or parts shall be unaffected by such finding and shall remain in full force and effect for the duration of the Plan.

SECTION 1400 ADDITIONAL PROVISIONS

A. RELATIONSHIP BETWEEN PLAN AND LOCAL OBJECTIVES.

The goals listed in the Plan in Section 400 are the local objectives of the City of Bend and the Plan furthers those objectives.

B. BUILDING REQUIREMENTS FOR URBAN RENEWAL AREA.

The building requirements for all buildings in the Development Program Area are those specified in the City of Bend's Fire and Building Codes.

Central Bend Development Program Area Plan 2001

Part Two: Exhibits

Exhibit 1:	Development Plan Boundary
Exhibit 2:	Central Bend Development Program Area Plan Real Property Acquisition List
Exhibit 3:	Projects by Location
Exhibit 4:	Heritage Square Project Rendering
Exhibit 5:	Land Use Plan
Exhibit 6:	Topography

PART II - EXHIBITS

EXHIBIT 1 PLAN BOUNDARIES/MAP

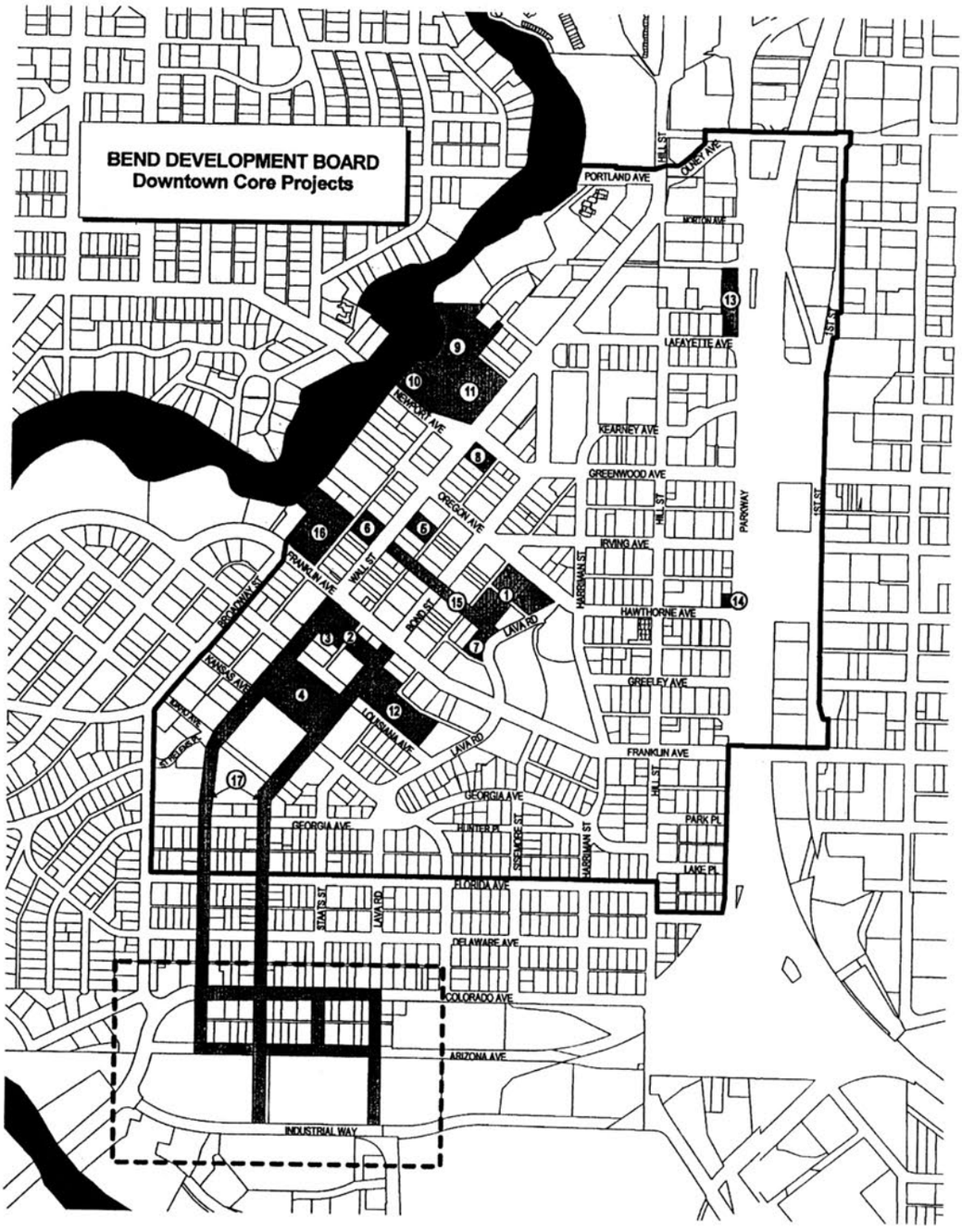


EXHIBIT 2 CENTRAL BEND DEVELOPMENT PROGRAM AREA PLAN REAL PROPERTY ACQUSITION LIST

1) "Oregon Street Mall" property. A portion of Lot 13, Block 15, Bend Addition, Assessor's map #17-12-32DB, tax lot 3100. This site was acquired by the City of Bend in 1992 and currently has some retail space leased. It has been identified in the City of Bend Downtown parking master plan as a targeted location for development of a multi-level parking structure due to its central location. Proposed redevelopment surrounding this structure includes office space at the northeast corner of the block with live/work space along both Oregon and Minnesota Streets to strengthen the east/west retail grid. Acquisition is planned in 2001.

2) "Wall & Franklin" property (se corner of NW Wall Street and NW Franklin Ave.). Lots 1 and 2, Block 8, Bend Addition, Assessor's map #17-12-32CA, tax lot 5200, 740 NW Wall Street. This is a key gateway property that is planned to provide for mixed-use development and parking. Acquired by the City of Bend in May 2000, it is anticipated to be acquired by the Bend Development Board for re-development in 2001.

3) "Knapp-Shuck" property. Portion of Lot 4, Block 8, Bend Addition; Assessor's map #17-12-32CA, tax lot 5400, 726 NW Wall Street. This is located just to the south of the "Wall & Franklin" property, it would be developed with the uses described for Wall & Franklin, also planned for acquisition in 2001.

4) Heritage Square property. A portion of tax lot 8600, Assessor's map #17-12-32CA. Now school District owned parking lying between the City Hall and the Bend School District administration offices, this is planned for redevelopment as a public square, possibly with parking in the center of the existing governmental offices complex. Acquisition is planned for 2002.

5) "Wells Fargo" property. Lots 1,2,3,4, Block 10, Bend Addition; Assessor's map #17-12-32AC, tax lot 5100, site address 111 NW Oregon Avenue, Bend. This property is targeted for one or two levels of parking behind new street-level retail, where there is currently a mid-block void with a surface parking lot. Possible apartments or office use could also be constructed on the upper levels if desired. Acquisition is planned in 2002.

6) a) "Bennett" property (owner C & G Bailey Family Ltd Partnership). Lots 20, 21, Block 4, Subdivision of Block 4 Plat of Bend; Assessor's map #17-12-32BD, tax lot 6400, 869 NW Wall Street, Bend. This is a key property on Wall Street at the westerly terminus of Minnesota Street that could be used to provide a gateway to Brooks Street and Drake Park.

b) "C.E. Francis" property. Los 18 and a portion of Lot 19, Block 4, Subdivision of Bend, Assessor's map #17-12-32BD, tax lot 6300, site address 855 NW Wall Street, Bend. This property

adjacent to the "Bennett" property described above, which could serve the same purpose.

c) "Rice" property. Portion of Lot7, Block 3, Subdivision of Bend; Assessor's map #17-12-32BD, tax lot 6500, site address 903 NW Wall Street, Bend. This property adjacent to the "Bennett" property described above, which could serve the same purpose.

It is the intention of the Board that one of these properties, not all three, would be acquired in 2002 to enhance the current limited pedestrian access and view corridor to Brooke Street.

7) "Fire Hall" property. Lot 13, Block 16, Bend Addition, Assessor's map #17-12-32DB, lot 12100, street address 5 NW Minnesota Ave. This historic property, formerly the site of the downtown fire station, is to be acquired from the City for re-development, with a mix of uses possible, but needing to provide a strong pedestrian anchor for the easterly terminus of Minnesota Street; a restaurant or similar destination activity is envisioned. Preservation of the historic character of the building will be required of any new use. Planned for acquisition in 2001.

8) "Greenwood & Wall parking lot" (southeast corner of intersection of NW Wall Street and NW Newport Ave.) Lots 1 and 2, Block 11, Bend Addition; Assessor's map #17-12-32AC, lot 6300. This is another gateway property at the north entrance to the downtown business district, which the City now owns. Probable uses are retail or offices on the street level with additional office spaces or housing on upper levels. Very limited, if any, parking would be included on this site, so other locations would meet that need. Planned acquisition in 2003.

9) "Pacific Power & Light Co." property. Assessor's map #17-12-32AC, tax lot 1500. This property can assure continued public access to the river; it also provides a potential riverfront development site. It is situated where it could be tied into the "Lifewise" or "Elks" sites and used in linking riverfront development under Newport Avenue through to the Mirror Pond area. Probable development includes a restaurant, mixed-use commercial /residential and/or parking. Acquisition planned in 2002.

10) "Elks" property. Assessor's map #17-12-32AC, tax lot 1600. This property is located adjacent to the river, Newport Ave. and the "Lifewise" site. This is a key location for one of the very few riverfront development opportunities, which could link riverfront property under Newport Avenue and/or work with a redevelopment of the "Lifewise" site. Other possible uses include a restaurant, mixed-use commercial/residential and/or parking. Acquisition planned in 2002.

11) "Lifewise" property (northwest corner of the intersection of NW Wall Street and Newport Avenue). A portion of Lot 3, Block 1, Bend Addition, Assessor's map #17-12-32AC, tax lot 1400. This is a key location at the northwest corner of the intersection of Wall Street and Greenwood Avenue and abutting the Pacific Power

property; it is targeted as an improvement gateway property that could accommodate mixed-use development and might be considered for hotel development.

12) "St. Francis" property (owner Roman Catholic Bishop of the Diocese of Baker). Lots 3,4,5,6, Block 17, Bend Addition; Assessor's map #17-12-32CA, tax lot 6100; site address 740 NW Bond Street. This is the former site of the St. Francis School and is a key property because it is located near multiple existing government facilities and the proposed Heritage Square area, which would displace significant parking now serving the school district. A developer has secured an option and the Development Board anticipates acquisition in 2003 only if the option is not exercised.

13) Lafayette/Parkway property. Assessor's map 17-12-32AD, tax lot 1000 & 17-12-32AA, tax map 6700. This property lies west of and adjacent to the Parkway, immediately north of Lafayette Avenue. It is surplus to the Oregon Department of Transportation which will make it available later this year. This site of approximately 2/3 of an acre is to be acquired for development as a parking lot, specifically to provide parking for downtown employees, anticipating a shuttle or other transit that should be available by 2002. Acquisition planned in 2001 with development in the 2001-02 fiscal year.

14) Hawthorne/Parkway property. Assessor's map 17-12-32DA, tax lot 1500. This property lies west of and adjacent the Parkway, immediately north of Hawthorne Avenue. It is surplus to the Oregon Department of Transportation which will make it available later this year. This site of approximately 4500 square feet is to be acquired primarily for establishing this Parkway exit as a principal gateway access to downtown; it is expected this would be accomplished with landscaping, art and signage. Acquisition planned in 2001.

EXHIBIT 3 PROJECTS BY LOCATION

15) Minnesota Streetscape improvements.

16) Park Overlook/ South Mirror Pond Parking Lot Redevelopment

17) Bond/Wall and Arizona/Colorado Streets Couplet Projects (the southerly portion of this project is yet undefined as to the precise location but is generally depicted to be within the dashed line area on the project map.

Location map of these projects on page 26.

EXHIBIT 4 HERITAGE SQUARE PROJECT DRAWING

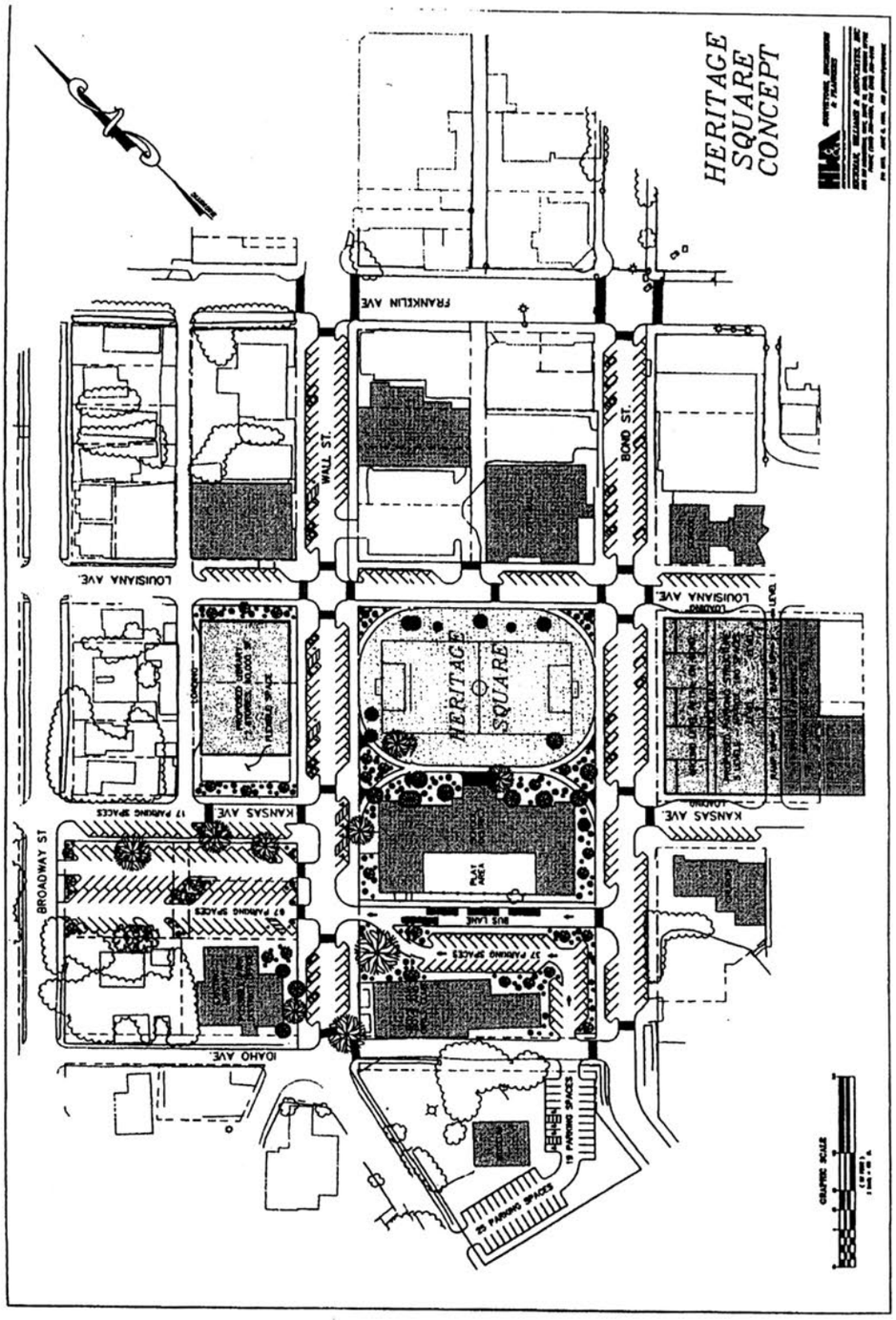


EXHIBIT 5 LAND USE PLAN MAP

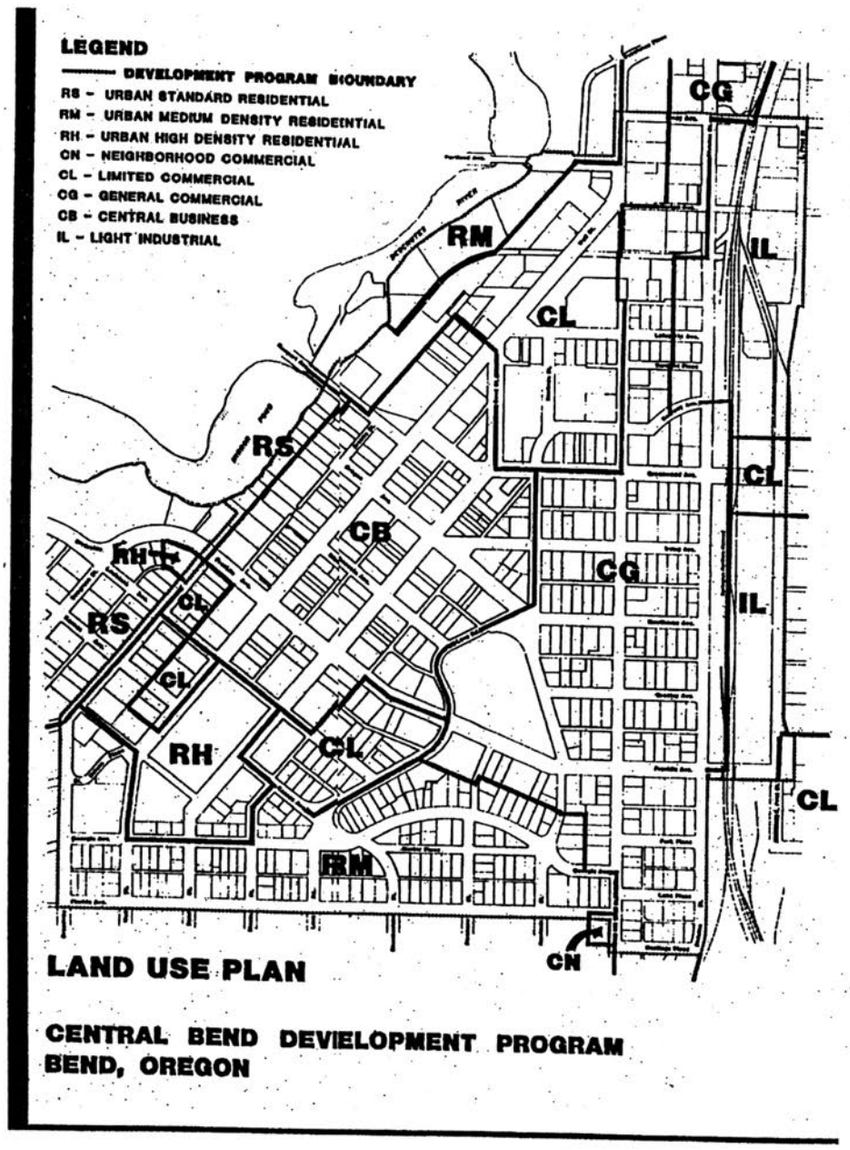
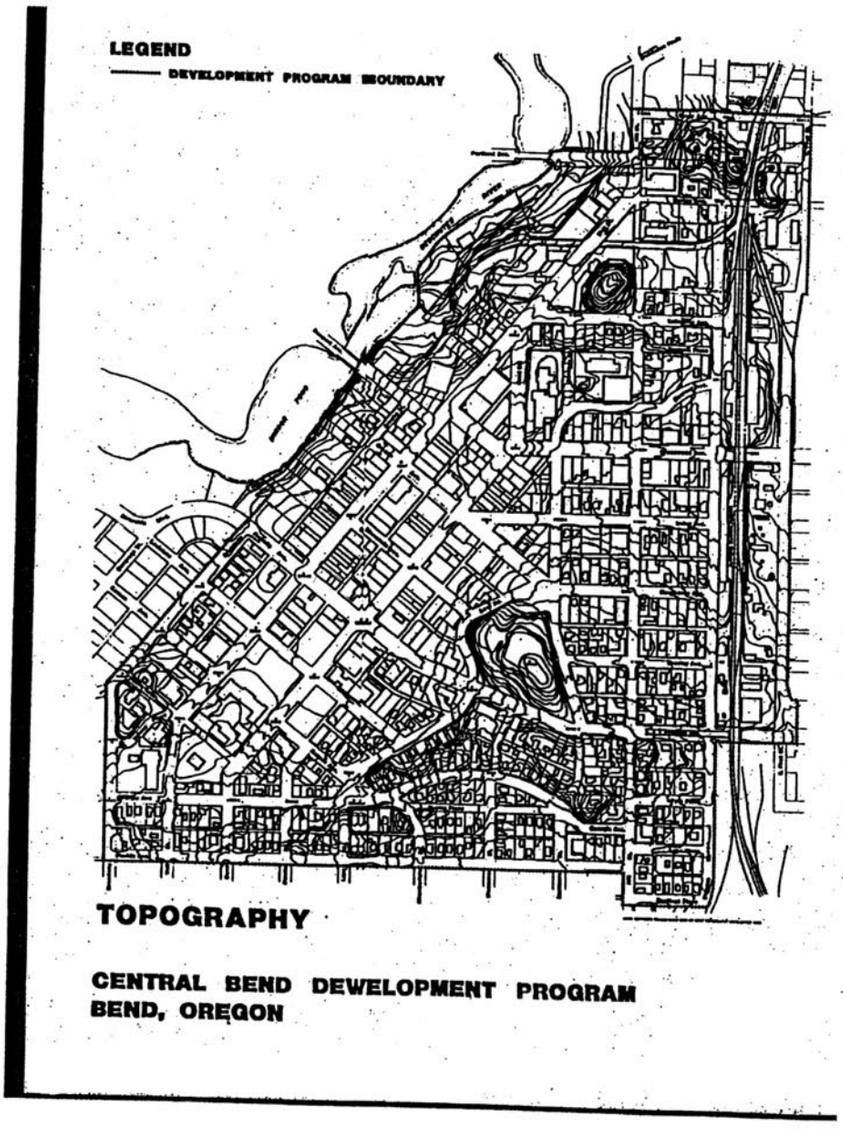


EXHIBIT 6 TOPOGRAPHY



Central Bend Development Program Area Plan 2001

Part Three: Plan Report

Proposed Urban Renewal Report

Table 1:	Projected Maximum Urban Renewal Revenues
Table 2:	Proposed Tax Increment Revenues and Debt Service Requirements
Table 3:	Proposed Impact Analysis During Payment of Indebtedness
Table 4:	Proposed Projection of Annual Revenues Gained At End of Plan
Appendix 1:	Project Fund Sum

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CHAPTER V. The Relationship Between each Project to be Undertaken Under the Plan and the Existing Conditions in the Urban Renewal Area 35

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CHAPTER VII. The Anticipated Completion Date for Each Project .37

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PROPOSED CENTRAL BEND DEVELOPMENT PROGRAM AREA PLAN REPORT 2001

CHAPTER I. INTRODUCTION

This Report on the 2001 Amendments (the "Amendment") to the Central Bend Development Program Area Plan (the "Report"), which amendment is date April 18, 2001. The Amendment does not affect the boundaries of the Central Bend Development Program Area (the "Area") nor does it affect the maximum amount of indebtedness to be issued or incurred under the Central Bend Development Program Area Plan (the "Plan"). However, the Amendment affects the goals and objectives of the Plan, the projects to be undertaken, the property to be acquired and the required process for future plan amendments. Because of the scope of this Amendment, it is considered to be a "substantial" amendment and is accompanied by this Report.

CHAPTER II. PHYSICAL, SOCIAL AND ECONOMIC CONDITIONS IN THE URBAN RENEWAL AREA

The conditions of "blight" within the Area were described in the original Report on the Plan, dated August, 1989. The Amendment responds to these same conditions of blight.

CHAPTER III. THE EXPECTED IMPACT, INCLUDING THE FISCAL IMPACT, OF THE PLAN IN LIGHT OF ADDED SERVICES OR INCREASED POPULATION

The Amendment will encourage the rehabilitation and redevelopment of various properties within the Area within the limits prescribed in the City of Bend's General Plan and its implementing ordinances. Therefore, the service demands from the Area are anticipated and plans have been made to accommodate these demand by the City and other public service providers.

CHAPTER IV. REASONS FOR SELECTION OF EACH URBAN RENEWAL AREA IN THE PLAN

The Amendment does not affect the reasons for the selection of the Area, which are described in full in the original Report on the Plan.

CHAPTER V. THE RELATIONSHIP BETWEEN EACH PROJECT TO BE UNDERTAKEN UNDER THE PLAN AND THE EXISTING CONDITIONS IN THE URBAN RENEWAL AREA

The project activities to be undertaken under the Plan as described in Section 600 of the Amendment (rehabilitation and conservation; land acquisition, disposition and redevelopment; public improvements; and development of off-site facilities) respond to the conditions documented and described in Chapter II of the original Report on the Plan.

CHAPTER VI. THE ESTIMATED TOTAL COST OF EACH PROJECT AND THE SOURCES OF MONEYS TO PAY SUCH COSTS

The costs of the projects provided for in the Amendment is as follows. A detailed table of project costs is attached as Appendix 1 to the Report.

Materials, Services, Personal	1,683,136
Land Acquisition	10,693,130
Street Improvements	1,897,500
Public Space Improvements	991,637
Parking Facilities	7,882,998
Façade Renovation	532,976
Development Opportunity Fund	1,800,000
Transfers/Admin.	902,797
Transfers/projects	1,077,213
Transfer to Debt Service Fund	200,000
Ending Balance	6,998
Total	26,781,875

The sources of funds to pay for these projects are as follows:

Beginning Balance	3,774,963
Real Property Sales	6,219,026
SDC's (Bond/Wall/Col/Ariz	600,000
Long Term Debt Proceeds	10,256,372
Short Term Debt Proceeds	4,922,039
Interest	776,976
Repayment of Rehab Loans	232,500
Total	26,781,875

CHAPTER VII. THE ANTICIPATED COMPLETION DATE FOR EACH PROJECT

Project	Completion Date (FY Ending June 30)
Land Acquisition	
Oregon Mall	2001
Firehouse	2001
Wall/Franklin	2003
Wells Fargo	2005
Elks Building	2002
PP&L	2002
Lifewise	2004
Riverfront Connection	2002
Lafayette/Parkway Lot	2002
Hawthorne/Parkway Lot	2002
Street Improvements	
Bond/Wall/Arizona/Colorado	2002
Minnesota St. Improvements	2002
Public Space Improvements	
Park Overlook	2002
Heritage Square	2006
Riverfront Connection	2002
Hawthorne	2002
Parking Facilities	
Oregon St. Mall	2004
Wall/Franklin	2005
Wells Fargo	2008
Lafayette	2002
Façade Renovation	2005
Development Opportunity Fund	2008

CHAPTER VIII. THE ESTIMATED AMOUNT OF TAX INCREMENT REVENUES REQUIRED AND THE ANTICIPATED YEAR IN WHICH INDEBTEDNESS WILL BE RETIRED OR OTHERWISE PROVIDED FOR

An estimated $36,434,669 in tax increment revenues will be required to retire indebtedness issued or incurred after FY 2001. All indebtedness is anticipated to be retired in FY 2013/2014.

CHAPTER IX. A FINANCIAL ANALYSIS OF THE PLAN WITH SUFFICIENT INFORMATION TO DETERMINE FEASIBILITY

Table 1. in the Appendix to the Report shows the projected tax increment revenues to be received by the Agency. The amount of revenues is determined by the annual percentage change in incremental assessed value from the previous year. (E.g. if incremental assessed value increases by 10% then maximum urban renewal revenues will increase by 10%.) Incremental assessed value is the difference between the total assessed value and the "frozen base" which was the value of property within the Area when the Plan was adopted.

The projections of incremental assessed value are based on projections of the growth in total assessed value within the Area, which in turn are based on historical trends and the anticipated impact of urban renewal projects. Growth is shown increasing as urban renewal projects are completed and then gradually leveling off in later years.

Table 2. shows these revenues in relation to the projected debt service to support the short and long term bond proceeds described in Chapter VI. The basic financial feasibility of the Amended Plan is shown by the projected revenues equaling or exceeding the projected costs.

CHAPTER X. A FISCAL IMPACT STATEMENT THAT ESTIMATES THE IMPACT OF THE TAX INCREMENT FINANCING, BOTH UNTIL AND AFTER THE INDEBTEDNESS IS REPAID, UPON ALL ENTITIES LEVYING TAXES UPONPROPERTY IN THE URBAN RENEWAL AREA

In FY 97/98, all taxing districts that levy taxes within the Area received the full taxing authority, less Measure 5 compression if any. In June, 1978, the City of Bend elected Option 3 pursuant to ORS 457.435. Option 3 has the effect of "releasing" growth in incremental assessed value to the affected taxing districts, so that in subsequent years, growth in incremental assessed value was and will produce additional revenues for the taxing districts. The positive impacts on taxing district revenues while indebtedness is being paid off are shown in Table 3.

Table 4 shows the annual increase in revenues to affected taxing districts after indebtedness is paid off.

CHAPTER XI. RELOCATION REPORT

A. Existing residents or businesses required to relocate permanently or temporarily as a result of agency actions

Part II, Exhibit II of the Plan lists properties to be acquired by the Agency. These properties are all non-residential properties. If any of these properties are occupied at the time of Agency acquisition the occupants will be required to relocate.

B. A description of the methods to be used for the temporary or permanent relocation of persons living in, and businesses situated in, the urban renewal area in accordance with ORS 281.045 to 281.105; and

Relocation assistance shall be provided in accordance with State law.

C. An enumeration, by cost range, of the existing housing units in the urban renewal areas of the plan to be destroyed or altered and new units to be added.

No existing housing units are to be destroyed or altered. The cost of new housing units added, if any, will reflect the City of Bend's housing policies for downtown Bend as contained in the General Plan.

[redacted] [redacted] [redacted]

Table 1

PROPOSED
PROJECTED MAXIMUM URBAN RENEWAL REVENUES

Table 1: Projected Maximum Tax Increment Revenues																					
Fiscal Year Ending June 30:		1999 (Actual)	2000 (Actual)	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Total Assessed Value (AV)	110,271,501	113,530,264	117,178,233	123,486,099	130,895,265	138,748,981	148,461,409	158,853,708	169,973,468	181,871,610	192,783,907	204,350,942	216,611,998	229,608,718	241,089,154	253,143,611	265,800,792	279,090,832	293,045,373	304,767,188	316,957,876
Growth Rate In Total AV				5.0%	6.0%	6.0%	7.0%	7.0%	7.0%	7.0%	6.0%	6.0%	6.0%	6.0%	5.0%	5.0%	5.0%	5.0%	5.0%	4.0%	4.0%
Certified Frozen Base				48,487,501	48,487,501	48,487,501	48,487,501	48,487,501	48,487,501	48,487,501	48,487,501	48,487,501	48,487,501	48,487,501	48,487,501	48,487,501	48,487,501	48,487,501	48,487,501	48,487,501	48,487,501
Incremental AV	61,784,000	65,042,763	68,690,732	74,998,598	82,407,764	90,261,480	99,973,908	110,366,207	121,485,967	133,384,109	144,296,406	155,863,441	168,124,497	181,121,217	192,601,653	204,656,110	217,313,291	230,603,331	244,557,872	256,279,687	268,470,375
% Change in Incremental AV			5.6%	9.2%	9.9%	9.5%	10.8%	10.4%	10.1%	9.8%	8.2%	8.0%	7.9%	7.7%	6.3%	6.3%	6.2%	6.1%	6.1%	4.8%	4.8%
Maximum Urban Renewal Tax Revenue		1,246,052	1,315,938	1,436,780	1,578,721	1,729,178	1,915,243	2,114,333	2,327,359	2,555,296	2,764,348	2,985,943	3,220,833	3,469,817	3,689,752	3,920,685	4,163,164	4,417,767	4,685,100	4,909,659	5,143,202

Ordinance NS-1780

Table 2

PROPOSED TAX INCREMENT REVENUES AND DEBT SERVICE REQUIREMENTS

Fiscal Year Ending June 30	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Revenues																		
Beginning Balance	1,213,689	622,302	1,243,168	1,808,855	1,998,880	2,208,790	2,054,136	2,463,449	3,101,894	4,596,824	6,395,634	8,533,439	10,996,200	13,815,617	17,018,799	20,627,341	24,687,071	29,174,797
Current Year Taxes	1,337,446	1,499,785	1,642,719	1,819,481	2,008,816	2,210,991	2,427,532	2,626,131	2,836,645	3,059,791	3,296,326	3,505,265	3,724,650	3,955,005	4,196,879	4,450,845	4,664,176	4,886,042
Prior Years Taxes	48,690	68,872	74,989	92,136	90,974	100,431	110,550	121,377	131,307	141,832	152,990	164,816	175,263	186,233	197,750	209,844	222,542	233,209
Interest	45,000	56,810	62,158	90,443	99,944	110,439	102,707	123,172	155,080	229,841	319,782	426,872	549,815	690,781	850,840	1,031,368	1,234,354	1,458,740
Transfer from Projects Fund	0	200,000																
Total	2,644,825	2,457,569	3,023,035	3,800,914	4,198,414	4,630,651	4,694,924	5,334,129	6,224,926	8,028,289	10,164,731	12,630,192	15,446,029	18,647,636	22,262,268	26,319,418	30,808,143	35,752,787
Expenditures																		
Debt Service																		
1998 Bonds	572,523	572,938	572,717	571,843	570,443	573,508	575,508	576,568	571,835	576,688	575,325	577,925	574,445	574,870	578,940	576,380	577,380	581,918
Bonds Series 02		641,463	641,463	641,463	641,463	641,463	641,463	641,463	641,463	641,463	641,463	641,463	641,463	641,463	641,463	641,463	641,463	641,463
Bonds Series 05						414,504	414,504	414,504	414,504	414,504	414,504	414,504	414,504	414,504	414,504	414,504	414,504	414,504
Short Term Bonds	1,450,000			588,729	777,719	947,040	900,000	800,000										
Sub-Total Debt Service	2,022,523	1,214,401	1,214,180	1,802,034	1,989,624	2,576,515	2,231,475	2,232,535	1,627,802	1,632,655	1,631,292	1,633,892	1,630,412	1,630,837	1,634,907	1,632,347	1,633,347	1,637,885
Reserve Fund	581,918	1,214,401	1,214,180	1,213,306	1,211,906	1,829,475	1,631,475	1,632,535	1,627,802	1,632,655	1,631,292	1,633,892	1,630,412	1,630,837	1,634,907	1,632,347	1,633,347	1,637,885
Total	2,604,441	2,428,801	2,428,359	3,015,340	3,201,530	4,205,989	3,862,949	3,865,069	3,255,603	3,265,309	3,262,583	3,267,783	3,260,823	3,261,673	3,269,813	3,264,693	3,266,693	3,275,769
Balance	40,384	28,768	594,675	785,575	996,884	424,661	831,975	1,469,059	2,969,022	4,762,979	6,902,148	9,362,409	12,185,206	15,385,963	18,992,454	23,054,724	27,541,450	32,477,018

Ordinance NS-1780

[redacted] [redacted] [redacted]

Table 3.

PROPOSED IMPACT ANALYSIS, DURING PAYMENT OF INDEBTEDNESS

Table 3: Revenues Gained by Taxing District Before Payment of Indebtedness																
FY Ending June 30		2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Totals
Growth in Incremental AV Since FY 97/98		13,214,598	20,623,764	28,477,480	38,189,908	48,582,207	59,701,967	71,600,109	82,512,406	94,079,441	106,340,497	119,337,217	130,817,653	142,872,110	155,529,291	
Taxing District	**Permanent Rate**															
Deschutes County	1.1992	15,847	24,732	34,150	45,797	58,260	71,595	85,863	98,949	112,820	127,524	143,109	156,877	171,332	186,511	1,317,518
County Sheriff (City)	0.7800	10,307	16,087	22,212	29,788	37,894	46,568	55,848	64,360	73,382	82,948	93,083	102,038	111,440	121,313	856,958
911	0.1617	2,137	3,335	4,605	6,175	7,856	9,654	11,578	13,342	15,213	17,195	19,297	21,153	23,102	25,149	177,654
County Extension 4H District	0.0224	296	462	638	855	1,088	1,337	1,604	1,848	2,107	2,382	2,673	2,930	3,200	3,484	24,610
City of Bend	2.7898	36,866	57,536	79,446	106,542	135,535	166,557	199,750	230,193	262,463	296,669	332,927	364,955	398,585	433,896	3,065,053
Bend Parks	1.4610	19,307	30,131	41,606	55,795	70,979	87,225	104,608	120,551	137,450	155,363	174,352	191,125	208,736	227,228	1,605,148
Deschutes County Library	0.5497	7,264	11,337	15,654	20,993	26,706	32,818	39,359	45,357	51,715	58,455	65,600	71,910	78,537	85,494	603,936
Bend Library CSD	0.1371	1,812	2,828	3,904	5,236	6,661	8,185	9,816	11,312	12,898	14,579	16,361	17,935	19,588	21,323	150,627
ESD	0.0964	1,274	1,988	2,745	3,682	4,683	5,755	6,902	7,954	9,069	10,251	11,504	12,611	13,773	14,993	105,911
Central Oregon Community College	0.6204	8,198	12,795	17,667	23,693	30,140	37,039	44,421	51,191	58,367	65,974	74,037	81,159	88,638	96,490	681,611

Table 4 PROPOSED PROJECTION OF ANNUAL REVENUES GAINED AT END OF PLAN

Table 4: Annual Revenues Gained by Taxing District After Payment of Indebtedness (Collection of Tax Increment Funds Estimated at June 30, 2014)		
Deschutes County	1.1992	7,195
County Sheriff (City)	0.7800	4,680
911	0.1617	970
County Extension 4H District	0.0224	134
City of Bend	2.7898	16,739
Bend Parks	1.4610	8,766
Deschutes County Library	0.5497	3,298
Bend Library CSD	0.1371	823
ESD	0.0964	578
Central Oregon Community College	0.6204	3,722

CONTSTRUCTION FUND									
Fiscal Year Ending June 30	2001	2002	2003	2004	2005	2006	2007	2008	Totals
REVENUES									
Beginning Balance	3,774,963	1,090,088	3,740,842	2,676,931	178,985	1,719,297	744,880	233,225	
Real Property Sales	0	1,775,500	505,620	3,573,048	435,555	434,923	0	0	6,724,646
Firehouse		715,500							
Oregon St.Mall					435,555				
Wall/Franklin						167,278			
Wells Fargo						267,645			
Greenwood/Wall			505,620						
Elks Building		1,060,000							
Lifewise				3,573,048					
PP&L		885,100							
SDCs (Bond/Wall/Col/Ariz			100,000	100,000	100,000	100,000	100,000	100,000	600,000
Long Term Debt Proceeds		6,519,147	0	0	3,737,225	0	0	0	10,256,372
Short Term Debt Proceeds	1,450,000	0	0	549,753	775,380	946,905	600,000	600,000	4,922,039
Interest	150,000	170,399	121,310	143,650	81,092	73,806	32,846	17,497	790,600
Repayment of Rehab Loans			15,000	27,500	40,000	50,000	50,000	50,000	232,500
Total	5,374,963	9,555,134	4,482,771	7,070,882	5,348,237	3,324,932	1,527,727	1,000,722	23,526,156
Fiscal Year Ending June 30	2001	2002	2003	2004	2005	2006	2007	2008	
YEAR OF EXPENDITURE $		1	2	3	4	5	6	7	
EXPENDITURES									Total Cost
Materials, Services, Personal	382,875	380,000	154,500	159,135	163,909	168,826	173,891	100,000	1,683,136
Capital Outlay									0
Land Acquisition	2,900,000	3,058,100	404,496	3,573,048	757,486	0	0	0	10,693,130
Oregon Mall	1,255,000		0	0	0	0	0	0	1,255,000
Firehouse	750,000	0	0	0		0	0	0	750,000
Wall/Franklin	895,000	0	404,496	0	0	0	0	0	1,299,496
Wells Fargo	0	0	0	0	757,486	0	0	0	757,486
Elks Building	0	1,060,000	0	0	0	0	0	0	1,060,000
PP&L	0	885,100	0	0	0	0			885,100
Lifewise	0	0	0	3,573,048	0	0	0	0	3,573,048
Riverfront Connection	0	848,000	0	0	0	0	0	0	848,000
Heritage Square	0	0	0	0	0	0	0	0	0
Lafayette/Parkway Lot	0	212,000	0	0	0	0	0	0	212,000
Hawthorne/Parkway Lot	0	53,000	0	0	0	0	0	0	53,000
Street Improvements	800,000	1,097,500	0	0	0				1,897,500
Bond/Wall/Arizona/Colorado	800,000	840,000	0	0	0	0	0	0	1,640,000
Minnesota St. Improvements		257,500	0	0	0	0	0	0	257,500
Public Space Improvements	0	412,000	0	0	0	579,637	0	0	991,637
Park Overlook		103,000	0	0	0	0	0	0	103,000
Heritage Square		0	0	0	0	579,637	0	0	579,637
Riverfront Connection		206,000	0						206,000
Hawthorne		103,000	0	0	0		0	0	0
Parking Facilities	0	103,000	848,720	2,403,999	1,800,814	1,159,274	585,086	614,937	7,515,830
Oregon St. Mall		0	848,720	1,748,363	0	0	0	0	2,597,083
Wall/Franklin		0	0	655,636	1,800,814	0	0	0	2,456,450
Wells Fargo		0	0	0	0	1,159,274	585,086	614,937	2,359,297
Heritage Square		0	0	0	0	0	0	0	0
Lafayette		103,000	0	0	0	0	0	0	
Façade Renovation		154,500	132,613	136,591	109,273	0	0	0	532,976
Development Opportunity Fund		100,000	100,000	200,000	500,000	400,000	400,000	100,000	1,800,000
Transfers/Admin	122,000	147,942	80,640	178,724	117,376	98,423	77,016	73,333	895,454
Transfers/projects	80,000	161,250	84,872	240,400	180,081	173,891	58,509	61,494	1,040,497
Transfer to Debt Service Fund		200,000							200,000
Total	4,284,875	5,814,292	1,805,840	6,891,897	3,628,939	2,580,052	1,294,502	949,763	27,250,160

ORDINANCE NO. NS-1781

AN ORDINANCE AMENDING THE BEND AREA GENERAL PLAN, BY CHANGING THE DESIGNATION OF PROPERTY LOCATED AT THE WEST BOUNDARY OF THE CITY LIMITS BETWEEN SHEVLIN PARK ROAD AND SKYLINERS ROAD AND AN AMENDMENT TO THE BEND AREA GENERAL PLAN CHAPTER 6 TEXT.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Planning Commission's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Planning Commission dated February 12, 2001, regarding files PZ-00-307 and PZ-00-388 ; applicant West Bend Property Company.

Section 2. The Bend Area General Plan is amended by changing the designation of the property described in "Exhibit A" from Urban Standard Density Residential (RS) to Industrial Park (IP).

Section 3. The Bend Area General Plan is amended by changing the designation of the property described in "Exhibit B" from Urban Standard Density Residential (RS) to Limited Commercial (CL).

Section 4. The Bend Area General Plan is amended by changing the designation of the property described in "Exhibit C" from Urban Standard Density Residential (RS) to Mixed Employment (ME).

Section 5. The Bend Area General Plan is amended by changing the designation of the property described in "Exhibit D" from Urban Standard Density Residential (RS) to Public Special District / Land & Facilities (PF).

Section 6. To update the General Plan Chapter 6 Text as described in "Exhibit E" to be consistent with the Plan Map.

Section 7. In accordance with findings adopted contemporaneously with this ordinance attached hereto as "Exhibit F", the Bend City Council finds that each of the amendments to the Bend Area General Plan made by this ordinance complies with all applicable land use goals, laws, rules and regulations.

Read for the first time the 18th day of April, 2001.

Read for the second time the 2nd day of May, 2001.

Placed upon its passage the 2nd day of May, 2001.

YES: 7 NO: 0

Authenticated by the Mayor the 2nd day of May, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

EXHIBIT "A"

INDUSTRIAL PARK

A portion of that parcel of land described in warranty deed to West Bend Property Company, LLC, recorded March 19, 1999, in Volume 1999, Page 13784, Deschutes County official records located in the west one-half of Section 36, Township 17 South, Range 11 East, Willamette Meridian, City of Bend, Deschutes County, Oregon being more particularly described as follows:

That portion of the west one-half of said Section 36; bounded on the south by the northerly right of way of Skyliners Road; on the west by the west boundary of said Section 36; on the north by that property described in warranty deed to Bend LaPine Administrative School District No. 1, recorded December 7, 1999, in Volume 1999, Page 57995, Deschutes County official records, and by the future street centerline of N.W. Clearwater Drive; and on the east by the street centerline of Mt. Washington Drive.

Together with: That portion of the west one-half of said Section 36; bounded on the south by the south line of the north 80.00 feet of that property described in warranty deed to Bend LaPine Administrative School District No. 1, recorded December 7, 1999, in Volume 1999, Page 57995, Deschutes County official records lying west of the future street centerline of said N.W. Clearwater Drive; on the west by the west boundary of said Section 36; on the north by the north boundary of said Section 36; on the east by a boundary generally determined by future road and lot configurations, as shown on the Northwest Crossing Zoning Map.

Containing 81.3 acres more or less.

EXHIBIT "B"

COMMERCIAL LIMITED

A portion of that parcel of land described in warranty deed to West Bend Property Company, LLC, recorded March 19, 1999, in Volume 1999, Page 13784, Deschutes County official records located in Section 36, Township 17 South, Range 11 East, Willamette Meridian, City of Bend, Deschutes County, Oregon being more particularly described as follows:

That portion of the west one-half of said Section 36; bounded on the south by a boundary determined by future road and lot configurations as shown on the Northwest Crossing Master Development Plan, the street centerline of Mt. Washington Drive, by the north boundary of that property described in warranty deed to Bend LaPine Administrative School District No. 1, recorded December 7, 1999, in Volume 1999, Page 57995, Deschutes County official records; on the west and north by a boundary determined by future road and lot configurations as shown on the Northwest Crossing Zoning Map.

Containing 7.7 acres more or less.

Together with; that portion of the east one-half of said Section 36; bounded on the north by the southerly right of way of Shevlin Park Road; on the east by the east boundary of said Section 36; on the south and west by boundaries determined by future road and lot configurations as shown on the Northwest Crossing Zoning Map.

Containing 19.7 acres more or less.

EXHIBIT "C"

MIXED EMPLOYMENT

A portion of that parcel of land described in warranty deed to West Bend Property Company, LLC, recorded March 19, 1999, in Volume 1999, Page 13784, Deschutes County official records located in the west one-half of Section 36, Township 17 South, Range 11 East, Willamette Meridian, City of Bend, Deschutes County, Oregon being more particularly described as follows:

That portion of the west one-half of said Section 36; bounded on the south by the future street centerline of N.W. Clearwater Drive; on the west by that property described in warranty deed to Bend LaPine Administrative Schol District No. 1, recorded December 7, 1999, in Volume 1999, Page 57995, Deschutes County official records; on the north, by the north boundary of that property described in said warranty deed lying east of the future street centerline of said N.W. Clearwater Drive; and on the east by the street centerline of Mt. Washington Drive.

Containing 14.7 acres more or less.

EXHIBIT "D"

PUBLIC SPECIAL DISTRICT/ LAND & FACILITIES

All that property being a portion of the north half (N1/2) of Section 36, Township 17 South, Range 11 East, Willamette Meridian, Deschutes County, Oregon describes as follows:

Commencing at a 5/8" rebar marked "SCE&S" on the north line of said Section 36, as shown on that record of survey on file with the Deschutes County Surveyor as CS 02157 (the north quarter-corner of said Section 36 bears South 89°51'35" East, 577.20 feet); thence South 09°09'25" East, 2013.84 feet to a point on the northerly right of way of "Local Street" and the True Point of Beginning; thence leaving the said northerly right of way line, North 00°01'25" East, 782.04 feet; thence South 89°58'35" East, 835.51 feet; thence South 00°01'25" West, 782.04 feet to the northerly right of way of "Local Street"; thence along said northerly right of way, North 89°58'35" West 835.51 feet to the Point of Beginning. Said Point of Beginning bears South 07°21'47" West, 2003.22 feet from said north quarter-corner of said Section 36.

Together with;

A parcel of land being a portion of the West one-half of Section 36, Township 17 South, Range 11 East, Willamette Meridian, Deschutes County, City of Bend, Oregon, more particularly described as follows:

Commencing at a 2" iron pipe at the west one-quarter corner of Section 36, thence along the west line of said Section 36, South 00°18'34" West, 83.70 feet to the True Point of Beginning; thence leaving said west line North 64°16'11" East, 216.88 feet, to a point of curvature; thence along the arc of a 680.00 foot radius curve to the right, through a central angle of 25°57'29", an arc length of 308.08 feet (the chord of which bears North 77°14'56" East, 305.45 feet); thence South 89°46'19" East, eighty feet (80') north of and parallel with the east-west center section line of said Section 36, 1236.09 feet to the westerly right of way of Mt. Washington Drive as dedicated to the City of bend in volume 1999, page 39979 of Deschutes County records and a point of non-tangent curvature; thence along the said westerly right of way, along the arc of a 790.00 foot radius non-tangent curve to the left, through a central angle of 5°53'18", an arc length of 81.19 feet (the chord of which bears South 09°26'25" East, 81.15 feet) to said east-west center section line; thence leaving said westerly right of way and along said center section line, North 89°46'19" West, 717.04 feet; thence South 00°00'00" West, 300.53 feet to a point of curvature; thence along the arc of a 300.00 foot radius curve to the left, through a central angle of 75°00'00", an arc length of 392.70 feet (the chord of which bears South 37°30'00" East, 365.26 feet); thence South 75°00'00" East, 53.12 feet; thence South 00°18'37" West, 1051.15 feet, to a point of non-tangent curvature; thence along the arc of a 1573.00 foot radius non-tangent curve to the right; through a central angle of 12°47'44 an arc length of 351.29 feet (the chord of which bears South 82°09'28" West, 350.56 feet); thence South 88°24'00" West, 955.63 feet, to the west line of said Section 36; thence along said west line, North 00°18'34" East, 1650.28 feet, to the True Point of Beginning.

EXHIBIT "E"

Bend Area General Plan

Chapter 6:

The Economy and Lands for Economic Growth

NOVEMBER 1998

PREAMBLE

Bend cannot rest on the economic diversity that existed in the 1990s. The community must work hard to ensure that the local economy continues its pattern of healthy growth, and that new jobs in all wage levels are available for its citizens. Governments, economic development groups, and developers all have a role in retaining, expanding, and recruiting businesses that will serve our needs in the 21st century. The role of the General Plan is to provide an adequate supply of industrial, commercial, and mixed-use land for Bend's economic growth.

GOALS

The intent of the General Plan is to provide the community with sufficient land to meet the city's goal of promoting quality economic growth and assuring a diverse economy. The following goal statements describe the future economic hopes of the community and serve as the foundation for policy statements in this chapter.

The citizens and elected officials of Bend wish to:

- ❑ have a vital, diverse and sustainable economy, while enhancing the community's overall livability.
- ❑ ensure an adequate supply of appropriately zoned land in Bend to provide for a full range of industrial, commercial, and professional development opportunities.
- ❑ stimulate economic development that will diversify and strengthen economic activity and provide primary and secondary job opportunities for local residents.
- ❑ strengthen Bend's position as a regional economic center.
- ❑ improve the income levels of Bend residents.
- ❑ create commercial areas in outlying sections of the community as neighborhood centers rather than extending the existing strips along major roads.
- ❑ encourage more small neighborhood commercial developments and convenience commercial centers to reduce vehicle trips and trip lengths.

OVERVIEW

FAST FACTS:

- **More than 70% of all the jobs in the county are in the urban area.**
- **Bend is the regional trade and service center for Central Oregon.**
- **About 18,700 new jobs will be created in the urban area between 1995 and 2020.**

At the turn of the century several companies in Central Oregon raced to build irrigation canals through the area, and agriculture — primarily horse and cattle ranching — provided the basis for the Bend economy. After the Oregon Trunk Railroad was completed through Bend in 1915, large sawmills were built in the area, and for two generations the local economy was measured by the sound of saws and the smell of cut pine.

In the 1970s the Bend economy started to become more diverse with other manufacturing businesses, trade, medical services, and tourism providing a bigger share of local jobs. Along with the development of a more diverse job base, the number of jobs in the county and the urban area increased dramatically during the last quarter of the century. While the population more than tripled in the 27 years between 1970 and 1997, the wage and salary employment more than quadrupled.

Table 15
County Population and Employment History

	1970	1980	1990	July 1997
County Population	30,442	62,142	74,958	101,200
Wage & Salary Employment①	9,900	21,780	32,530	44,910

Source: Portland State University Center for Population Research and Census, and Oregon Employment Department

① Wage and salary employment makes up about 90% of all the jobs in the county. Not included are self-employed persons, jobs that pay on commission, agricultural workers, and family members in a family run business.

Most of the growth in the county employment levels has come in the non-manufacturing sectors. From 1970 to July 1997 more than 30,000 new non-manufacturing jobs were created. In the early 1970s manufacturing jobs in the county made up about 24 percent of the total wage and salary jobs. This percentage had dropped county-wide to about 12 percent in mid-1997, and slightly higher at 13 percent in Bend.

Comparable employment growth has occurred within the Bend urban area. Although the Bend urban area had less than 43 percent of the county population in the mid-1990s, more than 70 percent of all the jobs in the county were in the urban area. This high employment percentage is not surprising for two reasons. First, Bend is a regional trade, service, and education center for a five county area and a tourist destination, so many jobs at all levels exist to serve these needs. Second, there are

more than 15,500 additional residents within five miles of the UGB in rural subdivisions, and these "exurban" residents typically work, shop, and receive services in Bend. Table 16 shows the number of jobs in the county and the Bend urban area in 1996.

Table 16
Bend Urban Area Employment (1996)

Type of Wage & Salary Job	Total Jobs in County	Jobs in Bend UGB	Bend UGB as Percent of Total	Bend UGB Percent by Job Type
Agricultural/ Forestry / related①	940	533	56.7%	1.8%
Mining and Construction	3,381	2,608	77.1%	8.7%
Manufacturing	5,185	3,868	74.6%	12.9%
Transport./ Communications /Utilities	1,777	1,208	68.0%	4.0%
Wholesale Trade	1,362	1,056	77.8%	3.5%
Retail Trade	9,954	7,210	72.4%	24.0%
Finance / Insurance / Real Estate	2,394	1,544	64.5%	5.2%
Services and Miscellaneous jobs②	14,610	10,458	71.6%	34.8%
General Government	1,883	1,523	80.9%	5.1%
Totals	41,486	30,011	72.3%	100.0%

Source: Oregon Employment Department "Covered Employment" data for Deschutes County
Notes: ① category includes U.S. Forest Service, BLM, landscaping, nursery work, and veterinary jobs••
•• ② category includes public and private education, training, schools, and similar jobs

Additional information on employment levels, income, and Bend's economic climate are contained in background document titled *Resource Material Part 3 - Economic Conditions* prepared by the Bend Development Services Department.

FORECASTS

BEND ECONOMIC DEVELOPMENT STRATEGIES:

- ***Seek new firms that provide primary jobs.***
- ***Retain and expand existing businesses that provide primary jobs.***
- ***Provide adequate sewer, water, transportation systems, and land for economic growth.***

Historically, heavy manufacturing and resource extraction — the industries that provided the "primary jobs" in a community — have been considered the foundation for a strong local economy because they produce goods that are sold outside the area. Examples of such local industries include sawmills, pumice mining, and secondary wood product manufacturing, among others.

These firms are important because they bring money into the community and are relatively immune to fluctuations in the local economy. But over the years, the national, state, and local economies have become less dependent on resource extraction and production for jobs that export goods and bring in money. As a result, the concept of primary jobs has broadened to include such diverse businesses as high technology products and software, tourism, business services (firms that provide services to other businesses), and some regional retail and medical services that serve regional markets.

To keep pace with changing economic conditions the City of Bend, the Central Oregon Economic Development Council and the Bend Chamber of Commerce strive to recruit and retain or expand businesses that will position Bend for the next generation of jobs. The city, COEDC, and the Chamber's strategies for job recruitment and retention/expansion are described in the adjacent box. One of the key strategies is to recruit new primary job employers that have salary levels that will support a family.

Local trends

The Bend area economy will need to continue to adapt and evolve to remain strong and competitive during first two decades of the next century. Local trends for the next several years include:

- ❑ the industrial sector, a major source of primary jobs, will continue to become more diverse as new medium and small manufacturing firms locate in Bend;
- ❑ a need for large industrial parcels to support expanding or new industries;
- ❑ as Bend grows it will continue to attract interest from more national or regional restaurants chains, motels, and large retailers;
- ❑ an expanding mix of large retail stores and specialty shops will solidify the urban area as the regional trade center;
- ❑ the services and retail sectors will continue to be a significant source of jobs;
- ❑ Bend's climate and natural beauty also will draw in businesses and entrepreneurs wishing to relocate from other areas;
- ❑ the relatively large percentage of middle-aged and young persons in the area will provide a solid work force base for new or expanding businesses; and
- ❑ the exceptional increase in new jobs in the 1990s in Bend is expected to slow to more normal levels over the long term.

Employment increases

The forecasts of future employment levels in the Bend urban area to the year 2020 were prepared by the city staff. The forecasts were based on: (1) county employment projections from the Oregon Employment Department; (2) forecast population growth in the urban area and rural portion of the county; (3) the continued expansion of Bend as a regional service, trade, medical, and education center; and (4) employment goals and strategies of the city and the Central Oregon Economic Development Council.

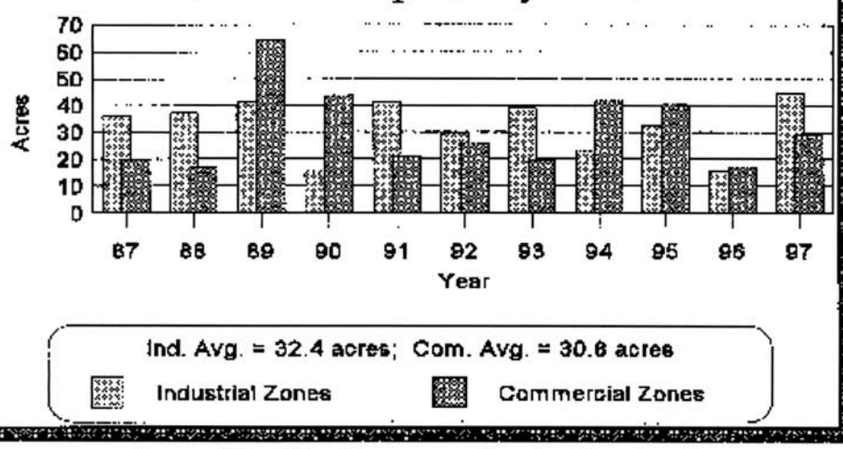
It is forecast that Bend's share of future county-wide employment will increase slightly to about 75 percent of the total county employment during the planning period. The forecast of total full-time and part-time wage and salary jobs in the Bend urban area is shown in Table 17.

Table 17 Bend Urban Area Employment Forecasts					
Year	*2000*	*2005*	*2010*	*2015*	*2020*
Jobs	*38,320*	*45,500*	*51,570*	*55,880*	*59,400*

Source: derived by city from Oregon Office of Economic Analysis forecasts for Deschutes County

Figure 23

Land Absorption by Year



Source: City of Bend Long-range Planning Department

The mix of future wage and salary jobs by sectors is forecast to be roughly the same as mid-1990 levels, with a few changes. Roughly 16 percent of the 21,000+ new jobs are expected to be in the manufacturing field, about four percent above the mid-1990 level. Also, the percentage of jobs in mining and construction is expected to decline as the pace of growth slows.

Land Needed for Economic Growth

The city used historical land absorption rates, adjusted for future growth levels, to forecast land needed for economic development. The land absorption rates are considered by the city to be a more accurate method of forecasting land needs than job numbers based on population or jobs-per-housing ratios. Figure 23 below shows the annual absorption of industrial and commercial land within the Bend UGB during an 11 year period. These figures are from tax parcels so they are *net acres* of developed land without streets and utility easements.

The demand for commercial and industrial land within the urban area varies from year to year rather than following a trend of steadily increasing need. Different factors such as development of "super store" retailers or the expansion or recruitment of a manufacturing firm can effect the annual figures.

Although there has not been a straight trend-line increase in land needed each year, the long term historic pattern indicates an increase in demand as the population and economy grow. The land needed for future economic development, using the absorption rate of industrial and commercial lands as a guide, is shown in Figure 24 on the next page. A planning horizon to the year 2020 was used to match the residential and population forecast period.

Figure 24

INDUSTRIAL AND COMMERCIAL LAND NEEDS

LAND NEEDED FOR INDUSTRIAL USES		
Average annual acreage use from 1987-1997	=	32.4 net acres
Times a 23 year planning horizon (2020)	=	745 net acres
Add 10% for streets and utilities	=	75 acres
Industrial land needed 1997-2020	=	***820 gross acres***
LAND NEEDED FOR COMMERCIAL USES		
Average annual acreage use from 1987-1997	=	30.8 net acres
Times a 23 year planning horizon (2020)	=	710 net acres
Add 5% for streets and utilities	=	35 acres
Commercial land needed 1997-2020	=	***745 gross acres***
Total land needed 1997-2020	=	***1,565 acres***

Firms that are targeted for future development in Bend will need a variety of parcel sizes and settings in which to locate. The urban area industrial, mixed-use, and commercial designations provide a mix of parcel sizes, site amenities, and locations to serve a variety of new businesses and most of the target industries. Table 18 shows the estimated buildable acres as of the end of 1997.

Table 18
Summary of Buildable Acres (1997)

Figure 26 Forecast Categories	Buildable Acres by General Plan Designation			Buildable Acres (1997)	Acres Needed (23 years 1997-2020)
	Industrial	Mixed-Use	Commercial		
Industrial	531 acres	54 acres	---	*585*	*820*
Commercial	---	133 acres	488 acres	*621*	*745*
Total	531 acres	187 acres	488 acres	*1,206*	*1,565*

Source: City of Bend Long Range Planning Division. Based on 1995 lot-by-lot inventory and adjusted for parcel absorption in 1996 and 1997. Figures may not include all Parkway takings or other lot changes.

The 1,206 acres of land for future economic development falls short of the 23 year forecast needs in Figure 26. Because of the expected rapid growth in the economy through the 1990s and into the next decade, and uncertainty about how uses will develop in the mixed use zones, the city will re-evaluate the industrial, commercial, and mixed use lands in more detail in 1999.

As Table 18 shows, the supply of industrial land in the urban area is limited and there is insufficient land to meet the forecast needs to the end of the 2020 planning period. As noted earlier, the goal to increase the percent of jobs in the manufacturing sector, along with the other job sectors that typically use industrial sites -- wholesale trade, transportation, construction, and utilities -- will push the need for more industrial land. This increase, supported by the market and the local economic development strategies, will require the city to plan for about 240 more acres of industrial land than were available in 1997. One site that will be evaluated for future development is the City's "Industrial Reserve" property adjacent to the Urban Growth Boundary.

Besides the shortfall in the amount of industrial land needed for the forecast industrial growth, there is a second concern about the lack of large industrial parcels. Much of the undeveloped industrial land planned to meet future needs has been held in large parcels until sewer service is available. As sewer service is extended into these areas, the large parcels are being subdivided into smaller lot industrial subdivisions to meet the predominant industrial demand. As these larger parcels are subdivided during the planning period there will be fewer large sites available to meet the need of large manufacturing, assembly, or warehousing firms.

There is no industrial land currently in the urban area that is set aside or "held" in large lot sizes for target industries that need 15, 20, or more acres for an operation. This lack of large private or public industrial sites puts Bend at a competitive disadvantage compared to other cities in the region, and could lead to Bend residents to commute to work in other cities. The city will need to evaluate public and private lands inside and outside the Urban Growth Boundary for areas that can be set aside in large industrial parcels.

The amount and type of commercial land will also need to be periodically reviewed to make sure sufficient land is available. Continuing changes in the commercial markets, along with local factors such as how fast new commercial centers develop and the activity in mixed use areas, will effect the supply of land for commercial development.

Industrial Designated Areas

Most of the buildable land in the industrial designations is planned for light industrial or industrial park development, which is consistent with the shift away from the traditional heavy industrial uses such as mills and large manufacturing. All of the industrial areas are close to arterial and collector roads to provide easy access throughout the community and inter-connections to the state highway system. The industrial lands by General Plan category are shown in Table 19.

Besides the developed areas, one undeveloped area is included in the General Plan to help meet future industrial needs. This 95 acre site is just inside the west edge of the Urban Growth Boundary, and was part of a pumice and rock mining operation that ended in 1997. This site will be redeveloped for mixed employment and industrial park uses, and will provide for industrial jobs on the growing west side of the urban area. This industrial land is part of an undeveloped 486 acre site that also includes two school sites, commercial and residential uses. In addition, the Plan provides for another 60 acres of adjacent industrial reserve land in the Urban Reserve Area for long-term industrial development on the west side.

There is one area within the UGB that is zoned for surface mining and has sufficient rock and mineral resources to be mined beyond the 20-year planning period. Because there are several mineral resource mining and processing sites adjacent to the urban area, no other area within the UGB is planned for resource extraction. Table 19 shows industrial lands by the three Plan designations, and includes the surface mining area.

Table 19
Industrial Designations

Plan Category	Description	Size Requirement
Industrial Park	provides for research and development facilities and compatible light manufacturing in a park-like setting	minimum ½ acre lot size; no maximum
Light Industrial	provides for heavier commercial and light industrial uses in built- up areas of the urban area	no minimum or maximum size
General	provides for light and heavier industrial uses with a	no minimum or

Industrial	minimum conflict between uses	maximum size
Mineral Extraction	provides for the extraction of pumice, ash, and rock to serve the construction needs of the urban area	no minimum or maximum development size

Mixed-Use Designated Areas

The Bend Area General Plan Map has three areas designated for mixed-use development. The largest area is along the Deschutes River south of downtown and is labeled as *Mixed-Use Riverfront*. This mixed-use area creates the opportunity for the redevelopment of old sawmill sites into more intensive urban uses in the core of the urban area. This designation and implementing zone allow for a mixture of industrial, commercial, and residential uses within a framework that protects existing uses and provides compatibility through a facility plan, master plan and design review process.

A second area planned for mixed commercial and industrial development runs through the middle of the urban area. One area covers an older industrial and commercial area along NE 1st and NE 2nd streets. A second area is in a mixed development area along Highway 20 North. This land use category is labeled *Mixed Employment,* and recognizes the existing pattern of light industrial, commercial, and institutional uses in this area. It provides for land in the center of the urban area to be redeveloped to a more intensive mix of industrial and commercial businesses and employment that is consistent with the diversified economy of the urban area. A third location where the Mixed Employment designation is applied is as part of a mixed-use center along Mt. Washington Drive at the west edge of the urban area. This center is located on a large undeveloped property and will be developed along with Commercial Limited and Industrial Park land to serve as an employment and service center for the west edge of the urban area.

Table 20
Mixed-Use Designations

Plan Category	Description	Size Requirements
Mixed-Use Riverfront	**Mixed commercial, industrial, and residential development applied along the river in area of old sawmills; special review standards**	**220 acres total; minimum 10 acres for Master Plan**
Mixed Employment	**Mixed light industrial and commercial uses in areas that already exhibit a pattern of mixed development or on new areas that are planned for mixed use to serve the employment and service needs of an area.**	**No minimum acreage**

* The division of buildable acres is based on preliminary development plans and existing patterns. The Mixed-Use Riverfront category has about 35 additional acres for residential development. The Mixed-Employment category is made up of lands previously planned and zoned for industrial or commercial use.

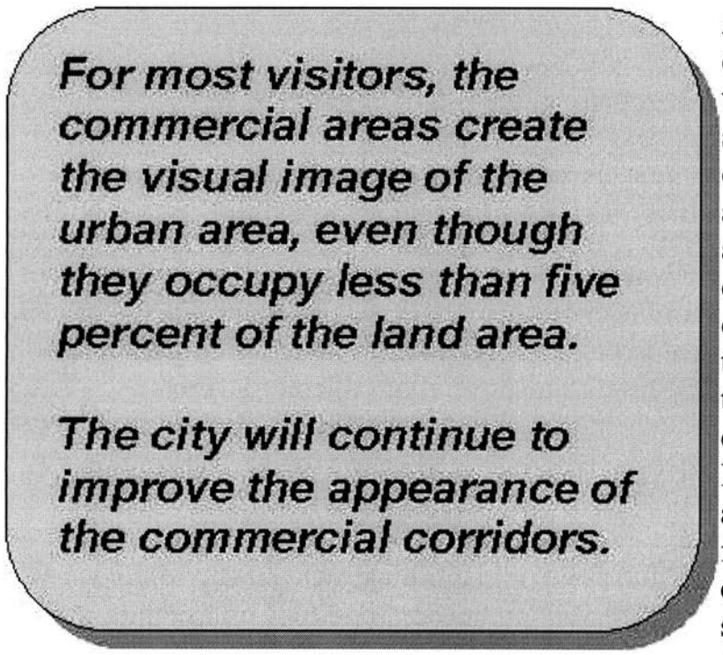
Commercial Corridor Areas

Much of the commercial acreage in the urban area follows the historic pattern of development along the state highways, along major arterial streets, and in downtown Bend. In the future, as in the past, the commercial development along the highway

corridors will be oriented to tourist commercial services, other needs of the motoring public, and major retailers that serve the area residents.

Although the General Plan recognizes the opportunity for redevelopment and infill along the existing corridors, it sets new expectations for site and building development that will benefit both the customers and the community. New developments along the corridors will be required to have a good site layout to serve vehicles, and to address pedestrian and bicycle needs as well. The large "super store" retailers may develop along the existing corridors, and the city will need to develop special standards to address the traffic and design issues associated with these large developments. The two main land use categories along the highways and main arterial streets are Limited Commercial and Highway Commercial.

New commercial areas should be designed as centers rather than as an extension of the existing commercial strips. New Limited Commercial centers that are developed away from the state highway system should have uses that support local needs, rather than the needs of tourists or motorists passing through the community.



Although commercial corridor development will be limited in the future, the appearance of such areas continues to be a concern. Additional landscaping and trees, plus widening or adding new sidewalks shall be encouraged. Because highway commercial areas are located on the Plan along major entrances to the community, special consideration shall be given to landscaping, setbacks, access, and signing. These areas will form the first impression of the community, and can have a significant impact on the traveling public.

Commercial Center Areas

Part of the land needed for commercial development will be met by new small commercial centers or stores as generally designated on the Plan Map. These centers are intended to support residential neighborhoods and reduce vehicle trips or trip lengths by providing commercial uses near or within developing residential areas. These new centers could be on one parcel, or several parcels within a limited geographic area like the commercial area on Newport Avenue, and should have several of the characteristics listed below that avoid the problems and appearance of "strip commercial" developments:

buildings closer to the sidewalk	walkways for pedestrian access
limited vehicle access points	uses that serve the neighborhood
shared parking facilities	smaller monument signs
parking distributed around buildings	buildings on site in scale with each other

The two main Plan designations for commercial center development are Neighborhood Commercial and Convenience Commercial.

Neighborhood Commercial areas are intended to provide locations for small businesses and services that fit into the residential development pattern and provide a convenience to residents in the immediate neighborhood. Specific Neighborhood Commercial sites are not shown on the Plan Map, but are intended to serve residential areas within a five or ten minute walk. Such uses are appropriate in residential areas if the following conditions are met: the building design and site landscaping shall be similar to the residential pattern in the area; the site size is one-quarter to one-half acre; the site is at least one-half to three-quarters of a mile from another commercial zone; and there is a market study or other analysis that shows there is an adequate residential base or other conditions in the area that can support the use.

Convenience Commercial areas are intended to provide for the frequent shopping or service needs of nearby residential areas. They will consist principally of a relatively wide range of small retail and service uses, the largest of which would be a grocery store. Uses such as a grocery store, drugstore, small bakery, specialty shops, and offices would be typical of these areas.

It is expected that new convenience commercial areas will develop to serve the emerging and future residential areas, and will particularly benefit the rapidly growing portions of the urban area. New convenience commercial areas reduce the need for residents to drive to the existing strip commercial areas for all their shopping or service needs.

Convenience Commercial areas should occur as centers on one or more properties together in a block or across the street from each other, rather than as commercial strips. Convenience centers should be located on arterial or collector streets, preferably at or near an intersection with another similar street, and have a site size up to five acres. In order that convenience centers remain oriented toward serving nearby residential areas and do not expand to serve much larger parts of the community, commercial building floor areas should be limited to 35,000 to 55,000 square feet. The building design and site design should be compatible with the surrounding neighborhood. They should be spaced from one to one and one-half miles apart, and new locations should be based on a market study or other analysis that shows there is an adequate residential base or other conditions to support the uses.

Table 21
Commercial Designations

Plan Category	Description	Size Requirements
Convenience Commercial	provides for frequent shopping and service needs of nearby residents	up to 5 acres maximum
General Commercial	provides a broad mixing of commercial uses in older, close-in sections of the community	none
Limited Commercial	provides locations for a wide range of retail, service, and tourist commercial uses in the community along highways or in new centers	5-30 acres
Highway Commercial	provides for those uses that have large site requirements, or are oriented to highway access, or provide services to visitors	none
Central Business District	only applied to several blocks of downtown Bend	none
Neighborhood Commercial	provides location for small services and businesses that fit into residential area and serve the immediate neighborhood	¼ to ½ acre maximum

POLICIES

General

1. After the General Plan update in 1998 the city shall resume its study of industrial and commercial land needs, land supply, and allocation of future lands. The study will include an evaluation of the "industrial reserve" site north of Cooley Road, and other potential industrial areas inside and adjacent to the UGB, and local/regional commercial centers.

Industrial Development

2. The city shall work to preserve prime industrial lands for industrial purposes.

3. The community shall attempt to diversify its industrial base.

4. Existing industrial operations are encouraged to improve waste discharge levels and improve air quality conditions.

5. Since it has been established that the quality of the air may be adversely affected by additional discharges, the development of new industrial sites will be closely monitored in cooperation with the DEQ to prevent substantial degradation of the air shed.

6. Industrial areas shall be protected from incompatible commercial and residential uses.

7. Industrial developments along highways shall be subject to special development standards relating to setbacks, landscaping, signs, and outside storage.

8. Wherever industrial uses abut residential uses or residential zoning, special development standards relating to setbacks, screening, signs, and building height shall be established.

9. Community efforts should be directed toward improving the general appearance of industrial areas so that they make a positive contribution to the environment of the community.

10. Development of the industrial lands at the West edge of the urban area between Skyliners Road and Shevlin Park Road shall be limited to the Industrial Park and Mixed Employment land use categories to minimize additional heavy truck traffic on Newport Avenue and Galveston Avenue.

11. The 95 acre industrial area at the West edge of the urban area shall be designed and developed as part of an overall master plan for future industrial, commercial and residential development between Skyliners Road and Shevlin Park Road.

Mixed Use Development

12. Mixed-use development along the river in the old mill sites shall be subject to facility plan, master plan, and design review processes to achieve the following purposes:

- provide a variety of employment opportunities and housing types;
- foster pedestrian and other non-motor vehicle access within and to the site;
- ensure compatibility of mixed-use development with the surrounding area and minimize off-site impacts associated with the development;

- ensure the site planning, access, parking areas and building designs are functionally coordinated and aesthetically pleasing; and
- improve the natural conditions along the Deschutes River, and to encourage access to and enjoyment of, the Deschutes River.

13. Designation of the Mixed-Use Riverfront Plan category and corresponding MR zoning along the Deschutes River shall not be used to justify rezoning adjacent properties or neighborhoods to a mixed use or commercial zone.

14. The property south of Cooley Road between Highway 20 West and the Mountain View Mall, as shown on the General Plan Map, shall be designated for mixed industrial and commercial development. Because this area is along the state highway and is an entrance to the community, it shall be subject to access controls and design review standards.

15. The area west of Highway 97 North and north of Empire Avenue, as shown on the General Plan Map, shall have a mixed-use designation for industrial and commercial development. Properties in this area shall take access from the frontage road or other internal roads that are shown on the transportation plan. Because of the high visibility of these properties, they shall be subject to design review standards.

16. The area of existing industrial and commercial development in the middle of the urban area north of Franklin Avenue to Addison Avenue shall have a mixed use designation for industrial and commercial development.

17. The City may designate other areas for mixed use development to encourage a variety of jobs and services close to residential areas.

Commercial Development

18. The existing pattern of commercial designations shown on the Plan Map along Highway 97 and Highway 20, and along arterial streets such as Newport Avenue, Galveston Avenue, SW 14th Street, 27th Street, and O.B. Riley Road shall not be extended farther along the street corridors.

19. No new strip commercial development or extensions of the commercial designations shall be permitted along arterial or collector streets.

20. The city shall strive to retain and enhance desirable existing commercial areas and encourage property owners efforts to rehabilitate or redevelop older commercial areas.

21. Zoning for commercial centers other than those shown on the Plan Map shall meet the location and size standards in the Plan text in addition to the Plan amendment and/or zone change criteria.

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

23. The city shall encourage the development of Neighborhood Commercial centers. Such centers shall be small, one-quarter to one-half acre developments which serve the frequent needs of the people within a one-fourth to one-half mile radius of the site. A zone change request shall meet the standards in the Plan text.

24. Convenience Commercial centers should be up to five acres in area and be from one to one and one-half miles from another commercial use.

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

26. The city shall continue the revitalization process in the Central Business District through rehabilitation or redevelopment of existing areas.

27. Proposed buildings that exceed 45 feet in height shall be reviewed through the conditional use permit process.

28. An area south of Murphy Road on the west side of Highway 97 has been marked for highway commercial with a flexible "sawtooth" boundary. This area shall be approved for development only when a system of frontage road and limited access control is created that will protect the capacity and safety of Highway 97 and South 3rd Street.

29. It is the intent of the Plan to allow commercial development adjacent to arterial streets and highways in areas designated for commercial development, provided that the developments access onto frontage roads or interior roads, and that access onto the highway or arterial will be limited. Points of access will be encouraged that provide for adequate and safe entrances and exits, and that favor right turns and merging over the use of traffic signals.

30. The 25 acre commercial area at the West edge of the urban area shall be designed and developed as part of an overall master plan for future commercial, industrial, and residential development between Skyliners Road and Shevlin Park Road.

✪✪✪✪✪

"Exhibit F"

FINDINGS AND DECISION OF THE BEND CITY COUNCIL
UNDER PZ00-307 AND PZ00-388

APPLICANT: West Bend Property Company, LLC, 296 SW Columbia, Suite A, Bend, Oregon 97702

OWNER: West Bend Property Company, LLC, 296 SW Columbia, Suite A Bend, Oregon 97702; Bend La Pine School District C/O Sharon Smith, Attorney
P.O. Box 1151, Bend, Oregon 97709; Benjamin Gilchrist C/O Robert Lovlien, Attorney, P.O. Box 1151, Bend, Oregon 97709

REQUEST: A Bend Area General Plan Map amendment to define the boundaries of Residential Standard Density, Industrial park and Commercial Limited plan designations, and to add Mixed Employment and Public Special District/Land & Facilities plan designations; an amendment to Chapter 6 of the Bend Area General Plan text and policies to be consistent with the proposed map amendments; a zone change request to change: (1) 36.3 acres from Urban Standard Residential (RS) to Industrial Park (IP); (2) 27.4 acres of Urban Standard Residential (RS) to Commercial Limited (CL); (3)14.7 acres from Urban Standard Residential (RS) to Mixed Employment; and (4) 63.5 acres from Urban Standard Residential (RS) to Public Facilities (PF) for Bend La Pine School District elementary school and high school sites. The request also includes a text amendment to the City of Bend Zoning Ordinance NO. NS-1178 to adopt overlay zoning districts to implement the Northwest Crossing Master Development Plan.

LOCATION: Tax map # 17-11-36, tax lots 101, 200R1, 300, 400 and 17-12-31C tax lot 100; between Skyliners Road and Shevlin Park Road at the west edge of the Urban Growth Boundary (the "Property").

I. INTRODUCTION

The Property is located on the western edge of the urban growth boundary between Skyliners Road and Shevlin Park Road and is more particularly identified as tax lots 101, 200R1, 300, 400 on tax map # 17-11-36, and tax lot 100 on tax map # 17-12-31C. The Property is zoned Urban Standard Density Residential ("RS") and is designated Urban Standard Residential by the Bend Area General Plan map. The General Plan map also designated two floating zones for the Property that include 95 acres of Industrial Park ("IP") and 25 acres of Commercial Limited ("CL").

The Plan Map and Chapter 6 of the General Plan require a future Master Plan for the Property to map these CL and IP zones. Under Chapter 6, *The Economy and Lands for Economic Growth*, the General Plan states that the 95-acre industrial area and the 25-acre commercial floating zones at the west edge of the urban area "shall be designed and developed as part of an overall master plan for future industrial, commercial and residential development between Skyliners Road and Shevlin Park Road." (General Plan at Chapter 6, pages 15, 18.)

In order to achieve this General Plan objective, several amendments must be processed. First, the floating CL and IP designations must be identified on the General Plan through a Plan Amendment. (General Plan at page 6). Second, a Text Amendment is required to conform the policies of Chapter 6, *The Economy and Lands for Economic Growth*, to the new map designations. Third, to conform the Zoning Map with the Plan Map, the application also must include a parallel amendment to the Bend Area Zoning Map to map and zone 36.3 acres of IP, 27.4 acres of CL, 14.7 acres of Mixed Employment ("ME"), and 63.5 acres of Public Facilities ("PF") for Bend La Pine School District elementary school and high school sites. Fourth and lastly, the applicant has requested a text amendment to the Bend Area Zoning Ordinance to implement a Master Development Plan for the Property through the implementation of the Northwest Crossing Overlay Zone.

This proposal to amend the General Plan and Zoning Ordinance must satisfy the applicable approval criteria. The approval criteria for the amendments are governed by the provisions of the *Future Plan Updates* policies found at page 6 of the General Plan. The Zoning Map Amendment and Zoning Ordinance Text Amendment are governed by the standards provided under Section 10.10.33, *Amendments*. Other applicable criteria include:

(a) 10.10.10, Urban Standard Residential Zone (RS)
(b) 10.10.15, Limited Commercial Zone (CL)
(c) 10.10.19, Industrial Park Zone (IP)
(d) 10.10.21B, Mixed Employment Zone (ME)
(e) 10.10.21C, Public Facilities Zone (PF)
(f) The Bend Area General Plan
(g) City of Bend Ordinance NS-1556, Land Use Permit & Review Procedures
(h) Oregon Administrative Rules, Chapter 660-12-060
(i) Oregon Statewide Land Use Goals

As the analysis below demonstrates, the City Council finds that the request to locate the IP, CL, ME and PF zones on the Property and the related Text and Zoning Ordinance amendments satisfy all of the applicable approval criteria. We therefore accept the Planning Commission recommendation and approve the Bend Area General Map and Text Amendment and Zoning Map and Text Amendment request with amendments proposed by applicant on April 4 and at the first reading on April 18, 2001.

Together with the Findings below, the Council hereby incorporates by reference the following documents as supplemental findings:

[DOCUMENTS]

1. Findings and Decision of the Bend City Council for Ordinance No. NS-1757 (Exhibit 1).

2. Westside Consortium Traffic Impact Study (Exhibit 2).

II. BEND URBAN AREA GENERAL PLAN AMENDMENTS

Future Plan updates **(General Plan at pages 6-7)**

In relevant part, the Future Plan Updates section of the General Plan states:

"The General Plan is a document that changes over time to reflect new information and new directions for the future. Amendments or additions to the General Plan text, exhibits, and policies go through a public hearing and review process before being adopted by the governing bodies. Changes and updates can be generated in at least six ways:

* * *

Changes proposed by individuals or other agencies. At any time an individual, corporation, or public agency can propose a change to the Plan text, land use map, other exhibits, or policies. A person or agency proposing a change has the burden to demonstrate a public need and benefit for the change."

FINDING: This proposal was submitted by individuals in conformance with the above policy. As a result, the applicants must demonstrate that there is a public need and benefit for the change. The General Plan amendments include a Map Amendment to locate the floating Industrial, Commercial and related zones on the Property as required by Chapter 6 of the General Plan. These amendments and related text amendments are in turn required to complete a Master Development Plan for Property. Similar to the Map Amendments, the Master Plan is also required by the General Plan before development on the Property can occur. (General Plan, Chapter 6, pages 15, 18). The Map and Plan Amendments therefore implement Chapter 6 of the General Plan. Because the General Plan reflects the public needs and benefits for land uses in the City of Bend over the planning period, and this request implements a required objective of the General Plan, Council finds that the application addresses and demonstrates a public need and benefit consistent with the discussion below.

A. General Plan Map Amendment.

The purpose of the proposed General Plan Map Amendment is to specifically define the boundaries of the Industrial and Commercial zones currently designated on the subject property as "floating" nodes. The proposed plan amendment also defines the boundaries of ME and PF plan designations. The ME zone permits industrial uses outright and the PF zone permits schools outright. The proposal therefore also incorporates the PF designation to provide for two approved school sites and the ME zone to compliment and enhance the acreage within the Industrial zone. The balance of the Property will be retained as RS lands. The following allocations are proposed:

Plan Designation	Acres
Residential Standard Density	299.1
Industrial	81.3
Commercial	27.4
Mixed Employment	14.7
Public Special District / Land and Facility	63.5
Total Acres	486.0

Commercial Limited

The Bend Area General Plan designates 25 acres for CL zoning on the Property. The CL center is intended to serve residential growth on the west edge of the urban area. (Bend Area Plan at 12-13). Table 21 of the General Plan , *Commercial Designations*, specifies that the CL designation provides locations for a wide range of retail and service commercial uses in the community along highways or in new centers. (Bend Area Plan, Chapter 6, Table 21 at page 14). New CL zones are designated under the Plan between 5 and 30 acres in size.

The application conforms to both the size and location requirement of the Plan. The applicant has proposed two areas within the NorthWest Crossing Master Development Plan for commercial development. The larger of the two areas is located at the northeast comer of the Property along Shevlin Park Road. This area totals 19.7 acres. The second CL area is more centrally located along Mt. Washington Drive at the intersection of the east/west collector. This CL site totals 7.7 acres. The combined gross acreage of the two commercial zones is 27.4 acres. After the public street system is developed, the CL acreage will be reduced to 25 acres. The acreage total is therefore consistent with the General Plan CL allotment for the Property and each node exceeds the 5-acre minimum requirement for new CL designations.

Further, the Council finds that dividing the required CL land into two locations satisfies the locational objectives of the General Plan while creating multiple commercial centers. Both of the CL properties are located on arterials within a new center as contemplated under Table 21 of the General Plan. In addition, the two centers are approximately one-half mile apart. The Centers will therefore be within approximately one-quarter mile walking distance of existing and planned residential areas. By virtue of their locations, the new CL designations will serve and "support local needs, rather than the needs of . . . motorists passing through the community." (Bend Area Plan at pages 11-12).

The applicant has proposed to locate 25 acres of CL in conformance with these requirements in two commercial nodes within the new community. Council therefore finds that the CL map designation implements a required objective of the General Plan and therefore demonstrates a public need and benefit as that benefit has been predetermined by the express language of the Plan.

Industrial

The current General Plan map designates 95 acres for Industrial zoning to be located on the Property along the west edge of the city limits and west of Mt Washington Drive. The public need for the Industrial zoning on the Property was determined by the adoption of the General Plan. The General Plan further identifies the quantity and type of land needed for Industrial uses. Figure 26 in *The Economy and Lands for Economic Growth*, calls for 820 gross acres of industrial land through 2020 to meet the City's anticipated demand. (Bend Area Plan at Chapter 6, page 7). The projection for needed industrial land is based on the absorption rate of industrial lands. The demand for industrial land within the urban area varies from year to year rather than following a trend of steadily increasing need. Council finds that the 95 acres of Industrial land contemplated under this application are included in the General Plan inventory of needed industrial land.

The City of Bend ***Economic Lands Study Part 1: Trends, Inventory and Forecast*** (November 1999, page 21) cites a need for industrial parcels over 10 acres in size and states that the lack of large parcels has hindered the expansion of local firms and made it difficult to recruit larger businesses. The applicant has proposed a total of 95 acres of land that would be available for industrial development within the Property divided into two zones. The IP zone would include 81.3 acres and the ME zone would include 14.7 acres. The ME zone is discussed further below. The applicant has proposed two separate areas for IP designation. One location is adjacent to Skyliners Road and Mt. Washington Drive. This area is 36.3 acres in size with direct access to both Mt. Washington Drive and Skyliners Road. The second area is 45 acres in size and is located along the west property boundary at the northwest comer of the site. The east/west collector is along the south boundary and the future collector alignment is along the west boundary. Council finds that these large blocks of IP land are consistent with the policy directives under the General Plan and therefore demonstrate public need and benefit.

The 81.3-acre allocation of Industrial leaves 14.7 of the 95 acres available for Industrial uses in an alternative zone designation. The applicant has therefore proposed to designate 14.7 of the 95 total acres ME. For the reasons stated below, Council finds that the ME designation further enhances the Industrial potential of the Property and therefore provides for the public need identified under the General Plan.

The 14.7-acre ME zone is to be located southwest of the intersection of Mt. Washington Drive and the east/west Collector Street. With the exception of "enclosed storage facilities including mini warehouse" all of the Industrial Park uses are permitted or conditional uses in the ME zone. Therefore, Council finds that replacing 14.7 acres of IP with ME will not restrict the availability of land for the industrial uses permitted in the IP zone. The ME zone is intended to provide for mixed light industrial and commercial uses in areas where mixed development patterns exist. (Bend Area Plan, Table 20, *Mixed-Use Designations*, Chapter 6 at page 11). To this end, the Master Plan for the Property is based on a mixed-use community, where residential lands are located in close proximity to industrial and commercial uses. The stated goals of the development are to create a mixed use community that includes a variety of housing choices, lively pedestrian oriented commercial centers, business and employment opportunities and parks for recreation and open space.

The ME plan designation and corresponding zone will provide for industrial uses in the same manner as the IP designation but also provide an effective transition between the strictly commercial and industrial designations. Together, the ME and IP zones will enhance industrial development in the area. Because the proposed 14.7 acres of ME will be located adjacent to the IP it is probable that support professional and service uses will be located in the ME zone where they are permitted rather than in he IP zone where they are conditional uses. This will leave the 81.3 acres of IP available for the light manufacturing and research uses. As a result, Council finds that the 14.7-acre ME zone contributes additional lands to the industrial supply as contemplated in the General Plan and provides an effective transition zone from IP to commercial and residential uses. Because the ME zone is located adjacent to the IP zone, the ME zone will enhance the development of industrial uses within the Property.

Public Special District / Land and Facilities

The Bend LaPine School District received City approval for two public schools on the Property prior to the adoption of the Bend Area General Plan in 1998. The School District acquired a 60-acre piece of the Property for an elementary school which was completed September 2000 and a High School that is scheduled to open September 2001. The Bend Area General Plan designates existing schools within the City as Public Special district / Land and Facilities. The Plan also provides "the city shall require major new developments to reserve land for school purposes in conjunction with the Bend-La Pine School District's adopted plan for the type and location of future facilities." (General Plan, Chapter 3 at page 19). The applicant's proposal responds directly to this requirement by rezoning the approved school locations PF consistent with the General Plan map.

In sum, the General Plan identifies the public need and benefit for the requested amendment. Council finds that the General Plan calls for the designation of 95 acres of Industrial land, 25 acres of Commercial land and adequate land for school facilities as part of all new major developments. Based on the above findings, Council finds that the applicant's proposal for the General Plan map amendment to affix the location of the floating plan designations for Industrial and Commercial lands to the Property and designating the Mixed Employment and the PF plan designation for designated school sites is consistent with the public needs and benefits outlined in the General Plan.

III. TEXT AMENDMENTS TO BEND URBAN AREA GENERAL PLAN

As discussed above, the General Plan Map and Chapter 6 of the General Plan require a future Master Plan for the Property to map the CL and IP zones. Under Chapter 6, *The Economy and Lands for Economic Growth*, the General Plan states that the 95-acre industrial area and the 25-acre commercial floating zones at the West edge of the urban area "shall be designed and developed as part of an overall master plan for future industrial, commercial and residential development between Skyliners Road and Shevlin Park Road." (General Plan at Chapter 6, pages 15, 18.) The applicant has submitted a Master Plan with this application. However, as discussed above, to implement this provision of the General Plan, the applicant has also requested that the City apply an ME zone to fulfill a portion of the requirement for industrial uses on the

Property. The ME zone was adopted in 1998 and was not subsequently applied to the Property as a floating node. Therefore, the existing Plan text must be amended to include ME.

The proposed amendments to Chapter 6 are restated below. The proposed text is in **bold underline** and the deleted text is shown as ~~strikethrough~~.

The first text amendment is found in Chapter 6, page 9:

> Beside the developed areas, one undeveloped area is included in the General Plan to help meet future industrial needs. This 95-acre site is just inside the west edge of the Urban Growth Boundary, and was part of a pumice and rock mining operation that ended in 1997. This site will be redeveloped for ~~light industrial~~ park uses and **mixed employment uses**, and will provide for industrial jobs on the growing West-side of the urban area. ~~No specific site boundary is shown on the Plan Map.~~ This industrial land is part of an undeveloped ~~380~~ **486** acre site that also includes two school sites, commercial and residential uses. ~~Until a master plan is developed for this site, only the approximate location for this industrial area is shown on the Plan Map.~~ In addition, the Plan provides for another 60 acres of adjacent industrial reserve land in the Urban Reserve Area for long-term industrial development on the West-side.

Council finds that this amendment is consistent with the public needs and benefits discussed above. Together, the ME and IP zones provide 95 acres of industrial development as contemplated under Chapter 6. (General Plan, Chapter 6, pages 15 and 18).

The second text amendment is found at Chapter 6, page 10. The section currently refers to two Mixed Employment areas. With the application of the ME zone to the Property, the language must be amended to include this third area. The amendment states:

> Mixed-Use Designated Areas
>
> The Bend Area General Plan Map has ~~two~~ **three** areas designated for mixed use development.

The additional following sentence must then be added as the last sentence in the last full paragraph on page 10:

> A third **location where the** Mixed Employment **designation is applied is as** part of a mixed-use center along Mt. Washington Drive along the west edge of the urban area.

Again, Council finds that the location and size of the ME zone is consistent with the General Plan and the public need and benefit addressed under the Plan for the Industrial and Commercial zoning on the Property. Mixed Employment is designed to recognize a mixed pattern of commercial, industrial and institutional uses such as those that are provided on this Property. (General Plan, Table 20 at Chapter 6, page 11). There is no minimum acreage requirement for ME so that the 14.7-acre allotment satisfies both the size and location requirements for the zone. Because ME permits industrial uses and will be located directly adjacent to the IP designation for the Property, Council finds that the public need and benefit for ME as addressed in Chapter 6 are demonstrated by this proposal.

As referenced above, Table 20 currently states that ME is intended for "mixed light industrial and commercial uses in areas that already exhibit a pattern of mixed development." By virtue of the application of the floating nodes as required under Chapter 6, and this Plan Amendment and Zone Change, the Property will exhibit a pattern of mixed development. To ensure that the language of Table 20 is consistent with the other provisions of Chapter 6, the applicant has requested a minor amendment. The amendment will help clarify Council's intent to apply the ME zone to

areas that have a pattern of mixed development, either existing or planned. The revised language reflects this intent.

> Mixed light industrial and commercial uses in areas that already exhibit a pattern of mixed development **or in new areas that are planned for mixed use to serve the employment and service needs of an area.**

Council finds that this amendment is necessary to ensure that the intent statements for the ME zone are consistent with the floating nodes that must be applied to this Property through a Master Plan under Chapter 6. To this end, the "new area" language incorporates Council's intent to include both existing and planned mixed-use areas and demonstrates public need and benefit by implementing Chapter 6.

In addition to these amendments, there are two General Plan Policies under Chapter 6 that must be amended to reflect the application of the ME zone to the west-side. The first policy is found at Chapter 6, page 15:

> 10. Development of the industrial lands at the West edge of the urban area between Skyliners Road and Shevlin Park Road shall be limited to the Industrial Park and **Mixed Employment** land use categories to minimize additional heavy truck traffic on Newport Avenue and Galveston Avenue

Council finds that this amendment to include ME in Policy 10 is consistent with the intent of the Policy and renders it consistent with remaining provisions of Chapter 6 that include ME uses on the West side. The intent of the policy was to encourage light industrial uses on the West side in an effort to reduce heavy truck traffic on Newport Avenue and Galveston Way. The ME designation furthers this Policy by providing a land use designation that permits light industrial uses and provides for a mix of light industrial and other like employment uses. The ME designation will therefore continue to reduce heavy truck traffic on the West side in conformance with this Policy. Because the amendment further implements the public need and benefit that was already expressly stated in the policy, Council finds that the amendment to include ME with the light industrial category under Policy 10 meets the amendment approval criterion.

Currently, there is no language within the ME policies that require ME development other than the two areas originally designated. A new policy should therefore be added that calls for a mix of industrial, commercial and office development and reflects Council's intent to apply ME to areas that are developed or planned with mixed employment uses. The proposed Policy 17 states:

> 17. The City may designate other areas for mixed-use development to encourage a variety of jobs and services close to residential areas.

Council finds that this new policy provides an incentive to plan mixed use areas where commercial, industrial and residential uses exist in close proximity. Again, the purpose of the ME zone as stated in the General Plan and the Zoning Code is to provide for a mix of uses such as office, retail, services, light manufacturing and warehousing that offer a variety of employment opportunities in an aesthetic environment. BZC § 10-10.21B(1). The Council has previously determined that the ME zone should be applied in areas that are planned or zoned with a mix of uses. Policy 17 merely restates the City's intent and directs the City to apply the ME zone in appropriate circumstances.

Based on the above findings and the applicant's proposed text changes, Council finds that the proposed text amendments implement the express requirements of Chapter 6 to apply the floating industrial and commercial nodes to the Property through adoption of a Master Plan and are consistent with the public need and benefit as expressed under Chapter 6.

IV. TEXT AMENDMENT TO THE CITY OF BEND ZONING ORDINANCE NS-1178

Pursuant to Chapter 6 of the General Plan, and as referenced above, the applicant has also submitted the Northwest Crossing Master Development Plan ("Master Plan"), attached as Exhibit B and incorporated herein by reference. To implement the Master

Plan, the applicant is requesting an amendment to the text of the City of Bend Zoning Ordinance No. NS-1178. The text amendment would add a new chapter to the zoning code to establish an overlay zone containing six overlay-zoning districts for the area subject to the Master Plan.

Section 10-10.33 provides for amendments to the Zoning Ordinance. The Section provides:

> "This ordinance may be amended by changing the boundaries of zones or by changing any other provisions thereof, whenever the public necessity and convenience and the general welfare requires such an amendment. Such a change may be proposed by the City Council on its own motion or by motion of the Planning Commission, or by petition as hereafter set forth."

Subsection 10.10.33(4) further provides for text amendments to the zoning code. There are no approval criteria specific to a text amendment. Council therefore finds that the amendment must comply with 10-10.33 and the applicant must demonstrate that public necessity and convenience and the general welfare justify the amendment. Based on the findings below, Council finds that the adoption of overlay zoning districts for the Property are consistent with the intent to create a mixed-use community consistent with the policy objectives of Chapter 6 of the General Plan and the other relevant policies.

The general welfare standard under Section 10-10.33 is expressed through applicable provisions of the General Plan. Council finds that the proposed purpose statement and text of the overlay districts are in compliance with the applicable General Plan goals.

Specifically, Council finds that the proposed overlay districts promote a variety of residential choices and living styles located close to schools, parks, shopping and employment. Without the overlay districts, the types of dwelling units permitted in the RS zone would include single-family units permitted outright and duplex units permitted conditionally. With the overlay districts housing density will range from 3 units per net acre up to 19 units per net acre and include a variety of single-family lot sizes, duplexes, townhomes and multi-family housing. The overall density will not exceed 7.3 units per acre. Therefore, Council finds that the proposed overlay districts will promote more flexible and creative subdivision designs and will allow for implementation of the Goals identified below through conformance with applicable policies including housing, transportation and employment policies.

Bend Urban Area General Plan Chapter 5 - Housing and Residential Lands

Council finds that the proposed zoning ordinance text amendment complies with the following applicable policies in the Housing and Residential Lands Chapter of the General Plan:

4. **Private and public non-residential uses are necessary and should be permitted with residential areas for the convenience and safety of the people. Such facilities shall be compatible with surrounding developments, and their appearance should enhance the area.**

The proposed Residential Mixed-use District is relevant to this policy. The Residential Mixed-use District is applied to locations adjacent to collector streets or public parks to allow for a mix of higher density residential uses, live/work housing and community commercial uses in the Urban Standard Residential Zone. The purpose of the zone is to create small, neighborhood-scale mixed-use at specified locations within the Master Plan area. By definition, the community commercial uses in this District are no larger than 2,000 square feet in building area and have limited vehicle parking. The parking limitation is designed to encourage local patronage of the commercial uses and to discourage driving customers from outside the neighborhood.

Because of the distinct character of this mixed use zone, Council also finds that the street system in a mixed use community will accommodate additional vehicle parking. As a result, on-street parking spaces can and should be counted towards the parking requirements of a proposed use. In determining what number of on-street parking spaces should be counted towards a proposed use, Council finds that the number of parking spaces directly adjacent to a property's street frontage be counted toward a proposed use.

Council finds that the small-scale community commercial use that is proposed to be permitted in limited locations in the Residential Mixed-use District conforms to the intent of this policy. The proposed development standards for the zone include limitations on size, location, parking and signs to limit the intensity of commercial uses adjacent to residential districts. These design standards and limitations compel compatibility with the residential area and recognize the unique characteristics of the area under the mixed use zoning.

11. Residential areas shall offer a wide variety of housing types in locations best suited to each housing type.

Under the standard RS zone, the variety of housing types would be limited to single-family and duplex units. While the RS zone allows Planned Unit Developments as conditional uses, the type of dwelling units are limited to single-family and duplex units. The proposed overlays permit a full range of housing types including single-family, duplex, townhome and multi-family. Because the RS zoning covers about 300 acres, it is appropriate to plan for a range and mix of housing types, creating a diverse community rather than a single, widely distributed prototype. The Master Plan locates the higher density housing, including townhouse and multi-family, adjacent to collector or arterial streets, near commercially zoned areas or adjacent to public parks and schools. Council finds that these locations are suited for higher density housing because, among other things, the street size is more appropriate for larger volumes of traffic. In addition, according to the Master Plan, public open space is proposed adjacent to the higher density residential areas and these areas are located along major streets that may in the future include public transportation stops. Council therefore finds that the residential areas offered under the proposed overlays creates a wide variety of housing in locations best suited for that increased density in conformance with this policy.

21. Densities recommended on the Plan shall be recognized in order to maintain proper relationships between proposed public facilities and services and population distribution

The projected overall density within the Master Plan area for the RS zoned land, including the overlay districts, is approximately 5 units per acre. The overall development will therefore be within the RS range of 2.0 to 7.3 units per acre. The proposed maximum density in the Townhome District is approximately 9 units per acre. The proposed maximum density in the Multiple-family and Residential Mixed-use Districts is 14 units per acre. These residential overlay districts are limited to 27 acres out of the total 300 acres of RS zoning. Within these 27 acres, the Master Plan defines the number and size of lots, the street circulation plan and the public parks. Considering the maximum densities stated above, the limited acreage and the public parks and circulation plan, the overall density of the Master Plan residential area will not exceed 7.3 units per acre.

The densities on the Master Plan have been recognized and coordinated with the proposed public facilities and services. The adequacy of public services is discussed below. Based on these findings, Council concludes that the recommended densities are recognized under the Master Plan and the higher density population areas are coordinated with needed public facilities.

27. When new commercial centers are created in developing residential areas, the city and county may allow up to 20 acres of medium

density residential housing within one eighth of a mile of the commercial center.

Council finds that this policy is permissive rather than mandatory. The proposed NorthWest Crossing Master Development Plan includes two commercial centers that will be zoned CL. The proposed 27 acres of Residential Townhome, Multi-family and Mixed-use Districts will allow a housing density that is in the RM range of 7.3 to 21.7 units per acre. According to the Master Plan, most of the residential overlay zones are within one-eighth of a mile of the commercial centers to create convenient pedestrian access to the centers. The remaining proposed areas that are not within one-eighth of a mile are all within one half mile or within a 10-minute walking distance to the commercial centers. While the Mixed Use Districts include a mixture of residential and commercial uses, it appears that the proposed amount of medium density residential housing will be approximately 20 acres in size. Council therefore finds that if this policy were mandatory, the overlay districts would be consistent with its stated intent.

29. **Medium and high density residential developments shall be located where they have good access to arterial streets and be near commercial services, employment and public open space to provide the maximum convenience to the highest concentration of population.**

Consistent with the discussion above, the three proposed residential overlay districts are all located adjacent to at least one of the uses identified in this policy, namely arterial streets, commercial services, employment opportunities and public open space. Council therefore finds that this policy is satisfied by the proposed overlay districts.

43. **Residential development shall be coordinated with other land use elements and community facilities that are consistent with projected housing densities.**

The Master Development plan coordinates vehicle, pedestrian and bicycle circulation plans with the residential uses permitted by the residential overlay districts. All residential areas will be served with sidewalks. The Residential Townhome, Multiple-family and Mixed-use Districts are located along collector streets and will be served with extra-wide sidewalks and designated bicycle lanes. The Districts adjacent to Discovery Park are located near a multi-use trail that will connect with the commercial area and the high school. Community facilities integrated into the plan include the two schools and public parks. The overlay districts will allow a variety of housing types that will meet the projected General Plan RS densities and be located within convenient walking and biking distance to schools, parks, trails and commercial areas. Because the Master Plan and overlay districts contemplate a mixed use community, coordination of various land use elements is a fundamental tenet in the development. Therefore, Council finds that the proposed development will conform to this policy.

Bend Urban Area General Plan Chapter 6 - The Economy and Land for Economic Growth

Council finds that the Overlay Districts will permit uses that will support the goals identified in the Economy and Land for Economic Growth Chapter. The opportunity to have live/work housing will stimulate economic development that will diversify and strengthen economic activity and provide primary and secondary job opportunities for residents of the neighborhood. Allowing the proposed business opportunities will ensure that a full range of industrial and commercial uses are possible on the Property and will support the development of this area. The applicant is also proposing to maintain the limited amount of ME zoning for diverse office and light industrial uses to complement and enhance the industrial designations for the Property.

The 14.7-acre ME zone contributes additional lands to the industrial supply as contemplated in the General Plan and provides an effective transition zone from IP to commercial and residential uses.

The Parking District provisions, special setbacks and street standards in the Commercial Mixed Employment Overlay District are designed to create livable, mixed-use commercial centers that have a main street feel. Council finds that the provisions of this overlay district will create compact commercial centers that will be more compatible with adjacent residential uses. The standards require a maximum rather than minimum-parking standard. The parking will be in common shared lots that will allow buildings to front on the streets and wide sidewalks to create a pedestrian-friendly environment.

The two proposed Commercial Mixed Employment centers, the live/work housing and community commercial uses provided for in the overlay districts are consistent with the goals to limit strip development and serve neighborhoods to reduce vehicle trips. The live/work housing will permit a new employment space that will diversify the employment opportunities and respond to changing technologies, demographics and trends that indicate more people want to, and are able to, work out of their homes and provide limited employment to others.

To this end, the Master Plan and overlay districts for the Property are based on a mixed-use community, where residential lands are located in close proximity to industrial and commercial uses in conformance with this policy.

Bend Urban Area General Plan Chapter 7 - Transportation - Goals

Through restatements of it various goals, Chapter 7 encourages development of a transportation system that serves all modes of travel and reduces the reliance on the automobile and encourages the development of land use patterns that provide efficient, compact use of land. To this end, Chapter 7 also encourages the design of transportation improvements to preserve air and water quality, minimize noise impacts, and encourage energy conservation. The Goals in Chapter 7 are implemented through a number of policies pertaining to transportation demand management, pedestrian and bicycle systems and street grids. Some of the main objectives include reducing peak hour traffic loading on the roadway system, reducing single occupant vehicle travel, managing and regulating the amount of parking and supporting increased levels of bicycling and walking. The policies relevant to the street system are to provide a practical, safe and convenient means of moving people and goods within the urban area and to provide an attractive, tree-lined, pedestrian friendly streetscape sensitive to protecting the livability of the community.

Based on these restated policies and objectives, Council finds that the proposed overlay zone is consistent with the Goals for Chapter 7.

The proposed street, circulation plans and standards are found at Table B and Figure 12 of the overlay zones. The proposed transportation circulation plans emphasize all modes of transportation with extra wide sidewalks, multi-use trails and bicycle lanes. The overall Master Plan creates land use patterns and a hierarchy of streets that provide efficient, compact use of land, and facilitate a reduced number and length of trips. Council finds that the overlay zone include a mixed-use design that will promote a reduction in the number of vehicle trips. The overlay districts place a full range of housing types within convenient walking distance to commercial areas, schools, employment centers and parks which will encourage walking and bike trips.

The street standards are designed to promote livability by having wide landscape strips, on-street parking in commercial and residential areas, extra wide sidewalks along collectors and arterials, and curb extensions at all intersections. The width and location of the various street types are appropriate for the volume and type of traffic that the planned land use will generate.

The design of the street layout was driven by City standards for maximum grade, block lengths, the topography of the site and the need to site all of the industrial and commercial land on the Property under Chapter 6. The selected street layout maintains a forested environment as much as possible through careful building location and

design of streets and open space. The street design on most of the project is based on a standardized lot depth.

The pedestrian and bicycle system plans are found in the Master Development Plan. The Plans show a complete network of interconnected sidewalks, bike lanes, multi-use trails and connector trails. The two multi-use trails conform to the trail location on the Bend Urban Bicycle and Trail Plan Map. The trails will provide access to the High School, a commercial area and one of the parks. Based on the pedestrian and bicycle system plan, Council finds that the proposal meets and exceeds the policy objectives under Chapter 7.

Orderly and efficient provision of off-site transportation facilities will occur through implementation of the Development Agreement between the City of Bend and the applicant as well as the Local Improvement Districts for the construction of intersections on the west-side. The applicant entered into a Development Agreement with the City of Bend on November 6, 2000. It was adopted by Ordinance No. NS-1757 (the "Development Agreement"). The Development Agreement, together with the City's adopted findings in support of the Agreement, have been incorporated by reference as supplemental findings to this Decision. (Exhibit 1.)

The Development Agreement identified the traffic impacts associated with full buildout through 2020 of Northwest Crossing as contemplated by the pending applications, with one exception. The 45-acre IP allotment was not part of the Development Agreement. Because the applicant is not requesting buildout of the 45-acre piece under this application, the transportation impacts of the 45-acre parcel are not at issue here. When development is proposed within the 45-acre area, a transportation analysis may be required to assess any traffic impacts and identify and necessary mitigation measures.

The balance of the proposal was contemplated under the Development Agreement. The City's adopted findings under the Development Agreement assumed a higher trip generation rate based on a rezone to mixed-use development as contemplated under these applications. Accordingly, the City's adopted findings under the Development Agreement concluded that with this future rezone and plan amendment, the traffic associated with Northwest Crossing would be adequately mitigated through the transportation improvements required under the Development Agreement. The applicant also submitted a traffic memorandum into the record that identified the assumptions underlying the rezone and compared those assumptions to the existing zoning and those impact mitigation measures already required under the Development Agreement.

The zoning proposed under this application would generate approximately 1335 inbound trips and 1435 outbound trips. The mixed use nature of the project will also internalize trips within the Property. Analysis of the internalization was performed in accordance with the ITE Code for mixed use development. A comparison of the transportation needs under the existing zoning and those under the proposed zoning in year 2020 was then performed. The analysis was consistent with the buildout assumptions included in the Westside Consortium Traffic Study, also incorporated herein by reference as supplemental findings as Exhibit 2. Improvement needs at 14 intersections were evaluated. Tables 2 and 3 of the Traffic Memorandum compare the intersection needs between the existing and proposed zoning. Based on the undisputed traffic evidence, no additional improvements, beyond that required for the existing zoning scenario would be required at any of the study intersections if roundabouts are constructed at the intersections. Under the Development Agreement and the balance of the Westside Consortium agreements, each of these roundabouts will be constructed and phased to meet transportation needs as they develop.

The Development Agreement requires the applicant to make transportation improvements identified in the Traffic Memorandum and the Westside Consortium Traffic Study consistent with the maximum densities articulated in the overlay zones and vested under Sections 4, 6, 7, 8 and 10 of the Development Agreement. Council again finds that the applicant is required to fund or construct the following off-site

Projects:

(1) construct a single lane roundabout at the intersection of Mt. Washington Drive and Shevlin Park Road. Construction must commence by December 31, 2000.
(2) contribute 50% of the cost of constructing a single lane roundabout at the intersection of Mt. Washington Drive and Skyliners Road. Construction must commence by December 31, 2002.
(3) construct a single lane roundabout at the intersection of 9th and Newport. Construction shall commence by December 31, 2002.
(4) contribute 50% of the cost of constructing a single lane roundabout at the intersection of 14th and Galveston. Construction shall commence by December 31, 2000; and
(5) Participate in the Bridge LID Petition to fund the costs of constructing the Southern Bridge.

In addition to these improvements, the applicant is also required under its Development Agreement to widen the north half of Skyliners Road and install a bicycle lane, all along the boundary of the Property to city standards, widen the south half of Shevlin Road and install a bicycle lane, all along the boundary of the Property to city standards, construct a pedestrian trail along the north side of Skyliners Road along the boundary of the Property and provide adequate right-of-way and site development accommodations to support transit, such as, areas for bus stops, shelters or other similar facility as deemed appropriate by the City. As we found under Ordinance No. NS-1757, these improvements will ensure that the development is orderly and consistent with the efficient provision of transportation facilities under these policies and objectives.

Based on substantial evidence in the record, the Council has determined that the planned westside transportation system fixes required under the Development Agreement would mitigate current failing conditions on the westside and restore the intersections to acceptable levels of service. The transportation analysis supporting the systemic remedies to the infrastructure on Bend's westside was not contested in this proceeding by other expert testimony and was accepted by City engineers.

The Development Agreement is a final city land use decision that is currently on appeal to the Land Use Board of Appeals ("LUBA") and can be relied on to address traffic impacts for these applications. Pursuant to ORS 197.845, the Development Agreement is effective unless stayed by LUBA. SFPC has not requested a stay of the Development Agreement. Because the Development Agreement is on appeal and has not been stayed by LUBA, it is a final and effective land use decision under ORS 197.845 and can be relied upon by the City to conclude that the traffic impacts of Northwest Crossing have been adequately mitigated.

Further, the Development Agreement is both a contract under ORS 94 and a land use decision under ORS 197. Therefore, even if LUBA reverses or remands any part of the Development Agreement, the unaffected provisions remain in full force and effect if the purposes of the agreement can still be accomplished and such effect does not prejudice the substantial rights of either party under the agreement. (Development Agreement at 13.4 and 21.7). Under Paragraph 13.4.1, if the parties' substantial rights are prejudiced, they are required to negotiate in good faith to revise the agreement to give effect to its original intent. Therefore, because the Development Agreement provides for severability and cure, the City and the applicant are obligated to accomplish the essential purpose of the agreement: to complete the off-site transportation improvements and independently mitigate the traffic impacts of its development. The appeal of the Development Agreement does not affect the transportation findings the City makes under these applications. Further, under Paragraph 12.4, the City and the applicant recognize that the off-site transportation mitigation measures in the Development Agreement satisfy the applicant's obligation to provide traffic mitigation and that the City will require no other off-site transportation-related exactions nor require any further traffic studies relating to off-site transportation impact mitigation in connection with the Northwest Crossing project.

The City of Bend Transportation System Plan (TSP) also contains policies that support the mixed-uses that are proposed within the NorthWest Crossing Overlay Zone. Council finds that the proposed overlay zone will encourage and permit live/work housing that will create an opportunity for people to live and work in the same location, reducing or eliminating trips and trip lengths. This mixed-use pattern will reduce reliance on the single occupancy vehicle and provide multi-modal transportation choices for all income levels within the community. The NorthWest Crossing street, bicycle and pedestrian circulation plans, street design standards and mixed-use design provide for block lengths and park areas that encourage walking or bicycling within the community, reducing impacts on air quality. The applicant has developed proposed street design standards that meet or exceed the objectives and policies listed above for bicycle and pedestrian facilities. These proposed standards were also developed to comply with the State of Oregon Bicycle and Pedestrian Plan. The applicant also consulted with the local Bicycle and Pedestrian Advisory Committee and Michael Ronkin, the Oregon Department of Transportation State Bicycle and Pedestrian Coordinator.

Council therefore finds that the transportation system is designed to serve all modes of travel and will reduce reliance on the automobile while encouraging the development of land use patterns that provide efficient, compact use of land. The system was designed to preserve air and water quality, minimize noise impacts, and encourage energy conservation to the maximum extent possible in conformance with this goal.

V. CONFORMANCE WITH THE CITY OF BEND ZONING ORDINANCE NS-1178; CHAPTER 10.10.33; AMENDMENTS

As discussed above under the Section IV, Section 33 permits amendments of the Zoning Code by changing the boundaries of zones or by changing any other provisions. In the case of amendments to the zoning map, the findings must demonstrate that the change conforms to the General Plan, that the change will not interfere with existing development potential, or value of other land in the vicinity of the proposed action, that the change in classification for the subject property is consistent with the purpose and intent of the proposed zone classification, that the change will result in the orderly and efficient extension or provisions of public services, and lastly, that there is proof of a change of circumstance or a mistake in the original zoning.

As discussed in detail above, Chapter 6 of the General Plan and the General Plan map contain two floating zones for the Property: (1) a 95-acre IP zone; and (2) a 25-acre CL zone. The General Plan requires an owner of the Property to affix or locate these pre-established zones on the Property as part of a Master Development Plan. The Industrial and Commercial zones are therefore required by the General Plan map. In addition to these required zone changes, the applicant is also requesting a zone change from RS to PF for the 63.5 acres previously approved for school sites. The PF designation will merely recognize these sites and render the approved schools permitted uses in the PF zone as intended by the PF zone. As part of the IP rezoning, the applicant has requested to locate 14.7 acres of ME on the Property adjacent to the IP zone. From the total 486 acres currently zoned RS, 344.1 acres will remain with RS zoning. The proposed areas of the zone change request are illustrated in the Master Development Plan and the maps and legal descriptions attached to this Ordinance and Decision.

There are two areas proposed for rezoning to IP consistent with the General Plan. The first area contains 36.3 acres and the second area contains 45 acres.

A. *That the change conforms to the Comprehensive Plan. Specifically, the change is consistent with the Plans intent to promote an orderly pattern and sequence of growth.*

1. Conformance with the Comprehensive Plan

Because the General Plan requires the applicant to apply the IP and CL designations in the manner proposed, the Council finds that the rezoning to IP and CL conform with the General Plan.

The other General Plan policies specific to the Property and request are discussed below. Based on these findings, Council concludes that the required rezoning and the ME and PF zones conform to the General Plan.

CHAPTER 6 - ECONOMY AND LANDS FOR ECONOMIC DEVELOPMENT

Industrial Development

10. Development of the industrial lands at the West edge of the urban area between Skyliners Road and Shevlin Park Road shall be limited to the Industrial Park land use category to minimize additional heavy truck traffic on Newport Avenue and Galveston Avenue.

11. The 95-acre industrial area at the West edge of the urban area shall be designated and developed as part of an overall master plan for future industrial, commercial and residential development between Skyliners Road and Shevlin Park Road.

Commercial Development

25. The 25-acre commercial area at the West edge of the urban area shall be designed and developed as part of an overall master plan for future commercial, industrial, and residential development between Skyliners Road and Shevlin Park Road.

The current General Plan map requires 25 acres of Limited Commercial use on the Property. The applicant has shown the provision of two commercial centers within the master plan area. As described above, the first commercial center is 19.7 acres in size and is located along Shevlin Park Road at the northeast comer of the property. The second CL area is more centrally located along Mt. Washington Drive at the intersection of the east/west collector. This CL site totals 7.7 acres. The combined total of the two commercial zones is 27.4 acres. Therefore, the request to rezone 27.4 gross acres from RS to CL conforms to the intent of the General Plan to provide land for commercial limited uses.

The current General Plan map requires 95 acres of Industrial Park use to locate on the Property. The applicant has proposed to re-zone 81.3 acres for IP use and supplement that acreage with 14.7 acres of ME zoning. As discussed above, the ME zone is consistent with the Policy's intent to provide for light industrial uses on the Property. The ME zone permits industrial uses and further provides support services for industrial uses, resulting in more intense use of the balance of IP zoned land for industrial uses.

The 81.3-acre allotment is provided in two zones. One location is adjacent to Skyliners Road and Mt. Washington Drive. This area is 36.3 acres in size with direct access to both Mt. Washington Drive and Skyliners Road. The second area is 45 acres in size and is located along the west property boundary at the northwest comer of the site. The east/west collector is along the south boundary and the future collector alignment is along the west boundary.

The second industrial area is located with access to the future collector alignment. When a specific industrial development is requested for the 45-acre parcel, the necessary sections of the western edge collector street will be provided. To this end, the street and circulation plans within the Master Plan show this collector in the same

location that it is shown on the TSP plan map. Substantial and unrefuted evidence in the record demonstrates that a collector can be constructed along the generalized TSP alignment. At the time of construction, other alternative alignments may also be feasible. The existing collector on the north side of Summit High School will provide access to the southern part of the 45 acres. Access to both of the industrial areas will therefore be provided through existing and planned collectors and will not be directed through any residential neighborhood. Council finds that the precise location of the collector need not be determined in this proceeding. Accordingly, the location of the industrial land under this request conforms with the General Plan.

Therefore, Council finds that together the IP, CL and ME zones will provide for the industrial uses contemplated under the applicable industrial and commercial policies of the General Plan. With the text amendments to the Plan discussed above, the allocation of the ME, IP and CL zones is in strict conformance with the relevant Plan provisions.

CHAPTER 3 - COMMUNITY CONNECTIONS

Parks and recreation facilities

16. Sites for small neighborhood parks are not shown on the Land Use Plan Map, but the city and county shall encourage private or public parties to develop small neighborhood parks.

The applicant's Master Development Plan shows the development of several community parks. The applicant will coordinate the development of the parks with the Bend Metro Parks District. The parks are proposed for public ownership and public access in compliance with this policy.

CHAPTER 5 - HOUSING AND RESIDENTIAL LANDS

Residential Compatibility

1. Future development and local development standards shall recognize and respect the character of existing areas.

11. Residential areas shall offer a wide variety of housing types in locations best suited to each housing type.

The development pattern to the east consists of moderate sized residential lots within an established subdivision. There are similarly developed properties to the north. The surrounding properties are designated RS. Some of the larger parcels have future redevelopment potential. The westerly properties are outside the Urban Growth Boundary and are not likely to redevelop in the near future. Further to the south is Broken Top and Cascade Highlands Development.

The applicant's Master Development Plan offers a variety of housing opportunities. The single family, medium and high density housing make up the 299.1 acre Residential Standard Density zone. A combination of single family homes, town-homes and multiple family units will be located within the different districts of NorthWest Crossing. The housing types will be regulated through an overlay zone. The total density proposed within the development is 5.1 units per acre. The average density of the RS zone within the City limits of Bend is 3.4 units per acre. Council therefore finds that the applicant's proposed residential component will be compatible with the surrounding developed single family residential neighborhoods.

Housing density and affordability

21. Densities recommended on the Plan shall be recognized in order to maintain proper relationships between proposed public facilities and services and population distribution.

23. The city shall rezone residential lands for the designated General Plan densities when sewer service is available to the area.

The provision of public facilities and services is discussed above under Section II. The Property is within an area that is proposed to be served by City sewer and community water services in conformance with this policy.

Transportation connectivity

33. Schools and parks may be distributed throughout the residential sections of the community, and every dwelling unit in the area should be within convenient distance of a school or a park.

34. Sidewalks shall be required in all new residential developments. Separated sidewalks shall be required, as practical, on streets that provide or will provide access to schools, parks, or commercial areas. However, an alternative system of walkways and trails that provide adequate pedestrian circulation may be approved.

39. Residential local streets shall be developed wherever practicable to increase connectivity within and between neighborhoods.

Council finds that these standards are addressed under Section IV and those findings are incorporated herein by reference. The proposal includes the construction of local streets. The internal roads are proposed as public streets. These streets will contribute to the connectivity of the neighborhood as the adjacent properties develop in the future. Two new schools have been approved in the subject area. Sidewalks would be constructed along the street frontages within the proposed development. The sidewalk system is intended to provide access within the proposed development and to an existing pedestrian system that provides access to the nearby schools. The proposed pedestrian system will provide easy access to the areas open space, the proposed neighborhood park.

Public utilities and services

42. All residential areas shall be provided with community water and sewer services and other facilities necessary for safe, healthful, convenient urban living consistent with the density of development.

44. Electric power, telephone, and cable TV distribution and service lines shall be located underground in new developments. Efforts shall be made to place existing utility lines underground in established residential areas.

The proposed NorthWest Crossing development can be served with a community sewer and water system as well as other public utilities typical of urban development. The applicant will be required to construct services (stub-out connections) of adequate size to serve the future development to the west and north of the subject property. With the development of the property, the applicant will be required to pay system development fees with each building permit issued to mitigate the impacts on the systems. These fees are intended to pay for master plan improvements to the City's infrastructure. Other community services provided with development shall be constructed underground as development occurs in conformance with this policy.

CHAPTER 7 - TRANSPORTATION SYSTEMS

E. Street System

1. Streets shall be located, designed and constructed to meet their planned function and provide space for adequate planting strips, sidewalks, motor vehicle travel and bike lanes (where appropriate). Specific effort should be made to improve and enhance east-west

circulation patterns for all modes of travel throughout the community.

3. **Streets shall be classified and generally located according to the Bend Urban Area Transportation Plan, the Street Functional Classification and the Street Grid system.**

5. **Access control shall be part of the design standards for major collectors, arterial, principal arterial and expressways to ensure that adequate public safety and future traffic carrying capacity is maintained on the transportation system. Where commercial or industrial land uses abut residential areas, access shall not be directed to residential neighborhood streets.**

Council incorporates by reference the findings under Section IV above. The Bend Urban Area Transportation Plan indicates a future collector alignment along the west property boundary. The map alignment depicts a generalized corridor. The precise alignment will be determined after further study and engineering analysis, or during the development of vacant properties. As discussed above, the future north/south collector will provide direct access to a collector street for the 45-acre IP parcel and the 36.3-acre IP parcel is already served by an existing collector. The Bend Area General Plan states "[I]industrial areas area normally located near the higher order street system, and as a result of this proximity, industrial streets provide a fairly direct transportation system linkage from the arterial streets to industrial zoned properties." The applicant's proposal is consistent with this policy.

CHAPTER 9 - COMMUNITY APPEARANCE

2. **Community appearance shall continue to a major concern and the subject of a major effort in the area. Major natural features, such as rock outcrops or stands of trees, should be preserved as a community asset as the area develops.**

Council finds that the proposal satisfies this policy. According to the application submittal, a topographic model of the Property, aerial photos and site visits were used as a basis for all design work. The concentric circular grid system emanating from Compass Park follows the natural contours of the Property. The park locations within the Property are based on natural features, the topography of the land and the location of the native forest. Specifically, Rimrock Park is located on steep ground adjacent to Skyliners Road where the most prominent and distinctive rim rock feature is located. Discovery Park is sited to take advantage of the contours of a reclaimed surface mining site that is partially developed with a pond. Lewis and Clark and Compass Parks are sited where there is a high tree coverage. They are also on flat ground to provide recreational amenities for neighboring residents. Large lots were located between Skyliners Road and Lolo Drive to avoid disruption of existing topography and to provide some open space buffer adjacent to the multi-use trail along Skyliner's Road. The trail easement along Skyliners Road and Rimrock Park will preserve trees and other natural features along the Road and multi-use trail. Larger lots are also backed up against the steepest slopes at the west edge of the Property to minimize cut and fill.

There are no Areas of Special Interest on the Property. Council finds that the applicant's planning process demonstrates that community appearance was a major facet of the planning process and that major natural features are proposed for preservation as a community asset in conformance with this policy.

2) **Consistency with the Plan's Intent to Promote an Orderly Pattern and Sequence of Growth**

The rezoning of RS to a combination of ME, IP and CL is consistent with the Plan's intent to promote an orderly pattern and sequence of growth. The rezone will supply land planned and needed for economic growth. ***The City Economic Lands Study Part 1: Trends, Inventory and Forecast*** (November 1999) summarizes the trends,

inventory and forecast for industrial and commercial lands for the next 20 years (page 22). This study concludes that there is a shortage of 289 acres of buildable commercial and industrial land in the urban area even with the commercial and industrial land on the Property is included in the inventory.

Rezoning this land now and developing it according to the Master Plan will make land available to meet the projected market demand for industrial and commercial lands. Rezoning will promote an orderly pattern and sequence of growth because arterial streets already serve the land, and sewer and water service was brought to the Property by the development of the two new public schools.

The proposed zone changes and resulting development will have an impact on the following public services or infrastructure: 1) water, 2) sewer, 3) police and fire, 4) schools, and 5) transportation facilities. The impacts to these facilities and services are discussed below.

1) Water: City of Bend water service can be provided to the Property. The applicant submitted a water services master plan that indicates both existing and proposed water lines within the development area. A 30" water main line was constructed in Mt Washington Drive. This main line provides adequate water pressure/fire flow and supply to serve future development on the Property. Twelve inch water main lines have been constructed to serve the two approved school sites. The applicant has shown proposed water main line construction through the development area. These water main lines will be evaluated with tentative plat review.

2) Sewer: City of Bend sewer is available to the Property. The applicant submitted a sewer services master plan that indicates both existing and proposed water lines within the development area. The closest existing city sewer line is located in Shevlin Park Road and Mt Washington Drive to serve the Elementary School. Sewer service is required to be extended south to provide service to the new high school prior to occupancy. There is adequate sewer capacity in the system to serve the Property if the Property were to develop with commercial and industrial uses as described in this report. The availability of sewer service has made the area more desirable for development.

3) Police and Fire: The subject property is within the City of Bend Police and Fire Protection service boundary. The property is currently being served by these agencies.

4) Schools: The property is within the Bend LaPine school district boundary. There are two approved schools within the development area. The proposed residential development within NorthWest Crossings is within walking distance to the school sites. No additional school sites are projected within the Property based on the 1995 Bend LaPine School District Siting Study for future schools. Therefore, no additional land within the Property needs to be reserved for future school use. The City recognized the 1995 school siting study and has incorporated the enrollment projections and school facility needs into the updated Bend Area General Plan. The City continues to coordinate with the Bend LaPine School District to address growth issues within the school district.

Sisters Forest Planning Committee ("SFPC") claims that the School District is a high-growth district and therefore school capacity is a basis for denial of this application. The Council has carefully considered and rejected this argument.

The Bend-La Pine School District is not a "high growth school district" as that term is defined under ORS 195.110 and is therefore not required to adopt a school facility plan. Further, ORS 195.110(10) expressly provides that school capacity cannot be the sole basis for denial or approval of an application for residential development, unless the application involves zoning changes to the comprehensive plan that affect residential densities. *See* ORS 195.110(10).

ORS 195.110(2) defines a high growth school district as a school district which "has an enrollment of over 5,000 students and *had an increase in student enrollment of six*

percent or more during the three most recent school years." (Emphasis added). SFPC would like this provision to include six- percent aggregate growth at the end of a 3-year period. In other words, a district that has as little as 2% growth in a year would be required to adopt a school facility plan to address capacity issues. Two- percent growth a year is average growth, not high growth.

The express language of ORS 195.110(2) measures the six- percent increase "during the three most current school years." The language of the statute demonstrates that the threshold for a high growth district is 6% per year over the last 3 years. The legislative history of the statute confirms this interpretation. Beaverton School District 48 introduced the bill. The District had almost 10,000 new students in the 10 years prior to the bill's proposal in 1993, and anticipated adding an average of 1,000 new students each year until 2010. In ten years, the District had built eight new schools and made numerous additions to existing schools. The City of Beaverton asked the District to repeatedly seek approval of bond measures to pay for these facilities. *Hearings on SB 908 Before the Senate Agriculture and Natural Resources Subcommittee on Land Use*, April 12, 1993 (statements of Jerry Flug, Executive Director of Facilities for the Beaverton School District). The original proposed bill defined a high growth area as one with an annual increase of ten percent for five years. Through the legislative process, the ten- percent figure was reduced to six percent. However, there was no change to the legislative history demonstrating that the six-percent increase was an annual, not an aggregate figure.

To this end, the fiscal analysis officers report, states that the statute required "an annual increase in student enrollment of six percent or more during the three most recent school years..." LEGISLATIVE FISCAL OFFICE, 1993 REGULAR LEGISLATIVE SESSION, FISCAL ANALYSIS OF PROPOSED LEGISLATION, JULY 15, 1993. Together with this legislative history, the Department of Land Conservation and Development confirms through Jim Hinman and Bob Rindy that the statute requires a six- percent annual increase.

The Bend-La Pine School District is not a high-growth district as that term is defined under ORS 195.110(2).

Bend-LaPine grew approximately 2% from 1997 to 1998, 2.1% from 1998 to 1999, and 3.4% from 1999 to 2000. Because these growth percentages do not trigger the 6% requirement, the District is not a high growth school district subject to ORS 195.110. Therefore, ORS 195.110 does not apply to this application and a school facility plan is not required.

Even if the statute did apply, ORS 195.110(8) and (10) further state that "the capacity of a school facility shall not be the basis for a development moratorium" and "school capacity shall not be the sole basis for approval or denial of any residential development application . . . ." While the application requests a comprehensive plan amendment, the amendment does not increase residential densities or, in turn, decrease remaining school capacity within the District. It does the opposite. Limited property within the site that is currently zoned Standard Residential ("RS") will be rezoned to Industrial Park ("IP"). This change will have the effect of decreasing residential densities under the application. Most importantly, the application also includes the rezoning of a 63-acre parcel to Public Facilities to accommodate existing school sites. Under these circumstances, the residential application cannot be denied based on school capacity and the comprehensive plan change does not increase residential densities. Rather, it preserves land for school sites in conformance with the Bend Area General Plan and ORS 195.

Council therefore finds that there is sufficient school capacity.

5) Transportation: The property is located between Shevlin Park Road and Skyliners Road, which are both designated as minor arterial roads on the Bend Transportation Plan map. Mt Washington Drive bisects the subject property north to south. Mt Washington Drive is also designated as a minor arterial road. The three arterial roads provides good access to the site. The applicant has provided a traffic impact study for the proposed development as part of the West-side Traffic Consortium.

The study evaluates the impacts of the development on the street network in the surrounding area.

The orderly and efficient provision of off-site transportation facilities is discussed under Section IV above. That discussion is incorporated herein by reference. The orderly and efficient provision of transportation services will occur through implementation of the Development Agreement between the City of Bend and the applicant as well as the Local Improvement Districts for the construction of intersections on the west-side. The Development Agreement, together with the City's adopted findings in support of the Agreement has been incorporated by reference as supplemental findings to this Decision.

The Development Agreement identified the traffic impacts associated with full buildout through 2020 of Northwest Crossing as contemplated by the pending applications, with one exception. The 45-acre IP allotment was not part of the Development Agreement. Because the applicant is not requesting buildout of the 45-acre piece under this application, the transportation impacts of the 45-acre parcel are not at issue here. When development is proposed within the 45-acre area, a transportation analysis may be required to assess any traffic impacts and identify and necessary mitigation measures.

The Development Agreement requires the applicant to make transportation improvements identified in the Traffic Memorandum and the Westside Consortium Traffic Study consistent with the maximum densities articulated in the overlay zones and vested under Sections 4, 6, 7, 8 and 10 of the Development Agreement. As we found under Ordinance No. NS-1757, these improvements will ensure that the development is orderly and consistent with the efficient provision of transportation facilities under these policies and objectives.

Therefore, based upon these findings, Council concludes that the applicant's proposed zone change will be consistent with the City's policy for the orderly provision of adequate transportation facilities.

E. That there is proof of a change of circumstance or a mistake in the original zoning.

1) A Mistake: Staff finds that City records and the data included in the record in this matter do not indicate a mistake in the original zoning.

2) Change of Circumstance. The applicant states that there has been a change in circumstance that justifies the proposed request including a zone change, a change in ownership of the property, approval of two new schools and transportation system improvements.

Prior to the adoption of the Bend Urban Area General Plan in November 1998, the property was zoned Surface Mining, Industrial (approximately 140 acres) and Urban Standard Residential. The Bend Urban Area General Plan was adopted in November 1998 with land use designations of 95 acres of Industrial Park and 25 acres of Limited Commercial and the remainder as Urban Standard Residential. The boundaries of the Industrial Park and Commercial Limited were not delineated on the General Plan map. Instead a floating symbol was on the map with the note: *"Land use boundaries to be determined by a future master plan"*. At the time of adoption of the General Plan in 1998 the zoning on the subject property was changed to RS with approximately 60 acres of Surface Mining.

Since the adoption of the General Plan in 1998, the Bend-La Pine School District acquired approximately 60 acres within the area subject to this application. These 60 acres are approved as the sites for a new elementary school and a new high school. The School District applied for and obtained approval for a zone change from Surface Mining to Urban Standard Residential in order to have a zone where a school could be permitted as a conditional use. The School District also obtained approval for a conditional use permit, a site plan and a variance for a high school on the site (City File

99-302). Existing school sites on the Bend Area Zoning Map are zoned Public Special District/Land and Facilities.

The ownership of the property changed hands in June 1999. The current property owner, West Bend Property Company, LLC, purchased the property with the intention on completing a master planned, mixed-use community conforming to the intent of the General Plan. West Bend Property Company, LLC has worked with the School District and the City to gain approval of two roundabouts on Mt. Washington Drive. The two roundabouts are currently under construction. In addition, West Bend Property Company, LLC is working with the Bend-La Pine School District to improve and construct pedestrian access to the two schools.

A significant change in circumstance is the work regarding solutions to the west-side traffic system failure completed by the City of Bend and a consortium of 10 developers and property owners (Consortium) on the west-side of Bend. West Bend Property Company, LLC is a Consortium member.

The approval and construction of two new public schools, the completion of Mt. Washington Drive through the subject property including the construction of two roundabouts, the purchase of the property by West Bend Property Company, LLC, the Consortium proposal for an LID and related development agreements are sufficient changes in circumstances to find that this criterion is met.

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Based on the information and findings submitted by the applicant and the above findings, Council concurs with the applicant's analysis. Council finds that the applicant's request will be consistent with the above approval criterion by bringing the property into conformance with the Bend Area General Plan.

B. That the change will not interfere with existing development potential, or value of other land in the vicinity of the proposed action.

In previous decisions, the common meaning of "value" has been determined to mean the property's market value. Further, as used in this criterion and as historically interpreted by the City, the effect on value is intended to imply that the proposal will not have an adverse impact on the dollar value rather than the aesthetic value. There is no evidence in the record and no data that shows that the market value of the surrounding properties would be adversely affected by the proposed change. The trend in the real estate market in the Bend area, based on the tax assessor's records, has been a steady increase in property values regardless of the location, surrounding zoning or development. Using this as a measuring stick and the fact that the surrounding development varies in nature, Council finds that the value of the surrounding properties would not be adversely impacted.

The applicant is proposing to develop 486 acres into a planned community of residential homes, commercial and industrial service uses. The impacts to surrounding properties, based on the proposed development, are minimal. The applicant will be required to apply for and obtain permits for the site development described above. The City will rely on the administrative review of the development applications to address the specific impacts of the development.

Based on the above information, Council staff finds that the applicants proposed zone change would not interfere with existing development potential.

C. That the change in classification for the subject property is consistent with the purpose and intent of the proposed zone classification.

Section 15. Limited Commercial Zone

(1) <u>Purpose</u>. This zone is intended to establish locations for the development of commercial centers to provide for the shopping and service requirements for large sections of the community and to

recognize existing uses both in centers and as parts of commercial strips. New commercial centers shall be limited to a minimum area of 12 acres of a maximum area of 20 acres of contiguous land and shall be developed in a manner consistent with the General Plan.

As described earlier in these findings, the first commercial center is 19.7 acres in size and is located along Shevlin Park Road at the northeast comer of the property. The second CL area is more centrally located along Mt. Washington Drive at the intersection of the east/west collector. This CL site totals 7.7 acres. The combined total of the two commercial zones is 27.4 acres. The purpose statement above, restricts the minimum size for a new commercial center to 12 acres and the Plan provides a size range of 5 to 30 acres. The plan text was adopted in 1998 and is the most current guide for new development. The CL zone is appropriately located under this purpose statement and the size of the parcels meets the Plan requirements.

Section 19. Industrial Park Zone

(1) **Purpose. This zone is intended to provide for research or development of materials, methods, or products, and compatible light manufacturing, in a park-like environment.**

The proposed IP zone will implement the General Plan "floating" designation for 95 acres of IP on this Property. The applicant has proposed a zone change for 81.3 acres of IP zoned land within the Property. This large block of IP land will provide a location for industrial users needing a large site in a park-like setting. The benefit of designating the boundaries of this Industrial Park land and rezoning the Property are, among other things, to provide industrial land to meet a market demand that is not currently met.

The applicant has proposed to designate a potion of the planned 95 acres of IP as Mixed Employment. The ME zone is discussed below.

Section 21B. Mixed Employment Zone

(1) **Purpose. The zone is designated to provide for a mix of uses such as office, retail, services, light manufacturing and warehousing that offer a variety of employment opportunities in an aesthetic environment and having a minimal impact on surrounding uses.**

The change of zoning from RS to Mixed Employment is consistent with the purpose and intent of the zone because the ME zoning will provide a transition between the Commercial Limited zone and the Industrial Park zone. The mix of uses in the ME zone is a blend of commercial and industrial zoning and includes office-uses. The Master Plan located this zone specifically to create a transition between commercial limited and industrial park zones and to allow for the broadest mix of uses to offer a variety of employment opportunities to meet future market demand and serve the industrial and residential areas in the development. The creation of a mixed-use center combining the ME zone and the CL zone with the design proposed by the Master Plan will assure that the site is developed in an aesthetic, pedestrian friendly environment. The proposed location should have a positive impact on the adjacent school site and industrial park by providing services and facilities to serve students, school staff and employees in the industrial area. Council finds that the location and size of the ME zone meet the intent of the purpose statement.

Section 21C. Public Facilities Zone

(1) **Purpose. The PF Zone is intended to provide area for buildings and facilities that are owned and operated by federal, state, or local governments, public utilities, special districts, or non-profit organizations, and which are occupied to provide for school sites, public park and recreational facilities, natural areas, trails wetlands and similar types of open space owned and managed by local government or special districts.**

The PF zone is being applied to the two approved school sites that are located within the area of the Property. The rezone will bring the school property into conformance with the General Plan. There will be no additional impact associated with this zone change because the schools are approved and under construction.

Based on the information above and the findings herein, Council concurs with the applicant's analysis and proposal for the CL, IP, ME and PF zone changes for the Property.

D. That the change will result in the orderly and efficient extension or provisions of public services. Also, that the change is consistent with the City of Bend policy for provision of public facilities.

This approval criterion is discussed above under Section IV and again under Section V. Those findings are incorporated herein by reference. Council finds that the zone change will result in the orderly and efficient extension of public services.

The city has adopted a Transportation System Plan. Therefore the provisions of the Transportation Planning Rule no longer apply unless the land use sought would alter the functional classification of the transportation system. The city's TSP considered the planned uses for the subject area based on the General Plan map designations when designating the functional classifications of the street system. Therefore, the functional classifications of the transportation system in the area will not be altered.

VI. COUNCIL DECISION:

By this Findings and Decision, the Council approves the General Plan Amendment, Plan Text Amendment, Zoning Ordinance Amendment and Zone Change as proposed under the subject application.

ORDINANCE NO. NS-1782

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NS-1178 BY ADDING AN OVERLAY DISTRICT AND AMENDING THE ZONING MAP, BY CHANGING THE DESIGNATION OF PROPERTY LOCATED AT THE WEST BOUNDARY OF THE CITY LIMITS BETWEEN SHEVLIN PARK ROAD AND SKYLINERS ROAD.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Planning Commission's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Planning Commission dated February 12, 2001, regarding files PZ-00-307 and PZ-00-388; applicant West Bend Property Company.

Section 2. The City of Bend Zoning Map is amended by changing the designation of the property described in "Exhibit A" from Urban Standard Density Residential (RS) to Industrial Park (IP).

Section 3. The Bend Zoning Map is amended by changing the designation of the property described in "Exhibit B" from Urban Standard Density Residential (RS) to Limited Commercial (CL).

Section 4. The Bend Zoning Map is amended by changing the designation of the property described in "Exhibit C" from Urban Standard Density Residential (RS) to Mixed Employment (ME).

Section 5. The Bend Zoning Map is amended by changing the designation of the property described in "Exhibit D" from Urban Standard Density Residential (RS) to Public Facilities (PF).

Section 6. The City of Bend Zoning Ordinance NS-1178 is amended by adding Section 22D. NorthWest Crossing Overlay Zone as described in "Exhibit E".

Section 7. In accordance with findings adopted contemporaneously with this ordinance attached hereto as "Exhibit F", the Bend City Council finds that each of the amendments to the Zoning Ordinance made by this ordinance complies with all applicable land use goals, laws, rules and regulations.

Read for the first time the 18th day of April,2001.

Read for the second time the 2nd day of May,2001.

Placed upon its passage the 2nd day of May,2001.

YES: 7 NO: 0

Authenticated by the Mayor the 2nd day of May,2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

EXHIBIT "A"

INDUSTRIAL PARK – IP

A portion of that parcel of land described in warranty deed to West Bend Property Company, LLC, recorded March 19, 1999, in Volume 1999, Page 13784, Deschutes County official records located in the west one-half of Section 36, Township 17 South, Range 11 East, Willamette Meridian, City of Bend, Deschutes County, Oregon being more particularly described as follows:

That portion of the west one-half of said Section 36; bounded on the south by the northerly right of way of Skyliners Road; on the west by the west boundary of said Section 36; on the north by that property described in warranty deed to Bend LaPine Administrative School District No. 1, recorded December 7, 1999, in Volume 1999, Page 57995, Deschutes County official records, and by the future street centerline of N.W. Clearwater Drive; and on the east by the street centerline of Mt. Washington Drive.

Together with: That portion of the west one-half of said Section 36; bounded on the south by the south line of the north 80.00 feet of that property described in warranty deed to Bend LaPine Administrative School District No. 1, recorded December 7, 1999, in Volume 1999, Page 57995, Deschutes County official records lying west of the future street centerline of said N.W. Clearwater Drive; on the west by the west boundary of said Section 36; on the north by the north boundary of said Section 36; on the east by a boundary generally determined by future road and lot configurations, as shown on the Northwest Crossing Zoning Map.

Containing 81.3 acres more or less.

EXHIBIT "B"

COMMERCIAL LIMITED – CL

A portion of that parcel of land described in warranty deed to West Bend Property Company, LLC, recorded March 19, 1999, in Volume 1999, Page 13784, Deschutes County official records located in Section 36, Township 17 South, Range 11 East, Willamette Meridian, City of Bend, Deschutes County, Oregon being more particularly described as follows:

That portion of the west one-half of said Section 36; bounded on the south by a boundary determined by future road and lot configurations as shown on the Northwest Crossing Master Development Plan, the street centerline of Mt. Washington Drive, by the north boundary of that property described in warranty deed to Bend LaPine Administrative School District No. 1, recorded December 7, 1999, in Volume 1999, Page 57995, Deschutes County official records; on the west and north by a boundary determined by future road and lot configurations as shown on the Northwest Crossing Zoning Map.

Containing 7.7 acres more or less.

Together with; that portion of the east one-half of said Section 36; bounded on the north by the southerly right of way of Shevlin Park Road; on the east by the east boundary of said Section 36; on the south and west by boundaries determined by future road and lot configurations as shown on the Northwest Crossing Zoning Map.

Containing 19.7 acres more or less.

EXHIBIT "C"

MIXED EMPLOYMENT - (ME)

A portion of that parcel of land described in warranty deed to West Bend Property Company, LLC, recorded March 19, 1999, in Volume 1999, Page 13784, Deschutes County official records located in the west one-half of Section 36, Township 17 South, Range 11 East, Willamette Meridian, City of Bend, Deschutes County, Oregon being more particularly described as follows:

That portion of the west one-half of said Section 36; bounded on the south by the future street centerline of N.W. Clearwater Drive; on the west by that property described in warranty deed to Bend LaPine Administrative Schol District No. 1, recorded December 7, 1999, in Volume 1999, Page 57995, Deschutes County official records; on the north, by the north boundary of that property described in said warranty deed lying east of the future street centerline of said N.W. Clearwater Drive; and on the east by the street centerline of Mt. Washington Drive.

Containing 14.7 acres more or less.

EXHIBIT "D"

PUBLIC FACILITIES - PF

All that property being a portion of the north half (N1/2) of Section 36, Township 17 South, Range 11 East, Willamette Meridian, Deschutes County, Oregon describes as follows:

Commencing at a 5/8" rebar marked "SCE&S" on the north line of said Section 36, as shown on that record of survey on file with the Deschutes County Surveyor as CS 02157 (the north quarter-corner of said Section 36 bears South 89°51'35" East, 577.20 feet); thence South 09°09'25" East, 2013.84 feet to a point on the northerly right of way of "Local Street" and the True Point of Beginning; thence leaving the said northerly right of way line, North 00°01'25" East, 782.04 feet; thence South 89°58'35" East, 835.51 feet; thence South 00°01'25" West, 782.04 feet to the northerly right of way of "Local Street"; thence along said northerly right of way, North 89°58'35" West 835.51 feet to the Point of Beginning. Said Point of Beginning bears South 07°21'47" West, 2003.22 feet from said north quarter-corner of said Section 36.

Together with;

A parcel of land being a portion of the West one-half of Section 36, Township 17 South, Range 11 East, Willamette Meridian, Deschutes County, City of Bend, Oregon, more particularly described as follows:

Commencing at a 2" iron pipe at the west one-quarter corner of Section 36, thence along the west line of said Section 36, South 00°18'34" West, 83.70 feet to the True Point of Beginning; thence leaving said west line North 64°16'11" East, 216.88 feet, to a point of curvature; thence along the arc of a 680.00 foot radius curve to the right, through a central angle of 25°57'29", an arc length of 308.08 feet (the chord of which bears North 77°14'56" East, 305.45 feet); thence South 89°46'19" East, eighty feet (80') north of and parallel with the east-west center section line of said Section 36, 1236.09 feet to the westerly right of way of Mt. Washington Drive as dedicated to the City of bend in volume 1999, page 39979 of Deschutes County records and a point of non-tangent curvature; thence along the said westerly right of way, along the arc of a 790.00 foot radius non-tangent curve to the left, through a central angle of 5°53'18", an arc length of 81.19 feet (the chord of which bears South 09°26'25" East, 81.15 feet) to said east-west center section line; thence leaving said westerly right of way and along said center section line, North 89°46'19" West, 717.04 feet; thence South 00°00'00" West, 300.53 feet to a point of curvature; thence along the arc of a 300.00 foot radius curve to the left, through a central angle of 75°00'00", an arc length of 392.70 feet (the chord of which bears South 37°30'00" East, 365.26 feet); thence South 75°00'00" East, 53.12 feet; thence South 00°18'37" West, 1051.15 feet, to a point of non-tangent curvature; thence along the arc of a 1573.00 foot radius non-tangent curve to the right; through a central angle of 12°47'44 an arc length of 351.29 feet (the chord of which bears South 82°09'28" West, 350.56 feet); thence South 88°24'00" West, 955.63 feet, to the west line of said Section 36; thence along said west line, North 00°18'34" East, 1650.28 feet, to the True Point of Beginning.

EXHIBIT "E"

Text Amendment to Zoning Ordinance No. NS-1178

Section 22D. NorthWest Crossing Overlay Zone

1. Purpose. The purpose of the NorthWest Crossing Overlay Zone is to implement NorthWest Crossing Master Development Plan and the Bend Urban Area General Plan policies regarding the NorthWest Crossing property, and to create overlay zoning standards for the residential, commercial and industrial districts within the NorthWest Crossing Master Development Plan boundaries. The overlay zone standards will:

   (a) Provide a variety of employment opportunities and housing types.

   (b) Locate higher density housing adjacent to collector and arterial streets or public parks.

   (c) Create opportunities for community commercial and small scale businesses in selected locations to foster a mixed-use residential neighborhood.

   (d) Promote pedestrian and other multi-modal transportation options.

   (e) Ensure compatiblity of uses within the development and with the surrounding area.

   (f) Create an interconnected system of streets with standards appropriate to the intensity and type of adjacent use.

   (g) Create safe and attractive street scapes that will meet emergency access requirements and enhance pedestrian and bicycle access.

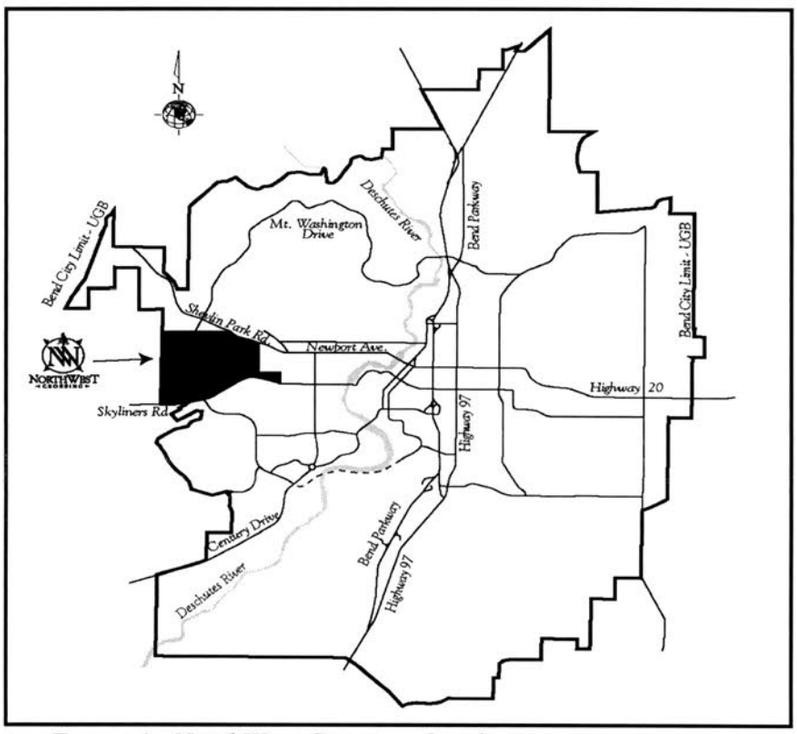


Figure 1. NorthWest Crossing Overlay Zone

2. Definitions. The following definitions apply to uses, building types and standards that are specific to the NorthWest Crossing Overlay Zone.

(a) Accessory Dwelling. A separate, complete dwelling unit, either attached to or separate from the primary dwelling unit. An accessory dwelling may be no larger than 33% of the living area, excluding the garage, of the primary dwelling, or 800 square feet, whichever is less. Maximum height for a detached accessory dwelling is 24 feet. Accessory dwelling units must meet the setbacks for the City of Bend Urban Standard Residential Zone (RS). Accessory dwellings may be permitted on any RS lot in accordance the provisions of the RS Zone.

(b) Community Commercial. A building not exceeding a total of 2,000 square feet of gross floor area containing a retail, service, office, or food service establishment, excluding drive-through. A community commercial building is a stand-alone commercial use to serve neighborhood needs. It is not intended to draw large numbers of patrons from outside of the neighborhood. The design of the building shall be residential in scale and character. Off-street parking is limited to a maximum of one space per 500 square feet of building. Off-street parking must be located at the side or rear of the building. The public entrance to the building shall be on the primary street frontage.

(c) Live/work Dwelling. A dwelling in which a business may be operated on the ground floor. The ground floor commercial or office space has visibility, signage and access from the primary street. To preserve the pedestrian orientation of the commercial or office space, alley access is required to provide trash service and residential parking. A live/work dwelling is allowed instead of, or in addition to, home occupation as defined by this Code. The location of lots where live/work dwellings may be sited shall be specified on the subdivision plat. The permitted live/work housing types are defined below:

i. Live/work House: A single-family detached house with no more than 50 percent of the first story of the building available as commercial or office space.

ii. Live/work Townhome: A residential, fee simple townhome unit in which a business may be operated. The commercial or office portion of the building shall be limited to the ground floor and may not exceed 50 percent of the square footage of the entire building, excluding the garage.

iii. Live/work Apartment: A primarily residential multi-story, multi-unit building with a maximum of 50 percent of the building ground floor square footage used as commercial or office space. Residential units may be for rent or for sale in condominium or cooperative ownership.

(d) Parking District. The area designated for common parking lots or facilities in the two NorthWest Crossing Commercial/Mixed Employment Districts. Each Commercial/Mixed Employment District has areas designated for common off-street parking lots or facilities designed to serve the minimum parking needs for permitted uses in the Commercial Limited and Mixed Employment zoned Districts. The designated parking areas will be located behind or at the side of buildings permitted in the District, or on private streets within the District. The designated common parking areas will allow all buildings to be close to the street to create a lively pedestrian oriented commercial streetscape. A public entrance to all buildings shall be on the primary street frontage

(e) Primary Street Frontage. The location along a street in the Residential Mixed-use District where live/work housing or community commercial uses may be located. Table "A" in Section 3(c) (G) of this code identifies areas and limits the maximum lot frontage along the Primary Street Frontage that may be used for live/work housing or community commercial uses in each area. The primary entrance to the office or commercial portion of live/work housing or a community commercial building must be located on the Primary Street Frontage.

(f) Townhome. A single-family dwelling type with common walls on one or both side lot lines and continuous front facades. Townhomes are the highest density housing type in NorthWest Crossing that provides yards and fee simple ownership. Townhomes may be located on lots with detached garages and accessory dwellings. Alleys, to the rear of the building, provide parking and service access.

3. Districts.

(a) Applicability. The special standards of the NorthWest Crossing overlay districts shall

supercede the standards of the underlying zone. Where no special standards are provided, the applicable standards of the underlying zone shall apply.

(b) Urban Standard Residential District

A. Purpose. The purpose of the Urban Standard Residential District is to implement the Urban Standard Residential Zone with flexibility to allow greater lot coverage to accommodate single-family houses on small lots. The Urban Standard Residential District in Northwest Crossing also is the base zone for the Residential Overlay Districts described in Sections b, c and d.

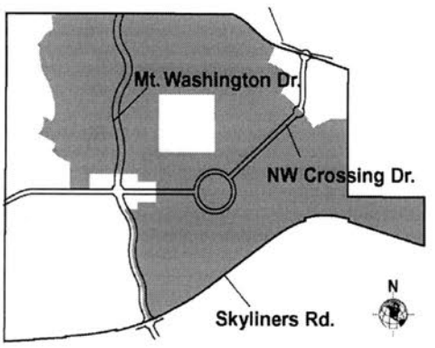


Figure 2. Urban Standard Residential District

B. Application of Residential Overlay Districts. The standards of the Urban Standard Residential Zone, as provided for in this section, shall apply to the land zoned as Urban Standard Residential. Where a Residential Overlay District is shown, the special standards of the Overlay District shall apply to uses permitted by the Overlay District.

C. Uses Permitted.
   i. All uses permitted in the Urban Standard Residential Zone.

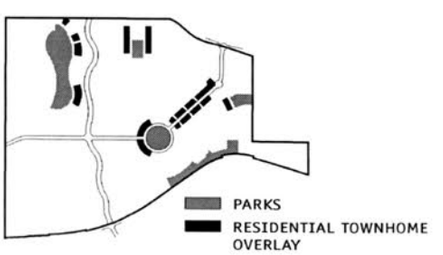
D. Conditional Uses.
   i. All conditional uses permitted in the Urban Standard Residential Zone subject to a Conditional Use Permit and the provisions of Section 29.

E. Height Standards
   i. No building shall be erected, enlarged or structurally altered to exceed 30 feet in height without a Conditional Use Permit.

F. Lot Requirements.
   i. The lot requirements of the RS Zone shall apply to all permitted and conditional uses.
   ii. Setbacks. The setback requirements of the RS Zone shall apply to all permitted and conditional uses.
   iii. Lot Coverage. On lots 6,000 square feet or greater the maximum lot coverage shall be 35 percent.
   iv. On lots that are less than 6,000 square feet, the maximum lot coverage by buildings shall be 50 percent.

(c) Residential Townhome Overlay District.

A. Purpose. The purpose of the Townhome Overlay District is to permit townhomes along collector streets, adjacent to public parks or a Multiple-Family District. The Townhome District will allow a diversity of housing types and a mix of residential density within NorthWest Crossing.



Figure

3. Residential Townhome

Overlay District

B. Uses Permitted.

i. All uses permitted in the Urban Standard Residential Zone.

ii. Townhomes.

C. Conditional Uses.

i. All conditional uses permitted in the Urban Standard Residential Zone subject to a Conditional Use Permit and the provisions of Section 29.

D. Height Standards

i. No building shall be erected, enlarged or structurally altered to exceed 35 feet in height without a Conditional Use Permit.

E. Lot Requirements.

i. The lot requirements of the RS Zone shall apply to all permitted and conditional uses except townhomes.

ii. Except as specified in this section, the lot requirements of the RM Zone shall apply to townhomes.

iii. Setbacks. For townhomes the front yard setback is a minimum of 5 feet and the side yard setback may be 0 feet.

iv. Lot Coverage. There is no maximum lot coverage standard for townhomes and accessory structures on a townhome lot.

F. Maximum Density. The maximum density in the Townhome District is 12 units per net acre.

G. Site Plan Review. Townhomes are not subject to site plan review under Section 23 of this code.

(d) Residential Multiple-family Overlay District

A. Purpose. The Residential Multiple-family Overlay District is applied in specific locations adjacent to arterial or collector streets, public parks or commercial areas. The purpose is to provide a diversity of housing types in the Urban Standard Residential Zone at the edges of single-family neighborhoods and to locate higher density housing adjacent to commercial services and open space.

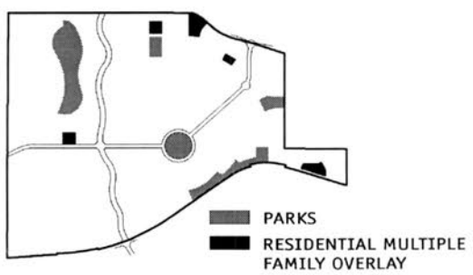


Figure 4. Residential Multiple-Family District

B. Uses Permitted.

i. All uses permitted in the Urban Standard Residential Zone.

ii. Multiple-family housing.

C. Conditional Uses.

i. Conditional uses permitted in the underlying Urban Standard Residential Zone subject to a Conditional Use Permit and the provisions of Section 29.

D. Height Standards.

i. No building, except multiple-family housing, shall be erected, enlarged or structurally altered to exceed 30 feet in height without a Conditional Use Permit.

ii. The maximum height for multiple-family housing is 45 feet unless a greater height is approved through a conditional use permit.

E. Lot Requirements.

i. The lot requirements of the RS Zone shall apply to all permitted and conditional uses except multiple-family housing.

ii. Except as specified in this section, the lot requirements of the RH Zone shall apply to multiple-family housing.

iii. Lot Coverage. There is no maximum lot coverage standard for multiple-family housing.

F. Maximum Density. The maximum density in the Multiple-family District is 19 units per net acre.

G. Site Plan Review. Multiple-family housing shall be subject to the provisions of Section 23 of this code.

(e) Residential Mixed-use Overlay District.

A. Purpose. The Residential Mixed-use Overlay District is applied in locations adjacent to collector streets or public parks to allow higher density residential uses, live/work housing and community commercial uses in the Urban Standard Residential Zone. The purpose is to create small areas of mixed-use at specific locations within the neighborhood.

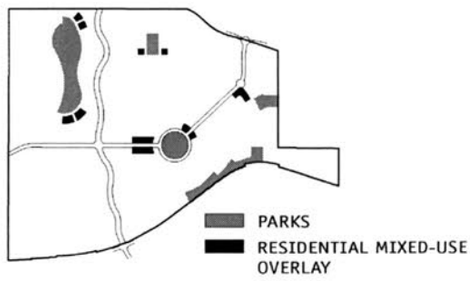


Figure 5. Residential Mixed-Use Overlay District

B. Uses Permitted.

1. All uses permitted in the Urban Standard Residential Zone.
2. Multiple-family housing.
3. Townhome.
4. Live/work single-family house subject to the provisions of this District.
5. Live/work townhome subject to the provisions of this District.
6. Live/work apartment subject to the provisions this District.
7. Community Commercial subject to the provisions of this District.

C. Conditional Uses. Conditional uses permitted in the underlying Urban Standard Residential Zone subject to a Conditional Use Permit and the provisions of Section 29.

D. Site Plan Review.

i. Live/work house and live/work townhomes are not subject to site plan approval requirements.

ii. Live/work apartments and community commercial uses are subject to site plan approval according to Section 23 of this code, except that where special standards of the Residential Mixed-use District conflict with standards within the code, the standards of the Residential Mixed-use District shall apply.

E. Height Standards.

i. No building except town homes, live/work townhome, multi-family or live/work apartment housing shall be erected enlarged or structurally altered to exceed 30 feet in height without a Conditional Use Permit.

ii. The maximum height for multiple-family housing or live/work apartment is 45 feet unless a greater height is approved through a Conditional Use Permit.

iii. The maximum height for a townhome or live/work townhome is 35 feet unless a greater height is approved through a Conditional Use Permit.

F. Lot Requirements.

i. The lot requirements of the RS Zone shall apply to all permitted and conditional uses except multiple-family housing, townhomes, live/work townhomes, live/work apartments and community commercial.

ii. The lot requirements of the RH Zone shall apply to multiple-family housing and live/work apartments except that the minimum front yard setback is 5 feet and the minimum side yard setback is 0 feet.

iii. The lot requirements of the RM Zone shall apply to townhomes and live/work townhomes, except that the minimum front yard setback is 5 feet, the minimum side yard setback is 0 feet, and the minimum lot width is 24 feet.

iv. The lot requirements of the CN zone shall apply to community commercial except that the minimum front yard setback is 5 feet.

v. There is no maximum lot coverage standard for townhomes, live/work townhomes live/work apartments or multiple-family housing.

G. Density. The density in the Residential Mixed-use District is a maximum of 19 units per net acre.

H. Primary Street Frontage. Live/work housing and community commercial uses may only be located along primary street frontage identified in the four area maps below (*Figures 6, 7, 8 and 9*). The amount of live/work housing and community commercial is further limited to the maximum lot frontage identified in Table "A" below.

Table A. Residential Mixed-use District – Maximum Allowable Live/work Housing and Community Commercial by Area.

Area	Linear feet of primary frontage in District	Maximum Primary Street Frontage for Live/work Housing Lots	Maximum Primary Street Frontage for Community Commercial Lots
1. Discovery Park	600	300 linear feet	200 linear feet
2. Lewis & Clark Park	200	200 linear feet	50 linear feet
3. Compass Park	1000	800 linear feet	100 linear feet
4. Lemhi Pass/ NW Crossing	500	500 linear feet	Not permitted

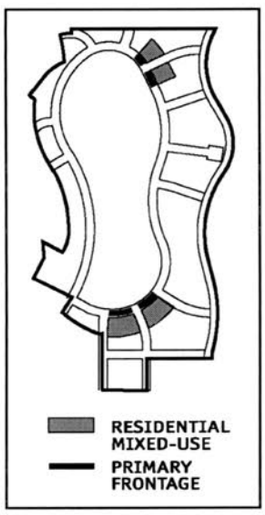


Figure 6. Discovery Park Area

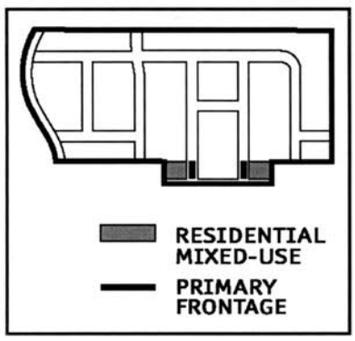


Figure 7. Lewis And Clark Park Area

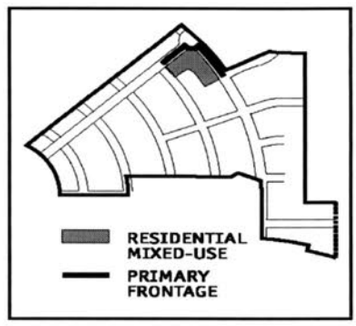


Figure 8. Lemhi Pass/NW Crossing Area

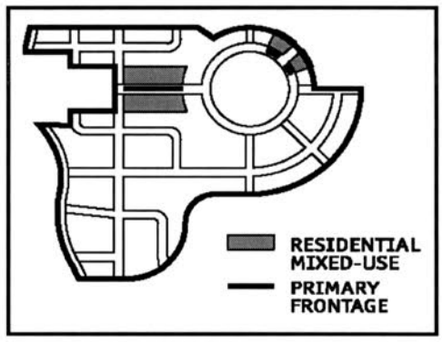


Figure 9. Compass Park Area

I. Platting Lots for Live/work Housing and Community Commercial Uses.

i. The final plat for a subdivision in the Residential Mixed-use Overlay District shall specify the lots where live/work housing or community commercial uses will be permitted.

ii. A deed restriction shall be recorded with each lot identified on the final plat as a live/work housing or community commercial.

iii. The number of lots in the Residential Mixed-use Overlay District shall be limited to a maximum amount of linear primary street frontage.

J. Sign Standards.

i. Each live/work house or live/work townhome may have non-illuminated sign(s) not exceeding a combined maximum area of 16 square feet. Signs shall be attached to the building.

ii. Each live/work apartment or community commercial building may have one non-illuminated monument sign and/or one building mounted sign not exceeding a combined maximum area of 32 square feet.

iii. Individual businesses in live/work apartment buildings may have additional non-illuminated sign(s) mounted on the building not exceeding a combined maximum of 8 square feet in size.

K. Off-street Parking Standards.

i. Each live/work house or live/work townhome may have no more than two off-street spaces in addition to the two spaces required by Section 10.10.24(4) of this code.

ii. The off-street parking standards in Section 10.10.24 shall apply to a work use in a live/work apartment building.

iii. Community commercial uses shall have a minimum of one off-street vehicle parking space for each 500 square feet of floor area and a minimum of 4 covered bicycle parking spaces. The maximum number of off-street parking spaces for a community commercial building is 5, including one handicapped accessible space, if required.

L. Special Standards For Live/work Townhomes and Live/work Houses.

i. The area dedicated to the work use in the live/work unit shall not exceed the size requirement in the applicable definition of live/work house or live/work townhome in Section X .2 (f) (I) or (ii) of this code.

ii. The work use shall not generate noise exceeding 55-decibel level as measured at the lot line of the lot containing the live/work house or live/work townhome.

iii. No outside storage of materials or goods related to the work occupation or business shall be permitted.

iv. No dust or noxious odor shall be evident off the premises.

v. Employees of the work occupation or business may not occupy more than 2 on-street parking spaces at any time.

vi. If the business is open to the public, public access must be through the front door and the business may not be open to clients or the public before 7:00 a.m. or after 7:00 p.m.

vii. Live/work townhomes and live/work houses are not subject to site plan approval under Section 23 of this code.

(f) Commercial/Mixed Employment Overlay District

A. Purpose. The purpose of this District is to allow a special front yard setback that is not permitted in the underlying Commercial Limited and Mixed Employment Zones and to create parking districts. The purpose of the parking districts is to allow minimum parking needs to be met in commmon, shared, off-site parking lots. The special setback and parking districts will create a pedestain friendly, mainstreet environment.

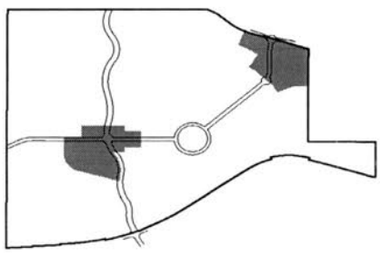


Figure 10. Commercial/Mixed Employment District

B. Uses permitted.

i. The permitted uses allowed in the underlying Commercial Limited and Mixed Employment Zones shall be allowed.

C. Conditional Uses.

i. Conditional uses permitted in the underlying Commercial Limited and Mixed Employment Zones subject to a Conditional Use Permit and the provisions of Section 29.

D. Height Standards.

i. The height standards of the underlying Commercial Limited or Mixed Employment Zone shall apply.

E. Lot Requirements. None.

F. Lot Coverage. There is no maximum lot coverage standard.

G. Front Yard Setback.

i. No front yard setback is required when an entrance to the building is located at the front lot line and the building is adjacent to a sidewalk 10 feet or wider in a public or private street right of way.

H. Site Plan Review. The provisions of Section 23 of this code shall apply in the Commercial/Mixed Employment District except that except that where special standards of the Commercial/Mixed Employment District conflict with standards within this code, the standards of the Commercial/Mixed Employment District shall apply

I. Parking District Standards

i. Each Commercial/Mixed Employment District will have areas designated for common off-street parking lots and streets designed to serve the minimum parking needs for permitted and conditional uses in the Commercial Limited and Mixed Employment Zones.

ii. Buildings shall be located on and oriented to the streets and the parking lots will be located in the interior of the site or at the sides of buildings. The designated common parking areas will allow all buildings to be close to the street to create a pedestrian scale street environment.

iii. When uses are approved under the City Zoning Code in the Commercial Limited and Mixed Employment Zones, the minimum off-street parking requirements may be met in off-site, common parking lots or facilities, or in on-street parking on designated streets conveniently located to serve the commercial, office and industrial uses.

iv. City approval of a use in the Commercial/Mixed Employment District shall be conditioned on evidence that the city minimum parking requirements for a proposed use are met by:

a. A deed, lease, contract or other legal agreement assuring reservation of the required minimum number of spaces in a common District parking lot or facility, or in on-street parking on private streets; or,

b. City approval of a shared or joint use agreement evidenced by a deed, lease, contract or other legal agreement.

v. Any parking desired over the minimum city standard shall be met with on-street or shared parking within the Commercial Districts.

vi. Designated pedestrian access from the common District parking areas to the street and entrances to the commercial uses shall be provided.

vii. All buildings must have at least one primary entrance directly fronting a public or private street.

viii. The Parking District facilities shall be managed and maintained by an association of building owners in the Commercial/Mixed Employment Districts.

ix. Parking for any secondary, second story residential use shall be provided in assigned and reserved parking spaces, or through city approval of a shared or joint use agreement evidenced by a deed, lease, contract or other legal agreement. Reserved residential parking spaces shall not exceed the minimum city standard.

x. Parking lot landscaping will meet or exceed minimum city standards.

H. Industrial Park Overlay District.

A. Purpose. The purpose of the Industrial Park Overlay District is to permit lumber and building material retail sales in addition to all uses allowed in the Industrial Park Zone.

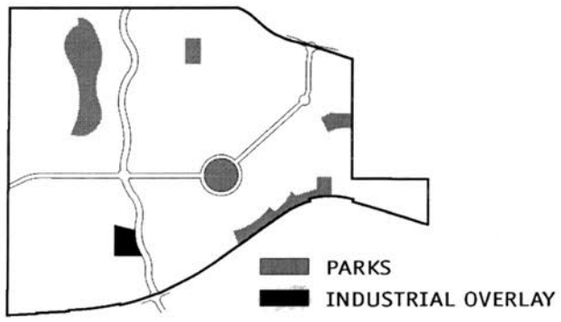


Figure 11. Industrial Park Overlay District

B. Uses permitted.

i. All uses permitted in the Industrial Park Zone.

ii. Retail or combination retail/wholesale lumber and building material yard, not including concrete mixing.

C. Conditional Uses.

i. Conditional uses permitted in the Industrial Park Zone subject to a Conditional Use Permit and the provisions of Section 29.

J. Height Standards.

i. Height standards shall be the same as in the Industrial Park Zone.

K. Lot requirements.

i. Lot requirements shall be the same as the in Industrial Park Zone.

4. NorthWest Crossing Special Street Standards

(a) Figure 12 depicts the street type, tentative street location and alignment in NorthWest Crossing. Table B defines the standards to correspond to the street type shown in Figure 12. The precise street alignment shall be determined as tentative subdivsion plans are submitted and approved. The NorthWest Crossing Street Type Plan, Figure 12, and the NorthWest Crossing Street Standards, Table B, shall be applied to the NorthWest Crossing development as illustrated except when an alternate standard is permtted under Section (b) or through the tentative plan approval process.

(b) Any city street standard adopted after the effective date of this chapter, which permits a lesser street standard may be applied to NorthWest Crossing in conformance with the provisions of the new standard.

(c) Performance Standards for Local Residential Street "B":

A. Average daily traffic volumes on the local "B" street does not exceed 300 ADT.

B. The street is connected to a grid street pattern at both block ends.

C. Blocks shall have dedicated public alley access constructed to City standards.

D. "No Parking" zones are established 55 feet from the centerline of intersecting local streets.

E. For block lengths exceeding 300 feet, "No Parking" zones shall be established on both sides of the street spaced no greater than 250 feet apart. The "No Parking" zones shall be a minimum of 30 feet in length.

Figure 12. NorthWest Crossing Street Type Plan

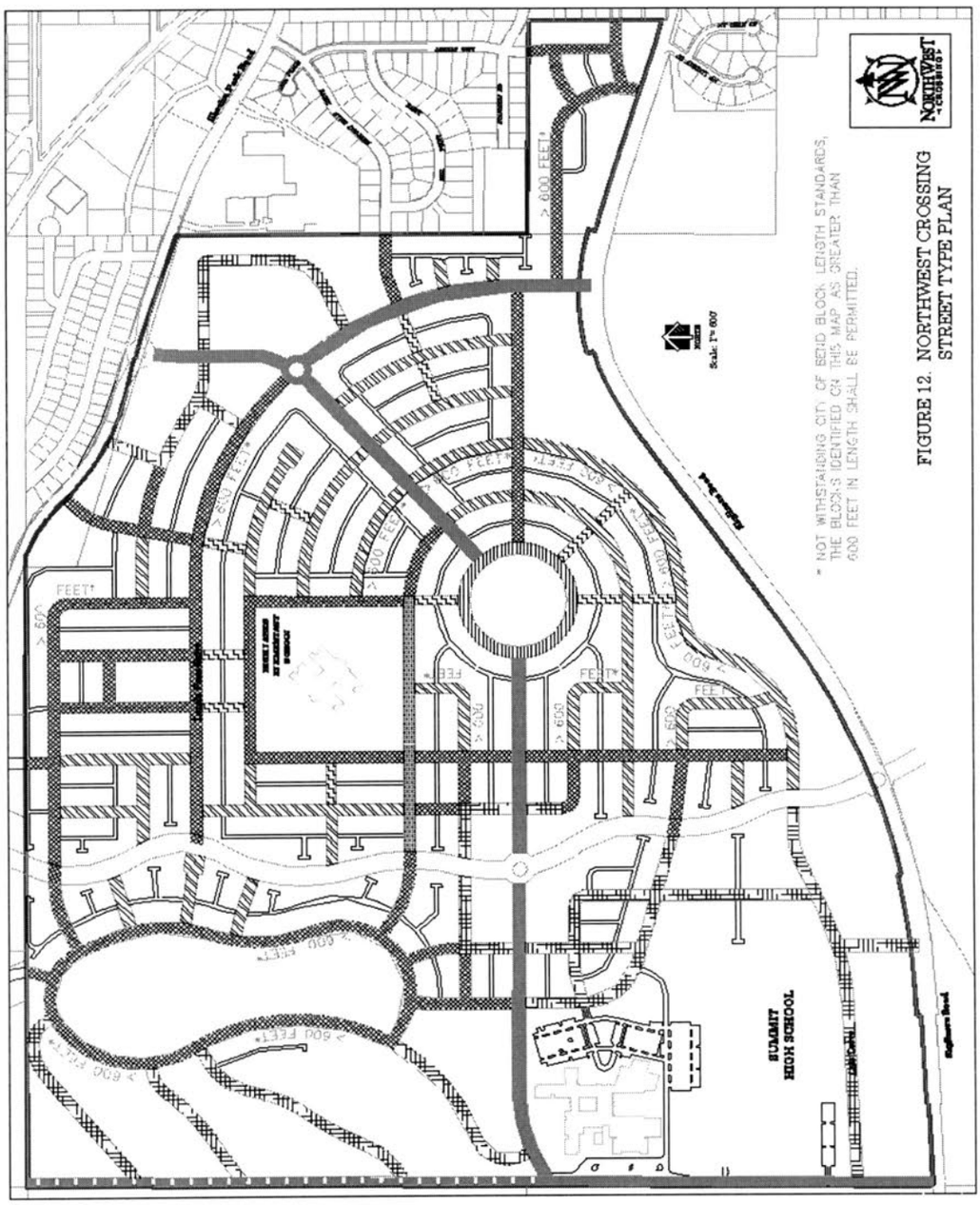


Table B. North West Crossing Street Standards

NORTHWEST CROSSING

STREET LEGEND AND SPECIFICATIONS: TYPE		RIGHT-OF-WAY	PAVEMENT WIDTH	TRAVEL LANE	BIKE LANE	PARKING WIDTH	LANDSCAPE WIDTH	SIDEWALK WIDTH
	ARTERIAL STANDARD LEFT TURN LANES (WITH 14' CENTER MEDIAN)*	100'	58' WITH NO PARKING (14' MEDIAN)	12'	6'	0	16' MEDIAN*	8.5'
	COLLECTOR STANDARD	70'	44' WITH PARKING BOTH SIDES	10'	5'	7'	7'**	6.5'**
	COLLECTOR ONEWAY STANDARD	60'	32' ONEWAY WITH PARKING BOTH SIDES	12'	14'*	2.5'*	7'	6.5'
	LOCAL INDUSTRIAL/ COMMERCIAL STANDARD	60'***	36' WITH PARKING BOTH SIDES	10'	0	8'	6.5	5'
	LOCAL RESIDENTIAL STANDARD A	52'***	28' WITH PARKING BOTH SIDES	9'	0	7'	8.5	5'
	LOCAL RESIDENTIAL STANDARD B	52'	28' WITH PARKING ONE SIDE	10'	0	8'	10.5'	5'
	LOCAL RESIDENTIAL STANDARD C	50'	26' WITH NO PARKING	10'	0	0	9.5	5'
	LOCAL ELEMENTARY SCHOOL STANDARD	50'	36' WITH PARKING ONESIDE	12'	0	8'	7'	6.5'
	ALLEY	20'	16'	16'	0	0	0	0
	PROPOSED COLLECTOR****							
	FULL MOVEMENT INTERSECTION*		R.O.W. TO BE HELD BY PRIVATE OWNERSHIP					

*SIDE LANDSCAPE YARDS WITH MEANDERING SIDEWALK 8' TO 16.5'

**(IN COMMERCIAL, SIDEWALK IS 15' OR 18' W/ TREES IN TREE WELLS)

***8' RIGHT-OF-WAY WITH MULTI-USE TRAIL

****THE ALIGNMENT FOR THE PROPOSED COLLECTOR DEPICTS A GENERALIZED CORRIDOR AND PRECISE ALIGNMENT OF THE FUTURE COLLECTOR WILL BE DETERMINED AFTER FURTHER STUDY AND ENGINEERING ANALYSIS.

*****SUBJECT TO STANDARDS IN MOTION 4(6)

TABLE B. NORTHWEST CROSSING STREET STANDARDS

Figure 13. NorthWest Crossing Overlay Districts

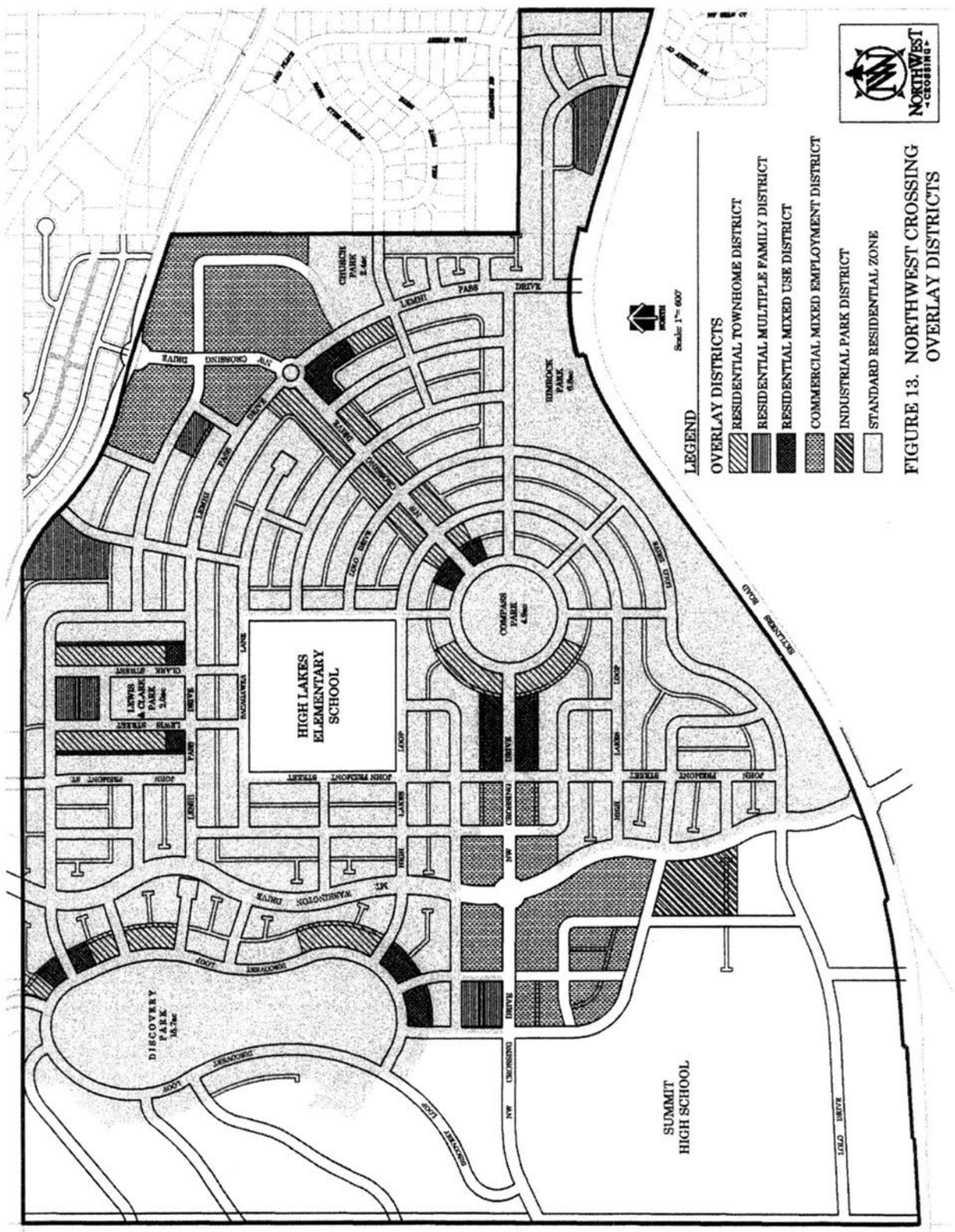


FIGURE 13. NORTHWEST CROSSING OVERLAY DISTRICTS

"Exhibit F"

FINDINGS AND DECISION OF THE BEND CITY COUNCIL
UNDER PZ00-307 AND PZ00-388

APPLICANT: West Bend Property Company, LLC, 296 SW Columbia, Suite A, Bend, Oregon 97702

OWNER: West Bend Property Company, LLC, 296 SW Columbia, Suite A Bend, Oregon 97702; Bend La Pine School District C/O Sharon Smith, Attorney
P.O. Box 1151, Bend, Oregon 97709; Benjamin Gilchrist C/O Robert Lovlien, Attorney, P.O. Box 1151, Bend, Oregon 97709

REQUEST: A Bend Area General Plan Map amendment to define the boundaries of Residential Standard Density, Industrial park and Commercial Limited plan designations, and to add Mixed Employment and Public Special District/Land & Facilities plan designations; an amendment to Chapter 6 of the Bend Area General Plan text and policies to be consistent with the proposed map amendments; a zone change request to change: (1) 36.3 acres from Urban Standard Residential (RS) to Industrial Park (IP); (2) 27.4 acres of Urban Standard Residential (RS) to Commercial Limited (CL); (3)14.7 acres from Urban Standard Residential (RS) to Mixed Employment; and (4) 63.5 acres from Urban Standard Residential (RS) to Public Facilities (PF) for Bend La Pine School District elementary school and high school sites. The request also includes a text amendment to the City of Bend Zoning Ordinance NO. NS-1178 to adopt overlay zoning districts to implement the Northwest Crossing Master Development Plan.

LOCATION: Tax map # 17-11-36, tax lots 101, 200R1, 300, 400 and 17-12-31C tax lot 100; between Skyliners Road and Shevlin Park Road at the west edge of the Urban Growth Boundary (the "Property").

I. INTRODUCTION

The Property is located on the western edge of the urban growth boundary between Skyliners Road and Shevlin Park Road and is more particularly identified as tax lots 101, 200R1, 300, 400 on tax map # 17-11-36, and tax lot 100 on tax map # 17-12-31C. The Property is zoned Urban Standard Density Residential ("RS") and is designated Urban Standard Residential by the Bend Area General Plan map. The General Plan map also designated two floating zones for the Property that include 95 acres of Industrial Park ("IP") and 25 acres of Commercial Limited ("CL").

The Plan Map and Chapter 6 of the General Plan require a future Master Plan for the Property to map these CL and IP zones. Under Chapter 6, *The Economy and Lands for Economic Growth*, the General Plan states that the 95-acre industrial area and the 25-acre commercial floating zones at the west edge of the urban area "shall be designed and developed as part of an overall master plan for future industrial, commercial and residential development between Skyliners Road and Shevlin Park Road." (General Plan at Chapter 6, pages 15, 18.)

In order to achieve this General Plan objective, several amendments must be processed. First, the floating CL and IP designations must be identified on the General Plan through a Plan Amendment. (General Plan at page 6). Second, a Text Amendment is required to conform the policies of Chapter 6, *The Economy and Lands for Economic Growth*, to the new map designations. Third, to conform the Zoning Map with the Plan Map, the application also must include a parallel amendment to the Bend Area Zoning Map to map and zone 36.3 acres of IP, 27.4 acres of CL, 14.7 acres of Mixed Employment ("ME"), and 63.5 acres of Public Facilities ("PF") for Bend La Pine School District elementary school and high school sites. Fourth and lastly, the applicant has requested a text amendment to the Bend Area Zoning Ordinance to implement a Master Development Plan for the Property through the implementation of the Northwest Crossing Overlay Zone.

This proposal to amend the General Plan and Zoning Ordinance must satisfy the applicable approval criteria. The approval criteria for the amendments are governed by the provisions of the *Future Plan Updates* policies found at page 6 of the General Plan. The Zoning Map Amendment and Zoning Ordinance Text Amendment are governed by the standards provided under Section 10.10.33, *Amendments*. Other applicable criteria include:

(a) 10.10.10, Urban Standard Residential Zone (RS)
(b) 10.10.15, Limited Commercial Zone (CL)
(c) 10.10.19, Industrial Park Zone (IP)
(d) 10.10.21B, Mixed Employment Zone (ME)
(e) 10.10.21C, Public Facilities Zone (PF)
(f) The Bend Area General Plan
(g) City of Bend Ordinance NS-1556, Land Use Permit & Review Procedures
(h) Oregon Administrative Rules, Chapter 660-12-060
(i) Oregon Statewide Land Use Goals

As the analysis below demonstrates, the City Council finds that the request to locate the IP, CL, ME and PF zones on the Property and the related Text and Zoning Ordinance amendments satisfy all of the applicable approval criteria. We therefore accept the Planning Commission recommendation and approve the Bend Area General Map and Text Amendment and Zoning Map and Text Amendment request with amendments proposed by applicant on April 4 and at the first reading on April 18, 2001.

Together with the Findings below, the Council hereby incorporates by reference the following documents as supplemental findings:

[DOCUMENTS]

1. Findings and Decision of the Bend City Council for Ordinance No. NS-1757 (Exhibit 1).

2. Westside Consortium Traffic Impact Study (Exhibit 2).

II. BEND URBAN AREA GENERAL PLAN AMENDMENTS

Future Plan updates (General Plan at pages 6-7)

In relevant part, the Future Plan Updates section of the General Plan states: "*The General Plan is a document that changes over time to reflect new information and new directions for the future. Amendments or additions to the General Plan text, exhibits, and policies go through a public hearing and review process before being adopted by the governing bodies. Changes and updates can be generated in at least six ways:*

* * *

Changes proposed by individuals or other agencies. At any time an individual, corporation, or public agency can propose a change to the Plan text, land use map, other exhibits, or policies. A person or agency proposing a change has the burden to demonstrate a public need and benefit for the change."

FINDING: This proposal was submitted by individuals in conformance with the above policy. As a result, the applicants must demonstrate that there is a public need and benefit for the change. The General Plan amendments include a Map Amendment to locate the floating Industrial, Commercial and related zones on the Property as required by Chapter 6 of the General Plan. These amendments and related text amendments are in turn required to complete a Master Development Plan for Property. Similar to the Map Amendments, the Master Plan is also required by the General Plan before development on the Property can occur. (General Plan, Chapter 6, pages 15, 18). The Map and Plan Amendments therefore implement Chapter 6 of the General Plan. Because the General Plan reflects the public needs and benefits for land uses in the

City of Bend over the planning period, and this request implements a required objective of the General Plan, Council finds that the application addresses and demonstrates a public need and benefit consistent with the discussion below.

A. General Plan Map Amendment.

The purpose of the proposed General Plan Map Amendment is to specifically define the boundaries of the Industrial and Commercial zones currently designated on the subject property as "floating" nodes. The proposed plan amendment also defines the boundaries of ME and PF plan designations. The ME zone permits industrial uses outright and the PF zone permits schools outright. The proposal therefore also incorporates the PF designation to provide for two approved school sites and the ME zone to compliment and enhance the acreage within the Industrial zone. The balance of the Property will be retained as RS lands. The following allocations are proposed:

Plan Designation	Acres
Residential Standard Density	299.1
Industrial	81.3
Commercial	27.4
Mixed Employment	14.7
Public Special District / Land and Facility	63.5
Total Acres	486.0

Commercial Limited

The Bend Area General Plan designates 25 acres for CL zoning on the Property. The CL center is intended to serve residential growth on the west edge of the urban area. (Bend Area Plan at 12-13). Table 21 of the General Plan , *Commercial Designations*, specifies that the CL designation provides locations for a wide range of retail and service commercial uses in the community along highways or in new centers. (Bend Area Plan, Chapter 6, Table 21 at page 14). New CL zones are designated under the Plan between 5 and 30 acres in size.

The application conforms to both the size and location requirement of the Plan. The applicant has proposed two areas within the NorthWest Crossing Master Development Plan for commercial development. The larger of the two areas is located at the northeast comer of the Property along Shevlin Park Road. This area totals 19.7 acres. The second CL area is more centrally located along Mt. Washington Drive at the intersection of the east/west collector. This CL site totals 7.7 acres. The combined gross acreage of the two commercial zones is 27.4 acres. After the public street system is developed, the CL acreage will be reduced to 25 acres. The acreage total is therefore consistent with the General Plan CL allotment for the Property and each node exceeds the 5-acre minimum requirement for new CL designations.

Further, the Council finds that dividing the required CL land into two locations satisfies the locational objectives of the General Plan while creating multiple commercial centers. Both of the CL properties are located on arterials within a new center as contemplated under Table 21 of the General Plan. In addition, the two centers are approximately one-half mile apart. The Centers will therefore be within approximately one-quarter mile walking distance of existing and planned residential areas. By virtue of their locations, the new CL designations will serve and "support local needs, rather than the needs of . . . motorists passing through the community." (Bend Area Plan at pages 11-12).

The applicant has proposed to locate 25 acres of CL in conformance with these requirements in two commercial nodes within the new community. Council therefore finds that the CL map designation implements a required objective of the General Plan and therefore demonstrates a public need and benefit as that benefit has been predetermined by the express language of the Plan.

Industrial

The current General Plan map designates 95 acres for Industrial zoning to be located on the Property along the west edge of the city limits and west of Mt Washington Drive. The public need for the Industrial zoning on the Property was determined by the adoption of the General Plan. The General Plan further identifies the quantity and type of land needed for Industrial uses. Figure 26 in *The Economy and Lands for Economic Growth*, calls for 820 gross acres of industrial land through 2020 to meet the City's anticipated demand. (Bend Area Plan at Chapter 6, page 7). The projection for needed

industrial land is based on the absorption rate of industrial lands. The demand for industrial land within the urban area varies from year to year rather than following a trend of steadily increasing need. Council finds that the 95 acres of Industrial land contemplated under this application are included in the General Plan inventory of needed industrial land.

The City of Bend *Economic Lands Study Part 1: Trends, Inventory and Forecast* (November 1999, page 21) cites a need for industrial parcels over 10 acres in size and states that the lack of large parcels has hindered the expansion of local firms and made it difficult to recruit larger businesses. The applicant has proposed a total of 95 acres of land that would be available for industrial development within the Property divided into two zones. The IP zone would include 81.3 acres and the ME zone would include 14.7 acres. The ME zone is discussed further below. The applicant has proposed two separate areas for IP designation. One location is adjacent to Skyliners Road and Mt. Washington Drive. This area is 36.3 acres in size with direct access to both Mt. Washington Drive and Skyliners Road. The second area is 45 acres in size and is located along the west property boundary at the northwest comer of the site. The east/west collector is along the south boundary and the future collector alignment is along the west boundary. Council finds that these large blocks of IP land are consistent with the policy directives under the General Plan and therefore demonstrate public need and benefit.

The 81.3-acre allocation of Industrial leaves 14.7 of the 95 acres available for Industrial uses in an alternative zone designation. The applicant has therefore proposed to designate 14.7 of the 95 total acres ME. For the reasons stated below, Council finds that the ME designation further enhances the Industrial potential of the Property and therefore provides for the public need identified under the General Plan.

The 14.7-acre ME zone is to be located southwest of the intersection of Mt. Washington Drive and the east/west Collector Street. With the exception of "enclosed storage facilities including mini warehouse" all of the Industrial Park uses are permitted or conditional uses in the ME zone. Therefore, Council finds that replacing 14.7 acres of IP with ME will not restrict the availability of land for the industrial uses permitted in the IP zone. The ME zone is intended to provide for mixed light industrial and commercial uses in areas where mixed development patterns exist. (Bend Area Plan, Table 20, *Mixed-Use Designations*, Chapter 6 at page 11). To this end, the Master Plan for the Property is based on a mixed-use community, where residential lands are located in close proximity to industrial and commercial uses. The stated goals of the development are to create a mixed use community that includes a variety of housing choices, lively pedestrian oriented commercial centers, business and employment opportunities and parks for recreation and open space.

The ME plan designation and corresponding zone will provide for industrial uses in the same manner as the IP designation but also provide an effective transition between the strictly commercial and industrial designations. Together, the ME and IP zones will enhance industrial development in the area. Because the proposed 14.7 acres of ME will be located adjacent to the IP it is probable that support professional and service uses will be located in the ME zone where they are permitted rather than in he IP zone where they are conditional uses. This will leave the 81.3 acres of IP available for the light manufacturing and research uses. As a result, Council finds that the 14.7-acre ME zone contributes additional lands to the industrial supply as contemplated in the General Plan and provides an effective transition zone from IP to commercial and residential uses. Because the ME zone is located adjacent to the IP zone, the ME zone will enhance the development of industrial uses within the Property.

Public Special District / Land and Facilities

The Bend LaPine School District received City approval for two public schools on the Property prior to the adoption of the Bend Area General Plan in 1998. The School District acquired a 60-acre piece of the Property for an elementary school which was completed September 2000 and a High School that is scheduled to open September 2001. The Bend Area General Plan designates existing schools within the City as Public Special district / Land and Facilities. The Plan also provides "the city shall require major new developments to reserve land for school purposes in conjunction with the Bend-La Pine School District's adopted plan for the type and location of future facilities." (General Plan, Chapter 3 at page 19). The applicant's proposal responds directly to this requirement by rezoning the approved school locations PF consistent with the General Plan map.

In sum, the General Plan identifies the public need and benefit for the requested amendment. Council finds that the General Plan calls for the designation of 95 acres of Industrial land, 25 acres of Commercial land and adequate land for school facilities as part of all new major developments. Based on the above findings, Council finds that the applicant's proposal for the General Plan map amendment to affix the location of the floating plan designations for Industrial and Commercial lands to the Property and designating the Mixed Employment and the PF plan designation for designated school sites is consistent with the public needs and benefits outlined in the General Plan.

III. TEXT AMENDMENTS TO BEND URBAN AREA GENERAL PLAN

As discussed above, the General Plan Map and Chapter 6 of the General Plan require a future Master Plan for the Property to map the CL and IP zones. Under Chapter 6, *The Economy and Lands for Economic Growth*, the General Plan states that the 95-acre industrial area and the 25-acre commercial floating zones at the West edge of the urban area "shall be designed and developed as part of an overall master plan for future industrial, commercial and residential development between Skyliners Road and Shevlin Park Road." (General Plan at Chapter 6, pages 15, 18.) The applicant has submitted a Master Plan with this application. However, as discussed above, to implement this provision of the General Plan, the applicant has also requested that the City apply an ME zone to fulfill a portion of the requirement for industrial uses on the Property. The ME zone was adopted in 1998 and was not subsequently applied to the Property as a floating node. Therefore, the existing Plan text must be amended to include ME.

The proposed amendments to Chapter 6 are restated below. The proposed text is in bold underline and the deleted text is shown as ~~strikethrough~~.
The first text amendment is found in Chapter 6, page 9:

> Beside the developed areas, one undeveloped area is included in the General Plan to help meet future industrial needs. This 95-acre site is just inside the west edge of the Urban Growth Boundary, and was part of a pumice and rock mining operation that ended in 1997. This site will be redeveloped for ~~light industrial~~ park uses and **mixed employment uses**, and will provide for industrial jobs on the growing West-side of the urban area. ~~No specific site boundary is shown on the Plan Map.~~ This industrial land is part of an undeveloped ~~380~~ **486** acre site that also includes two school sites, commercial and residential uses. ~~Until a master plan is developed for this site, only the approximate location for this industrial area is shown on the Plan Map.~~ In addition, the Plan provides for another 60 acres of adjacent industrial reserve land in the Urban Reserve Area for long-term industrial development on the West-side.

Council finds that this amendment is consistent with the public needs and benefits discussed above. Together, the ME and IP zones provide 95 acres of industrial development as contemplated under Chapter 6. (General Plan, Chapter 6, pages 15 and 18).
The second text amendment is found at Chapter 6, page 10. The section currently refers to two Mixed Employment areas. With the application of the ME zone to the Property, the language must be amended to include this third area. The amendment states:

> **Mixed-Use Designated Areas**
>
> The Bend Area General Plan Map has ~~two~~ **three** areas designated for mixed use development.

The additional following sentence must then be added as the last sentence in the last full paragraph on page 10:

> A third **location where the** Mixed Employment **designation is applied is as** part of a mixed-use center along Mt. Washington Drive along the west edge of the urban area.

Again, Council finds that the location and size of the ME zone is consistent with the General Plan and the public need and benefit addressed under the Plan for the

Industrial and Commercial zoning on the Property. Mixed Employment is designed to recognize a mixed pattern of commercial, industrial and institutional uses such as those that are provided on this Property. (General Plan, Table 20 at Chapter 6, page 11). There is no minimum acreage requirement for ME so that the 14.7-acre allotment satisfies both the size and location requirements for the zone. Because ME permits industrial uses and will be located directly adjacent to the IP designation for the Property, Council finds that the public need and benefit for ME as addressed in Chapter 6 are demonstrated by this proposal.

As referenced above, Table 20 currently states that ME is intended for "mixed light industrial and commercial uses in areas that already exhibit a pattern of mixed development." By virtue of the application of the floating nodes as required under Chapter 6, and this Plan Amendment and Zone Change, the Property will exhibit a pattern of mixed development. To ensure that the language of Table 20 is consistent with the other provisions of Chapter 6, the applicant has requested a minor amendment. The amendment will help clarify Council's intent to apply the ME zone to areas that have a pattern of mixed development, either existing or planned. The revised language reflects this intent.

> Mixed light industrial and commercial uses in areas that already exhibit a pattern of mixed development **or in new areas that are planned for mixed use to serve the employment and service needs of an area.**

Council finds that this amendment is necessary to ensure that the intent statements for the ME zone are consistent with the floating nodes that must be applied to this Property through a Master Plan under Chapter 6. To this end, the "new area" language incorporates Council's intent to include both existing and planned mixed-use areas and demonstrates public need and benefit by implementing Chapter 6.

In addition to these amendments, there are two General Plan Policies under Chapter 6 that must be amended to reflect the application of the ME zone to the west-side. The first policy is found at Chapter 6, page 15:

> 10. Development of the industrial lands at the West edge of the urban area between Skyliners Road and Shevlin Park Road shall be limited to the Industrial Park and **Mixed Employment** land use categories to minimize additional heavy truck traffic on Newport Avenue and Galveston Avenue

Council finds that this amendment to include ME in Policy 10 is consistent with the intent of the Policy and renders it consistent with remaining provisions of Chapter 6 that include ME uses on the West side. The intent of the policy was to encourage light industrial uses on the West side in an effort to reduce heavy truck traffic on Newport Avenue and Galveston Way. The ME designation furthers this Policy by providing a land use designation that permits light industrial uses and provides for a mix of light industrial and other like employment uses. The ME designation will therefore continue to reduce heavy truck traffic on the West side in conformance with this Policy. Because the amendment further implements the public need and benefit that was already expressly stated in the policy, Council finds that the amendment to include ME with the light industrial category under Policy 10 meets the amendment approval criterion.

Currently, there is no language within the ME policies that require ME development other than the two areas originally designated. A new policy should therefore be added that calls for a mix of industrial, commercial and office development and reflects Council's intent to apply ME to areas that are developed or planned with mixed employment uses. The proposed Policy 17 states:

> 17. The City may designate other areas for mixed-use development to encourage a variety of jobs and services close to residential areas.

Council finds that this new policy provides an incentive to plan mixed use areas where commercial, industrial and residential uses exist in close proximity. Again, the purpose of the ME zone as stated in the General Plan and the Zoning Code is to provide for a mix of uses such as office, retail, services, light manufacturing and warehousing that offer a variety of employment opportunities in an aesthetic environment. BZC § 10-10.21B(1). The Council has previously determined that the ME zone should be applied in areas that are planned or zoned with a mix of uses. Policy 17 merely restates the City's intent and directs the City to apply the ME zone in appropriate circumstances.

Based on the above findings and the applicant's proposed text changes, Council finds that the proposed text amendments implement the express requirements of Chapter 6 to apply the floating industrial and commercial nodes to the Property through adoption of a Master Plan and are consistent with the public need and benefit as expressed under Chapter 6.

IV. TEXT AMENDMENT TO THE CITY OF BEND ZONING ORDINANCE NS-1178

Pursuant to Chapter 6 of the General Plan, and as referenced above, the applicant has also submitted the Northwest Crossing Master Development Plan ("Master Plan"), attached as Exhibit B and incorporated herein by reference. To implement the Master Plan, the applicant is requesting an amendment to the text of the City of Bend Zoning Ordinance No. NS-1178. The text amendment would add a new chapter to the zoning code to establish an overlay zone containing six overlay-zoning districts for the area subject to the Master Plan.

Section 10-10.33 provides for amendments to the Zoning Ordinance. The Section provides:

> "This ordinance may be amended by changing the boundaries of zones or by changing any other provisions thereof, whenever the public necessity and convenience and the general welfare requires such an amendment. Such a change may be proposed by the City Council on its own motion or by motion of the Planning Commission, or by petition as hereafter set forth."

Subsection 10.10.33(4) further provides for text amendments to the zoning code. There are no approval criteria specific to a text amendment. Council therefore finds that the amendment must comply with 10-10.33 and the applicant must demonstrate that public necessity and convenience and the general welfare justify the amendment. Based on the findings below, Council finds that the adoption of overlay zoning districts for the Property are consistent with the intent to create a mixed-use community consistent with the policy objectives of Chapter 6 of the General Plan and the other relevant policies.

The general welfare standard under Section 10-10.33 is expressed through applicable provisions of the General Plan. Council finds that the proposed purpose statement and text of the overlay districts are in compliance with the applicable General Plan goals.

Specifically, Council finds that the proposed overlay districts promote a variety of residential choices and living styles located close to schools, parks, shopping and employment. Without the overlay districts, the types of dwelling units permitted in the RS zone would include single-family units permitted outright and duplex units permitted conditionally. With the overlay districts housing density will range from 3 units per net acre up to 19 units per net acre and include a variety of single-family lot sizes, duplexes, townhomes and multi-family housing. The overall density will not exceed 7.3 units per acre. Therefore, Council finds that the proposed overlay districts will promote more flexible and creative subdivision designs and will allow for implementation of the Goals identified below through conformance with applicable policies including housing, transportation and employment policies.

Bend Urban Area General Plan Chapter 5 - Housing and Residential Lands

Council finds that the proposed zoning ordinance text amendment complies with the following applicable policies in the Housing and Residential Lands Chapter of the General Plan:

> **4. Private and public non-residential uses are necessary and should be permitted with residential areas for the convenience and safety of the people. Such facilities shall be compatible with surrounding developments, and their appearance should enhance the area.**

The proposed Residential Mixed-use District is relevant to this policy. The Residential Mixed-use District is applied to locations adjacent to collector streets or public parks to allow for a mix of higher density residential uses, live/work housing and community commercial uses in the Urban Standard Residential Zone. The purpose of the zone is to create small, neighborhood-scale mixed-use at specified locations within the Master Plan area. By definition, the community commercial uses in this District are no larger than 2,000 square feet in building area and have limited vehicle parking. The parking limitation is designed to encourage local patronage of the commercial uses and to discourage driving customers from outside the neighborhood.

Because of the distinct character of this mixed use zone, Council also finds that the street system in a mixed use community will accommodate additional vehicle parking. As a result, on-street parking spaces can and should be counted towards the parking requirements of a

proposed use. In determining what number of on-street parking spaces should be counted towards a proposed use, Council finds that the number of parking spaces directly adjacent to a property's street frontage be counted toward a proposed use.

Council finds that the small-scale community commercial use that is proposed to be permitted in limited locations in the Residential Mixed-use District conforms to the intent of this policy. The proposed development standards for the zone include limitations on size, location, parking and signs to limit the intensity of commercial uses adjacent to residential districts. These design standards and limitations compel compatibility with the residential area and recognize the unique characteristics of the area under the mixed use zoning.

11. Residential areas shall offer a wide variety of housing types in locations best suited to each housing type.

Under the standard RS zone, the variety of housing types would be limited to single-family and duplex units. While the RS zone allows Planned Unit Developments as conditional uses, the type of dwelling units are limited to single-family and duplex units. The proposed overlays permit a full range of housing types including single-family, duplex, townhome and multi-family. Because the RS zoning covers about 300 acres, it is appropriate to plan for a range and mix of housing types, creating a diverse community rather than a single, widely distributed prototype. The Master Plan locates the higher density housing, including townhouse and multi-family, adjacent to collector or arterial streets, near commercially zoned areas or adjacent to public parks and schools. Council finds that these locations are suited for higher density housing because, among other things, the street size is more appropriate for larger volumes of traffic. In addition, according to the Master Plan, public open space is proposed adjacent to the higher density residential areas and these areas are located along major streets that may in the future include public transportation stops. Council therefore finds that the residential areas offered under the proposed overlays creates a wide variety of housing in locations best suited for that increased density in conformance with this policy.

21. Densities recommended on the Plan shall be recognized in order to maintain proper relationships between proposed public facilities and services and population distribution

The projected overall density within the Master Plan area for the RS zoned land, including the overlay districts, is approximately 5 units per acre. The overall development will therefore be within the RS range of 2.0 to 7.3 units per acre. The proposed maximum density in the Townhome District is approximately 9 units per acre. The proposed maximum density in the Multiple-family and Residential Mixed-use Districts is 14 units per acre. These residential overlay districts are limited to 27 acres out of the total 300 acres of RS zoning. Within these 27 acres, the Master Plan defines the number and size of lots, the street circulation plan and the public parks. Considering the maximum densities stated above, the limited acreage and the public parks and circulation plan, the overall density of the Master Plan residential area will not exceed 7.3 units per acre.

The densities on the Master Plan have been recognized and coordinated with the proposed public facilities and services. The adequacy of public services is discussed below. Based on these findings, Council concludes that the recommended densities are recognized under the Master Plan and the higher density population areas are coordinated with needed public facilities.

27. When new commercial centers are created in developing residential areas, the city and county may allow up to 20 acres of medium density residential housing within one eighth of a mile of the commercial center.

Council finds that this policy is permissive rather than mandatory. The proposed NorthWest Crossing Master Development Plan includes two commercial centers that will be zoned CL. The proposed 27 acres of Residential Townhome, Multi-family and Mixed-use Districts will allow a housing density that is in the RM range of 7.3 to 21.7 units per acre. According to the Master Plan, most of the residential overlay zones are within one-eighth of a mile of the commercial centers to create convenient pedestrian access to the centers. The remaining proposed areas that are not within one-eighth of a mile are all within one half mile or within a 10-minute walking distance to the commercial centers. While the Mixed Use Districts include a mixture of residential and commercial uses, it appears that the proposed amount of medium density residential housing will be approximately 20 acres in size. Council therefore finds that if this policy were mandatory, the overlay districts would be consistent with its stated intent.

29. Medium and high density residential developments shall be located where they have good access to arterial streets and be near

commercial services, employment and public open space to provide the maximum convenience to the highest concentration of population.

Consistent with the discussion above, the three proposed residential overlay districts are all located adjacent to at least one of the uses identified in this policy, namely arterial streets, commercial services, employment opportunities and public open space. Council therefore finds that this policy is satisfied by the proposed overlay districts.

43. Residential development shall be coordinated with other land use elements and community facilities that are consistent with projected housing densities.

The Master Development plan coordinates vehicle, pedestrian and bicycle circulation plans with the residential uses permitted by the residential overlay districts. All residential areas will be served with sidewalks. The Residential Townhome, Multiple-family and Mixed-use Districts are located along collector streets and will be served with extra-wide sidewalks and designated bicycle lanes. The Districts adjacent to Discovery Park are located near a multi-use trail that will connect with the commercial area and the high school. Community facilities integrated into the plan include the two schools and public parks. The overlay districts will allow a variety of housing types that will meet the projected General Plan RS densities and be located within convenient walking and biking distance to schools, parks, trails and commercial areas. Because the Master Plan and overlay districts contemplate a mixed use community, coordination of various land use elements is a fundamental tenet in the development. Therefore, Council finds that the proposed development will conform to this policy.

Bend Urban Area General Plan Chapter 6 - The Economy and Land for Economic Growth

Council finds that the Overlay Districts will permit uses that will support the goals identified in the Economy and Land for Economic Growth Chapter. The opportunity to have live/work housing will stimulate economic development that will diversify and strengthen economic activity and provide primary and secondary job opportunities for residents of the neighborhood. Allowing the proposed business opportunities will ensure that a full range of industrial and commercial uses are possible on the Property and will support the development of this area. The applicant is also proposing to maintain the limited amount of ME zoning for diverse office and light industrial uses to complement and enhance the industrial designations for the Property.

The 14.7-acre ME zone contributes additional lands to the industrial supply as contemplated in the General Plan and provides an effective transition zone from IP to commercial and residential uses.

The Parking District provisions, special setbacks and street standards in the Commercial Mixed Employment Overlay District are designed to create livable, mixed-use commercial centers that have a main street feel. Council finds that the provisions of this overlay district will create compact commercial centers that will be more compatible with adjacent residential uses. The standards require a maximum rather than minimum-parking standard. The parking will be in common shared lots that will allow buildings to front on the streets and wide sidewalks to create a pedestrian-friendly environment.

The two proposed Commercial Mixed Employment centers, the live/work housing and community commercial uses provided for in the overlay districts are consistent with the goals to limit strip development and serve neighborhoods to reduce vehicle trips. The live/work housing will permit a new employment space that will diversify the employment opportunities and respond to changing technologies, demographics and trends that indicate more people want to, and are able to, work out of their homes and provide limited employment to others.
To this end, the Master Plan and overlay districts for the Property are based on a mixed-use community, where residential lands are located in close proximity to industrial and commercial uses in conformance with this policy.

Bend Urban Area General Plan Chapter 7 - Transportation - Goals

Through restatements of it various goals, Chapter 7 encourages development of a transportation system that serves all modes of travel and reduces the reliance on the automobile and encourages the development of land use patterns that provide efficient, compact use of land. To this end, Chapter 7 also encourages the design of transportation improvements to preserve air and water quality, minimize noise impacts, and encourage energy conservation. The Goals in Chapter 7 are implemented through a number of policies pertaining to transportation demand management, pedestrian and bicycle systems and street grids. Some

of the main objectives include reducing peak hour traffic loading on the roadway system, reducing single occupant vehicle travel, managing and regulating the amount of parking and supporting increased levels of bicycling and walking. The policies relevant to the street system are to provide a practical, safe and convenient means of moving people and goods within the urban area and to provide an attractive, tree-lined, pedestrian friendly streetscape sensitive to protecting the livability of the community.

Based on these restated policies and objectives, Council finds that the proposed overlay zone is consistent with the Goals for Chapter 7.

The proposed street, circulation plans and standards are found at Table B and Figure 12 of the overlay zones. The proposed transportation circulation plans emphasize all modes of transportation with extra wide sidewalks, multi-use trails and bicycle lanes. The overall Master Plan creates land use patterns and a hierarchy of streets that provide efficient, compact use of land, and facilitate a reduced number and length of trips. Council finds that the overlay zone include a mixed-use design that will promote a reduction in the number of vehicle trips. The overlay districts place a full range of housing types within convenient walking distance to commercial areas, schools, employment centers and parks which will encourage walking and bike trips.

The street standards are designed to promote livability by having wide landscape strips, on-street parking in commercial and residential areas, extra wide sidewalks along collectors and arterials, and curb extensions at all intersections. The width and location of the various street types are appropriate for the volume and type of traffic that the planned land use will generate.

The design of the street layout was driven by City standards for maximum grade, block lengths, the topography of the site and the need to site all of the industrial and commercial land on the Property under Chapter 6. The selected street layout maintains a forested environment as much as possible through careful building location and design of streets and open space. The street design on most of the project is based on a standardized lot depth.
The pedestrian and bicycle system plans are found in the Master Development Plan. The Plans show a complete network of interconnected sidewalks, bike lanes, multi-use trails and connector trails. The two multi-use trails conform to the trail location on the Bend Urban Bicycle and Trail Plan Map. The trails will provide access to the High School, a commercial area and one of the parks. Based on the pedestrian and bicycle system plan, Council finds that the proposal meets and exceeds the policy objectives under Chapter 7.

Orderly and efficient provision of off-site transportation facilities will occur through implementation of the Development Agreement between the City of Bend and the applicant as well as the Local Improvement Districts for the construction of intersections on the west-side. The applicant entered into a Development Agreement with the City of Bend on November 6, 2000. It was adopted by Ordinance No. NS-1757 (the "Development Agreement"). The Development Agreement, together with the City's adopted findings in support of the Agreement, have been incorporated by reference as supplemental findings to this Decision. (Exhibit 1.)

The Development Agreement identified the traffic impacts associated with full buildout through 2020 of Northwest Crossing as contemplated by the pending applications, with one exception. The 45-acre IP allotment was not part of the Development Agreement. Because the applicant is not requesting buildout of the 45-acre piece under this application, the transportation impacts of the 45-acre parcel are not at issue here. When development is proposed within the 45-acre area, a transportation analysis may be required to assess any traffic impacts and identify and necessary mitigation measures.

The balance of the proposal was contemplated under the Development Agreement. The City's adopted findings under the Development Agreement assumed a higher trip generation rate based on a rezone to mixed-use development as contemplated under these applications. Accordingly, the City's adopted findings under the Development Agreement concluded that with this future rezone and plan amendment, the traffic associated with Northwest Crossing would be adequately mitigated through the transportation improvements required under the Development Agreement. The applicant also submitted a traffic memorandum into the record that identified the assumptions underlying the rezone and compared those assumptions to the existing zoning and those impact mitigation measures already required under the Development Agreement.

The zoning proposed under this application would generate approximately 1335 inbound trips and 1435 outbound trips. The mixed use nature of the project will also internalize trips within the Property. Analysis of the internalization was performed in accordance with the ITE Code for mixed use development. A comparison of the transportation needs under the existing zoning and those under the proposed zoning in year 2020 was then performed. The analysis was consistent with the buildout assumptions included in the Westside Consortium Traffic Study, also incorporated herein by reference as supplemental findings as Exhibit 2. Improvement

needs at 14 intersections were evaluated. Tables 2 and 3 of the Traffic Memorandum compare the intersection needs between the existing and proposed zoning. Based on the undisputed traffic evidence, no additional improvements, beyond that required for the existing zoning scenario would be required at any of the study intersections if roundabouts are constructed at the intersections. Under the Development Agreement and the balance of the Westside Consortium agreements, each of these roundabouts will be constructed and phased to meet transportation needs as they develop.

The Development Agreement requires the applicant to make transportation improvements identified in the Traffic Memorandum and the Westside Consortium Traffic Study consistent with the maximum densities articulated in the overlay zones and vested under Sections 4, 6, 7, 8 and 10 of the Development Agreement. Council again finds that the applicant is required to fund or construct the following off-site Projects:

(1) construct a single lane roundabout at the intersection of Mt. Washington Drive and Shevlin Park Road. Construction must commence by December 31, 2000.
(2) contribute 50% of the cost of constructing a single lane roundabout at the intersection of Mt. Washington Drive and Skyliners Road. Construction must commence by December 31, 2002.
(3) construct a single lane roundabout at the intersection of 9th and Newport. Construction shall commence by December 31, 2002.
(4) contribute 50% of the cost of constructing a single lane roundabout at the intersection of 14th and Galveston. Construction shall commence by December 31, 2000; and
(5) Participate in the Bridge LID Petition to fund the costs of constructing the Southern Bridge.

In addition to these improvements, the applicant is also required under its Development Agreement to widen the north half of Skyliners Road and install a bicycle lane, all along the boundary of the Property to city standards, widen the south half of Shevlin Road and install a bicycle lane, all along the boundary of the Property to city standards, construct a pedestrian trail along the north side of Skyliners Road along the boundary of the Property and provide adequate right-of-way and site development accommodations to support transit, such as, areas for bus stops, shelters or other similar facility as deemed appropriate by the City. As we found under Ordinance No. NS-1757, these improvements will ensure that the development is orderly and consistent with the efficient provision of transportation facilities under these policies and objectives.

Based on substantial evidence in the record, the Council has determined that the planned westside transportation system fixes required under the Development Agreement would mitigate current failing conditions on the westside and restore the intersections to acceptable levels of service. The transportation analysis supporting the systemic remedies to the infrastructure on Bend's westside was not contested in this proceeding by other expert testimony and was accepted by City engineers.
The Development Agreement is a final city land use decision that is currently on appeal to the Land Use Board of Appeals ("LUBA") and can be relied on to address traffic impacts for these applications. Pursuant to ORS 197.845, the Development Agreement is effective unless stayed by LUBA. SFPC has not requested a stay of the Development Agreement. Because the Development Agreement is on appeal and has not been stayed by LUBA, it is a final and effective land use decision under ORS 197.845 and can be relied upon by the City to conclude that the traffic impacts of Northwest Crossing have been adequately mitigated.

Further, the Development Agreement is both a contract under ORS 94 and a land use decision under ORS 197. Therefore, even if LUBA reverses or remands any part of the Development Agreement, the unaffected provisions remain in full force and effect if the purposes of the agreement can still be accomplished and such effect does not prejudice the substantial rights of either party under the agreement. (Development Agreement at 13.4 and 21.7). Under Paragraph 13.4.1, if the parties' substantial rights are prejudiced, they are required to negotiate in good faith to revise the agreement to give effect to its original intent. Therefore, because the Development Agreement provides for severability and cure, the City and the applicant are obligated to accomplish the essential purpose of the agreement: to complete the off-site

transportation improvements and independently mitigate the traffic impacts of its development. The appeal of the Development Agreement does not affect the transportation findings the City makes under these applications. Further, under Paragraph 12.4, the City and the applicant recognize that the off-site transportation mitigation measures in the Development Agreement satisfy the applicant's obligation to provide traffic mitigation and that the City will require no other off-site transportation-related exactions nor require any further traffic studies relating to off-site transportation impact mitigation in connection with the Northwest Crossing project.

The City of Bend Transportation System Plan (TSP) also contains policies that support the mixed-uses that are proposed within the NorthWest Crossing Overlay Zone. Council finds that the proposed overlay zone will encourage and permit live/work housing that will create an opportunity for people to live and work in the same location, reducing or eliminating trips and trip lengths. This mixed-use pattern will reduce reliance on the single occupancy vehicle and provide multi-modal transportation choices for all income levels within the community. The NorthWest Crossing street, bicycle and pedestrian circulation plans, street design standards and mixed-use design provide for block lengths and park areas that encourage walking or bicycling within the community, reducing impacts on air quality. The applicant has developed proposed street design standards that meet or exceed the objectives and policies listed above for bicycle and pedestrian facilities. These proposed standards were also developed to comply with the State of Oregon Bicycle and Pedestrian Plan. The applicant also consulted with the local Bicycle and Pedestrian Advisory Committee and Michael Ronkin, the Oregon Department of Transportation State Bicycle and Pedestrian Coordinator.

Council therefore finds that the transportation system is designed to serve all modes of travel and will reduce reliance on the automobile while encouraging the development of land use patterns that provide efficient, compact use of land. The system was designed to preserve air and water quality, minimize noise impacts, and encourage energy conservation to the maximum extent possible in conformance with this goal.

V. CONFORMANCE WITH THE CITY OF BEND ZONING ORDINANCE NS-1178; CHAPTER 10.10.33; AMENDMENTS

As discussed above under the Section IV, Section 33 permits amendments of the Zoning Code by changing the boundaries of zones or by changing any other provisions. In the case of amendments to the zoning map, the findings must demonstrate that the change conforms to the General Plan, that the change will not interfere with existing development potential, or value of other land in the vicinity of the proposed action, that the change in classification for the subject property is consistent with the purpose and intent of the proposed zone classification, that the change will result in the orderly and efficient extension or provisions of public services, and lastly, that there is proof of a change of circumstance or a mistake in the original zoning.

As discussed in detail above, Chapter 6 of the General Plan and the General Plan map contain two floating zones for the Property: (1) a 95-acre IP zone; and (2) a 25-acre CL zone. The General Plan requires an owner of the Property to affix or locate these pre-established zones on the Property as part of a Master Development Plan. The Industrial and Commercial zones are therefore required by the General Plan map. In addition to these required zone changes, the applicant is also requesting a zone change from RS to PF for the 63.5 acres previously approved for school sites. The PF designation will merely recognize these sites and render the approved schools permitted uses in the PF zone as intended by the PF zone. As part of the IP rezoning, the applicant has requested to locate 14.7 acres of ME on the Property adjacent to the IP zone. From the total 486 acres currently zoned RS, 344.1 acres will remain with RS zoning. The proposed areas of the zone change request are illustrated in the Master Development Plan and the maps and legal descriptions attached to this Ordinance and Decision.
There are two areas proposed for rezoning to IP consistent with the General Plan. The first area contains 36.3 acres and the second area contains 45 acres.

A. *That the change conforms to the Comprehensive Plan. Specifically, the change is consistent with the Plans intent to promote an orderly pattern and sequence of growth.*

1. Conformance with the Comprehensive Plan

Because the General Plan requires the applicant to apply the IP and CL designations in the manner proposed, the Council finds that the rezoning to IP and CL conform with the General Plan.
The other General Plan policies specific to the Property and request are discussed below. Based on these findings, Council concludes that the required rezoning and the ME and PF zones conform to the General Plan.

CHAPTER 6 - ECONOMY AND LANDS FOR ECONOMIC DEVELOPMENT

Industrial Development

10. Development of the industrial lands at the West edge of the urban area between Skyliners Road and Shevlin Park Road shall be limited to the Industrial Park land use category to minimize additional heavy truck traffic on Newport Avenue and Galveston Avenue.

11. The 95-acre industrial area at the West edge of the urban area shall be designated and developed as part of an overall master plan for future industrial, commercial and residential development between Skyliners Road and Shevlin Park Road.

Commercial Development

25. The 25-acre commercial area at the West edge of the urban area shall be designed and developed as part of an overall master plan for future commercial, industrial, and residential development between Skyliners Road and Shevlin Park Road.

The current General Plan map requires 25 acres of Limited Commercial use on the Property. The applicant has shown the provision of two commercial centers within the master plan area. As described above, the first commercial center is 19.7 acres in size and is located along Shevlin Park Road at the northeast comer of the property. The second CL area is more centrally located along Mt. Washington Drive at the intersection of the east/west collector. This CL site totals 7.7 acres. The combined total of the two commercial zones is 27.4 acres. Therefore, the request to rezone 27.4 gross acres from RS to CL conforms to the intent of the General Plan to provide land for commercial limited uses.

The current General Plan map requires 95 acres of Industrial Park use to locate on the Property. The applicant has proposed to re-zone 81.3 acres for IP use and supplement that acreage with 14.7 acres of ME zoning. As discussed above, the ME zone is consistent with the Policy's intent to provide for light industrial uses on the Property. The ME zone permits industrial uses and further provides support services for industrial uses, resulting in more intense use of the balance of IP zoned land for industrial uses.

The 81.3-acre allotment is provided in two zones. One location is adjacent to Skyliners Road and Mt. Washington Drive. This area is 36.3 acres in size with direct access to both Mt. Washington Drive and Skyliners Road. The second area is 45 acres in size and is located along the west property boundary at the northwest comer of the site. The east/west collector is along the south boundary and the future collector alignment is along the west boundary.

The second industrial area is located with access to the future collector alignment. When a specific industrial development is requested for the 45-acre parcel, the necessary sections of the western edge collector street will be provided. To this end, the street and circulation plans within the Master Plan show this collector in the same location that it is shown on the TSP plan map. Substantial and unrefuted evidence in the record demonstrates that a collector can be constructed along the generalized TSP alignment. At the time of construction, other alternative alignments may also be

feasible. The existing collector on the north side of Summit High School will provide access to the southern part of the 45 acres. Access to both of the industrial areas will therefore be provided through existing and planned collectors and will not be directed through any residential neighborhood. Council finds that the precise location of the collector need not be determined in this proceeding. Accordingly, the location of the industrial land under this request conforms with the General Plan.

Therefore, Council finds that together the IP, CL and ME zones will provide for the industrial uses contemplated under the applicable industrial and commercial policies of the General Plan. With the text amendments to the Plan discussed above, the allocation of the ME, IP and CL zones is in strict conformance with the relevant Plan provisions.

CHAPTER 3 - COMMUNITY CONNECTIONS

Parks and recreation facilities

16. Sites for small neighborhood parks are not shown on the Land Use Plan Map, but the city and county shall encourage private or public parties to develop small neighborhood parks.

The applicant's Master Development Plan shows the development of several community parks. The applicant will coordinate the development of the parks with the Bend Metro Parks District. The parks are proposed for public ownership and public access in compliance with this policy.

CHAPTER 5 - HOUSING AND RESIDENTIAL LANDS

Residential Compatibility

1. Future development and local development standards shall recognize and respect the character of existing areas.

11. Residential areas shall offer a wide variety of housing types in locations best suited to each housing type.

The development pattern to the east consists of moderate sized residential lots within an established subdivision. There are similarly developed properties to the north. The surrounding properties are designated RS. Some of the larger parcels have future redevelopment potential. The westerly properties are outside the Urban Growth Boundary and are not likely to redevelop in the near future. Further to the south is Broken Top and Cascade Highlands Development.
The applicant's Master Development Plan offers a variety of housing opportunities. The single family, medium and high density housing make up the 299.1 acre Residential Standard Density zone. A combination of single family homes, town-homes and multiple family units will be located within the different districts of NorthWest Crossing. The housing types will be regulated through an overlay zone. The total density proposed within the development is 5.1 units per acre. The average density of the RS zone within the City limits of Bend is 3.4 units per acre. Council therefore finds that the applicant's proposed residential component will be compatible with the surrounding developed single family residential neighborhoods.

Housing density and affordability

21. Densities recommended on the Plan shall be recognized in order to maintain proper relationships between proposed public facilities and services and population distribution.

23. The city shall rezone residential lands for the designated General Plan densities when sewer service is available to the area.

The provision of public facilities and services is discussed above under Section II. The Property is within an area that is proposed to be served by City sewer and community water services in conformance with this policy.

Transportation connectivity

33. Schools and parks may be distributed throughout the residential sections of the community, and every dwelling unit in the area should be within convenient distance of a school or a park.

34. Sidewalks shall be required in all new residential developments. Separated sidewalks shall be required, as practical, on streets that provide or will provide access to schools, parks, or commercial areas. However, an alternative system of walkways and trails that provide adequate pedestrian circulation may be approved.

39. Residential local streets shall be developed wherever practicable to increase connectivity within and between neighborhoods.

Council finds that these standards are addressed under Section IV and those findings are incorporated herein by reference. The proposal includes the construction of local streets. The internal roads are proposed as public streets. These streets will contribute to the connectivity of the neighborhood as the adjacent properties develop in the future. Two new schools have been approved in the subject area. Sidewalks would be constructed along the street frontages within the proposed development. The sidewalk system is intended to provide access within the proposed development and to an existing pedestrian system that provides access to the nearby schools. The proposed pedestrian system will provide easy access to the areas open space, the proposed neighborhood park.

Public utilities and services

42. All residential areas shall be provided with community water and sewer services and other facilities necessary for safe, healthful, convenient urban living consistent with the density of development.

44. Electric power, telephone, and cable TV distribution and service lines shall be located underground in new developments. Efforts shall be made to place existing utility lines underground in established residential areas.

The proposed NorthWest Crossing development can be served with a community sewer and water system as well as other public utilities typical of urban development. The applicant will be required to construct services (stub-out connections) of adequate size to serve the future development to the west and north of the subject property. With the development of the property, the applicant will be required to pay system development fees with each building permit issued to mitigate the impacts on the systems. These fees are intended to pay for master plan improvements to the City's infrastructure. Other community services provided with development shall be constructed underground as development occurs in conformance with this policy.

CHAPTER 7 - TRANSPORTATION SYSTEMS

E. Street System

1. Streets shall be located, designed and constructed to meet their planned function and provide space for adequate planting strips, sidewalks, motor vehicle travel and bike lanes (where appropriate). Specific effort should be made to improve and enhance east-west circulation patterns for all modes of travel throughout the community.

3. Streets shall be classified and generally located according to the Bend Urban Area Transportation Plan, the Street Functional Classification and the Street Grid system.

5. Access control shall be part of the design standards for major collectors, arterial, principal arterial and expressways to ensure that adequate public safety and future traffic carrying capacity is maintained on the transportation system. Where commercial or

industrial land uses abut residential areas, access shall not be directed to residential neighborhood streets.

Council incorporates by reference the findings under Section IV above. The Bend Urban Area Transportation Plan indicates a future collector alignment along the west property boundary. The map alignment depicts a generalized corridor. The precise alignment will be determined after further study and engineering analysis, or during the development of vacant properties. As discussed above, the future north/south collector will provide direct access to a collector street for the 45-acre IP parcel and the 36.3-acre IP parcel is already served by an existing collector. The Bend Area General Plan states "[I]industrial areas area normally located near the higher order street system, and as a result of this proximity, industrial streets provide a fairly direct transportation system linkage from the arterial streets to industrial zoned properties." The applicant's proposal is consistent with this policy.

CHAPTER 9 - COMMUNITY APPEARANCE

2. **Community appearance shall continue to a major concern and the subject of a major effort in the area. Major natural features, such as rock outcrops or stands of trees, should be preserved as a community asset as the area develops.**

Council finds that the proposal satisfies this policy. According to the application submittal, a topographic model of the Property, aerial photos and site visits were used as a basis for all design work. The concentric circular grid system emanating from Compass Park follows the natural contours of the Property. The park locations within the Property are based on natural features, the topography of the land and the location of the native forest. Specifically, Rimrock Park is located on steep ground adjacent to Skyliners Road where the most prominent and distinctive rim rock feature is located. Discovery Park is sited to take advantage of the contours of a reclaimed surface mining site that is partially developed with a pond. Lewis and Clark and Compass Parks are sited where there is a high tree coverage. They are also on flat ground to provide recreational amenities for neighboring residents. Large lots were located between Skyliners Road and Lolo Drive to avoid disruption of existing topography and to provide some open space buffer adjacent to the multi-use trail along Skyliner's Road. The trail easement along Skyliners Road and Rimrock Park will preserve trees and other natural features along the Road and multi-use trail. Larger lots are also backed up against the steepest slopes at the west edge of the Property to minimize cut and fill.
There are no Areas of Special Interest on the Property. Council finds that the applicant's planning process demonstrates that community appearance was a major facet of the planning process and that major natural features are proposed for preservation as a community asset in conformance with this policy.

2) **Consistency with the Plan's Intent to Promote an Orderly Pattern and Sequence of Growth**

The rezoning of RS to a combination of ME, IP and CL is consistent with the Plan's intent to promote an orderly pattern and sequence of growth. The rezone will supply land planned and needed for economic growth. *The City Economic Lands Study Part 1: Trends, Inventory and Forecast* (November 1999) summarizes the trends, inventory and forecast for industrial and commercial lands for the next 20 years (page 22). This study concludes that there is a shortage of 289 acres of buildable commercial and industrial land in the urban area even with the commercial and industrial land on the Property is included in the inventory.

Rezoning this land now and developing it according to the Master Plan will make land available to meet the projected market demand for industrial and commercial lands. Rezoning will promote an orderly pattern and sequence of growth because arterial streets already serve the land, and sewer and water service was brought to the Property by the development of the two new public schools.

The proposed zone changes and resulting development will have an impact on the following public services or infrastructure: 1) water, 2) sewer, 3) police and fire, 4) schools, and 5) transportation facilities. The impacts to these facilities and services are discussed below.

1) Water: City of Bend water service can be provided to the Property. The applicant submitted a water services master plan that indicates both existing and proposed water lines within the development area. A 30" water main line was constructed in Mt Washington Drive. This main line provides adequate water pressure/fire flow and supply to serve future development on the Property. Twelve inch water main lines have been constructed to serve the two approved school sites. The applicant has shown proposed water main line construction through the development area. These water main lines will be evaluated with tentative plat review.

2) Sewer: City of Bend sewer is available to the Property. The applicant submitted a sewer services master plan that indicates both existing and proposed water lines within the development area. The closest existing city sewer line is located in Shevlin Park Road and Mt Washington Drive to serve the Elementary School. Sewer service is required to be extended south to provide service to the new high school prior to occupancy. There is adequate sewer capacity in the system to serve the Property if the Property were to develop with commercial and industrial uses as described in this report. The availability of sewer service has made the area more desirable for development.

3) Police and Fire: The subject property is within the City of Bend Police and Fire Protection service boundary. The property is currently being served by these agencies.

4) Schools: The property is within the Bend LaPine school district boundary. There are two approved schools within the development area. The proposed residential development within NorthWest Crossings is within walking distance to the school sites. No additional school sites are projected within the Property based on the 1995 Bend LaPine School District Siting Study for future schools. Therefore, no additional land within the Property needs to be reserved for future school use. The City recognized the 1995 school siting study and has incorporated the enrollment projections and school facility needs into the updated Bend Area General Plan. The City continues to coordinate with the Bend LaPine School District to address growth issues within the school district.

Sisters Forest Planning Committee ("SFPC") claims that the School District is a high-growth district and therefore school capacity is a basis for denial of this application. The Council has carefully considered and rejected this argument.

The Bend-La Pine School District is not a "high growth school district" as that term is defined under ORS 195.110 and is therefore not required to adopt a school facility plan. Further, ORS 195.110(10) expressly provides that school capacity cannot be the sole basis for denial or approval of an application for residential development, unless the application involves zoning changes to the comprehensive plan that affect residential densities. *See* ORS 195.110(10).

ORS 195.110(2) defines a high growth school district as a school district which "has an enrollment of over 5,000 students and *had an increase in student enrollment of six percent or more during the three most recent school years*." (Emphasis added). SFPC would like this provision to include six- percent aggregate growth at the end of a 3-year period. In other words, a district that has as little as 2% growth in a year would be required to adopt a school facility plan to address capacity issues. Two- percent growth a year is average growth, not high growth.
The express language of ORS 195.110(2) measures the six- percent increase "during the three most current school years." The language of the statute demonstrates that the threshold for a high growth district is 6% per year over the last 3 years. The legislative history of the statute confirms this interpretation. Beaverton School District 48 introduced the bill. The District had almost 10,000 new students in the 10 years prior to the bill's proposal in 1993, and anticipated adding an average of 1,000 new students each year until 2010. In ten years, the District had built eight new schools and made numerous additions to existing schools. The City of Beaverton asked the District to repeatedly seek approval of bond measures to pay for these facilities. *Hearings on SB 908 Before the Senate Agriculture and Natural Resources Subcommittee on Land Use*,

April 12, 1993 (statements of Jerry Flug, Executive Director of Facilities for the Beaverton School District). The original proposed bill defined a high growth area as one with an annual increase of ten percent for five years. Through the legislative process, the ten- percent figure was reduced to six percent. However, there was no change to the legislative history demonstrating that the six-percent increase was an annual, not an aggregate figure.
To this end, the fiscal analysis officers report, states that the statute required "an annual increase in student enrollment of six percent or more during the three most recent school years..." LEGISLATIVE FISCAL OFFICE, 1993 REGULAR LEGISLATIVE SESSION, FISCAL ANALYSIS OF PROPOSED LEGISLATION, JULY 15, 1993. Together with this legislative history, the Department of Land Conservation and Development confirms through Jim Hinman and Bob Rindy that the statute requires a six- percent annual increase.

The Bend-La Pine School District is not a high-growth district as that term is defined under ORS 195.110(2).

Bend-LaPine grew approximately 2% from 1997 to 1998, 2.1% from 1998 to 1999, and 3.4% from 1999 to 2000. Because these growth percentages do not trigger the 6% requirement, the District is not a high growth school district subject to ORS 195.110. Therefore, ORS 195.110 does not apply to this application and a school facility plan is not required.

Even if the statute did apply, ORS 195.110(8) and (10) further state that "the capacity of a school facility shall not be the basis for a development moratorium" and "school capacity shall not be the sole basis for approval or denial of any residential development application . . . ." While the application requests a comprehensive plan amendment, the amendment does not increase residential densities or, in turn, decrease remaining school capacity within the District. It does the opposite. Limited property within the site that is currently zoned Standard Residential ("RS") will be rezoned to Industrial Park ("IP"). This change will have the effect of decreasing residential densities under the application. Most importantly, the application also includes the rezoning of a 63-acre parcel to Public Facilities to accommodate existing school sites. Under these circumstances, the residential application cannot be denied based on school capacity and the comprehensive plan change does not increase residential densities. Rather, it preserves land for school sites in conformance with the Bend Area General Plan and ORS 195.
Council therefore finds that there is sufficient school capacity.
5) Transportation: The property is located between Shevlin Park Road and Skyliners Road, which are both designated as minor arterial roads on the Bend Transportation Plan map. Mt Washington Drive bisects the subject property north to south. Mt Washington Drive is also designated as a minor arterial road. The three arterial roads provides good access to the site. The applicant has provided a traffic impact study for the proposed development as part of the West-side Traffic Consortium. The study evaluates the impacts of the development on the street network in the surrounding area.

The orderly and efficient provision of off-site transportation facilities is discussed under Section IV above. That discussion is incorporated herein by reference. The orderly and efficient provision of transportation services will occur through implementation of the Development Agreement between the City of Bend and the applicant as well as the Local Improvement Districts for the construction of intersections on the west-side. The Development Agreement, together with the City's adopted findings in support of the Agreement has been incorporated by reference as supplemental findings to this Decision.

The Development Agreement identified the traffic impacts associated with full buildout through 2020 of Northwest Crossing as contemplated by the pending applications, with one exception. The 45-acre IP allotment was not part of the Development Agreement. Because the applicant is not requesting buildout of the 45-acre piece under this application, the transportation impacts of the 45-acre parcel are not at issue here. When development is proposed within the 45-acre area, a transportation analysis may be required to assess any traffic impacts and identify and necessary mitigation measures.

The Development Agreement requires the applicant to make transportation improvements identified in the Traffic Memorandum and the Westside Consortium Traffic Study consistent with the maximum densities articulated in the overlay zones and vested under Sections 4, 6, 7, 8 and 10 of the Development Agreement. As we found under Ordinance No. NS-1757, these improvements will ensure that the development is orderly and consistent with the efficient provision of transportation facilities under these policies and objectives.

Therefore, based upon these findings, Council concludes that the applicant's proposed zone change will be consistent with the City's policy for the orderly provision of adequate transportation facilities.

E. That there is proof of a change of circumstance or a mistake in the original zoning.

1) A Mistake: Staff finds that City records and the data included in the record in this matter do not indicate a mistake in the original zoning.

2) Change of Circumstance. The applicant states that there has been a change in circumstance that justifies the proposed request including a zone change, a change in ownership of the property, approval of two new schools and transportation system improvements.
Prior to the adoption of the Bend Urban Area General Plan in November 1998, the property was zoned Surface Mining, Industrial (approximately 140 acres) and Urban Standard Residential. The Bend Urban Area General Plan was adopted in November 1998 with land use designations of 95 acres of Industrial Park and 25 acres of Limited Commercial and the remainder as Urban Standard Residential. The boundaries of the Industrial Park and Commercial Limited were not delineated on the General Plan map. Instead a floating symbol was on the map with the note: *"Land use boundaries to be determined by a future master plan"*. At the time of adoption of the General Plan in 1998 the zoning on the subject property was changed to RS with approximately 60 acres of Surface Mining.

Since the adoption of the General Plan in 1998, the Bend-La Pine School District acquired approximately 60 acres within the area subject to this application. These 60 acres are approved as the sites for a new elementary school and a new high school. The School District applied for and obtained approval for a zone change from Surface Mining to Urban Standard Residential in order to have a zone where a school could be permitted as a conditional use. The School District also obtained approval for a conditional use permit, a site plan and a variance for a high school on the site (City File 99-302). Existing school sites on the Bend Area Zoning Map are zoned Public Special District/Land and Facilities.

The ownership of the property changed hands in June 1999. The current property owner, West Bend Property Company, LLC, purchased the property with the intention on completing a master planned, mixed-use community conforming to the intent of the General Plan. West Bend Property Company, LLC has worked with the School District and the City to gain approval of two roundabouts on Mt. Washington Drive. The two roundabouts are currently under construction. In addition, West Bend Property Company, LLC is working with the Bend-La Pine School District to improve and construct pedestrian access to the two schools.

A significant change in circumstance is the work regarding solutions to the west-side traffic system failure completed by the City of Bend and a consortium of 10 developers and property owners (Consortium) on the west-side of Bend. West Bend Property Company, LLC is a Consortium member.

The approval and construction of two new public schools, the completion of Mt. Washington Drive through the subject property including the construction of two roundabouts, the purchase of the property by West Bend Property Company, LLC, the Consortium proposal for an LID and related development agreements are sufficient changes in circumstances to find that this criterion is met.

.
Based on the information and findings submitted by the applicant and the above findings, Council concurs with the applicant's analysis. Council finds that the applicant's

request will be consistent with the above approval criterion by bringing the property into conformance with the Bend Area General Plan.

B. That the change will not interfere with existing development potential, or value of other land in the vicinity of the proposed action.

In previous decisions, the common meaning of "value" has been determined to mean the property's market value. Further, as used in this criterion and as historically interpreted by the City, the effect on value is intended to imply that the proposal will not have an adverse impact on the dollar value rather than the aesthetic value. There is no evidence in the record and no data that shows that the market value of the surrounding properties would be adversely affected by the proposed change. The trend in the real estate market in the Bend area, based on the tax assessor's records, has been a steady increase in property values regardless of the location, surrounding zoning or development. Using this as a measuring stick and the fact that the surrounding development varies in nature, Council finds that the value of the surrounding properties would not be adversely impacted.

The applicant is proposing to develop 486 acres into a planned community of residential homes, commercial and industrial service uses. The impacts to surrounding properties, based on the proposed development, are minimal. The applicant will be required to apply for and obtain permits for the site development described above. The City will rely on the administrative review of the development applications to address the specific impacts of the development.
Based on the above information, Council staff finds that the applicants proposed zone change would not interfere with existing development potential.

C. That the change in classification for the subject property is consistent with the purpose and intent of the proposed zone classification.

Section 15. Limited Commercial Zone

(1) <u>Purpose</u>. This zone is intended to establish locations for the development of commercial centers to provide for the shopping and service requirements for large sections of the community and to recognize existing uses both in centers and as parts of commercial strips. New commercial centers shall be limited to a minimum area of 12 acres of a maximum area of 20 acres of contiguous land and shall be developed in a manner consistent with the General Plan.

As described earlier in these findings, the first commercial center is 19.7 acres in size and is located along Shevlin Park Road at the northeast comer of the property. The second CL area is more centrally located along Mt. Washington Drive at the intersection of the east/west collector. This CL site totals 7.7 acres. The combined total of the two commercial zones is 27.4 acres. The purpose statement above, restricts the minimum size for a new commercial center to 12 acres and the Plan provides a size range of 5 to 30 acres. The plan text was adopted in 1998 and is the most current guide for new development. The CL zone is appropriately located under this purpose statement and the size of the parcels meets the Plan requirements.

Section 19. <u>Industrial Park Zone</u>

(1) <u>Purpose</u>. This zone is intended to provide for research or development of materials, methods, or products, and compatible light manufacturing, in a park-like environment.

The proposed IP zone will implement the General Plan "floating" designation for 95 acres of IP on this Property. The applicant has proposed a zone change for 81.3 acres of IP zoned land within the Property. This large block of IP land will provide a location for industrial users needing a large site in a park-like setting. The benefit of designating the boundaries of this Industrial Park land and rezoning the Property are, among other things, to provide industrial land to meet a market demand that is not currently met. The applicant has proposed to designate a potion of the planned 95 acres of IP as Mixed Employment. The ME zone is discussed below.

Section 21B. Mixed Employment Zone

(1) Purpose. The zone is designated to provide for a mix of uses such as office, retail, services, light manufacturing and warehousing that offer a variety of employment opportunities in an aesthetic environment and having a minimal impact on surrounding uses.

The change of zoning from RS to Mixed Employment is consistent with the purpose and intent of the zone because the ME zoning will provide a transition between the Commercial Limited zone and the Industrial Park zone. The mix of uses in the ME zone is a blend of commercial and industrial zoning and includes office-uses. The Master Plan located this zone specifically to create a transition between commercial limited and industrial park zones and to allow for the broadest mix of uses to offer a variety of employment opportunities to meet future market demand and serve the industrial and residential areas in the development. The creation of a mixed-use center combining the ME zone and the CL zone with the design proposed by the Master Plan will assure that the site is developed in an aesthetic, pedestrian friendly environment. The proposed location should have a positive impact on the adjacent school site and industrial park by providing services and facilities to serve students, school staff and employees in the industrial area. Council finds that the location and size of the ME zone meet the intent of the purpose statement.

Section 21C. Public Facilities Zone

(1) Purpose. The PF Zone is intended to provide area for buildings and facilities that are owned and operated by federal, state, or local governments, public utilities, special districts, or non-profit organizations, and which are occupied to provide for school sites, public park and recreational facilities, natural areas, trails wetlands and similar types of open space owned and managed by local government or special districts.

The PF zone is being applied to the two approved school sites that are located within the area of the Property. The rezone will bring the school property into conformance with the General Plan. There will be no additional impact associated with this zone change because the schools are approved and under construction.
Based on the information above and the findings herein, Council concurs with the applicant's analysis and proposal for the CL, IP, ME and PF zone changes for the Property.

D. That the change will result in the orderly and efficient extension or provisions of public services. Also, that the change is consistent with the City of Bend policy for provision of public facilities.

This approval criterion is discussed above under Section IV and again under Section V. Those findings are incorporated herein by reference. Council finds that the zone change will result in the orderly and efficient extension of public services.
The city has adopted a Transportation System Plan. Therefore the provisions of the Transportation Planning Rule no longer apply unless the land use sought would alter the functional classification of the transportation system. The city's TSP considered the planned uses for the subject area based on the General Plan map designations when designating the functional classifications of the street system. Therefore, the functional classifications of the transportation system in the area will not be altered.

VI. COUNCIL DECISION:

By this Findings and Decision, the Council approves the General Plan Amendment, Plan Text Amendment, Zoning Ordinance Amendment and Zone Change as proposed under the subject application.

Language added subsequent to the
City Council's consideration of
this draft ordinance on May 16, 2001
is shown in *italicized* typeface. Deleted
text is shown in ~~strikethrough~~ typeface.

ORDINANCE NO. NS-1783

AN *EMERGENCY* ORDINANCE DETERMINING THE CONDITIONS UPON WHICH JUNIPER UTILITY COMPANY PROVIDES WATER, *IRRIGATION* AND WASTE WATER SERVICE AND OCCUPIES PUBLIC STREETS AND RIGHT-OF-WAY WITHIN THE CITY OF BEND

Section 1: Purpose.

The purpose of this ordinance is to provide conditions upon which Juniper Utility Company provides water, *irrigation* and waste water service to the residents of the City of Bend; to provide performance standards for the operations of Juniper Utility Company; and to provide conditions upon which Juniper Utility Company may occupy the streets and other public right-of-way within the City of Bend.

Section 2: Definitions.

For the purpose of this ordinance, the following terms shall have the meaning provided below:

(1) "City" is the City of Bend, Oregon.

(2) "Company" is Juniper Utility Company, and its successors or assigns.

(3) "Council" is the City Council of the City of Bend.

(4) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

(5) "Facilities" shall mean all real property, fixtures and equipment used by Company in the provision of water, *irrigation* and wastewater services throughout its system, whether located inside or outside of City, and includes, but is not limited to, main transmission lines, distribution systems and all other things used in the provision of water, *irrigation* and wastewater services by Company.

(6) "Urban Growth Boundary" shall mean those properties within City's present city limits and the Urban Growth Boundary as they now exist and as they may change from time to time in the future.

Section 3: Grant of Authority.

City grants to Company the right and privilege to construct, erect, operate and maintain its facilities, in, upon, along, across, above, over and under the streets, alleys, and public ways now laid out or dedicated, and all extensions thereof, and additions thereto, for the provision of water, *irrigation* and wastewater services in City. This grant of authority is nonexclusive in that the City reserves the right to operate a water, *irrigation* and wastewater system within the public ways and to grant a similar use of streets, alleys and public ways to another person, as provided by law.

Section 4: **Compliance with Laws, Rules and Regulations.**

Company shall at all times comply with all applicable laws, rules and regulations of the United States of America, the State of Oregon, and the City of Bend; including appropriate agencies and subdivisions thereof. Company shall be subject to the lawful exercise of the police power of City and to such reasonable regulations as City may from time to time hereafter adopt.

Section 5: **Company Liability, Indemnification of City and Insurance.**

(1) Company shall at all times conduct its operations in or upon City streets and other public right-of-way, including installation, construction or maintenance of its facilities, in a safe and workmanlike manner so as not to present a danger to the public or City.

(2) Company shall at all times maintain, a comprehensive liability insurance policy which shall contain the following provisions:

(a) Bodily injury policy limits of $500,000 for each person and $500,000 for each occurrence.

(b) Property damage policy limits of $500,000.

(c) An endorsement for completed operations coverage.

(d) A designation of City, its officers, agents and employees, as an additional insured for liability arising from or in connection with Company's operations within the City of Bend.

(e) An endorsement requiring 10 days' written notice to City prior to the cancellation of the insurance coverage.

(f) A certificate evidencing insurance as described in this ordinance shall be deposited with City.

(g) In the event that City's tort liability limits are raised by the Oregon Legislature to exceed the limits described in this Section, Company shall obtain and maintain insurance in the amount of City's tort liability limits.

Section 6: **Facilities and Service Standards.**

Company shall construct, operate and maintain its facilities and provide services as follows:

(1) Company shall provide its customers with good quality water and wastewater services; and supply potable water, irrigation water and wastewater to its customers in compliance with all applicable laws, rules and regulations.

(2) Company shall construct and maintain those portions of its facilities that are located within the City of Bend and within the Urban Growth Boundary surrounding the City, as it exists and changes, in compliance with City and State standards for the provision of the service. Compliance with City standards shall include, but not be limited to:

(a) Standards for construction and installation of the water system, including the use of C-900 or ductile iron pipe and restoration of City streets.

(b) Provision of standard City fire flows throughout the water system, subject to verification by the Fire Department. At least annually or upon request by the City, the Company will provide the City with a written report of individual hydrant conditions.

(c) City inspection and approval of system design and installation pursuant to generally accepted practices and standards in the water, *irrigation* and waste water utility area.

(3) Company shall maintain and improve its facilities according to generally accepted practices and standards in the regional water, *irrigation* and wastewater utility industry.

(4) Company's potable water service to properties within the City and the Urban Growth Boundary shall be confined to the properties shown on the map entitled "Juniper Utility *Co. Utility Franchise Area"* ~~Company Potable Water Service Area Exhibit"~~ which is marked EXHIBIT A, attached hereto and incorporated by reference herein. Company shall not provide potable water service to any other properties within the City by utilizing City streets or other City right-of-way without first obtaining a right-of-way permit from the City specifically allowing such extension of service.

(5) Company's waste water service to properties within the City and the Urban Growth Boundary shall be confined to the properties shown on the map entitled " Juniper Utility *Co. Utility Franchise Area"* ~~Company Waste Water Service Area Exhibit"~~ which is marked EXHIBIT A, attached hereto and incorporated by reference herein. Company shall not serve any other properties within the City by utilizing City streets or other City right-of-way without first obtaining a right-of-way permit from the City specifically allowing such extension of service.

(6) Company's irrigation service to properties within the City and the Urban Growth Boundary shall be confined to the properties shown on the map entitled " Juniper Utility *Co. Utility Franchise Area"* ~~Company Irrigation Wastewater Service Area Exhibit"~~ which is marked EXHIBIT A, attached hereto and incorporated by reference herein. Company shall not provide irrigation service to any other properties within the City by utilizing City streets or other City right-of-way without first obtaining a right-of-way permit from the City specifically allowing such extension of service.

(7) Unless prohibited by law or the Oregon Public Utilities Commission, in cases where City provides sewer services to a Company customer, Company shall terminate the service of Company's customer, at the request of City, if the customer becomes delinquent in the payment of the customer's sewer service bill.

(8) Company shall be required to make modifications, additions and extensions to its physical equipment, and shall connect new and additional customers to its system, as reasonable or necessary in the public interest as provided by law, and as directed by the City, consistent with the statutes, rules, regulations and determinations of the State of Oregon and its Public Utilities Commission.

Section 7: Company Rules.

Company shall have authority to promulgate such reasonable rules and regulations governing the conduct of its business as shall be reasonably necessary to enable Company to exercise its rights and perform its obligations under this ordinance, and to assure uninterrupted service to its customers. Company rules and regulations shall be subject to the provisions of this ordinance and any other governmental regulations. A copy of said rules and all amendments thereto shall be filed with the Office of City Manager.

Section 8: Conditions on Street Occupancy.

Company agrees to comply with the following conditions:

(1) Use. All facilities installed by Company within the Urban Growth Boundary after the date of this ordinance shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners

who adjoin any of the streets, alleys or other public ways or places. Company shall obtain street cut permits for all street cuts and shall comply with the provisions of City's street cut ordinance.

(2) Restoration. In case of any disturbance of pavement, sidewalk, driveway or other surfacing by Company, Company shall, at its own cost and expense and in a manner approved by City, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed, in as good condition as before the disturbance. If Company fails to make restoration as required, City shall cause the repairs to be made at the expense of Company.

(3) Relocation. City may require Company to change the location of any facility within the public right of way when the public convenience requires such change or removal and the expense thereof shall be paid by Company. City shall give Company reasonable notice of any changes required and Company shall have a reasonable time within which to make the requested change. If Company refuses to make the change requested by City or does not make the change within a reasonable time after the request of City, City may make the change and collect the cost of making said change from Company.

(4) Placement of Facilities. Company shall not place its facilities where they will interfere with any existing gas, electric or telephone fixture or sewer or water facility. All facilities placed in the City street shall be placed as City directs.

Section 9: Notice of Intent to Sell.

Company shall not enter into any binding agreement to sell, assign, dispose of or transfer in any manner whatsoever any interest in facilities located in City streets or other right-of-way, nor transfer, permit transfer of controlling interest in the Company, without first providing to the City sixty (60) days written notice of Company's intent to sell.

Section 10: Transfer of Company Assets.

Company shall not sell, assign, dispose of or transfer in any manner whatsoever any interest in the technical facilities used on City streets or other right-of-way, nor transfer or permit transfer of controlling interest in Company without prior written approval of Council. Such approval shall be based upon the following criteria: Company shall be required to demonstrate to the satisfaction of the Council that Company's proposed purchaser, assignee or transferee has such financial and managerial resources as are sufficient to maintain the then current quality of service and to comply fully with the terms of this ordinance prior to the Council granting such approval. Such approval, based upon the above criteria, shall not be unreasonably withheld by the Council. If the PUC approves the transfer, the transfer shall be presumed to be reasonable.

Section 11: City's Rights.

In addition to other rights conferred by law or otherwise, City shall have the right to inspect all construction or installation of Company facilities, subject to the provisions of this ordinance and to make such inspections as it shall find necessary to ensure compliance with governing laws, rules and regulations.

Section 12: Company Records and Reports.

Company shall keep accurate books of account at an office within the State of Oregon at all times. Company shall produce its books of account for inspection by City at any time during normal business hours, after reasonable notice by City, and City may audit Company's books from time to time. City may require periodic reports from Company relating to its operation and revenue within City. Prior to requesting periodic reports, City shall first review the annual report submitted by Company to the P.U.C.

Section 13: System Data.

Company shall maintain, at a local office, current maps and other operational data relating to its facilities and system operations in the City of Bend. City may inspect these maps and data at any time during normal business hours.

Section 14: Enforcement.

City and Company shall have all remedies provided by law, including termination of company's right to operate a utility on City Streets or other right-of-way, to enforce the terms and conditions of this ordinance. Failure to enforce any provision of this ordinance shall not be construed as a waiver of a breach of any other term, condition or obligation of this ordinance.

Section 15: Constitutionality.

If any section, subsection, sentence, clause or portion of this ordinance is for any reason held invalid or is rendered unconstitutional by court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the constitutionality of the remaining portion hereof.

Section 16: Emergency Declared. Immediate Effective Date.

The City of Bend hereby finds and declares that this ordinance is necessary for the immediate preservation of the public health, safety and welfare. An Emergency is therefore declared to exist, and this ordinance shall be effective upon its passage.

Read for the first time the 16th day of May, 2001.

Read for the second time this 30th day of May, 2001.

Placed upon its passage this 30th day of May, 2001.

YES: 7 NO: 0

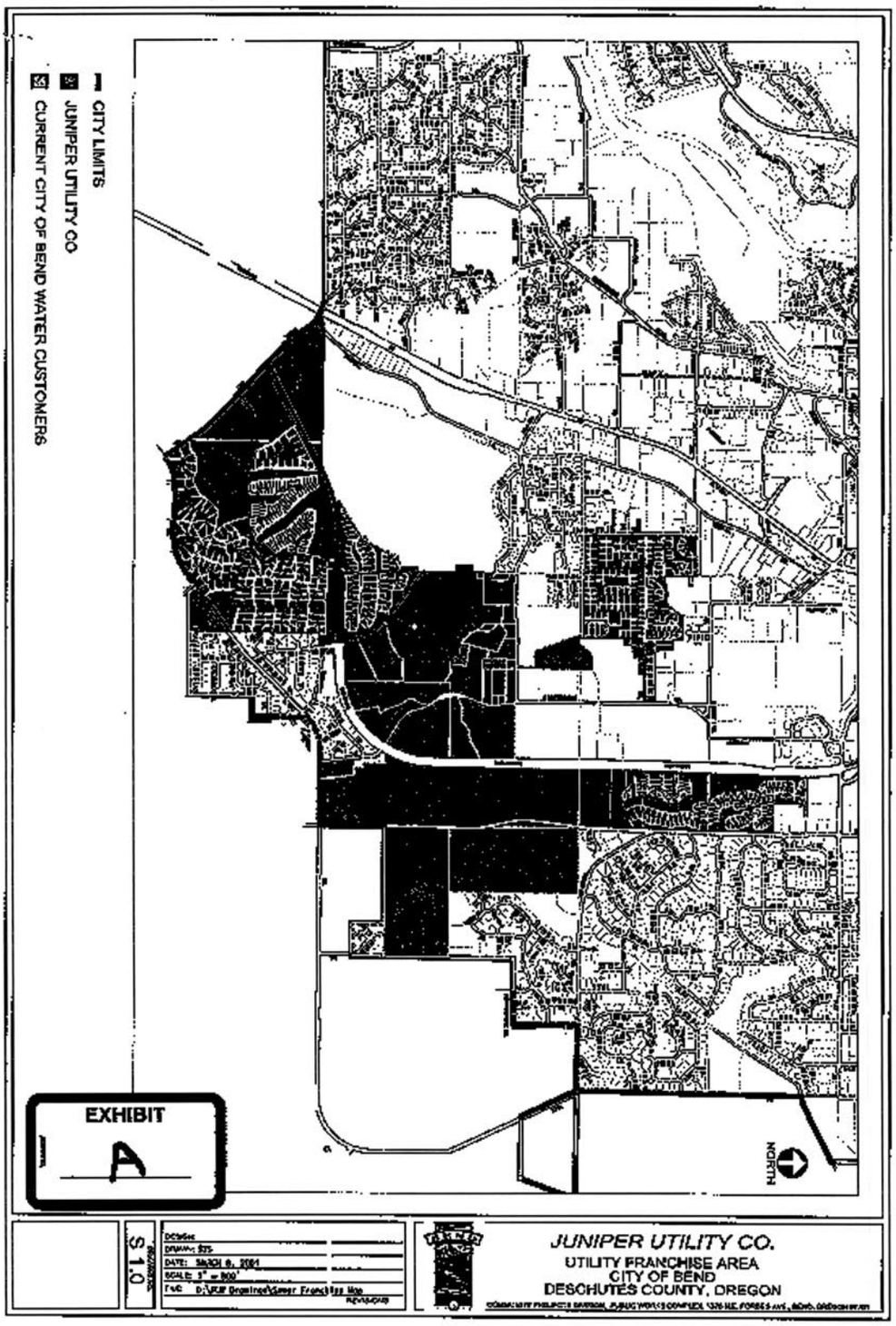
Authenticated by the Mayor this 30th day of May, 2001.

Bill Friedman, MAYOR

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NS-1783 EXHIBIT A



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ORDINANCE NO. NS-1784

AN ORDINANCE REFERRING ADVISORY QUESTIONS CONCERNING THE SOUTHERN RIVER CROSSING TO THE VOTERS OF THE CITY OF BEND

WHEREAS, The Bend Area General Plan provides for construction of a bridge over the Deschutes River connecting Reed Market Road to Mt. Washington Drive, known as the Southern River Crossing, and

WHEREAS, If the Southern River Crossing is to be constructed, Reed Market Road will need to be extended to connect to the bridge on the east side of the river, and

WHEREAS, The Bend City Council wishes to ascertain, as accurately as possible, the true wishes of the voters of the City of Bend on three issues:

1. Whether the bridge should be constructed at this time; and if so

2. Whether the Reed Market Road extension to the bridge should be built along the Northerly Alignment; or

3. Whether the Reed Market Road extension to the bridge should be built along the Southerly Alignment.

WHEREAS, The Bend City Council has determined that an advisory referendum is the best way to accurately ascertain the wishes of the voters of the City of Bend, therefore

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. The City Council hereby refers to the voters of the City of Bend an advisory ballot question, essentially consisting of three parts, to ascertain the following:

1. Do the voters prefer that the Southern Bridge be built at this time; and

2. If the Southern Bridge is to be built at this time, do the voters prefer the Northerly Alignment for the Reed Market Road extension; or

3. Do the voters prefer the Southerly Alignment for the Reed Market Road extension?

Section 2. The Ballot Title shall be substantially as follows:

BALLOT TITLE FOR SOUTHERN RIVER CROSSING ADVISORY VOTE

QUESTION NO. 1

CAPTION: ADVISORY VOTE ON WHETHER TO CONSTRUCT THE SOUTHERN RIVER CROSSING

QUESTION: Should the City of Bend construct the Southern River Crossing at this time?

___ Yes
___ No

SUMMARY: This advisory ballot question seeks to determine whether the voters believe that the City of Bend should construct a new bridge across the Deschutes River in the southwestern part of town at this time. The new bridge, which is generally called the "Southern River Crossing," would connect Mt. Washington Drive on the west side of the river to an extension of Reed Market Road on the east side of the river. This vote is advisory only. It has no legally binding effect. This vote is intended to assist the Bend City Council in deciding whether the construct the Southern River Crossing at this time.

QUESTION NO. 2

CAPTION: ADVISORY VOTE ON NORTHERLY ALIGNMENT OF REED MARKET ROAD EXTENSION

QUESTION: Should the City of Bend construct the Reed Market Road extension along the Northerly Alignment shown on the attached map?

___ Yes
___ No

SUMMARY: If the City of Bend decides to construct the new bridge called the Southern River Crossing, it will be necessary to extend Reed Market Road west from its current location to connect to the new bridge. The attached map shows two possible alignments for the Reed Market Road extension – a Northerly Alignment and a Southerly Alignment. This vote is advisory only. It has no legally binding effect. This vote is intended to assist the Bend City Council in deciding which alignment of Reed Market Road is preferred by the voters, if the City of Bend decides to construct the Southern River Crossing.

QUESTION NO. 3

CAPTION: ADVISORY VOTE ON SOUTHERLY ALIGNMENT OF REED MARKET ROAD EXTENSION

QUESTION: Should the City of Bend construct the Reed Market Road extension along the Southerly Alignment shown on the attached map?

___ Yes
___ No

SUMMARY: If the City of Bend decides to construct the new bridge called the Southern River Crossing, it will be necessary to extend Reed Market Road west from its current location to connect to the new bridge. The attached map shows two possible alignments for the Reed Market Road extension – a Northerly Alignment and a Southerly Alignment. This vote is advisory only. It has no legally binding effect. This vote is intended to assist the Bend City Council in deciding which alignment of Reed Market Road is preferred by the voters, if the City of Bend decides to construct the Southern River Crossing.

Section 3. The City Attorney may make technical changes to the ballot title set forth in Section 2 of this ordinance in order to comply with requirements of Oregon Law.

Read for the first time the 16th day of May, 2001.

Read for the second time the 16th day of May, 2001.

Placed upon its passage the 6th day of June, 2001.

YES: 6 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 6th day of June, 2001.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1785

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RS, URBAN STANDARD DENSITY RESIDENTIAL TO RH, URBAN HIGH DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated March 26, 2001 file number PZ-00-484.

Section 2. Section 7(1) of Ordinance NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the property described as;

Lots 12, 13, 14, 15 and 16, Block 29; Center Addition to Bend
Deschutes County, Oregon

from Urban Standard Density Residential (RS) to Urban High Density Residential (RH).

Read for the first time the 16th day of May, 2001.

Read for the second time the 6th day of June, 2001.

Placed upon its passage the 6th day of June, 2001.

YES: 6 NO: 0

Authenticated by the Mayor the 6th day of June, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1786

AN ORDINANCE REPEALING ORDINANCE NO. NS-1349, CITY OF BEND SUBDIVISION ORDINANCE, AS AMENDED, AND ADOPTING THE NEW LAND DIVISION ORDINANCE ATTACHED HERETO AS EXHIBIT "A".

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Ordinance NO. NS-1349, and all subsequent amendments thereto, are hereby repealed.

Section 2. The City Council hereby adopts a new Chapter 10-13 of the City Code, the City of Bend Land Division Ordinance, attached hereto as Exhibit 'A'.

Read for the first time the 16th day of May, 2001.

Read for the second time the 6th day of June, 2001.

Placed upon its passage the 6th day of June, 2001.

YES: 6 NO: 0

Authenticated by the Mayor the 6th day of June, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

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CITY OF BEND
LAND DIVISION ORDINANCE NO. 1786

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EXHIBIT 3	Bend Metro Park and Recreation District Neighborhood Park Classification and Development Standards.

ESTABLISHING REGULATIONS AND STANDARDS FOR THE SUBDIVISION AND PARTITIONING OF LAND, AND FOR THE PREPARATION LAND DIVISION PLANS AND PLAT AND FOR DEDICATIONS TO BE FILED, AND REPEALING ORDINANCE NS-1349 AND ALL AMENDMENTS THERETO.

ARTICLE I

Section 1.010 TITLE. This ordinance shall be known as the City of Bend Subdivision and Partition Ordinance and may be cited and plead.

Section 1.020 PURPOSE. In accordance with the provisions of ORS Chapters 92, 100 and 227, this ordinance sets forth the minimum standards governing the approval of land development, including subdivisions and partitions, as necessary to carry out the Bend Area General Plan and to promote the public health, safety, and general welfare. The purpose of these provisions and regulations are to:

1. Encourage well planned subdivision and partition development to the end that good livable neighborhoods with all needed amenities and community facilities may be created.

2. Encourage development in harmony with the natural environment and within resource carrying capacities.

3. Safeguard the interest of the public, the applicant, and the future lot owner.

4. Improve land records and boundary monumentation.

5. Ensure equitable processing of subdivision plats and partition plans, and accomplish to the greatest extent possible the goals and objectives of the Bend Area General Plan.

6. Provide for orderly and efficient urban development and coordinate development with public facility and service plans and capabilities.

7. To regulate the orientation of streets, lots, and parcels; the placement, height and bulk of buildings; and the placement and growth of vegetation within the City to ensure access to solar energy by reasonable regulating interests in property within the City as authorized under ORS 92.044, 227.190 and ORS 105.880 through 105.890, to promote and maximize the conservation of energy by preserving the option to utilize solar energy and to implement the Bend Area General Plan policies relating to solar energy.

8. To encourage the design of new buildings, structures, and developments which use solar energy and protect future options to use solar energy by protecting solar access.

No person may subdivide or partition land within the City of Bend except in accordance with ORS Chapter 92 and the provisions of this ordinance.

Section 1.030 INTERPRETATION. The provisions of this ordinance shall be construed to effect the purposes set forth in Section 1.010 of this ordinance. These provisions are declared to be the minimum requirements fulfilling such objectives, and the City may impose additional requirements deemed necessary to promote the health, safety, and general welfare, and to carry out the comprehensive plan of the City. Where conditions set forth herein are less restrictive than comparative conditions imposed by any other provision of this ordinance, by provision of any other local ordinance, resolution, or regulation, or by provision of state statute or administrative

regulation, the more restrictive shall govern. All provisions of this ordinance shall be administered to the extent permitted by applicable law.

Section 1.040 CONSTRUCTION AND TERMINOLOGY

1. Construction. Words in this ordinance used in the present tense include the future tense; words used in the singular include the plural, and words in the plural include the singular; the word "shall" is mandatory; the word "may" is permissive; the masculine shall include the feminine and neuter.

2. Terminology. The word "City" shall mean the City of Bend, Oregon. The words "City Council" shall mean the City Council of Bend. The words "Planning Commission" shall mean the Planning Commission of the City of Bend. The words "Planning Director" and "Hearings Officer" shall mean the Planning Director and Hearings Officer respectively of the City of Bend.

Section 1.050 DEFINITIONS. As used in this ordinance, the following words and phrases shall mean:

Access. The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.

Access Corridor. A separate travel way for pedestrians and bicyclists to minimize travel distances within and between subdivisions, planned unit developments, residential areas and commercial centers, major employment areas, transit stops, or within and between nearby neighborhood activity centers such as schools, parks, and convenience shopping. Such corridors shall also serve the dual purpose of providing a recreation amenity for bicycling, jogging, etc.

Advertising. Publication or causing to be published of any material relating to disposition of interest in a land development, which has been prepared for public distribution by any means of communications.

Affected Governmental Body. A city, county, state, or federal agency or special district which either has a jurisdictional interest or is of such proximity to the land partition that a reasonable likelihood of annexation exists.

Affected Person. Any person adversely affected or aggrieved by a decision relating to the partitioning or subdividing of land.

Agent. Any person who represents or acts for any other person in disposing of interests in a land development. Includes a real estate broker as defined in ORS 696.010(12) but does not include an attorney at law whose representation of another person consists solely of rendering legal services.

Alley. A narrow way primarily for vehicular service access to the back or side of properties abutting a street.

Bikeway. Any road, path or way open to bicycle travel regardless of whether such facilities are designated for the preferential use of bicycles or are to be shared with other transportation modes.

Block. An area of land bounded by streets or by a combination of streets and public parks, cemeteries, railroad rights-of-way, lines or shore lines, or waterways, or corporate boundary lines of a city.

Building. A structure which is designated and suitable for the habitation or shelter of human beings or animals or the shelter or storage of property, or for the use and occupation for some purpose of trade or manufacture.

Building Line. A line on a plat indicating the limit beyond which buildings or structures may not be erected. If no line is shown on the plat, the building line shall be that set forth in the City Zoning Ordinance.

Community Facility. Amenities including but not limited to recreation facilities, community halls, parks, playgrounds, picnic shelters and trails designed to serve the residents of a subdivision, located within common area to the subdivision and under the control of a homeowners or other association.

Comprehensive Plan. As adopted by the City of Bend pursuant to ORS Chapters 197 and 227, and in compliance with Statewide Planning Goals. A coordinated land use map and policy statement of the Bend Urban Area that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational systems, recreational facilities, and natural resources and air and water quality management programs. "Comprehensive" means all inclusive both in terms of the geographic area covered by the plan and functional and natural activities and systems occurring in the area covered by the plan. The plan is an expression of public policy in the form of goals, objectives, and policy statements, maps, standards and guidelines, and is the basis for this ordinance and other rules, regulations, and ordinances which are intended to implement the policies expressed through the plan.

Condominium. A type of residential development utilizing zero lot lines, individual ownerships of units and common ownership of open space and other facilities, and which are regulated in part by state law (ORS 91.010-91.652.)

Construction Plans. The plans, profiles, cross-sections and drawings or reproductions thereof, approved by a registered professional engineer, which show the details of the work to be done on improvements.

Contiguous. That which touches or connects, including that which only connects or touches a common point; the touching together of two or more tracts of land which lie alongside one another or which touch or connect with one another for any length or distance whatsoever, no matter how finite.

Contiguous Land. Units of land under the same ownership which abut, irrespective of roadways, easements, or rights-of-way.

Cross-Section. A profile of the ground surface perpendicular to the centerline of a street, stream or valley bottom.

Curb Lines. The line dividing the roadway from the planting strip or sidewalk meaning the inside (street side) of the curb.

Designated Wetlands. Areas designated as significant wetlands on the wetland inventory maps adopted by the City of Bend.

Developer. Any person, corporation, partnership, or other legal entity who creates or proposes to create a land development; includes any agent of a developer.

Disposition. Includes sale, lease for more than one year, option assignment, award by lottery or as a prize, or any offer or solicitation of an offer to do any of the foregoing concerning a land development or any part of a land development.

Drainage Easement. An easement required for drainage ditches, or required along a natural stream or water course to preserve the channel, to provide for the flow of water therein, and to safeguard the public against flood damage or the accumulation of surface water.

Easement. A grant of the right to use a parcel of land for specific purposes, but in which ownership of the land is not transferred.

Fire Break. A break in the ground cover fuels as specified by the fire protection agency involved.

Flood. An overflow of water onto lands not normally covered by water.

Flood Hazard Area. The relatively flat area of lowlands adjoining the channel of a river, stream, watercourse, lake or reservoir.

Frontage. That portion of a parcel of property which abuts a dedicated public street or highway or an approved private way (except an alley).

Hearings Body. The Subdivision Committee, Hearings Officer, or Governing Body.

Hearing, Initial. An initial hearing is a quasi-judicial hearing authorized and conducted by the Hearings Body to determine if a change or land subdivision shall be granted or denied except those subject to administration review.

Hearings Officer. A planning and zoning hearings officer appointed or designated by the City Commission pursuant to ORS 227.165 or in the absence of such appointed hearings officer, the Planning Commission.

Improvements. Include, but are not limited to, streets, alleys, curbs, gutters, roadbed, road surface, storm drains and appurtenances, sidewalks, pedestrian facility, bikeway, street lights, street signs, fire hydrants, sanitary sewers and appurtenances, public water supply and water distribution systems and other utilities.

Interest. Includes a lot or parcel, share, undivided interest or membership which includes the right to occupy the land overnight, and a lessee's interest in land for more than three years or less than three years if the interest may be renewed under the terms of the lease for a total period more than three years. Interest does not include any interest in a condominium as defined in ORS 91.500(22) or any security interest under a land sales contract, trust deed or mortgage. Interest does not include divisions of land created by lien foreclosures or foreclosures of recorded contracts for the sale of real property.

Land Development. The subdividing or partitioning of land for any purpose into lots or parcels, or the creation of ~~units~~ lots or parcels for the purpose of sale or lease for a term of one year or more. Includes intent to dispose of any land, whether contiguous or not, including any land divided, lots, parcels, units or interests offered as a part of a common promotional plan of advertising by a single developer or a group of developers acting in concert. If the land is contiguous or is known, designated or advertised as a common unit or by a common name the land shall be presumed, without regard to the number of lots covered by each individual offering, to be offered for disposition as part of common promotional plan.

Lot. A unit of land that is created by a subdivision of land.

Lot Area. The computed area contained within the lot lines, said area to be exclusive of street or alley rights-of-way.

Lot Corner. A lot abutting upon two or more streets, other than alleys, at their intersection, or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees within the lot line.

Lot Line. Any line bounding a lot as herein defined.

Lot Line, Front. The property line abutting a street.

Lot Line, Rear. A lot line which is opposite the front lot line. In the case of an irregular or triangular-shaped lot, a lot line 10 feet in length within the lot parallel to and at the maximum distance from the front lot line.

Lot Line, Side. Any lot line not a front lot line or a rear lot line.

Lot, Through. An interior lot having a frontage on two streets and/or highways, not including an alley.

Lot Width. The horizontal distance between the side lot lines measured within the lot boundaries or the average distance between side lot lines within the buildable area. In the case of a corner lot, lot width shall mean the mean horizontal distance between the longest front lot line and the opposite lot line not abutting the street.

Map. A final diagram, drawing, or other writing concerning a partition.

Monument. A permanent and fixed survey marker conforming to the requirements established by state law and the regulations of Deschutes County.

MUTCD. Manual of Uniform Traffic Control Devices, Federal Highway Administration.

Municipal Water Supply System. A water supply source and distribution system owned and operated by a city or county or special district or other public corporation which has independent tax levying powers to support the system and which supplies water to a total of 1,000 or more households.

Negotiate. Any activity preliminary to the execution of a binding agreement for the sale of land in a subdivision or partition, including but not limited to advertising, solicitation, and promotion of the sale of such land.

Offer. Includes every inducement, solicitation or encouragement of a person to acquire a lot, unit, parcel, or interest in land.

Owner. The owner of the title to real property or the authorized agent thereof having written notarized authorization recorded with the County Clerk, or the contract purchaser of real property of record as shown on the last available complete tax assessment roll or county clerks' records. Does not include an interest created for security purposes.

Parcel. A unit of land created by a partitioning of land.

Partition. The act of partitioning land or an area or tract of land partitioned.

Partition Land. To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. Partition land does not include divisions of land resulting from the creation of cemetery lots; lien-foreclosures; division of land resulting from foreclosures of recorded contracts for the sale of real property, and divisions of land made pursuant to a court order, including but not limited to court order proceedings involving testate or intestate succession. Partition land does not include a lot line adjustment which is the adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by an applicable zoning ordinance. Partition land does not include the sale of a lot in a recorded subdivision even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

Person. An individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, whether he, she, or it is acting for himself, herself, or itself or as the servant, employee, agent, or representative of another.

Phased Tentative Plan. A subdivision plan designed to be platted and constructed in more than one phase.

Planned Unit Development. "Planned Unit Development" means a complex or residential, commercial, and/or industrial structures designed and developed as a single development unit, built by a single owner or group of owners and maintained by an association. The phrase Planned Unit Development may be abbreviated "PUD".

Plat. A final map, diagram, drawing replat, or other writing containing all descriptions, specifications, locations, dedications, provisions, and information concerning a subdivision.

Public Facilities. Infrastructure improvements including but not limited to water lines, sewer lines, streets, curbs, sidewalks and related facilities that are owned and maintained by the City of Bend.

Public Services. Public services are those services that are inherent necessities to support development within the urban growth boundary. These include but are not limited to schools, parks, libraries, and emergency services.

Reserve Strip. "Reserve Strip" means a strip of land usually one foot in width, reserved across the end of a street or alley terminating at the boundary of a subdivision, or a strip of land between a dedicated street of less than full width and adjacent acreage, in either case reserved or held for future street extension or widening.

Review Authority. The Planning Director or his designee. Such designees may include but are not limited to the Hearings Officer, the Planning Commission and the City Council. The review authority shall be determined pursuant to the City of Bend Procedures Ordinance.

Right-of-Way. The area within the boundary line of a public road way, including an alley.

Road or Street. A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas, or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining, or agricultural purposes.

A. Arterial. A restricted access street of substantial continuity which is primarily a traffic artery for intercommunication among large areas, and so designated by the City of Bend. These include principal, major and minor arterials.

B. Collector. A restricted access street supplementary to the arterial street system used or intended to be used principally for the movement of traffic, bicyclists, and pedestrians between arterials and local streets. These include major collectors.

C. Cul-de-sac. A short street having one end open to traffic and terminated by a circular vehicle turnaround. Cul-de-sacs shall include partial cul-de-sac bulbs or "eyebrows" designed and developed according to City standards.

D. Dead-end Street. A minor street with only one outlet.

E. Expressway. A major divided highway with limited access that is designed for fast travel.

F. Frontage Road. A minor street parallel and adjacent to a major arterial providing access to abutting properties, but protected from through traffic.

G. Half Street. A portion of the width of a street sufficient for a safe service temporarily (as approved by the City Engineer), usually along the edge of a subdivision when the remaining portion of the street is likely to be provided in another subdivision.

H. Local Street. A street intended primarily for access to abutting properties.

I. Stubbed Street. A street having only one outlet for vehicular traffic and which is intended to be extended or continued to serve future subdivisions or developments on adjacent lands.

J. T-Courts. A street less than or equal to 150 feet in length that has one end open to traffic and is terminated by a rectangular or "hammerhead" vehicle turnaround.

Roadway. That portion of a street developed for vehicular traffic.

Sale or Lease. Every disposition or transfer of land in a land division or an interest or estate therein, by a developer or their agents. Includes the offering of land as a prize or gift when a monetary charge or consideration for whatever purpose is required by the developer, or their agents.

Sidewalk. A pedestrian walkway, usually within the street right-of-way, with permanent surfacing.

Solar Access. Protection from shade for a specific area during specific hours and dates.

Solar Height Restrictions. The allowable height of buildings, structures and non-exempt vegetation on a property burdened by the solar access of another property.

Subdivide Land. To divide an area or tract of land into four or more lots within a calendar year when such area or tract or land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

Subdivision. The act of subdividing land, or an area or a tract of land subdivided as defined in this section.

Subdivider. Any person who causes land to be subdivided into a subdivision for himself or for others, or who undertakes to develop a subdivision, but does not include a public agency or officer authorized by law to make subdivision.

Trails. See "Access Corridor."

Tentative Plan. A map setting forth the proposed plan of a major/minor partitioning in conformance with the provisions of this ordinance and subject to review and modification.

Use. The purpose for which land or a structure is designated, arranged, or intended, or for which it is occupied or maintained.

Utilities. Include electric, telephone, natural gas, and other services providing for energy or communication needs.

Zero Lot Line Subdivision. A type of residential subdivision utilizing zero lot lines between dwelling units and providing for individual ownership of each lot.

ARTICLE II

GENERAL REQUIREMENTS, LAND DIVISIONS

Section 2.010 SCOPE OF REGULATION. Before a plat of any subdivision or the map of any partition may be made and recorded, the person proposing the subdivision or the partition, or his authorized agent or representative shall make an application in writing to the Bend Planning Department for approval of the proposed subdivision or partition in accordance with the requirements and procedures established by this ordinance.

Section 2.020 MINIMUM STANDARDS. No proposed subdivision or partition shall be approved unless it complies with the Bend Area General Plan, the Zoning Ordinance, this ordinance, and ORS Chapter 92.

Section 2.030 SALE PROHIBITED. No person shall sell or offer to sell any lot created by a land division until final approval of the land division has been completed. Final approval of a land division occurs when the plat is recorded with the County Clerk.

Section 2.040 DELEGATION. The City Council, pursuant to ORS 92.044(2) hereby delegates to the Planning Director and Hearings Officer the power to take final action on a proposed subdivision or partition subject to appeal as provided for in this ordinance.

Section 2.050. LAND DIVISIONS. Land divisions are as follows:

1. Partition

2. Subdivision

   A. Phased Tentative Plan

      i. If the applicant proposes to phase in development, he shall provide sufficient information regarding the overall development plan and phasing sequence when submitting the tentative plan. Said plan must comply with the requirements for Phased Tentative Plans as listed in Section 10-13.3.040 of this Title.

   B. Zero Lot Line Subdivision. In addition to the general provisions for subdivisions set forth in this ordinance, any application for a zero lot line subdivision shall meet the following requirements:

      i. The tentative plan shall indicate all lot divisions, including those along the common wall of dwelling units and building envelopes.

      ii. Independent utility service shall be provided to each unit, including but not limited to water, electricity, and natural gas, unless common utilities are approved by the affected utility agency and are adequately covered by easements.

      iii. Prior to the granting of final approval for creation of a zero lot line subdivision, the Planning Director shall require the applicant(s) to enter into a written agreement, in a form approved by the City, that establishes the rights, responsibilities, and liabilities of the parties with respect to maintenance and use of any common areas of the dwelling, such as, but not limited to, common walls, roofing, water pipes and electrical wiring. Such agreement shall be in a form suitable for recording and shall be binding upon the heirs, executors, administrators,and assigns of the parties.

      iv. For all common wall zero lot line subdivisions, site plan review shall also be required prior to final plat approval.

Section 2.060 LAND DIVISION REVIEW AUTHORITY.

1. The Review Authority shall have the following duties and responsibilities:

   A. To review all land division applications for conformance with all applicable regulations; to approve, modify, or deny applications for proposed land divisions; and, to make recommendations to the Hearings Officer.

ARTICLE III

LAND DIVISION - APPLICATION PROCEDURE

Section 3.010 PREAPPLICATION MEETING. Prior to submitting a tentative plan, each applicant or his representative is required to meet with the Planning Division to review the proposal. The intent of this meeting is to advise the applicant of the requirements and standards of this ordinance.

Section 3.020 APPLICATION SUBMISSION.

1. Any person proposing a land division, or his authorized agent or representative, shall include with an application and filing fee for a land division, a tentative plan prepared by a licensed surveyor or engineer together with improvement plans and other supplementary material as may be required. A master development plan may also be required in accordance with subsection 3.030. The applicant must submit 15 copies of any plan required together with all required accompanying material to the Planning Division.

Section 3.030 INFORMATIONAL REQUIREMENTS. The following information shall be shown on the tentative plan or provided in accompanying materials. No tentative plan shall be considered complete unless all such information is provided.

1. General information required:

   A. Proposed name of the land division.

   B. Names, addresses and phone numbers of the owner of record, authorized agents or representatives, engineer or surveyor, and any assumed business names filed or to be filed with the Corporation Commission by the applicant.

   C. Date of preparation, true north, scale, and gross area of the proposed subdivision.

   D. Appropriate identification of the drawing as a tentative plan for a subdivision.

   E. Location and tract designation sufficient to define its location and boundaries, and a legal description of the tract boundaries in relation to existing plats and streets.

   F. Certified copy of the recorded instrument under which the applicant claims an ownership interest, or copy of a land sales contract which binds the applicant in the event of tentative approval.

   G. A Title Report and/or a Subdivision Guarantee prepared within the previous ninety (90) days.

   H. If a tract of land has water rights, the application shall be accompanied by a water rights division plan approved by the irrigation district or other water district holding the water rights, or when there is no such district, by the County Watermaster.

   I. A letter or other written documentation from the Bend Metro Parks and Recreation District which indicates that the applicant has met with the District to discuss the proposed land division and provide the District an opportunity to review the design for options to enhance existing parks and trails, and develop new parks and trails.

J. If the proposed subdivision contains more than 10 lots, the application shall be accompanied by a computer water analysis prepared by the City of bend Engineering Division.

2. Information concerning existing on-site conditions and conditions within 300 feet of all property included in the proposed land division:

A. Location, names, and widths of existing improved and unimproved streets and roads, bikeways, and access corridors.

B. Location of any existing features such as section lines, section corners, city and special district boundary lines, and survey monuments.

C. Location of existing structures, irrigation canals and ditches, pipelines, waterways, railroads, and any natural features such as rock outcroppings, designated wetlands, wooded areas, and natural hazards.

D. Location and direction of water courses, and the location of areas subject to flooding and high water tables, including areas lying below the100-year flood elevation as indicated on the most recent Flood Insurance Rate Maps as prepared by the Federal Emergency Management Agency.

E. Location, width, and use or purpose of any existing easement or right-of-way for utilities, bikeways, and access corridors within and adjacent to the proposed land division.

F. Existing sanitary and storm sewer lines, water mains, septic facilities, culverts, and other underground and overhead utilities within and adjacent to the proposed land division.

G. Contour lines related to City datum and having minimum intervals of two feet.

H. Bend Area General Plan and Zoning Map classification of lands within and adjacent to the proposed land division.

I. Names and addresses of all property owners within 100 feet of the property.

3. Information concerning proposed land division:

A. Location, names, width, typical improvements, cross sections, bridges, culverts, approximate grades, curve radii and centerline lengths and reserve strips of all proposed streets, and the relationship to all existing and projected streets within 300 feet.

B. Location, width, and purpose of all proposed easements or rights-of-way for utilities, bikeways, and access corridors, and relationship to all existing easements and rights-of-way within 300 feet.

C. Location of at least one permanent bench mark within the proposed land division boundary.

D. Location, approximate area, and dimensions of each lot or parcel, and proposed lot or parcel numbers.

E. Location, approximate area, and dimensions of any lot or parcel proposed for public use, the use proposed, and plans for improvements or development thereof.

F. Proposed use, location, approximate area, and dimensions of any lot or parcel intended for nonresidential use within a residential land division.

G. Phasing – show phase lines on the tentative plan.

H. Source, method, and preliminary plans for domestic and other water supplies, sewage disposal, storm water disposal and other drainage facility plans, and all utilities.

I. Description and location of any proposed common area and community facility.

J. Proposed deed restrictions including access restrictions or protective covenants if such are proposed to be utilized.

K. Statement from each utility company proposed to serve the proposed land division stating that each such company is able and willing to serve the proposed subdivision as set forth in the tentative plan, and the conditions and estimated costs of such service. Each utility purveyor shall be noted on the tentative plan.

L. Proposed fire protection system for the land division, including fire hydrant locations and sizes of water mains.

M. Solar Access.

(1) Provide a statement relative to the solar access to be provided by the subdivision plan.

4. Future Subdivision. Where a tract is proposed to be divided into parcels or lots of an acre or more, the Review Authority may require an arrangement of parcels, lots and streets such as to permit future subdivision in conformity to the street requirements and other requirements contained in this ordinance.

Section 3.040 PHASED TENTATIVE PLAN. An overall development plan shall be submitted for all developments affecting land under the same ownership for which phased development is contemplated. The Review Authority shall review a master development plan at the same time the tentative plan for the first phase of a phased subdivision is reviewed. The phased tentative plan shall include, but not be limited to the informational requirements of 10-13.3.030 of this title, as well as the following elements:

1. Overall development plan, including phase or unit sequence, and the schedule for initiation of improvements and projected completion date.

2. Show compliance with the Bend Area General Plan and implementing land use ordinances and policies.

3. Overall facility development plan, including transportation and utility facilities plans, that specify the traffic pattern plan for motor vehicles, bicycles, and pedestrians, water system plans, sewer system plans and utility plans.

4. Development plans for any common elements or facilities.

5. The Review Authority may require a potential development pattern for streets, bikeways, and access corridors for adjoining lands to be submitted together with the phased tentative plan as part of the overall development plan.

Section 3.050 APPROVAL OF A MASTER DEVELOPMENT PLAN. As an alternative to a phased tentative plan, a master development plan may be submitted before submitting a phased tentative plan and shall be subject to the criteria set forth below. The Review Authority may approve, modify, or disapprove the master development plan and shall set forth findings for such decision.

The Review Authority may also attach conditions necessary to bring the plan into compliance with all applicable land use ordinances and general plan policies. Any tentative plan submitted concurrently or subsequently for the master plan area shall substantially conform to the master development plan unless approved otherwise by the City.

1. The master development plan shall include, but not be limited to the informational requirements of 10-13.3.030 of this title, as well as the following elements:

   A. Existing and planned major street network plans, including proposed arterial and collector street alignments within the master planned area and where the streets will connect with the existing arterial and collector streets;

   B. Existing and planned water and sewer facilities to serve the master planned area, including line sizes, general location or routes and how the lines will tie into adjacent areas and facilities;

   C. Existing and planned pedestrian and bicycle corridors within the master planned area and where these facilities will connect with existing facilities;

   D. Public and/or private parks, open space or common areas.

   E. Planned densities and types of uses within the affected area.

   F. A written narrative that explains or describes:

      (1) How the proposed water, sewer and street system will be adequate to serve the size and type of development and uses planned for this area;

      (2) How the location and sizing of water and sewer facilities on-site will be consistent with the existing and planned facilities;

      (3) How adequate water flow volumes will be provided to meet fire flow and domestic demands; and,

(4) The function and location of any private utility system.

2. No application for a master development plan shall be approved unless the following requirements are met:

   A. The master development plan contributes to orderly development and land use patterns in the area, will be compatible with adjacent developments and will not adversely affect the character of the area.

   B. The master development plan will not create excessive demand on public facilities and services required to serve the development.

   C. The master development plan contributes to the orderly development of the Bend area transportation network of roads, bikeways, and pedestrian facilities, and does not conflict with existing public access easements within or adjacent to the development.

   D. The master development plan provides for the preservation of natural features and resources such as streams, lakes, natural vegetation, designated areas of special interest, and other natural resources to the maximum degree practicable.

   E. The master development plan conforms to the Bend Area General Plan map, or amendments to the general plan map, text or policies shall be proposed and approved as part of the master development plan.

Section 3.060 REQUIRED FINDINGS FOR LAND DIVISION APPROVAL. The Review Authority shall not approve a tentative plan for a proposed subdivision or partition unless the Review Authority finds, in addition to other requirements and standards set forth in this ordinance, that the land division as proposed or modified will satisfy the intent and requirements of this ordinance, and Bend Zoning Ordinance, and be in compliance with the Bend Area General Plan. Such findings shall include the following:

1. No application for subdivision or partition shall be approved unless the following requirements are met:

   A. The land division contributes to orderly development and land use patterns in the area, and provides for the preservation of natural features and resources such as streams, lakes, natural vegetation, special terrain features, and other natural resources to the maximum degree practicable as determined by the City of Bend.

   B. The land division will not create excessive demand on public facilities and services required to serve the development.

   C. The land division contributes to the orderly development of the Bend area transportation network of roads, bikeways, and pedestrian facilities, and does not conflict with existing public access easements within or adjacent to the land division.

   F. Each lot or parcel is suited for the use intended or offered.

   G. An approved water rights division plan.

   H. If the land division adjoins an SM or SMR zone, the existence and location of such zone shall be entered on the deed for the lots or parcels created by the land division.

   G. The tentative plan for the proposed subdivision meets the requirements of ORS 92.090.

   H. If the tentative plan is approved with phasing, the final plat for each phase shall be filed in accordance with the applicable provisions of Article IV of this ordinance.

2. The Review Authority shall deny an application for partitioning when it appears the partitioning is part of a plan or scheme to create more than three (3) parcels without going through subdivision, or is part of a development pattern having the effect of creating more than three (3) parcels without subdividing.

3. Additional Factors to be Considered. In addition to the requirements set forth in subsections one (1) and (2) of this section, the following additional factors shall be considered by the Review Authority when appropriate:

   A. Placement and availability of utilities.

   B. Safety from fire, flood, and other natural hazards.

   C. Adequate provision of public facilities and services.

   D. Possible affects on natural, scenic, and historical resources.

   E. Need for onsite or offsite improvements such as, but not limited to, access corridors, pedestrian facilities, and bikeways.

   F. Need for additional setback, screening, landscaping, and other requirements relative to the protection of adjoining and area land uses.

G. Conformance with the approved master development plan, master facilities plan and refinement plan.

Section 3.070 SUPPLEMENTAL IMPROVEMENT REQUIREMENTS FOR PARTITIONS.

1. In the approval of a land partition, the Review Authority may require as a condition of approval any improvements that may be required for a subdivision under the provisions of this ordinance. All roads in partitions shall be dedicated to the public without reservation or restriction.

2. Easement Access. The Review Authority may require the applicant to improve an easement access serving two or more parcels according to the City's street standards.

Section 3.080 SPECIAL PARTITIONING REGULATIONS.

1. The partitioning of a tract of land in which not more than one (1) parcel is created and transferred to a public or semi-public agency for the purpose of a road, railroad, electric substation, park, trail or canal right-of-way may be approved by the Review Authority without proceeding through the land division process as outlined in this ordinance without proceeding through the tentative plan review process as specified in this ordinance. Such tracts may be smaller than the minimum lot and/or parcel size allowed in the zone in which the tract is located without need for variance.

ARTICLE IV

FINAL PLAT

Section 4.010 SUBMISSION OF THE FINAL PLAT.

1. Filing Time Period Requirements: Except as provided for in Section 4.010, the applicant shall prepare and submit to the City, a final plat that is substantially in conformance with the tentative plan as approved.

Section 4.020 SUBMISSION OF FINAL PLATS FOR PHASED DEVELOPMENT.

1. If a tentative plan is approved for phased development, the final plat for the first phase shall be filed within one (1) year of the approval date for the tentative plan.

2. The final plats for any subsequent phase shall be filed within three (3) years of the approved date for the tentative plan, unless a longer period of time is allowed through the tentative plan approval process.

3. If the applicant fails to file a final plat, the tentative plan for those phases shall become null and void.

Section 4.030 FORM OF FINAL PLAT. The final plat shall be submitted in the form prescribed by state

statute and this ordinance. All plats and other writings or dedications made a part of such plats offered for recording shall be made in conformance with state statute, upon material that is 18 inches by 24 inches, suitable for binding and copying, have such characteristics of strength and permanency as may be required by the City. The plan shall be of such a scale, and the indication of the approvals thereof and of the dedication and affidavit of the surveyor, shall be of such size or type as will be clearly legible, but no part shall come nearer any edge of the sheet than one inch. The plat may contain as many sheets as necessary, but a fact sheet and index page shall be included for plats of two or more sheets.

Section 4.040 REQUIREMENTS OF SURVEY AND PLAT OF LAND DIVISION. Any final subdivision plat submitted shall meet the survey and monumentation requirements of the applicable Oregon Revised Statutes.

Section 4.050 INFORMATION ON PLAT. In addition to the requirements of the tentative plan approval or otherwise required by law, the following information shall be shown on the plat:

1. Name of subdivision or partition.

2. Name of owner, applicant, and engineer or surveyor.

3. The date, scale, north point, legend, controlling topography such as bluffs, creeks and other bodies of water, and existing highways and railroads.

4. Legal description of the tract boundaries.

5. Reference points of existing surveys, identified, related to the plat by distances and bearings, and reference to a field book or map as follows:

   A. Stakes, monuments, or other evidences found in the ground and used to determine the boundaries of the subdivision.

   B. Adjoining corners of adjoining subdivision.

   C. Other monuments found or established in making the survey or required to be installed by provisions of this ordinance.

6. The exact location and width of rights-of-way and easements intercepting the boundary of the tract.

7. Tract boundary lines, and street rights-of-way and center lines, with dimensions, bearing or deflecting angles, radii, arcs, points of curvature and tangent bearings. Normal high water lines for any creek, bay, or other body of water. Tract boundaries and street bearings shall be shown to the nearest 0.01 feet. No ditto marks shall be used.

8. Streets. The width of the streets being dedicated and the curve data shall be based on the street center line. In addition to the center line dimensions, the radius and central angle shall be indicated together with the long chord distance and bearing.

9. Easements. Easements shall be noted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not of record, a statement of the easement shall be given. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision shall be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication.

10. Lot Numbers. Lot numbers beginning with the number "1" and numbered consecutively.

11. Public Lands. Public lands, including strips and easements shall be clearly marked to distinguish it from lots intended for sale.

12. Access Restrictions. Limitations on rights of access to and from streets, lots, and other parcels of land.

13. Area. The area of each lot, if larger than one acre, to the nearest hundredth of an acre; and the area of each lot less than one acre, to the nearest square foot.

14. Certificates and Signatures. The following certificates and signatures are required and shall be combined where appropriate:

    A. A signature by each party having any record title interest in the land, consenting to the preparation and recording of the plat.

    B. The seal and signature of the surveyor responsible for the survey and final map.

    C. The signature of the County Surveyor.

    D. The signature of the County Tax Assessor.

    E. The signature of the County Tax Collector.

    F. A signature of an authorized representative of the irrigation district, where applicable. All plans, plats or replats of land divisions located within the boundaries of an irrigation district, drainage district, water control district, district improvement company, or similar service district shall be submitted to the board of directors of the district or company and its approval thereof shall be indicated thereon by the board before City approval of such plan, plat, or replat of any subdivision. Except, that if the applicant is unable to obtain action or approval of any district or company within 45 days, the applicant shall notify the governing body in writing and thereafter the governing body shall serve notice on that district or company by certified mail advising the district or company that any objections to the plan, plat, or replat must be filed in writing with the governing body within 20 days. Failure of the district or company to respond shall be considered an approval of such plan, plat, or replat.

    G. The signature of the City Engineer.

H. The signature of the City Planning Director.

I. A signature of approval by the Board of County Commissioners.

J. Other certificates or signatures that may be required by state regulations.

Section 4.060 SUPPLEMENTAL INFORMATION WITH PLAT. The following data, if applicable, shall accompany the plat.

1. Title Report. A preliminary title or subdivision guarantee report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises; such report shall show evidence of a clear and marketable title and shall have been prepared within 30 days prior to submitting the final plat for review.

2. Survey Data Sheets. Sheets and drawings shall contain the following information:

   A. Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any. A survey control work sheet may be substituted for this item.

   B. The computation of distances, angles, and courses shown on the plat.

   C. Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners, and state highway stationing.

3. Deed Restrictions. A copy of any deed restrictions applicable to the subdivision.

4. Homeowner's Association. A copy of any homeowner's association agreements proposed or required for the subdivision.

5. Dedications. A copy of any dedication requiring separate documents with specific reference to parks, playgrounds, etc.

6. Taxes. A list of all taxes and assessments on the tract which have become a lien on the land subdivided.

7. Improvements. If grading, street improvements, sidewalks, pedestrian access corridors, bikeways, sewer or water facilities are required as a condition of approval of the final plat, the following shall be required to be submitted with final plat:

   A. Improvement Plan in accordance with Section 6.050 of this ordinance.

   B. Plans and profiles of sanitary sewers, location of manholes, and drainage system.

   C. Plans and profiles of the water distribution system showing pipe sizes and location of valves and fire hydrants.

   D. Specifications for the construction of all utilities.

   E. Grading plans and specifications as required for areas other than streets and ways.

   F. Planting plans and specifications for street trees and other plantings in public areas.

   G. Plans for improvements, design factors, or other provisions for fire protection or fire hazard reduction.

8. Subdivision Adjoining SM or SMR Zones. Any final plat of which adjoins an SM or SMR zone must clearly show where such zone is located in relation to the subdivision boundaries.

9. Condominium Plats. Any final plat for a condominium shall be accompanied by a copy of the condominium declaration.

Section 4.070 TECHNICAL REVIEW OF PLAT

1. Ordinance Check. Upon receipt by the Planning Division, the plat and other data shall be reviewed by the Review Authority to determine that the land division as shown is substantially the same as it appeared on the approved tentative plan, and for compliance with provisions of this ordinance and other applicable laws.

2. Field Check. The City Engineer and Planning Director or their designated representatives may make such checks in the field as are desirable to verify that the map is sufficiently correct. The Engineer or Planning Director, or representatives thereof, may enter the property for this purpose.

3. Reimbursement. Expenses incurred by the City Engineer in the technical plat review shall be reimbursed by the applicant prior to final approval of the plat.

Section 4.080 CONDITIONS OF PLAT APPROVAL.

1. The Review Authority shall determine whether it conforms with the approved tentative plan and with these regulations. If the Review Authority does not approve the plat, it shall advise the applicant of the changes or additions that must be made and shall afford him a opportunity to make corrections. If the Review Authority determines that the plat conforms to all requirements it shall recommend approval, provided supplemental documents and provisions for required improvements are satisfactory.

2. No plat of a proposed land division shall be approved unless:

   A. Streets and roads for public use are to be dedicated without any reservation or restriction.

   B. Streets and roads held for private use and indicated on the tentative plan have been approved by the City.

   C. The plat contains provisions for dedication to the public of all streets, roads, bikeways, access corridors, parks, sewage disposal, and water supply system, if made a condition of the approval of the tentative plan.

   D. Explanations of all common improvements required as conditions of approval of the tentative plan shall be recorded and referenced on the plat.

   E. If the land division adjoins an SM or SMR zone, the existence and location of such zone shall be entered on the deeds for all lots or parcels created by the land division.

3. No plat of a land division shall be approved unless the developer has either constructed and had accepted by the City the required improvements or the developer has executed an improvement agreement pursuant to the provisions of Section 4.050. If the developer chooses to construct the improvements, he shall also file with the City a warranty bond executed by a surety company to cover the one (1) year warranty periods following acceptance by the City. Said bond shall be in the amount of twelve (12) percent of the value of the improvements.

Section 4.090 IMPROVEMENT AGREEMENT.

1. The developer may, in lieu of completion of the required improvements and repair to existing streets and facilities, request the City to approve an agreement between himself and the City specifying the schedule by which the required improvements and repairs shall be completed. Provided, however, any schedule of improvements agreed to shall not exceed one (1) year from the date the final plat is recorded. The agreement shall also provide the follow information:

   A. A list of all the contractors who will construct or complete the improvements and repairs required, and the cost of the project.

   B. That the City may call upon the security filed to construct or complete the improvements and repairs if the schedule of improvements is not adhered to.

   C. That the City shall recover the full cost and expense of any work performed by the City to complete construction of the improvements and repairs, including, but not limited to, attorneys' and engineering fees.

   D. That a warranty period for such improvements shall be in effect for one (1) year following the completion and acceptance of the improvements. A form of surety shall be deposited with the City following acceptance of the improvements. Said form of surety shall be in the amount of twelve (12) percent of the value of the improvements and shall be for a minimum time period of eighteen (18) months.

   E. That building permits will not be issued for construction on any lot or parcel within the land division until such time as all required improvements are completed, unless otherwise authorized by the City.

2. The City may reject an agreement authorized by this section for any reason the City deems sufficient.

Section 4.100 BOND OR CASH DEPOSIT.

1. The developer shall file, with any agreement specified in section ~~4.050~~ 4.090, to assure his full and faithful performance thereof, one of the following:

   A. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney.

   B. A cash deposit in a City account at an approved lending institution.

   C. An irrevocable standby letter of credit from a federally insured banking institution or savings & loan operating in Oregon that unconditionally promises to pay the funds pledged upon demand by the City. Such obligation must be unaffected by the financial status of the person who has obtained the letter of credit.

   D. An "Assurance Provider" arrangement between the developer, the City and a federally insured financial institution which assures the City that funds to complete the performance of the developer's improvement agreement will be provided by the federally insured financial institution to the City in the event the developer does not complete performance of the improvement agreement. The form of the Assurance Provider arrangement, and the federally insured financial institution must be satisfactory to the City.

2. Such assurance of full and faithful performance shall be for 120% of the cost of the improvements and repairs as determined by the City.

3. If the developer fails to carry out the provisions of the agreement, the City shall call upon the bond, or letter of credit or cash deposit or Assurance Provider

arrangement to finance any cost or expenses resulting from said failure. If the amount of the deposit, letter of credit or bond or Assurance Provider arrangement exceeds the cost and expense incurred by completing the improvements, the City shall release the remainder. If the amount of the deposit, letter of credit or bond or Assurance Provider arrangement is less than the cost and expense incurred by the City for the improvements and repairs, the developer shall be liable to the City for the difference.

Section 4.110 FINAL PLAT APPROVAL. After the final plat has been checked and approved as provided in this article, and when all signatures appear thereon, except those of the Planning Director, County Clerk, and Board of County Commissioners, the Planning Director shall certify the final plat and submit it to the Board of County Commissioners for final approval.

Section 4.120 FILING OF PLAT.

1. No plat shall have any force or effect until the same has been finally approved by the Board of County Commissioners. No title to any property described in any offer of dedication shall pass until the final plat has been filed.

2. The Planning Director or his representative shall file the approved final plat, including an exact copy thereof as described in subsection four (4) of this section, with the County Clerk.

3. No plat shall be filed unless all ad valorem taxes and all special assessments fees or other charges required by law to be placed upon the tax roll, which have become a lien upon the land division or which will become a lien during the calendar year, have been paid.

4. The applicant shall also submit with the final plat an exact photomylar copy thereof. The engineer or surveyor who made the plat shall make an affidavit to indicate that the photocopy or tracing is an exact copy of the plat. The copy shall be filed with the County Recorder and shall be certified to him to be an exact copy and then shall be filed in the archives of the County, and be preserved by filing without folding. The applicant shall provide copies to the County Assessor, County Sanitarian, City Engineer, City Planning Division, and appropriate postal and fire protection agencies. One original exact copy shall be filed with the City Engineer.

Section 4.130 ERRORS IN THE FINAL PLAT. If an error in the final plat is discovered after the plat has been filed with the County Clerk, said error shall be corrected by the filing of a correction plat which shall be submitted in the same manner as a final plat.

ARTICLE V

LOT LINE ADJUSTMENT

Section 5.010 APPLICABILITY OF REGULATIONS.

1. The boundary adjustment of no more than two lots or parcels by relocation of a common boundary where an additional lot or parcel is not created or eliminated shall only be granted in accordance with the provisions of this ordinance.

Section 5.020 FILING PROCEDURES AND REQUIREMENTS.

1. Any person proposing a Lot Line Adjustment shall prepare and submit two (2) copies of the documents hereinafter described, in accordance with the prescribed procedures and the appropriate filing fee, to the Planning Division.

2. An application for a Lot Line Adjustment shall be accompanied by the following materials:

   A. A scale drawing prepared by a licensed surveyor or engineer showing the existing lot lines, the proposed lot lines, existing water, sewer and utility lines, and the footprint of all existing structures with setbacks to the existing and proposed lot lines noted.

   B. Legal descriptions for the existing lots or parcels and for the lots or parcels as adjusted.

   C. A copy of the current property tax status from the County Tax Assessor. All taxes must be paid in full.

   D. A copy of the deed or other recorded instrument that signifies ownership of the affected lots or parcels.

   E. If the lots or parcels are not served by the City sewer system, provide documentation from the County Environmental Health Division which indicates that the proposed adjustment will be in compliance with all applicable requirements for sanitary septic systems when such systems exist on the lots or parcels affected by the adjustment.

Section 5.030 REQUIREMENTS FOR TENTATIVE APPROVAL.

1. No application for lot line adjustment shall be approved unless the following standards are met:

   A. The adjustment does not result in lot or parcel sizes that are less than those established by the underlying zoning designation.

   B. Nonconforming lots or parcels that are less than the minimum size established for the zone shall not be further reduced in size.

   C. Existing structures shall not be made nonconforming with regard to setbacks, lot coverage or other requirements of the underlying zone, or this Title.

   D. Existing water and sewer service lines to the adjusted lots or parcels shall be in conformance with current City standards or shall be constructed to conform with current City standards.

   E. Existing sanitary septic systems on the adjusted lots or parcels shall meet all requirements of the County Environmental Health Division.

F. The two lots or parcels subject to the proposed boundary line adjustment shall not be subject to any other pending lot line adjustment applications with other lots or parcels.

Section 5.040 REQUIREMENTS FOR FINAL APPROVAL.

1. In order to obtain final approval of a lot line adjustment, the following requirements shall be completed within one (1) year of the tentative approval:

   A. New deeds or other instrument conveying ownership containing the legal descriptions for the adjusted parcels shall be recorded with the County Clerk.

   B. A survey drawing containing the stamp and signature of a licensed surveyor or engineer shall be recorded with the County Surveyor.

   C. All property taxes on the adjusted parcels shall be paid in full.

   D. Verification of acceptance of water and sewer line construction to the adjusted lots or parcels by the City Engineering Division.

ARTICLE VI

DESIGN STANDARDS AND IMPROVEMENTS

Section 6.010 COMPLIANCE REQUIRED. All land divisions shall be in compliance with the design standards set forth in this article and Appendix "A" which is attached hereto and incorporated by reference.

Section 6.020 STREETS, SIDEWALKS, AND BIKEWAYS

1. General. Facilities providing safe and convenient motor vehicle, pedestrian and bicycle access shall be provided within new subdivisions, partitions, and planned unit developments. Where appropriate and reasonable such facilities may be required from new subdivisions, partitions, and planned unit developments to nearby residential areas, transit stops, and neighborhood activity centers such as parks, schools, and shopping.

2. New Streets. The location, width, and grade of streets shall be considered in their relation to existing and planned streets, topographical conditions, public convenience and safety, and the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents, and curves appropriate for the traffic to be carried considering the terrain. The subdivision shall provide for the continuation of the streets existing in the adjoining subdivision or of their proper projection. Where, in the opinion of the Review Authority, topographic conditions or other physical constraints make such continuation or conformity impractical, exception may be made. In cases where the City has adopted a plan or plat of a neighborhood or area of which the subdivision is a part, the subdivision shall conform to such adopted neighborhood or area plan. All streets shall be improved to City standards with curbs, paving, drainage facilities and medians if required.

3. Street Layout and Cul-de-sacs. Residential local streets shall be developed whenever practicable to increase connectivity within and between neighborhoods. The street layout shall be generally in a rectangular grid pattern to provide or continue a network of inter-connecting streets. Streets shall be oriented on an east/west axis to the greatest extent possible to ensure solar access for lots within the land division. The grid pattern may be modified to adapt to topography and natural conditions. Cul-de-sacs and dead end streets shall only be permitted when the following conditions are met:

   A. One or more of the following conditions prevent a required street connection:
      - natural slopes of 18% or more where it is not practical to construct streets with grades of 12%; or
      - presence of a wetland or water body which cannot be crossed; or
      - existing development on adjacent property prevents a street connection; or,
      - to reduce access to arterial streets; and

   B. A street pattern which either meets standards for connections and spacing or requires less deviation from standards is not possible; and

   C. Access Corridors are provided consistent with the standards for such corridors; and

   D. The cul-de-sac(s) shall be as short as possible and shall not exceed 600 feet in length between the center of the cul-de-sac bulb and the centerline of a through street.

4. Existing Streets. Whenever existing streets, adjacent to or within a tract, are of inadequate width to accommodate the increase in traffic expected for the

subdivision, partition or the City's transportation policies, additional right-of-way shall be provided at the time of the land division by the applicant. During consideration of the tentative plan for the subdivision or partition, the Review Authority shall determine whether improvements to existing streets, adjacent to or within the tract, are required. If so determined, such improvement shall be required as a condition of approval of the tentative plan. Improvements to adjacent streets shall be required where traffic on said streets shall be directly affected by the proposed subdivision.

5. Intersection Angles. Street intersections shall be as near right angles as possible except where topography requires a lesser angle, but in no case shall the acute angle be less than 80°.

6. Alignment. Offset local street alignment shall, whenever practicable, leave a maximum of 200 feet distance between the center line of the streets, but in no case be less than 125 feet.

7. Minimum Right-of-Way and Roadway Width. The street right-of-way and roadway surfacing widths shall be in conformance with standards and specifications set forth in Tables "A", "B" and "C".

8. Reserve Strips. Reserve strips controlling access to streets shall be required when deemed necessary by the Review Authority. Reserve strips which prohibit or control vehicular access shall be filed with the final plat. Reserve strips shall be numbered in sequence beginning with Lot "A".

9. Future Extension of Streets. When necessary to give access to or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary of the subdivision or partition and the resulting dead end streets less than 150 feet in length may be approved without a permanent turnaround.

10. Frontage Roads. If a land division abuts or contains an existing or proposed collector or arterial street, the Review Authority may require frontage roads, double frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic. Provision may be made for emergency access. All frontage roads shall comply with appropriate local road standards.

11. Streets Adjacent to Railroads, Freeways and Parkways. When parallel streets intersect with streets crossing a railroad or controlled access expressway where grade separation is contemplated, consideration of the design requirements for the grade separated crossing shall be taken into consideration when determining the location of the street intersection.

12. Continuation of Streets. Streets which constitute the continuation of streets in contiguous territory shall be aligned so that their center lines coincide. Where straight line continuations are not possible, such center lines shall be continued as curves. These streets or the continuation of streets in contiguous territory may be required by the Review Authority where such continuation is necessary to maintain the function of the street or desirable existing pattern of development of streets and blocks in the surrounding area.

13. Street Names. Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street in a nearby city or in the County. Street names and numbers shall conform to the established pattern in the City and shall be subject to the approval of the Fire Department.

14. Sidewalks. Sidewalks shall be installed at the property line. The Review Authority may allow a sidewalk to meander between the property line and street curb to avoid rock outcroppings, trees, steep side slopes or to provide variety

where there is a wide planter strip, or to connect with adjoining sidewalks. Sidewalks are required to be installed on both sides of a public street and in any special pedestrian way within ~~the~~ a subdivision except that in the case of collectors, arterials, cul-de-sacs, industrial districts, or in steep terrain, the Review Authority may approve a subdivision with a sidewalk on one side only. When reasonable and appropriate the Hearings Body shall consider alternate pedestrian facilities or access corridors. The construction of off-site sidewalks may be required along routes to existing school and park sites.

15. Bikeways. If appropriate to the extension of a system of bikeways, existing or planned, the Review Authority may require the installation of separate bicycle lanes within local streets and/or separate bikeways in addition to the requirements of Tables "A", "B" and "C".

16. Performance Standards for Local Residential Streets.

    A. Average daily traffic volumes on the local street does not exceed 300 ADT.

    B. The street is connected to a grid street pattern at both block ends.

    C. Blocks shall have dedicated public alley access constructed to City standards.

    D. "No Parking" zones are established 55 feet from the centerline of intersecting local streets.

    E. For block lengths exceeding 300 feet, "No Parking" zones shall be established on either sides of the street spaced no greater than 250 feet apart. The "No Parking" zones shall be a minimum of 30 feet in length.

17. The review authority is authorized to grant exceptions to the street design standards listed in Tables A, B and C through the tentative plan review process, after review of the proposed design by the affected agencies. It shall be the applicant's responsibility to demonstrate that measures will be employed to insure that adequate access and protection will be provided for all structures. In granting such exceptions, the applicant shall demonstrate and the review authority shall determine that:

    A. The exception will not result in development that compromises public safety by restricting or preventing emergency vehicle access within and through the subdivision.

    B. The exception will not result in development that compromises public vehicular access within and through the subdivision.

    C. The exception does not adversely impact an adjacent building or property, or create an unsafe situation for adjacent buildings or properties.

    D. The exception will create/maintain an aesthetically pleasing vista along the streets within the subdivision.

    E. The exceptions may be accomplished through a combination of the following measures as applicable to meet the criteria listed above:

        (1) Approved fire department access within 150 feet of all exterior portions of structures.

        (2) Street designs that do not require emergency vehicles to back-up more than 150 feet.

        (3) Construction of alleys a minimum of 20 feet wide. Such alleys

shall be dedicated as public right-of-way on the final plat.

(4) Increased fire protection measures shall be employed within structures (i.e. fire sprinkler system).

(5) Any other measures that the review authority deems acceptable to meet the purpose of this ordinance, including the "Neighborhood Streets Design Guidelines" as agreed on by the Neighborhood Streets Project Stakeholders Design Team on November 2, 2000.

Section 6.030 BLOCKS.

1. General. The length, width, and shape of blocks shall accommodate the need for adequate building site size and street width and shall be compatible with the limitations of the topography.

2. Size. No block shall be longer than 1,200 feet between the centerline of through cross streets except in residential subdivisions where no block shall be longer than 600 feet between the centerline of through cross streets and where street location is restricted by natural topography, wetlands, or other bodies of water.

3. Connecting access corridors. Where appropriate at cul-de-sacs, dead-end streets, or along blocks more than 600 feet in length, pedestrian and bicycle access corridors shall be provided to minimize travel distance between subdivisions, parks, schools, primary trails, and collector or arterial streets. Access corridors shall be located to provide a reasonably direct connection between likely pedestrian destinations. A reasonably direct connection is a route which minimizes out of direction travel for people likely to use the connection considering terrain, safety and likely destination. The Review Authority may determine based on evidence in the record that construction of a separate access corridor is inappropriate or impracticable. Such evidence may include but is not limited to:

   A. When the nature of abutting existing development makes construction of an Access Corridor impracticable.
   B. When the access corridor would cross a natural area with significant natural habitat and construction would be incompatible with protection of natural values.
   C. When the access corridor would cross topography where slopes exceed 30% or where path grade would exceed 18% slope; or
   D. When a cul-de-sac or dead end street abuts rural resource land at the urban growth boundary except where the adjoining land is designated as an urban reserve area.

4. Easements.

   A. Utility Easements. When necessary, easements shall be provided along property lines for the placement of utilities. Such utilities may include but are not limited to electric power, communication facilities, street lighting, sewer lines, water lines, gas lines, television cable or drainage facilities. Such easements shall be labeled "Utility Easement" on the tentative plan and final plat; they shall be a minimum of 10 feet in width and centered on lot lines where possible.

   E. Drainage. If a tract is traversed by a water course such as a drainage way, channel, stream or irrigation canal there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of the water course or in such further width as will be adequate for the purpose.

Section 6.040 LOTS: SIZE AND SHAPE. The size, width, topography and orientation of lots or parcels shall be appropriate for the location of the land division and for the type of

development and use contemplated, and shall be consistent with the lot size provisions of the zoning ordinance, with the following requirements:

1. In areas not to be served by a public sewer, minimum lot and parcel sizes shall permit compliance with the requirements of the Department of Environmental Quality and County Environmental Health Division, and shall be sufficient to permit adequate sewage disposal. Any problems posed by soil structure and water table as related to sewage disposal by septic tank shall be addressed and resolved in the applicant's initial plan.

2. Where property is zoned and planned for business or industrial use, other widths and areas may be permitted by the Hearings Body. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

3. In steep terrain, increased lot or parcel sizes may be required to avoid excessive cuts, fills, and steep driveways.

4. On tracts containing water courses or rock outcroppings, increased lot or parcel sizes may be required to allow adequate room for development and protection of the topographical feature.

Section 6.050 LOTS AND PARCELS, GENERAL REQUIREMENTS.

1. Frontage. Each lot or parcel shall abut upon a street other than an alley for the minimum width required for lots or parcels in the zone, except for lots or parcels fronting on the bulb of a cul-de-sac, where the minimum frontage shall be 30 feet, and for lots in a zero lot-line subdivision, where the minimum frontage shall be 20 feet. In zones where a minimum width is not specified, the minimum frontage requirement shall be 50 feet.

2. All side lot or parcel lines shall be at right angles to street lines or radial to curved streets wherever practicable.

3. Through lots or parcels shall be avoided except where they are essential to provide separation of residential development from major street or adjacent nonresidential activities, or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least 10 feet in width and across which there shall be no right of access may be required along the lines of lots or parcels abutting such a traffic artery or other incompatible use.

4. Corner lots or parcels shall be five feet more in width than the minimum lot width allowed in the underlying zone.

5. Solar Access Performance Standard. As much solar access as feasible shall be provided each lot in every new subdivision, considering topography, development pattern, and existing vegetation.

6. Underground Utilities. All permanent utility service to lots or parcels shall be provided from underground facilities. The subdivider or partitioner shall be responsible for complying with requirements of this section, and shall:

   A. Make all necessary arrangements with the utility companies and other persons or corporations affected by the installation of such underground utilities and facilities in accordance with rules and regulations of the Public Utility Commission of the State of Oregon.

   B. All underground utilities and public facilities installed in streets shall be constructed prior to the surfacing of such streets.

Section 6.060 GENERAL PROVISIONS.

1. Lighting. The subdivider or partitioner shall install street lights, including underground wiring and a base for any proposed ornamental street lights, in accordance with the City street light plan. Locations of the wiring and any base, and the lights used shall be approved by the City Public Works Department in coordination with the affected utility company.

2. Fire Hazards. Whenever possible, a minimum of two points of access to the subdivision or partition shall be provided to ensure access for emergency vehicles and ease resident evacuation.

3. Street Tree Planting. Street tree planting plans for a subdivision, if proposed, shall be in accordance with the street tree planting standards listed in Section 10-10.23 of the City of Bend Zoning Ordinance No. NS-1178.

4. Water/Sewer. All subdivisions shall provide water and sewer lines constructed to City standards and specifications approved by the City Engineer. All lots shall be served from the City of Bend water system or by water systems acceptable to the City. Water and Sewer mains and service lines shall be installed prior to the curbing and paving of new streets in all new subdivisions.

Section 6.070 GRADING OF LOTS AND PARCELS. Grading of lots and parcels shall conform to the following standards unless physical conditions demonstrate the practicality of other standards. Such grading shall be in conformance with the applicable provisions of the Uniform Building Code, Chapter 33, and any other City of Bend provisions pertaining to grading.

1. Cut slope ratios shall not exceed one foot vertically to one and one-half feet horizontally.

2. Fill slope ratios shall not exceed one foot vertically to two feet horizontally.

3. The composition of soil for fill and the characteristics of lots and parcels made usable by fill shall be suitable for the purpose intended.

4. When filling or grading is contemplated by the subdivider or partitioner, he shall submit plans prepared by a registered professional engineer showing existing and finished grades for the approval of the City Engineer and City Building Official. In reviewing these plans, the City Engineer and City Building Official shall consider the need for drainage and effect of filling on adjacent property. Grading shall be finished in such a manner as not to create steep banks or unsightly areas to adjacent property.

Section 6.080 SPECIAL SETBACKS. If special building setback lines are to be established in a subdivision or partition, they shall be shown on the tentative plan and final plat and included in the deed restrictions. Special setbacks from certain streets in the City as listed in Sections 10-10.22A and 10-10.26 of the City of Bend Zoning Ordinance No. NS-1178 shall be shown on the final plat.

Section 6.090 IMPROVEMENT PROCEDURES. In addition to other requirements, improvements to be installed by the applicant, either as a requirement of this ordinance or other applicable regulations or at his own option, shall conform to the requirements of this article.

1. Plan Review and Approval. Improvement work shall not commence until plans have been reviewed and approved by the Review Authority. To the extent necessary for evaluation of a proposed development, such improvement plans may be required before approval of the tentative plan or preliminary map or drawing.

2. Improvements as Approved. Improvements shall be designed, installed, and constructed in conformance with the approved plans prior to filing the final plat.

Any improvement not completed prior to filing the final plat shall be in accordance with subsections 10-13.4.090 and 10-13.4.100 of this title.

3. Inspection. Improvements shall be constructed under the inspection and approval of a City inspector. Expenses incurred thereby shall be borne by the applicant/owner. The City Engineer may require changes in sections and details of the improvements if unusual conditions arise during construction to warrant such changes.

4. Building permits shall not be issued until all improvements are completed and operational to serve the entire phase in which the affected lot or parcel is located.

5. In phased subdivisions, the phasing of improvement plans shall match the phasing of final platting.

Section 6.100 IMPROVEMENTS IN PARTITIONS. The same improvements may be required to be installed to serve each parcel within a partition as are required of a subdivision.

Section 6.110 ACCEPTANCE OF IMPROVEMENTS. Public facilities shall be considered for acceptance after release of the maintenance bond for the improvement.

PARKS

Section 6.120 PARK AND TRAIL DEVELOPMENT AND DEDICATION.

1. All lots or parcels that are developed with residential structures shall pay an applicable system development charge for park development as provided for under Bend Code Sections 1.900-932 and ORS 223.297-314. The amount of the system development charge shall be pursuant to a City of Bend Resolution adopted under the aforementioned Code. The system development charge shall be payable at the time of issuance of the building permit.

2. No subdivision or partition of land lying within the Bend Urban Growth Boundary, but outside the boundaries of the Bend Metro Park and Recreation District, shall be approved unless the land owner has signed an annexation agreement with the Bend Metro Park and Recreation District.

3. Trails. Applicants for a land division may be required to dedicate either right-of-way or an access easement to the public for a primary or connector trail as a condition of a land division to the extent allowed by law as outlined below.

4. Primary Trails. All applicants for a land division on lands having a trail alignment designated on the City of Bend Urban Area Bicycle and Primary Trail System Plan are required, to the extent allowed by law, to dedicate public right-of-way or grant a public access easement for a primary trail. Such trails shall be in the alignment shown on the Plan to the greatest degree practicable unless, with consideration of recommendations from the Bend Metro Park and Recreation District, an alternate alignment is deemed acceptable and approved by the City of Bend through the tentative plan review process.

5. Connector Trails. All applicants for a land division shall, to the extent provided by law, dedicate public right-of-way or grant a public access easement for bicycle and pedestrian corridors from sidewalks, streets and other bicycle and pedestrian amenities, both public and private, to Primary Trails pursuant to Section 10-13.6.030 (3).

6. Primary and Connector Trail Dedication and Construction. To the extent allowed by law, Primary and Connector Trail alignments shall be dedicated and constructed by the developer to the standards listed below:

   A. Primary Trails shall have a minimum public right-of-way or public access

easement width of 10 feet and a minimum improved trail width of 10 feet, unless, with consideration of recommendations from the Bend Metro Park and Recreation District, an alternate width is deemed acceptable and approved by the City of Bend through the tentative plan review process. Primary Trails shall be improved as depicted on the Bend Urban Area Trail System Surface Plan Map in conjunction with the land division, unless, with consideration of recommendations from the Bend Metro Park and Recreation District, an alternate construction standard and construction phasing schedule is deemed acceptable and approved by the City of Bend through the tentative plan review process.

B. Connector Trails shall have a minimum right-of-way width of 10 feet and a minimum improved trail width of 5 feet. Connector Trails shall be improved with an all-weather, impervious surface such as concrete, asphalt, etc. Improvement of Connector Trails to a lesser standard shall be at the discretion of the City of Bend and shall be approved through the tentative plan review process.

C. Both Primary and Connector Trails shall be aligned so as to preserve significant vegetation and topographic features to the greatest degree practicable as determined by the City of Bend.

D. Use and Maintenance of Trails. Trails alignments dedicated as public rights-of-way shall be subject to all use and maintenance restrictions as deemed appropriate pursuant to the Intergovernmental Agreement Regarding Coordinated Planning and Urban Services between the City of Bend and the Bend Metro Park and Recreation District. Trails alignments granted as public access easements across private property shall be subject to all use and maintenance restrictions as included in the public access easement agreement between the property owner and the City of Bend.

7. Neighborhood Parks. The following standards will be used to evaluate a proposed subdivision to determine if the property includes an area that is suitable for a neighborhood park. Upon meeting these standards, the developer shall enter into negotiations with the Bend Metro Park and Recreation District regarding district purchase of land within the property proposed for subdivision for development of a neighborhood park.

A. The subject property is located within a service area identified on the Neighborhood Parks Plan Map adopted by the Bend Metro Park and Recreation District as needing neighborhood parks.

B. The property proposed for subdivision is 10 acres in area or larger.

C. The Bend Metro Park and Recreation District has indicated that the subject property contains a sufficient area that is suitable for neighborhood park development based on the Bend Metro Park and Recreation District Neighborhood Park Classification and Development Standards.

Section 6.130 NATURAL FEATURES AND OPEN SPACE

In order to promote livability through the preservation of natural features and vegetation, and the development of public or private open spaces, no subdivisions shall be approved unless the following requirements are met:

1. Areas of Special Interest as identified on the Bend Urban Area General Plan Map shall be preserved to the maximum extent practicable so as to maintain the integrity of the feature. Such areas shall be incorporated as open space within the subdivision.

2. As a means of retaining the natural character and visual quality of the community, significant rock outcrops, stands of native trees, or other prominent natural

features shall be maintained to the maximum extent practicable.

3. Natural tree cover shall be preserved along streets, both within and along the dedicated street right-of-way, to the maximum extent practicable. Streets, sidewalks and other public services and utilities constructed within the rights-of-way may meander within the right-of-way to allow preservation of trees as deemed appropriate by the City Of Bend Engineer.

ARTICLE VII

CONDOMINIUM CONVERSION

Section 7.010 APPLICABILITY OF REGULATIONS. Any proposal for a conversion condominium as defined in the applicable chapter of the Oregon Revised Statutes shall, prior to approval by the Real Estate Commissioner, comply with Section 7.020 and 7.030 of this ordinance.

Section 7.020 PROCEDURE. The applicant shall file with the Planning Department an application for site plan review for the proposed conversion together with a filing fee and a detailed site plan, indicating parking, landscaping, and recreational areas. The site plan shall be reviewed by the Review Authority, and said review shall be based upon the criteria for comparable structures or complexes.

Section 7.030 DIVISION OF LAND. Any proposal for a conversion condominium which results in a division of real property shall comply with the provisions of this ordinance for land divisions.

ARTICLE VIII

STREET DEDICATIONS

Section 8.010 APPLICATION. Any person desiring to create a street not part of a land division shall make written application to the City. Said application shall be accompanied by the required information and appropriate filing fee.

Section 8.020 MINIMUM DESIGN STANDARDS. The minimum standards of design and improvements for the dedication of a street shall be the same as set forth in this ordinance for streets within a subdivision, and shall be in compliance with other applicable street standard regulations.

Section 8.030 PROCEDURE.

1. Upon receipt of written application and appropriate filing fee for street dedication, the Review Authority shall refer the proposal to the City Engineer or designee for review and recommendation.

2. If access to a County road or state highway is planned, the necessary permits shall be obtained from those agencies prior to approval.

3. The City Engineer shall report his findings and recommendations regarding the proposed dedication to the Review Authority.

4. Upon receipt by the Review Authority of written findings and recommendations from the City Engineer, the proposal shall be submitted to the City Council for a public hearing.

5. The notice procedures shall be the same as those prescribed for land divisions as listed by the City of Bend's land use procedures ordinance.

6. Following the hearing, the Council may accept or reject the proposed dedication.

ARTICLE IX

VARIANCES

Section 9.010 VARIANCES.

1. Upon application, the Review Authority may authorize variances from the standards of this ordinance if, because of special and unusual circumstances relating to the subject property, the literal application of the standards imposed by this ordinance would cause undue hardship. To show that any undue hardship exists, the applicant must establish all of the following:

   A. That special conditions exist which are peculiar to the subject property which make conformance to the standards of this ordinance impractical or would deprive the applicant of rights commonly enjoyed by other properties in the same zone under the terms of this ordinance.

   B. That the variance is the minimal deviance from the standards of this ordinance needed to overcome the hardship.

   C. That the special conditions do not result from the actions of the applicant and do not merely constitute a pecuniary hardship or inconvenience.

   D. That the varied standard(s) will conform to the purpose and objectives of the Bend Area General Plan and of this ordinance, and will have no adverse impact on surrounding properties or on the provision of general urban services in the area.

2. The Review Authority may attach such conditions to any variance granted that will insure the variance meets the objectives of the Bend Area General Plan and of this ordinance and does not have an adverse impact on surrounding properties or on the provision of general urban services in the area.

ARTICLE X

GENERAL PROVISIONS

Section. 10010 PENALTIES. Violation of any provision of this ordinance is a Class A Civil Infraction and shall be enforced through the City of Bend civil infraction procedure.

Section 10.020 VIOLATION DECLARED A NUISANCE. A land division or use in violation of this ordinance is hereby declared a nuisance.

Section 10.030 COMPLIANCE WITH OREGON REAL ESTATE REGULATIONS. Prior to the sale of any lot within a subdivision or parcel within a partition, a final subdivision plat or partition plat shall be approved and recorded, and the subdivider or partitioner shall file a "notice of Intent" with the Oregon State Real Estate Division.

Section 10.040 CIVIL RELIEF. When any real property is or is proposed to be used, transferred, sold, or disposed of in violation of this ordinance, the City or any person whose interest in the property is or may be affected by the violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate, or set aside such use, transfer, sale, disposition, offer, negotiation, or agreement.

Section 10.050 ADMINISTRATION OF ORDINANCE. It shall be the duty of Review Authority to administer and enforce the provisions of this ordinance in such a way as to carry out its intent and purpose.

Section 10.060 SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 10.070 AMENDMENT. This ordinance may be amended or repealed as provided by law. Provided, however, an amendment to the standards set forth in Appendix "A" may be by resolution.

Section 10.080 CORRECTIONS. This ordinance may be corrected by order of the City Council to correct editorial and clerical errors.

Section 10.090 EMERGENCY CLAUSE. Inasmuch as it is necessary for the immediate preservation of the peace, health, safety, and general welfare of the City of Bend and the inhabitants thereof for this ordinance to become immediately operative upon the passage hereof, now, therefore, an emergency is hereby declared to exist and upon the passage hereof by the affirmative vote of all
members of the City Council, this ordinance shall become immediately operative.

Section 10.095 REPEALER. Ordinance No. NS-1349 as enacted December 16, 1981, and as subsequently amended, is hereby repealed upon passage and effective date of this ordinance, except that any part of this ordinance on which a presently pending legal action is or proceeding is based, shall, for the purposes of the action or proceeding, continue in effect until the action or proceeding is terminated.

Passed by the City Council the 6th day of June 2001.

TABLE "A" – STREET IMPROVEMENT STANDARDS

FOR DEDICATED PUBLIC ROADWAYS

Street Classification	Minimum right-of-way ①	Minimum pavement width ②	Minimum Planter strip width ③	Minimum turn lane/ median island width ④	Maximum grade ⑤	Direct site access ⑥	Bike lanes ⑦	Sidewalks ⑧	Street signs and lights
Expressway (Parkway)	100'	74'	7'	14'/10'	6%	No	Yes	Varies	
Principal Arterial (Hwys)	100'	76'	5'	16'/10'	6%	No	Yes	6' both sides	⑨
Major Arterial	100'	76'	6'	13'/16'	6%	No	Yes	5' both sides	⑨
Minor Arterial	100'	52'	8'	11'/16'	6%	No	Yes	5' both sides	⑨
Major Collector	80'	52'	8'	11'/16'	8%	Yes	Yes	5' both sides	⑨
Residential Local – Single Family Zones	60'	24'/28'/32'	9'	N/A	10%	Yes	See note ⑦	5' both sides	⑨
Residential Local – Multi-family Zones	60'	28'/36'	7'	N/A	10%	Yes	See note ⑦	5' both sides	⑨
Residential Cul-de-sac equal to or more than 250 feet in length	60'	28' 45' radius bulb	7'	N/A	10%	Yes	No	5' both sides	⑨
Residential Cul-de-sac (including "knuckle" or "eyebrow") less than 250 feet long.	60'	28' 45' radius bulb	6'	N/A	10%	Yes	No	5' one side	⑨
Residential Cul-de-sac # 150 feet	60'	24'	8'	N/A	10%	Yes	No	None	⑨
Alleys- Residential Commercial	20' 20'	15' 20'	N/A	N/A	10%	Yes	No	None	⑨
Industrial Local	60'	36' to 44'	7'	N/A	10%	Yes	No	5', both sides	⑨
Commercial Local	60'	36'	7'	N/A	10%	Yes	No	5', both sides	⑨

SEE NOTES TO TABLE "A" ON BACK OF SHEET

Notes to Table A:

① Additional right-of-way may be required at intersections of major collectors or arterial streets, as directed by the City Engineer.

② Additional pavement width may be required at intersections of arterial streets or major collector streets, as directed by the City Engineer.
Major Arterials: A lessor, interim 52-foot wide street (2-lane/median section) may be used if justified by lower traffic volumes.
Minor Arterials: A greater, 76-foot wide street (4-lane/median section) may be required if justified by higher traffic volumes.
Industrial Locals: 36' street width no parking, 44' street width parking both sides.
Local Streets: A 24-foot wide street may be used if no parking on either sides and street is less than or equal to 250 feet in length and it is intersected by wider streets. A 28-foot wide street may be used with parking on one side. Otherwise, local streets shall be 32 feet wide (in SF Zones) and 36 feet wide (in multifamily zones) with curb extensions at all intersections. Curb extensions shall provide a 20-foot wide street (no parking in these areas).

③ The planter strip distance is measured from the face of the curb to the inside edge of the sidewalk. No planter strip will be required when the sidewalks are permitted adjacent to the curb.

④ The first dimension is the minimum required width of the turn lane while the second dimension applies to the raised median width constructed between intersections:
unsignalized intersection turn lane pocket width is 11 feet while the median end cap width is 5 feet in width; signalized intersection turn lane pocket width is 13 feet while the median end cap width is 3 feet in width. This consistent cross-section eliminates shifting travel lanes from side to side that would be needed to accommodate varying median widths.

⑤ See: Table "C" for grade exceptions in steep terrain areas.

⑥ Access to private property abutting arterial streets shall comply with the **City's Arterial Access Policy (Street Policy No. 2)**.

⑦ Bike lanes shall be provided on all arterial and major collector streets or as otherwise required on local streets as part of an on-street bike route system.

⑧ Sidewalks shall be separated from the street by a planter strip and placed at the property line, where practical, or as otherwise directed by the City Engineer.

⑨ Street signs and street lights shall be placed at every intersection.

N/A = Not Applicable

Other street development notes:

a. The street length shall be the distance from centerline to centerline of the intersecting streets, or center of the cul-de-sac bulb.

b. The maximum length of a cul-de-sac shall be 600 feet.

c. Construction of partial width streets shall not be permitted.

d. **Curbs**: A 16-inch Oregon State Highway Department standard curb is required for all expressways, principal arterials, major arterials, minor arterials and industrial streets (a minimum of 7 inches of curb exposure). All other street classifications (major collector, residential local, commercial local) shall have 12-inch curbs as specified in the City Standards and Specifications manual (a minimum of 6 inches of curb exposure). There shall be no curbs on alleys unless otherwise directed by the City Engineer.

TABLE "B" – STREET IMPROVEMENT STANDARDS
FOR PRIVATE STREETS AND PLANNED UNIT DEVELOPMENTS

Street Classification	Minimum right-of-way	Pavement width ①	Minimum Planter strip Width	Minimum Turn lane/ median width	Maximum grade	Direct site access	Bike Lanes②	Sidewalks ②	Street signs and lights
Residential Streets: Local Cul-de-sac "T" Courts # 150 feet Alley	N/A	20' no parking if no curbs proposed 24' no parking if curbs proposed 28' parking one side 32' parking both sides	N/A	N/A	10%	Yes	No	5' both sides for local and cul-de-sac streets	Intersection corners
Commercial Streets	N/A	36'	N/A	N/A	10%	Yes	No	5' both sides	Intersection corners

Notes to Table "B":

① Drainage must be retained on site and not drain to public right-of-way.

② Planned Unit Development sidewalk and bike lane standards apply for PUDs

TABLE "C" – SPECIAL STREET IMPROVEMENT STANDARDS
FOR PUBLIC AND PRIVATE DEDICATED WAYS ON HILLSIDES EXCEEDING 15% SLOPE

Street Classification	Minimum right-of-way	Minimum pavement width	Minimum planter strip width	Minimum Turn lane/ median island width	Maximum Grade ①	Direct site access	Bike Lanes	Sidewalks	Street signs and lights
Minor Arterial	80'	36'	None	10' / 6'	8%	No/Yes	Yes, 6'	5', one side curb tight	
Major Collector	60'	36'	None	None / 6'	10%	No/Yes	Yes, 6'	5' one side curb tight	
Local Residential	60'	28' parking on one side 24' no parking	None	N/A	12%	Yes	No	5', one side curb tight	
Cul-de-sac # 250 feet long	50'	28' parking on one side 24' no parking	None	N/A	12%	Yes	No	5', one side curb tight	
"T" Courts # 150 feet long	40'	24'	None	N/A	12%	Yes	No	No	
Alley	15'	15'	None	N/A	12%	Yes	No	No	

Note to Table "C":

① Lesser grade may be required at intersection as per city specifications. Grades in excess of 10% subject to Fire Department approval

DESCHUTES COUNTY OFFICIAL RECORDS
MARY SUE PENHOLLOW, COUNTY CLERK

2001-45546

$41.00

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D-ODN Cnt=1 Stn=3 SHIRLEY
$15.00 $11.00 $10.00 $5.00

DESCHUTES COUNTY CLERK

CERTIFICATE PAGE

**This page must be included
if document is re-recorded.
Do Not remove from original document.**

ORDINANCE NO. NS-1787

AN ORDINANCE VACATING PORTION OF **REGENCY STREET** THAT LIES WITHIN N ½ OF SECTION 25, TOWNSHIP 17 SOUTH, RANGE 11 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on March 7, 2001 requesting that the following described area be vacated:

SEE EXHIBIT "A"

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above street right of ways to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 6th day of June, 2001, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and;

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of street right of ways located in Bend, Deschutes County, Oregon, be vacated.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 6th day of June 2001.

Read for the second time the 20th day of June 2001.

Placed upon its passage the 20th day of June 2001.

Yes: 7 No: 0

Authenticated by the Mayor the 20th day of June 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

Please Record Pages 1 through 3 of Ordinance NS-1787.

After Recording Return To: Deputy Recorder, City of Bend, 710 NW Wall, Bend, OR 97701

Exhibit "A"

A strip of land, being a portion of that land described in Dedication Warranty Deed, as recorded in Volume 434, Page 1782 of the Deschutes County Official Records, said strip being 60.00 feet wide, being 30.00 feet on either side of the centerline described below, over that portion of the west half of the northeast one-quarter of Section 25, Township 17 South, Range 11 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, the centerline of which is described as follows:

Beginning at point on the westerly right-of-way of Mt. Washington Drive, said point bears South 24°21'52" East, 1,454.39 feet from the north one-quarter corner of said Section 25; thence leaving said westerly right-of-way of Mt. Washington Drive, North 89°28'49" West, 618.27 feet to the center-north 1/16 corner of said Section 25, said point being the northeast corner of Valhalla Heights and the terminus of this description.

The sidelines of said strip shall be lengthened or shortened to match said westerly right-of-way of Mt. Washington Drive.

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REGISTERED
PROFESSIONAL
LAND SURVEYOR

Steven R. Hannas

OREGON
JULY 11, 2000
STEVEN R. HANNAS
47021

RENEWAL DATE: 6-30-01

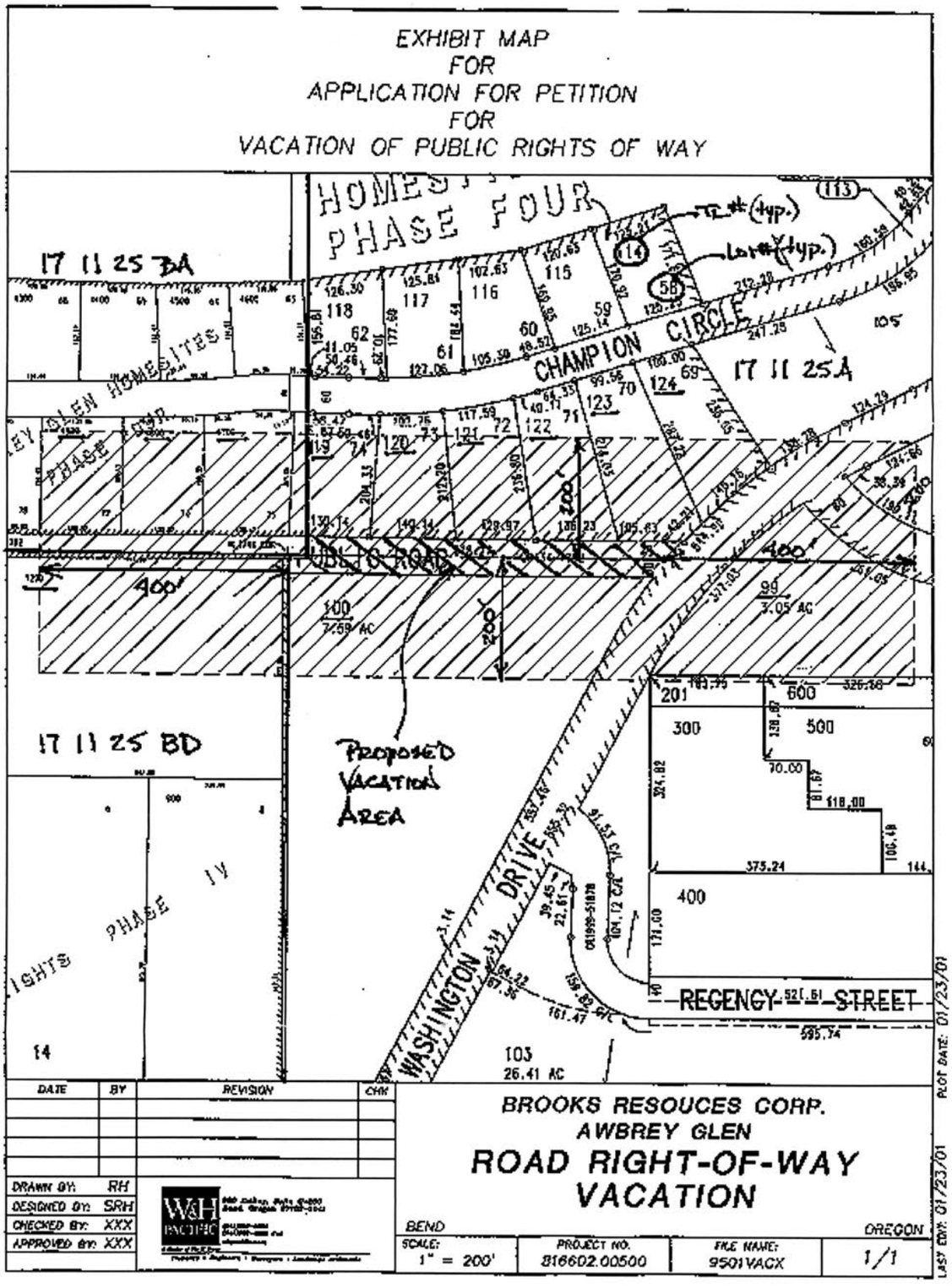
EXHIBIT MAP
FOR
APPLICATION FOR PETITION
FOR
VACATION OF PUBLIC RIGHTS OF WAY
PHASE FOUR
17 11 25 BA
17 11 25A
17 11 25 BD
CHAMPION CIRCLE
PROPOSED VACATION AREA
WASHINGTON DRIVE
REGENCY STREET
DATE
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DESIGNED BY: SRH
CHECKED BY: XXX
APPROVED BY: XXX
BROOKS RESOUCES CORP.
AWBREY GLEN
ROAD RIGHT-OF-WAY VACATION
BEND
OREGON
SCALE: 1" = 200'
PROJECT NO. 816602.00500
FILE NAME: 9501VACX
1/1
LAST EDIT: 01/23/01
PLOT DATE: 01/23/01

ORDINANCE NO. NS-1788

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RS, URBAN STANDARD DENSITY RESIDENTIAL TO CH, COMMERCIAL HIGHWAY.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated April 23, 2001 file number PZ-01-11.

Section 2. Section 7(1) of Ordinance NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the property described as;

Tax Lots 1100 and 1101 on Deschutes County Tax Assessors Map 18-12-04CC; Deschutes County, Oregon

from Urban Standard Density Residential (RS) to Commercial Highway (CH).

Read for the first time the 6th day of June, 2001.

Read for the second time the 20th day of June, 2001.

Placed upon its passage the 20th day of June, 2001.

YES: 7 NO: 0

Authenticated by the Mayor the 20th day of June, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

ORDINANCE NS-1789

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RL, LOW DENSITY RESIDENTIAL TO RS, URBAN STANDARD DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The City of Bend has been ordered, through a Stipulated Peremptory Writ of Mandamus (Circuit Court Case No. 01 CV 0026 AB and 01 CV 0027 AB) to approve the zone change application in City File No. PZ00-230, on conditions set forth in the Stipulated Peremptory Writ of Mandamus, a copy of which is attached hereto as Exhibit B. The City of Bend finds that, because this zone change is ordered by the Circuit Court by way of a Writ of Mandamus, the notice requirements, public hearing requirements and public interest fact findings normally required as part of a zone change proceeding are not required in this particular zone change.

Section 2. Section 7(1) of Ordinance NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the property described in;

Exhibit "A"

from Low Density Residential (RL) to Urban Standard Density Residential (RS).

Read for the first time the 20th day of June, 2001.

Read for the second time the 18th day of July, 2001.

Placed upon its passage the 18th day of July, 2001.

YES: 7 NO: 0

Authenticated by the Mayor the 18th day of July, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

EXHIBIT A

A parcel of land located in a portion of the South One-half (S1/2) of Section 13, Township 18 South, Range 11 East, Willamette Meridian, Deschutes County, Oregon, being more particularly described as follows:

Beginning at a point on the south line of the southeast one-quarter of said Section 13 which bears South 89°53'25" West, 80.01 feet from the southeast corner of said Section 13, said beginning point also being on the westerly 40.00 foot right-of-way line of Brookswood Boulevard; thence leaving said westerly 40.00 foot right-of-way line and along said south line South 89°53'25" West, 2581.87 feet to the south one-quarter corner of said Section 13; thence continuing along said south line South 89°53'31" West, 587.81 feet; thence leaving said south line North 33°26'41" East, 1096.14 feet; thence North 01°01'21" East, 1052.97 feet; thence North 53°17'37" West, 882.75 feet to a point on the ordinary high water line of the Deschutes river; thence along said ordinary high water line the following eight courses:

North 57°11'24" East, 40.66 feet;
South 87°35'01" East, 95.85 feet;
North 70°17'16" East, 123.01 feet;
North 67°07'14" East, 147.12 feet;
North 53°20'47" East, 52.65 feet;
North 28°36'40" East, 34.34 feet;
North 61°57'25" East, 23.50 feet;
North 40°57'02" East, 15.13 feet to a point on the east-west center of section line of said Section 13; thence leaving said ordinary high water line and along said east-west center of section line North 89°29'34" East, 1906.93 feet to a point on said westerly 40.00 foot right-of-way line of Brookswood Boulevard; thence leaving said east-west center of section line and along said right-of-way line the following two courses and two curves:

733.62 feet along the arc of a 1040.00 foot radius non-tangent curve to the left, the long chord of which bears South 27°09'37" East, 718.50 feet;
South 47°22'07" East, 339.15 feet;
802.61 feet along the arc of a 960.00 foot radius curve to the right, the long chord of which bears South 23°25'03" East, 779.44 feet;
South 00°32'01" West, 308.37 feet;

Thence leaving said right-of-way line North 89°24'31" West, 357.11 feet; thence South 30°49'38" West, 193.48 feet; thence South 00°39'45" West, 217.83 feet; thence 249.71 feet along a non-tangent curve to the left with a radius of 596.77 feet, the chord of which bears South 76°26'46" East, 247.89 feet; thence South 89°28'21" East, 211.88 feet to a point on said westerly 40.00 foot right-of-way line; thence along said right-of-way line South 00°32'01" West, 382.33 feet to the point of beginning.

Contains 152.31 acres, more or less.

TOGETHER WITH: the following described parcel:

Beginning at a point on the east line of said Section 13 which bears North 00°32'01" East, 1121.66 feet from a 2" iron pipe marking the southeast corner of said Section 13; thence continuing North 00°32'01" East, 648.73 feet; thence leaving said section line South 89°28'03" East, 227.13 feet to a point on the easterly 40.00 foot right-of-way line of Brookswood Boulevard; thence along said right-of-way line 700.51 feet along the arc of a 1040.00 foot radius non-tangent curve to the right, the long chord of which bears South 18°45'46" West, 687.34 feet to the point of beginning.
Contains 1.07 acres, more or less.

Total acreage = 152.31 acres + 1.07 acres= 153.38 acres, more or less.

SUBJECT TO: All easements, restrictions, and rights-of-ways of record and those common and apparent on the land.

06-14-01

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 17, 1986
PETER A. MANLEY
2214

EXPIRES 12-31-2002

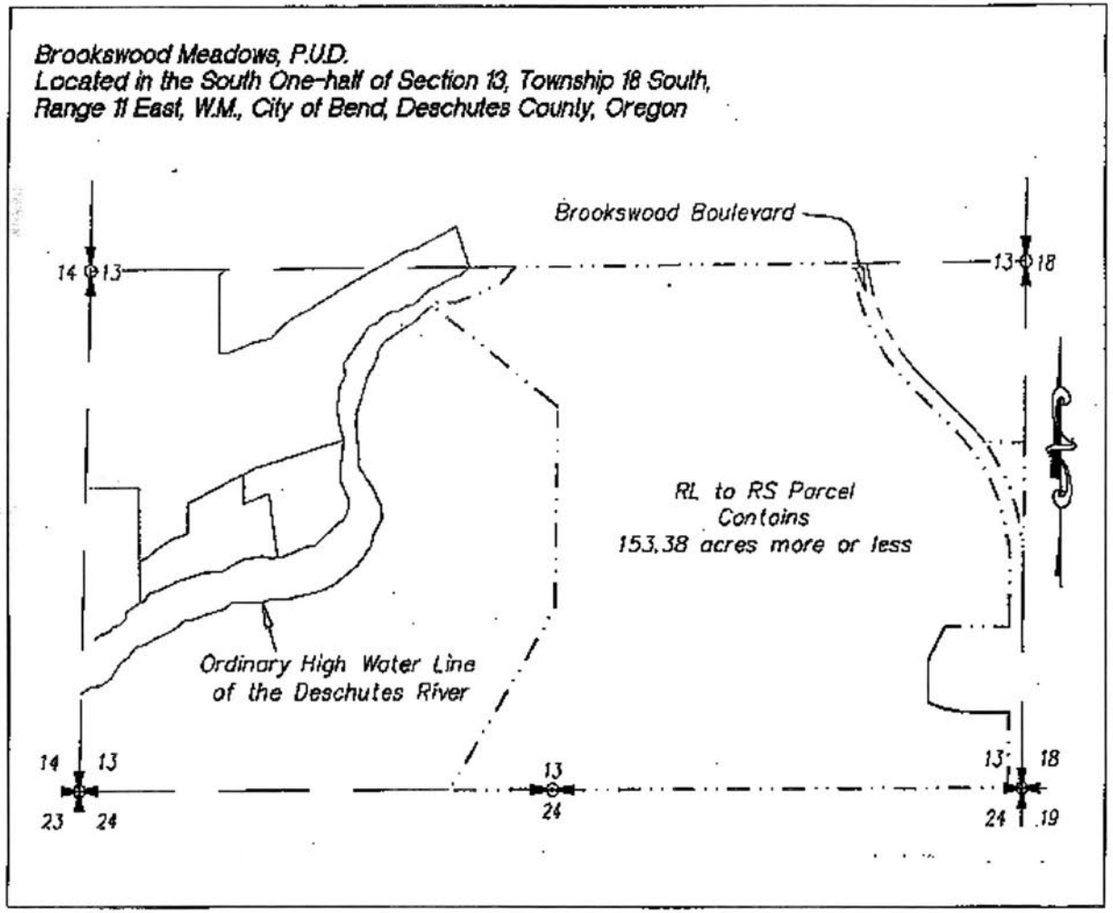
Brookswood Meadows, P.U.D.
Located in the South One-half of Section 13, Township 18 South,
Range 11 East, W.M., City of Bend, Deschutes County, Oregon
Brookswood Boulevard
14
13
13
18
RL to RS Parcel
Contains
153.38 acres more or less
Ordinary High Water Line
of the Deschutes River
14
13
13
18
23
24
13
24
24
19

Exhibit B

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF DESCHUTES

State ex rel Brookswood Meadows, LLC,

Relator,

v.

CITY OF BEND, a municipal corporation of the State of Oregon,

Defendant,

and

JAMES R. and JUDY F.L. CLINTON,

Intervenors.

Case Nos. 01 CV 0026AB and
01 CV 0027AB

STIPULATED PEREMPTORY WRIT OF MANDAMUS

TO: City Council of the City of Bend:

BASED UPON the allegations in the Alternative Writ of Mandamus in the above-entitled case and the stipulation of the parties, you are hereby commanded to approve forthwith that certain Zone Change application filed by Relator as City File No. PZ00-230 and that certain Planned Unit Development and Subdivision Tentative Plan application filed by Relator as City File No. PZ00-232 for the development known as Brookswood Meadows, and as revised as set forth in the site plan attached hereto and incorporated herein as Exhibit A, subject to the following conditions of approval:

1. The property shall be developed in accordance with the revised site plan as set forth in Exhibit A. All contemplated construction must be completed according to City standards.

2. The applicant must establish a homeowners' association and bylaws in accordance with Section 10.10-30(7) et seq, which shall be subject to City Planning Staff review prior to recording. The homeowner's association rules and bylaws must make provision for maintaining all streets and sidewalks as set forth herein. The applicant shall organize the owners' association and adopt by-laws that comply with the requirements of ORS 94.550 - 94.783. The owners' association shall consist of all the owners of units or lots within the development, and membership in the association must be required of all owners. The association shall have the power to create a lien upon the unit or lot for services, labor, or material lawfully chargeable as common expenses.

3. Public access to the proposed park will be ensured by easements over interior streets, sidewalks, trails, and bikeways which lead to the park.

4. The applicant's development phasing plan shall comply with the requirements of the Uniform Fire Code.

5. The applicant's ten (10) year phased development plan qualifies as an exception authorized pursuant to Bend Code 10.10.30.6(c). Therefore, the applicant shall submit final plats following tentative plan approval within the applicant's ten (10) year phased development plan.

6. The applicant shall construct the Brookswood extension as shown on and in the approximate location proposed by the Hickman Williams and Associates'

plan for the Brookswood Boulevard extension entitled "Brookswood Boulevard improvements (Preliminary Alignment)," dated August 31, 2000 (Sheet C1.1). The extension shall be constructed no later than two (2) irrigation seasons after this decision is final, including the resolution of all appeals. A one (1) year extension will be granted if the applicant demonstrates that the failure to construct the extension within two (2) irrigation seasons was for reasons beyond the control of the applicant, such as adverse weather conditions or actions of the Irrigation District.

In any event, no more than ninety (90) residential dwellings may be constructed and occupied prior to the construction of the extension and acceptance of the improvement by the City. This condition shall not limit the issuance of building permits by the City for residential dwellings in excess of ninety (90) residential dwellings up to one hundred twenty-seven (127) residential dwellings, so long as the construction of the extension and the issuance of such building permits are occurring simultaneously. In any event, any residential dwellings constructed in excess of ninety (90) dwelling units shall not receive an occupancy permit until the completion of the extension and its acceptance by the City.

A. Reimbursement. Applicant shall be entitled to reimbursement for principal payments actually made on the cost of construction of eligible off-site traffic system improvements (the "Brookswood Blvd. extension") with the following limitations:

(1) The City and applicant agree that applicant's property that is the subject of PZ00-230 shall be established as a sole recovery area for the collection of transportation system development charges ("SDC"). As provided by City Street Policy No. 5, the City's SDC Ordinance and state law, the City shall collect SDCs in the sole recovery area at the rate of $3,250 per residential unit, or any future rates adopted by the City.

(2) The City shall use the SDC revenue collected from the sole recovery area to reimburse the applicant for the cost of constructing the Brookswood Blvd. extension at a rate of 100% of all qualified improvements pursuant to ORS 223.304(3) and Street Policy No. 5, minus the City's administrative costs.

(3) Reimbursement shall only be from SDCs collected from the sole recovery area described in Section 6(A)(1). City is under no obligation to reimburse applicant from any source of funds other than SDCs collected from the sole recovery area, except as provided in Sec. 6(A)(6) of these conditions of approval.

(4) Reimbursement from the sole recovery area shall be on a year to year basis, and the amount of annual reimbursement shall be confined to the amount of SDCs actually collected from the sole recovery area, except as provided in Sec. 6(A)(6) of these conditions of approval.

(5) In accordance with established City policy, applicant shall not be reimbursed for interest paid on any amount payable under these conditions of approval. However, if the City modifies this City policy to allow for the reimbursement for interest paid, the applicant shall be reimbursed for interest paid on any amount payable under these conditions of approval.

(6) The applicant may submit to the City an agreement executed by similarly situated property owner(s) who are benefited by the Brookswood Blvd. extension. This agreement may provide that the property owner(s) agree that their property may be placed into a sole recovery area to be used for reimbursement of the qualified costs of the Brookswood Blvd. extension. Consistent with City Street Policy No. 5, Sec. 8.1, the agreement with other landowners submitted by the applicant may request that the city agree to allow an assignment to the applicant of SDCs recovered from such other sole recovery area(s), to the extent allowed by City policy, ordinance and state law. The City agrees that it will not unreasonably withhold consent to such an assignment.

B. The City either has or will be responsible for acquiring and providing the necessary right-of-way for the Brookswood Boulevard extension a minimum of one (1) year prior to the time that applicant must complete the extension.

7. The applicant shall construct pedestrian refuge medians and other improvements as set forth in the Hickman Williams and Associates' plan dated October 6, 2000 for the Brookswood Boulevard improvements and in compliance with 6.015. The applicant shall submit to the City final engineering plans consistent with the Hickman Williams and Associates' plan for the City's review and approval.

8. The applicant shall comply with criteria respecting streets pursuant to 6.015(3). In addition, the applicant shall plant street trees along all streets within the development as depicted on Sheet 3 of the applicant's PUD plan.

9. Water and sewer capacity for Brookswood Meadows exists and the City will provide water and sewer services to Brookswood Meadows. However, in the event of an emergency declared by the City affecting the provision of water and sewer services, the applicant shall be equally treated as any other approved development within the City. At the time of final plat review, the applicant must demonstrate approval of the City and District Engineers with respect to the construction of water and sewer lines.

10. A grading plan shall be submitted for approval as part of the Tentative Plan.

11. The applicant shall complete the Brookswood Boulevard widening and street and sidewalk improvements, including the pedestrian refuge medians but excluding the Brookswood extension, at the following times:

    A. Improvements between Poplar Street and the northern boundary of the subject property shall be completed simultaneously with the platting and construction of the first phase of the subdivision.

    B. Improvements between Poplar Street and the southern boundary (UGB) shall be completed no later than the issuance of the first building permit for commercial development on the lot planned for future commercial development or the final platting of lots. This includes the pedestrian refuge planned for at Poplar Street.

12. All natural trails in the PUD shall be surfaced with compacted gravel or large wood chips of the type used by the Parks and Recreation District on its soft surface paths, or its functional equivalent.

13. The applicant shall record covenants, conditions and restrictions that submit the subject property to the Planned Community Law (ORS 94.550-94.783).

14. The first final plat of the proposed development shall be filed no later than one (1) year following final approval of the subdivision and PUD applications, including the resolution of all appeals thereof.

15. The applicant shall install a left turn lane on the east leg of Powers Road at the Powers/Brookswood intersection, simultaneous with the first phase of development. The City either has or will be responsible for acquiring and providing the necessary right-of-way for this improvement. This condition will not be required if the City fails to provide the necessary right-of-way. The Powers/Brookswood intersection construction costs paid by the applicant constitute an SDC credit to applicant's project, according to City Street Policy No. 5.

16. A north/south street connection approximately 500 feet east of Pine Street, as determined by the Fire Marshal and the City, will be provided for fire safety reasons no later than the platting of 25 subdivision/PUD residential lots. An all weather surface road (i.e., compacted gravel or paving) designed to meet fire code access road standards would acceptably serve this function. The use of this street connection for fire safety purposes will be provided in perpetuity and will be guaranteed in the same manner as other public accesses in the subdivision are guaranteed to the private streets within the subdivision.

17. The right-of-way for the proposed southern street extension should be platted rather than shown as open space/common area.

18. The applicant shall, by phase, install underground wiring for streetlights along subdivision streets in locations approved by the City Engineer. Streetlights will be located only to the extent as recommended by the applicable public safety agencies. Street and residential lights will be designed to minimize glare and light pollution pursuant to the standards set forth in the Deschutes County Outdoor Lighting Ordinance, DCO 15.10.010-15.10.200.

19. The applicant shall comply with BC 6.035(d) for all lots within a phase prior to the final platting of that phase.

20. The open space areas of the subject property, as depicted on the plans before the Hearings Officer, may not be developed with structures except for appropriate structures common to such open space areas such as benches and maintenance and irrigation facilities used to maintain the open space areas.

21. The applicant will reconfigure its site plan in the manner set forth in Exhibit A to include a wildlife corridor of at least 150 feet in width, which will provide wildlife access from undeveloped lands west of the development to the interior meadow within the development. This corridor will be positioned, generally, in the vicinity of the interface between Pod A and Pod C and will thereby diminish the number of lots in this immediate area. In recognition of the loss of value associated with providing the wildlife corridor, the applicant's revised site plan shall provide for 458 residential lots in the manner set forth in Exhibit A.

22. The applicant will use its best efforts to consult and coordinate with ODF&W regarding wildlife enhancement measures recommended by ODF&W for the subject property.

23. If the applicant acquires the eighty (80) acres adjacent to the subject property, the applicant agrees in good faith to use its best efforts to consult and coordinate with interested parties, including Mr. and Mrs. Clinton, regarding the use and development of the property.

24. The applicant will reimburse up to $1,000 to Mr. and Mrs. Cotton for the expenditures associated with creating a landscape buffer upon their property and adjacent to the northern boundary of the subject property.

For purposes of this Stipulated Peremptory Writ of Mandamus, the City shall refund to Relator fifty percent (50%) of the application fees paid by the Relator for the above-mentioned land use applications. Pursuant to the agreement between the Relator and Intervenors, the Relator is not entitled to the recovery of attorney fees or costs as to the Intervenors. Pursuant to the agreement between the Relator and the Defendant, the Defendant will not have to pay any of the Relator's attorney's fees if the Defendant favorably acts on and adopts the decision portion of the

Hearings Officer's recommendation for approval of the Applicant's request for a plan amendment for Convenience Commercial (File No. PZ00-231). In the event that Defendant denies the plan amendment, Relator may file, within fourteen (14) days of the denial, a motion for attorney's fees with this court. Such motion shall be limited to those fees incurred by Relator prior to April 24, 2001.

YOU ARE FURTHER COMMANDED to return this writ immediately thereafter, with your certificate annexed, stating that you have performed the acts commanded.

DATED this _____ day of June, 2001.

_____
Stephen N. Tiktin, Circuit Court Judge

IT IS SO STIPULATED:

DATED: _____, 2001 DAVIS WRIGHT TREMAINE LLP

By _____
Gregory S. Hathaway, OSB #73124
Christopher P. Koback, OSB #91340
Of Attorneys for Relator Brookswood Meadows, LLC

DATED: _____, 2001 CITY OF BEND

By _____
James Forbes, OSB #78470
Of Attorneys for Defendant City of Bend

DATED: _____, 2001 YARMO & WASLEY, P.C.

By _____
Aron Yarmo, OSB #93462
Of Attorneys for Intervenors James R. and Judy F.L. Clinton

DESCHUTES COUNTY OFFICIAL RECORDS
MARY SUE PENHOLLOW, COUNTY CLERK

2001-40357

$41.00

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$15.00 $11.00 $10.00 $5.00

DESCHUTES COUNTY CLERK

CERTIFICATE PAGE

This page must be included if document is re-recorded. Do Not remove from original document.

ORDINANCE NO. NS-1790

AN ORDINANCE VACATING PORTION OF PENN AVENUE AND DESCHUTES PLACE THAT LIES WITHIN SE ¼ OF SECTION 29, TOWNSHIP 17 SOUTH, RANGE 12 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on December 6, 2000 requesting that the following described area be vacated:

SEE EXHIBIT "A"

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above street right of ways to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 20th day of June, 2001, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and;

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of street right of ways located in Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 20th day of June, 2001.

Read for the second time the 18th day of July, 2001.

Placed upon its passage the 18th day of July, 2001.

Yes: 7 No: 0

Authenticated by the Mayor the 18th day of July, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

After recording return to:
Deputy Recorder
City of Bend
710 NW Wall
Bend, OR 97701

Exhibit "A"

ROAD VACATION

A PARCEL OF LAND SITUATED IN THE CITY OF BEND, COUNTY OF DESCHUTES, STATE OF OREGON, BEING A PORTION OF LAND SHOWN ON A MAP TITLED "PLAT OF LYTLE" WHICH IS FILED AS CS#08078 IN THE OFFICE OF THE COUNTY SURVEYOR OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF PENN AVENUE LYING WESTERLY OF THE WESTERLY RIGHT-OF-WAY OF THE RELOCATED DALLES-CALIFORNIA HIGHWAY, WHICH SAID WESTERLY LINE IS DESCRIBED UNDER PARCEL 1 PER DEED BOOK 474, PAGE 1313, AND EASTERLY OF THAT PORTION OF PENN AVENUE VACATED PER BOOK 424, PAGE 2681.

IN ADDITION, THAT PORTION OF DESCHUTES PLACE LYING WITHIN LOT 1, BLOCK 16 PER SAID PLAT OF LYTLE LYING WESTERLY OF THE WESTERLY RIGHT-OF-WAY OF THE RELOCATED DALLES-CALIFORNIA HIGHWAY, WHICH SAID WESTERLY LINE IS DESCRIBED UNDER PARCEL 1 PER DEED BOOK 474, PAGE 1313.

SUBJECT TO: ALL EASEMENTS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD AND THOSE COMMON AND APPARENT ON THE LAND.

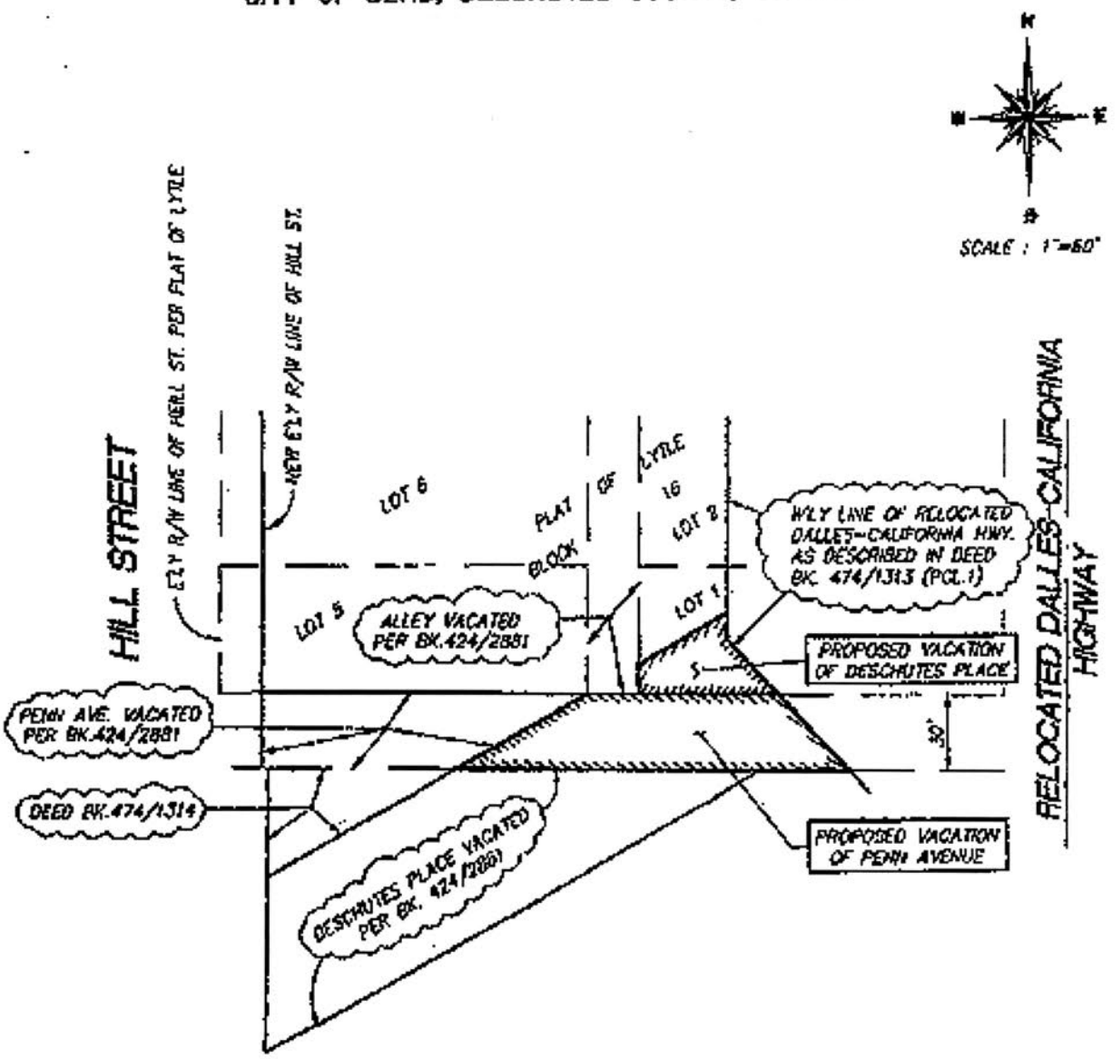
REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
FEBRUARY 19, 1999
MICHAEL A. HOFFMANN
57847LS
EXPIRES: 30 JUNE, 2001

10/2/00

ROAD VACATION

LOCATED IN THE PLAT OF LYTLE
IN THE S.E. 1/4 OF SECTION 29, T.17S., R.12E. W.M.,
CITY OF BEND, DESCHUTES COUNTY, OREGON



REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
FEBRUARY 19, 1999
MICHAEL A. HOFFMANN
57947LS
EXPIRES: 30 JUNE, 2001

10/2/00

TERRAMARK

64752 SAROS LANE, BEND, OR. 97701
PH/541.318.8278 FX/541.312.2024

ORDINANCE NO. NS-1791

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF A PARCEL OF LAND FROM IL, LIGHT INDUSTRIAL TO CH, HIGHWAY COMMERCIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. With exception of the deletion of the proposed conditions of approval, The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated May 22, 2001, file number PZ-01-39.

Section 2. Section 7(1) of Ordinance NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the property described in "Exhibit A" "B" and shown on "Exhibit C" from Light Industrial (IL) to Highway Commercial (CH).

Section 3. With the change to CH zoning, the property will also become subject to the section 10-10.23A, Design Review.

Read for the first time the 20th day of June, 2001.

Read for the second time the 18th day of July, 2001.

Placed upon its passage the 18th day of July, 2001.

YES: 7 NO: 0

Authenticated by the Mayor the 18th day of July, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

Exhibit "A"

New Description
17-12-20A – 01100

A tract of land in the East half of the Northeast Quarter (E ½ NE ¼) of Section Twenty (20), and also in the West half of the Northwest Quarter of Section Twenty One (21), Township Seventeen (17) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon, and also being part of Tract Sixteen (16) of Norwood, and being more particularly described as follows:

> Beginning at a point which is North 58°40'30" West 22.17 feet; thence South 14°03'30" West 1,273.90 feet along the center line of The Dalles-California Highway; thence South 75°56'30" East 292.90 feet to the true point of beginning from the corner of Section 16, 17, 20, and 21, Township 17 South, Range 12 East, Willamette Meridian,, with said point being 10.00 feet Southerly of, when measured at 90° to the Southerly right of way of Empire Avenue as said right of way is described in that Declaration of Dedication recorded December 11, 1984 in Book 83 Page 827, Deschutes County Records; thence running parallel to, and 10.00 feet Southerly of said right of way South 75°56'30" East 204.35 feet to the Northwesterly right of way of Nels Andreson Road; thence along said right of way South 48°44'04" West 188.48 feet; thence North 75°56'30" West 97.12 feet; thence North 14°03'30" East 155.00 feet to the point of beginning.

Containing 23,363 square feet more or less.

01-3707NewDis.leg

Sun Country Engineering & Surveying, Inc.

Exhibit "B"

New Description
17-12-20A – 01101

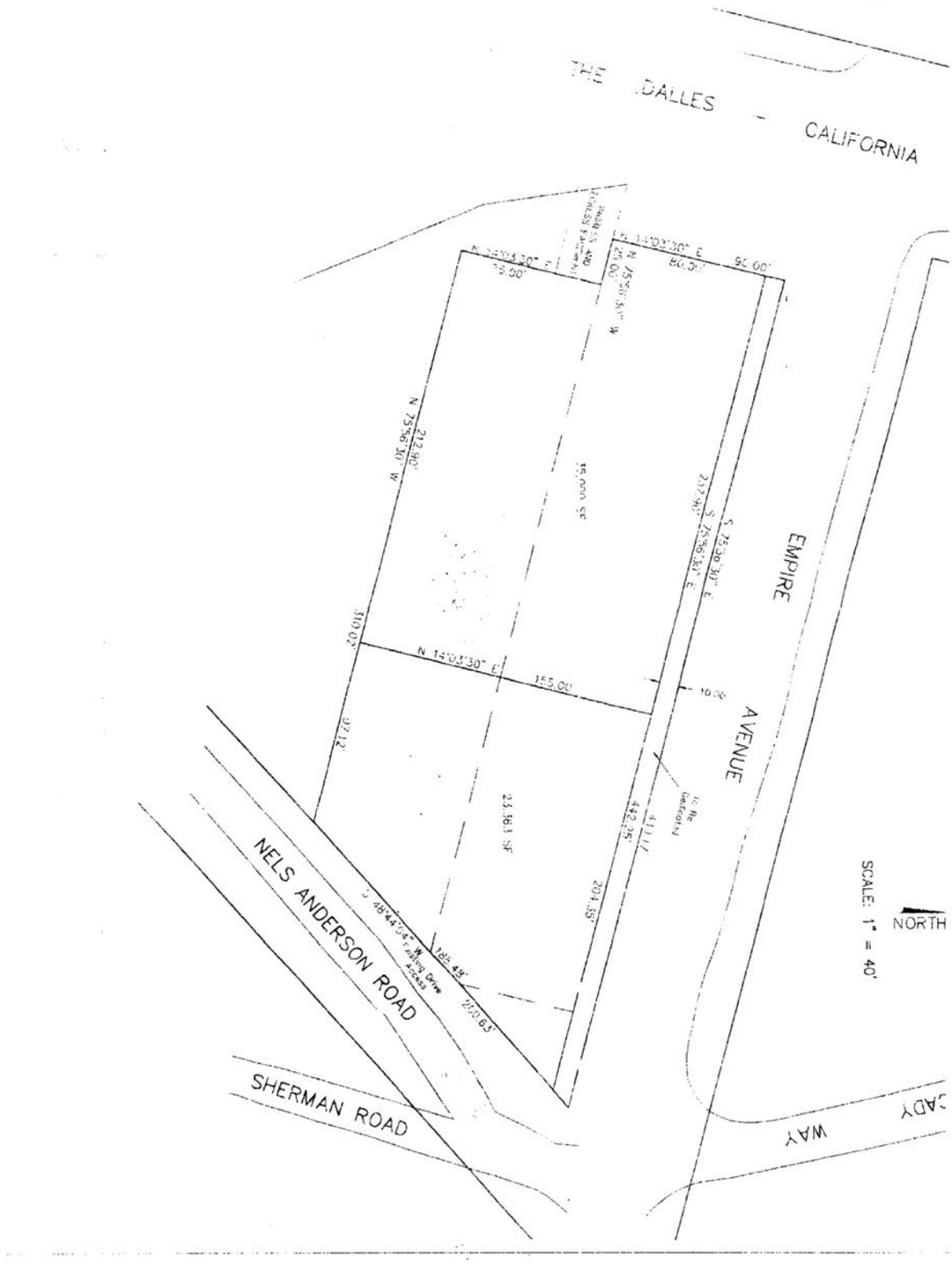
A tract of land in the East half of the Northeast Quarter (E ½ NE ¼) of Section Twenty (20), Township Seventeen (17) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon, and also being part of Tract Sixteen (16) of Norwood, and being more particularly described as follows:

> Beginning at a point which is North 58°40'30" West 22.17 feet; thence South 14°03'30" West 1,353.90 feet along the center line of The Dalles-California Highway; thence South 75°56'30" East 80.00 feet to the true point of beginning from the corner of Section 16, 17, 20, and 21, Township 17 South, Range 12 East, Willamette Meridian; thence North 14°03'30" East 80.00 feet to a point 10.00 feet Southerly of, when measured at 90° to the Southerly right-of-way of Empire Avenue as said right of way is described in that Declaration of Dedication recorded December 11, 1984 in Book 83 Page 827, Deschutes County Records; thence running parallel to, and 10.00 feet Southerly of said right-of-way South 75°56'30" East 237.90 feet; thence South 14°03'30" West 155.00 feet; thence North 75°56'30" West 212.90 feet; thence North 14°03'30" East 75.00 feet; thence North 75°56'30" West 25.00 feet to the point of beginning.

Containing 35,000 square feet more or less.

(Revised 1-18-01)
01-3707NewDis.leg

Sun Country Engineering & Surveying, Inc


THE DALLES - CALIFORNIA
EMPIRE AVENUE
NELS ANDERSON ROAD
SHERMAN ROAD
SCALE: 1" = 40'
NORTH
N 14°03'30" E
155.00'
S 75°56'30" E
N 75°56'30" W
212.80'
210.00'
97.12'
442.25'
204.63'
185.48'
255.63'
10.00'
95.00'
15.00'

ORDINANCE NO. NS-1792

AN ORDINANCE PROVIDING FOR REGULATION AND ABATEMENT OF DERELICT STRUCTURES

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code shall be amended to add a new provision relating to Derelict Structures as follows:

5.388 Derelict Structures.

(1) Definitions. Words stated in the present tense include the future; the singular number includes the plural and the plural the singular. Where terms are not defined in this chapter or other code sections and are defined in the state building, plumbing or mechanical codes, such terms shall have the meanings ascribed to them as in those codes. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies. Whenever the words "dwelling unit," "dwelling," "premises," or "building" are stated in this chapter, they shall be construed as though they were followed by the words "or any part thereof." Unless otherwise expressly stated, the following terms shall, for the purposes of this chapter, have the following meanings:

(a) Abandoned Structure: A vacant structure, or portion thereof, that is an attractive nuisance to children at play that is used for unlawful activity.

(b) Boarded building: An unoccupied building that has been secured against entry by material such as plywood, boards, or other similar material placed over openings that are designed for and/or are required for windows and doors, and which is visible off the premises and is not both lawful and customary to install on an occupied structure.

(c) Building: Any structure occupied or intended for any occupancy.

(f) Building Code: Bend Code Chapter 9.200 et seq.

(g) Building Official: The administrator of the building and safety division of the City of Bend department of community development, or the administrator's designee.

(h) Deterioration: A lowering in quality of the condition or appearance of a building, structure or parts thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay or neglect or excessive use or lack of maintenance.

(i) Manager: The City Manager of the City of Bend or his/her designee.

(j) Dwelling Unit: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

(k) Imminent Hazard: A condition that places a person's life, health, or property in high risk of peril when such condition is immediate, impending, or on the point of happening.

(l) Legal Owner. Any person recorded in the official records of the state, county or municipality as holding title to the premises.

(m) Let for occupancy or let: To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

(n) Occupancy: The purpose for which a building or portion thereof is used or intended to be used.

(o) Occupant: Any person living or sleeping in a building; or having possession of a space within a building or premises.

(p) Owner: Any legal owner or any person having charge, care or control of a premises.

(q) Partially Constructed: An occupied or vacant structure, or portion thereof, hat has been left in a state of partial construction for more than six months or after the expiration of any building permit, or that has not had a required permit inspection within any six month period.

(r) Person: An individual, corporation, partnership or any other group acting as a unit.

(s) Pests: Animals detrimental to humans or human concerns including but not limited to insects, rodents, rats or vermin.

(t) Premises: A lot, plot or parcel of land including any structures thereon.

(u) Skilled Manner: Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged, without marring adjacent work and completed in conformance with generally accepted construction and maintenance practices.

(v) Structure: That which is built or constructed or a portion thereof.

(w) Unfit for Human Habitation: A structure is unfit for human habitation as specified in this chapter whenever the manager finds that such structure is in such disrepair or lack of maintenance, is unsanitary, is pest infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities to the extent that habitation would be injurious to the health and safety of the occupants.

(x) Unoccupied: Not being used for a lawful occupancy.

(2) Derelict Structures Prohibited. No structure shall be:

(a) boarded, unoccupied and unsecured, or

(b) partially constructed and abandoned, or

(c) maintained in a condition that is unfit for human habitation, or

(d) maintained in a condition that is an imminent hazard.

(3) Closing of Structures.

(a) If the manager finds a structure in violation of this section, the manager is authorized to order that a placard be posted on the structure, to order the structure or portion thereof vacated.

(b) The placard shall contain the information required in Bend Code Section 5.400 and this section.

(4) Prohibited Habitation. No person shall occupy, and no owner shall allow another to occupy, a placarded structure or a structure or portion thereof ordered vacated by the manager.

(5) Removal of Placard Prohibited.

(a) The manager shall authorize removal of the placard whenever the violation(s) upon which the placarding action were based have been eliminated.

(b) No person shall deface or remove a placard without the approval of the manager.

(6) Temporary Safeguards. Notwithstanding other provisions of this chapter, whenever, in the opinion of the manager, there is imminent hazard due to an unsafe condition, the manager may order the necessary work to be done, including the boarding-up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the manager deems necessary to meet such emergency.

(7) Derelict Structure Registration. In the event the manager determines that a structure violates this section, the legal owner of the structure shall be required to register the structure within 10 days of the manager's order to register. Registration under the terms of this chapter shall be completed on forms to be provided by the manager, and shall include information relating to the location and ownership of the structure, the expected period of its vacancy, a plan for regular maintenance during the period of vacancy, and a plan for its re-occupancy and use, or its demolition. Any change in the information provided pursuant to this subsection shall be given to the manager within 30 days. When all code violations have been corrected the owner shall contact the manager and request an inspection to determine compliance.

(8) Derelict Structure Fees.

(a) Every legal owner who keeps a structure within the city in violation of this section shall pay a non-refundable quarterly fee as prescribed by resolution of the council for each derelict structure. Payment of the fee is due on the fifteenth day of April, July, October and January. Any payment of the fee that is more than 30 days past due may be considered delinquent and subject to a penalty of $100 for every delinquent quarterly payment.

(b) In the event that the fees due under the terms of this section become delinquent for more than 90 days, or in the event the legal owner fails to register the structure as required, the city attorney, on request of the manager, may file an action in the circuit court of the appropriate county for the recovery of any and all delinquent fees and penalties due under this section. Where the legal owner has failed to register the structure, the delinquent amount shall be the total yearly fee plus delinquent penalties.

(c) All fees imposed under the terms of this section are to be paid prior to the issuance of any permit required for the demolition, alteration or repair of a structure.

(9) Waiver of Derelict Structure Fees. The manager may waive all or a portion of the fees imposed under this chapter, if the following conditions are met:

(a) all delinquent fees and penalties have been paid in full;

(b) a timetable for the repair or demolition of the structure has been submitted by the legal owner and approved by the manager;

(c) all appropriate permits have been obtained for the repair or demolition of the structure;

(d) the manager is satisfied that the repairs or demolition of the structure are being undertaken and will be prosecuted to completion in a timely fashion; and

(e) the legal owner provides written authorization for the city to enforce all applicable trespass and illegal camping ordinances and laws.

(10) Abatement by Demolition.

(a) In addition to and not in lieu of the abatement remedies provided for in Section 5.400 through 5.420, the manager may request a public hearing before Municipal Court for the purpose of seeking authority to order the demolition of a derelict structure.

(b) Upon receipt of such a request from the manager, the Municipal Court Clerk shall set the matter for prompt public hearing before the Municipal Court and give the owner(s) and occupant(s) notice by certified mail of the date and time set for hearing. Notice shall also be posted on or near the derelict structure and copies delivered to the affected neighborhood association. Failure of the owner(s) or occupant(s) to receive such notice or an error in the name or address of a owner(s) or occupant(s) shall not render the notice void and in such case the notice shall be sufficient.

(c) At the hearing, the manager shall present whatever information, evidence or testimony he may deem relevant in support of the manager's determination, and the owner(s) and occupant(s) shall be afforded a like opportunity to rebut the determination. Any information, opinion, testimony, or evidence may be received which the Municipal Court deems material, relevant, and probative of the matters in issue. The owner(s) and occupant(s) may represent themselves or be represented by counsel of their choice provided that such counsel is admitted to the practice of law in the State of Oregon.

(d) The Municipal Court may authorize the manager to order the structure demolished if the manager shows, by a preponderance of the evidence, that demolition would be in the public interest. The burden of proof shall be upon the manager.

(e) In determining whether a structure is so derelict as to require its owner to demolish the structure, the Municipal Court may consider the number and extent of the following factors: 1. Dilapidation; 2. Disrepair; 3. Structural defects noted by the Building Official or designee; 4. Defects increasing the hazards of fire, accident or other calamity, such as parts standing or attached in such manner as to be likely to fall and cause damage or injury; 5. Uncleanliness; 6. Sanitary facilities; 7. The presence of a public nuisance; and 8. The history of unlawful activity in or around the derelict structure.

(11) Failure to Follow Order to Demolish.

(a) Whenever a demolition is not commenced within 30 days after an order to demolish, the manager may file with the Municipal Court a request to authorize the manager to have the demolition performed and the cost thereof assessed as a lien against the property upon which the structure is located.

(b) Upon filing of such a request, the Municipal Court Clerk shall set the request for prompt hearing, and cause notice thereof to be served via certified mail to the owner(s) and occupant(s). Failure of the owner(s) or

occupant(s) to receive such notice or an error in the name or address of a owner(s) or occupant(s) shall not render the notice void and in such case the notice shall be sufficient.

(c) At the hearing, the owner(s) and occupant(s) shall be accorded an opportunity to show cause why the demolition should not be performed and the cost thereof assessed as a lien against the property. No issue heard and decided pursuant to this section shall be reintroduced or considered at the hearing provided in this section unless the Municipal Court, for good cause shown, determines that the interest of justice and fundamental fairness would best be served thereby.

(d) The cost of demolition and 20 percent charge for administrative overhead will be assessed in the manner provided in Bend Code Section 5.420.

12. Violation of this section is a Class A Civil Infraction.

Read for the first time the 18th day of July, 2001.

Read for the second time the 1st day of August, 2001.

Placed upon its passage the 1st day of August, 2001.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 1st day of August, 2001.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1793

AN ORDINANCE AMENDING THE BEND CODE WITH REGARD TO NUISANCE ABATEMENT PROCEDURES

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code Section 5.400 (3)(f) is amended to read as follows:

ABATEMENT PROCEDURE

5.400 Notice.

(3) (f) A statement that the person responsible may protest the order to abate by giving notice to the ~~City Manager~~ City of Bend Municipal Court within 10 days from the date of the notice.

Section 2. Bend Code Section 5.405 is amended to read as follows:

5.405 Abatement by the Person Responsible.

(1) Within 10 days after posting and mailing the notice, as provided in Section 5.400, the person responsible shall remove the nuisance or show that no nuisance exists.

(2) A person responsible, protesting that no nuisance exists, shall ~~file with the City Manager the protest statement that specifies the basis for the protest~~ request a trial with the City of Bend Municipal Court.

(3) ~~The statement shall be referred to the City Commission as a part of the regular agenda at the next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the commission. The commission shall determine whether a nuisance in fact exists, and the determination of the commission shall be entered in the official minites of the commission. Commission determination shall be required only in cases in which a written statement has been filed as provided.~~ The Trial on the question of whether a nuisance exists shall be heard by City of Bend Municipal Court at the first available time following the person's request for a trial before the Municipal Court.

(4) If the ~~commission~~ City of Bend Municipal Court determines that a nuisance in fact exists, the person responsible shall abate the nuisance within 10 days after the ~~commission~~ City of Bend Municipal Court determination.

Section 3. Bend Code Section 5.415 is amended to read as follows:

5.415 Abatement by the City.

(1) If the nuisance has not been abated by the person responsible within the time allowed after the trial in the Municipal Court, ~~the commission~~ the City Manager or his/her designee may cause the nuisance to be abated without further order of the Municipal Court.

(2) The officer charged with abatement of the nuisance shall have the right to enter into or on the property at reasonable times to investigate or cause the removal of the nuisance, provided that 24 hours advance notice is posted at the site of the nuisance. The 24 hour advance notice requirement in this sub-section shall not apply in the case of an emergency.

(3) The City Manager or his/her designee shall keep an accurate record of the expense incurred by the City in physically abating the nuisance and shall include in the record a charge of ~~$10~~ $75 or ~~10~~ 15 percent of those expenses (whichever is greater) for administrative overhead.

Section 4. Bend Code Section 5.420(2) is amended to read as follows:

5.420 Assessment of Costs.

(2) On the expiration of 10 days after the date of the notice, the ~~commission, in the regular course of business,~~ City of Bend Municipal Court, at the next regular scheduled court date shall hear and make a decision on the objections to the costs assessed.

Section 5. Bend Code Section 5.420(3) is amended to read as follows:

5.420 Assessment of Costs.

(3) If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs, ~~as stated or as determined by the commission~~, shall be ~~made by resolution~~ entered as a judgment of the Municipal Court and shall be recorded in the docket of city liens. When the entry is made in the docket of city liens, it shall constitute a lien on the property from which the nuisance was removed or abated.

Read for the first time the 18th day of July, 2001.

Read for the second time the 1st day of August, 2001.

Placed upon its passage the 1st day of August, 2001.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 1st day of August, 2001.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1794

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NS-1178 BY CHANGING THE DESIGNATION OF PROPERTY LOCATED ON THE WEST SIDE OF BROOKSWOOD BOULEVARD NEAR THE SOUTH BOUNDARY OF THE CITY LIMITS FROM LOW DENSITY RESIDENTIAL (RL) TO COMMERCIAL CONVENIENCE (CC).

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and recommendation, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated January 12, 2001, regarding file PZ-00-231; applicant Brookswood Meadows, LLC.

Section 2. The City of Bend Zoning Map is amended by changing the designation of the property described in "Exhibit A" from Low Density Residential (RS) to Convenience Commercial (CC).

Read for the first time the 18th day of July,2001.

Read for the second time the 1st day of August,2001.

Placed upon its passage the 1st day of August,2001.

YES: 7 NO: 0

Authenticated by the Mayor the 1st day of August,2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

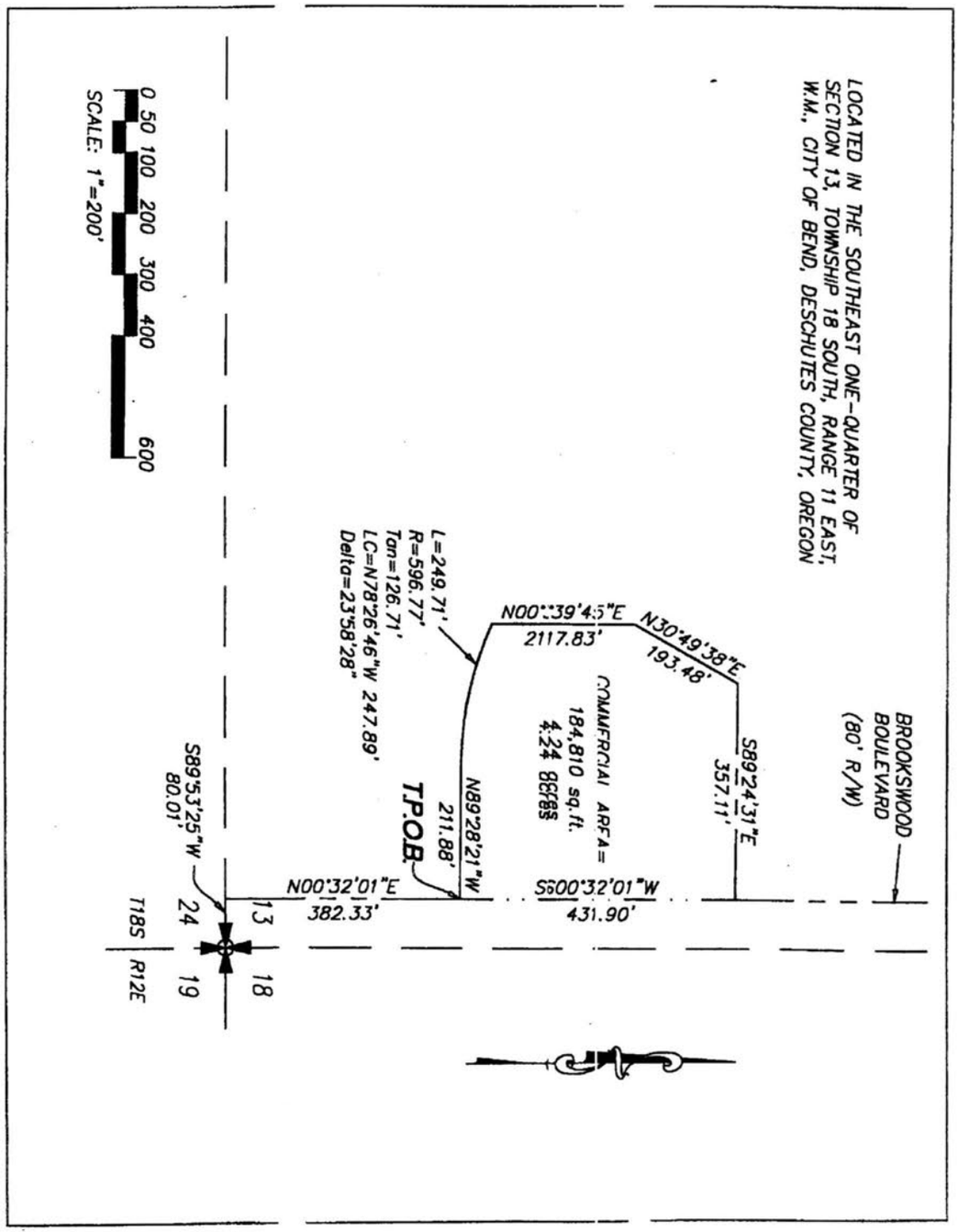
(1) *"Exhibit A"*

Commercial Convenience Zone

A parcel of land containing 4.24 acres, more or less, located in a portion of the Southeast One-quarter (SE14) of Section 13, Township 18 South, Range 11 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Commencing at the southeast corner of said Section 13 thence along the south line of said Section 13 South 89°53'25" West a distance of 80.01 feet to a point on the westerly right-of-way line of Brookswood Boulevard; thence leaving said south section line and along said westerly right-of-way line North 00°32'01" East a distance of 382.33 feet to the true Point of Beginning of this description; thence leaving said westerly right-of-way line North 89°28'21" West a distance of 211.88 feet; thence 249.71 feet along a non-tangent curve to the right with a radius of 596.77 feet, the chord of which bears North 78°26'46" West a distance of 247.89 feet; thence North 00°39'45" East a distance of 217.83 feet; thence North 30°49'38´East a distance of 193.48 feet; thence South 89°24'31" East a distance of 357.11 feet to a point on said westerly right-of-way line; thence along said westerly right-of-way line South 00°32'01" West a distance of 431.90 feet to the true Point of Beginning, the terminus of this description.

Subject to all easements, restrictions and rights-of-way of record and those common and apparent on the land.


LOCATED IN THE SOUTHEAST ONE-QUARTER OF
SECTION 13, TOWNSHIP 18 SOUTH, RANGE 11 EAST,
W.M., CITY OF BEND, DESCHUTES COUNTY, OREGON
BROOKSWOOD
BOULEVARD
(80' R/W)
N30°49'38"E
193.48'
S89°24'31"E
357.11'
N00°39'45"E
2117.83'
COMMERCIAL AREA =
184,810 sq.ft.
4.24 acres
L=249.71'
R=596.77'
Tan=126.71'
LC=N78°26'46"W 247.89'
Delta=23°58'28"
N89°28'21"W
211.88'
T.P.O.B.
S00°32'01"W
431.90'
N00°32'01"E
382.33'
S89°53'25"W
80.01'
13
24
18
19
T18S
R12E
0 50 100 200 300 400 600
SCALE: 1"=200'

ORDINANCE NO. NS-1795

AN ORDINANCE AMENDING THE BEND AREA GENERAL PLAN, BY AFFIXING THE "FLOATING CC" DESIGNATION TO PROPERTY LOCATED ON THE WEST SIDE OF BROOKSWOOD BOULEVARD NEAR THE SOUTH BOUNDARY OF THE CITY LIMITS.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and recommendation, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated January 12, 2001, regarding file PZ-00-231; applicant Brookswood Meadows, LLC.

Section 2. The Bend Area General Plan map is amended by changing the designation of the property described in "Exhibit A" from Low Density Residential (RL) to Convenience Commercial (CC).

Read for the first time the 18th day of July, 2001.

Read for the second time the 1st day of August, 2001.

Placed upon its passage the 1st day of August, 2001.

YES: 7 NO: 0

Authenticated by the Mayor the 1st day of August, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

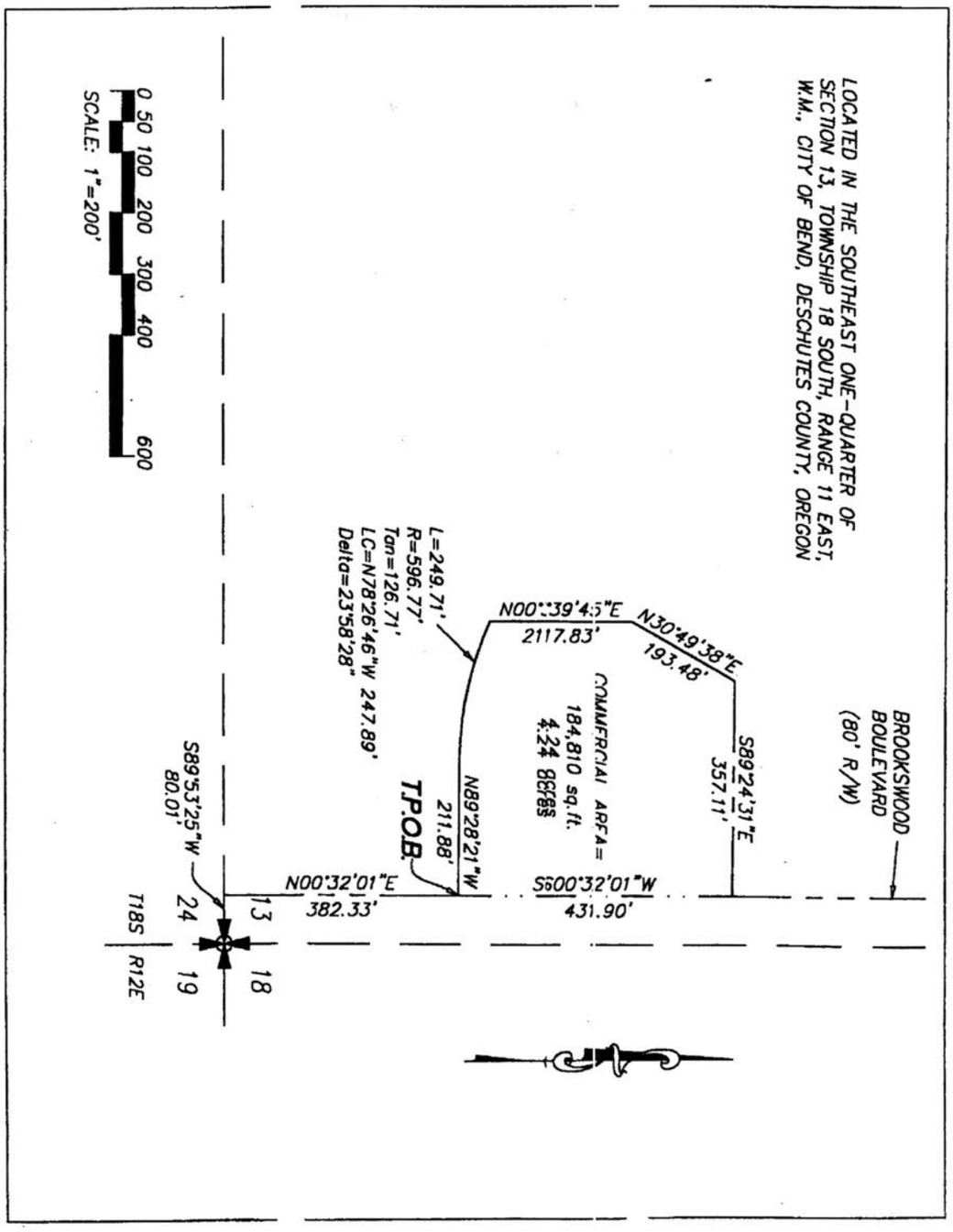
"Exhibit A"

Commercial Convenience Zone

A parcel of land containing 4.24 acres, more or less, located in a portion of the Southeast One-quarter (SE14) of Section 13, Township 18 South, Range 11 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Commencing at the southeast corner of said Section 13 thence along the south line of said Section 13 South 89°53'25" West a distance of 80.01 feet to a point on the westerly right-of-way line of Brookswood Boulevard; thence leaving said south section line and along said westerly right-of-way line North 00°32'01" East a distance of 382.33 feet to the true Point of Beginning of this description; thence leaving said westerly right-of-way line North 89°28'21" West a distance of 211.88 feet; thence 249.71 feet along a non-tangent curve to the right with a radius of 596.77 feet, the chord of which bears North 78°26'46" West a distance of 247.89 feet; thence North 00°39'45" East a distance of 217.83 feet; thence North 30°49'38´East a distance of 193.48 feet; thence South 89°24'31" East a distance of 357.11 feet to a point on said westerly right-of-way line; thence along said westerly right-of-way line South 00°32'01" West a distance of 431.90 feet to the true Point of Beginning, the terminus of this description.

Subject to all easements, restrictions and rights-of-way of record and those common and apparent on the land.


LOCATED IN THE SOUTHEAST ONE-QUARTER OF
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W.M., CITY OF BEND, DESCHUTES COUNTY, OREGON
BROOKSWOOD
BOULEVARD
(80' R/W)
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357.11'
COMMERCIAL AREA=
184,810 sq.ft.
4.24 acres
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N00°32'01"E
382.33'
S00°32'01"W
431.90'
S89°53'25"W
80.01'
0 50 100 200 300 400 600
SCALE: 1"=200'
T18S
R12E
13
24
18
19

Words that are ~~struckthrough~~ are deleted from existing code; words that are underlined are added to existing code.

ORDINANCE NO. NS-1796

AN ORDINANCE AMENDING THE CITY OF BEND BUSINESS CODE (ORDINANCE NS-1375) TO RAISE THE CITY'S TRANSIENT ROOM TAX FROM SEVEN PERCENT TO NINE PERCENT

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. That portion of Ordinance NS-1375, as amended, known as Bend Code 7.012 is amended to read:

7.012 Tax Imposed. For the privilege of occupancy in any hotel, on and after the effective date of this code, each transient shall pay a tax in the amount of [~~seven percent (7%)~~ nine percent (9%) of the rent charged by the operator. The tax constitutes a debt owed by the transient to the city, which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on his records when rent is collected if the operator keeps his records on the cash accounting basis. If rent is paid in installments a proportionate share of the tax shall be paid by the transient to the operator with each installment. If for any reason the tax due is not paid to the operator of the hotel, the Tax Administrator may require that such tax shall be paid directly to the city. In all cases the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations, and parking space in mobile home parks or trailer parks. When rent is charged under a rent package plan, as defined in Bend Coded 7.010 (9), an allowance of five dollars ($5.00) per person per meal or forty percent (40%) of the rent package plan price, whichever is less, may be deducted in the determination of the transient room tax under this code.

Section 2. That portion of Ordinance NS-1375, as amended, known as Bend Code 7.014 is amended to read:

7.14 Collection of Tax by Operator; Rules for Collection.

(4) For rent collected on portions of a dollar, the first one cent ($.01) of tax shall be collected on [~~nine cents ($.09)~~] five cents ($.05) through [~~twenty-four cents ($.24)~~] seventeen cents ($.17), inclusive; and the second one cent ($.01) of tax on ~~[twenty-five cents ($.25)]~~ eighteen cents ($.18) through ~~[forty-one cents ($.41)]~~ twenty-seven cents ($.27); the third one cent ($.01) of tax on ~~[forty-two cents ($.42)]~~ twenty-eight cents ($.28) through ~~[fifty-eight cents ($.58)]~~ thirty-eight cents ($.38); the fourth one cent ($.01) of tax on ~~[fifty-nine cents ($.59)]~~ thirty-nine cents ($.39) through ~~[seventy-four cents ($.74)]~~ forty-nine cents ($.49); the fifth one cent ($.01) of tax on ~~[seventy-five cents~~

~~($.75)]~~ fifty cents ($.50) through ~~[ninety-one cents ($.91)~~ sixty cents ($.60); the sixth one cent ($.01) of tax on ~~[ninety-two cents ($.92)]~~ sixty-one cents ($.61) through ~~[the next one dollar and eight cents ($1.08)]~~ seventy-one cents ($.71); the seventh one cent ($.01) of tax on seventy-two ($.72) through eighty-two cents ($.82); the eighth one cent ($.01) of tax on eighty-three cents ($.83) through ninety-three cents ($.93); the ninth one cent ($.01) of tax on ninety-four cents ($.94) through the next one dollar and four cents ($1.04) of rent.

Section 3. That portion of Ordinance NS-1375, as amended, known as Bend Code 7.034 is amended by adding a new sub-section to read:

7.034 Refunds

. . .

(3) An operator who is fully in compliance with this ordinance may retain five percent (5%) of the tax collected from a transient under this ordinance (.45% of the total rent collected from the transient) to cover the operator's administrative costs associated with compliance with this ordinance.

Section 4. That portion of Ordinance NS-1375, as amended, known as Bend Code 7.036 is amended to read:

7.036 Administration.

(1) Tourist Promotion and Economic Development Fund. A special fund called a Tourist Promotion and Economic Development Fund shall be established for the purpose of promoting tourism and economic development within the City of Bend. The tourist promotion and economic development fund shall be used for the promotion of tourism and economic development, and the city is authorized to enter into contracts with the Bend Chamber of Commerce or others to carry out this purpose.

Section 5. EFFECTIVE DATE. This ordinance, shall be effective January 1, 2002.

Read for the first time the 1st day of August, 2001.

Read for the second time the 15th day of August, 2001.

Placed upon its passage the 15th day of August, 2001.

YES: 4 NO: 3

Authenticated by the Mayor the 15th day of August, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1797

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF A PARCEL OF LAND FROM IL, LIGHT INDUSTRIAL TO CH, HIGHWAY COMMERCIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated June 6, 2001, file number PZ-01-148.

Section 2. Section 7(1) of Ordinance NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the property described in Exhibit "A" and depicted on Exhibit "B" from General Industrial (IG) to Standard Density Residential (RS).

Read for the first time the 1st day of August, 2001.

Read for the second time the 15th day of August, 2001.

Placed upon its passage the 15th day of August, 2001.

YES: 7 NO: 0

Authenticated by the Mayor the 15th day of August, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

EXHIBIT A

Two (2) parcels of land located in a portion of the Northwest One-quarter of the Southwest One-quarter (NW1/4 SW1/4), the Northeast One-quarter of the Southwest One-quarter (NE1/4 SW1/4), and the Southeast One-quarter of the Southwest One-quarter (SE1/4 SW1/4) of Section 5, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Parcel 1-
Commencing at the Southwest One-sixteenth corner of said Section 5; thence along the south line of said NE1/4 SW1/4 of Section 5 North 89°48'33" East a distance of 500.84 feet to the true Point of Beginning; thence continuing North 89°48'33" East a distance of 104.35 feet; thence leaving said north line North 39°45'16" East a distance of 109.65 feet; thence 184.82 feet along a curve to the right with a radius of 360.00 feet, the chord of which bears North 54°27'43" East a distance of 182.80 feet; thence North 69°10'10" East a distance of 95.47 feet; thence 416.58 feet along the arc of a curve to the left with a radius of 430.00 feet, the chord of which bears North 41°24'57" East for a distance of 400.48 feet; thence North 13°39'43" East a distance of 101.58 feet; thence 51.66 feet along a curve to the right with a radius of 460.00 feet, the chord of which bears North 16°52'46" East a distance of 51.64 feet; thence North 20°05'49" East a distance of 134.51 feet; thence 114.36 feet along the arc of a 460.00 foot radius curve to the right, the chord of which bears North 27°13'10" East a distance of 114.07 feet to a point on the east line of said NE1/4 SW1/4 of Section 5; thence along said east line South 01°00'37" East a distance of 895.76 feet to the Center-south One-sixteenth corner of said Section 5; thence along the east line of said SE1/4 SW1/4 of Section 5 South 01°00'37" East a distance of 292.07 feet; thence leaving said east line South 89°31'14" West a distance of 744.64 feet to a point on the westerly right-of-way line of Blakely Road; thence along said westerly right-of-way line the following two (2) courses and one (1) curve:

South 46°28'33" West a distance of 130.29 feet;
388.53 feet along a curve to the left with a radius of 601.30 feet, the chord of which bears South 27°57'54" West a distance of 381.81 feet;
South 09°27'14" West a distance of 56.78 feet;

Thence leaving said westerly right-of-way line 47.26 feet along the arc of a non-tangent curve to the left with a radius of 29.22 feet, the chord of which bears North 36°52'48" West for a distance of 42.27 feet; thence North 83°12'49" West a distance of 16.77 feet; thence 120.36 feet along the arc of a tangent curve to the right with a radius of 100.00 feet, the chord of which bears North 48°43'58" West a distance of 113.23 feet; thence North 89°03'12" West a distance of 162.97 feet

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to a point on the west line of said SE1/4 SW1/4 of Section 5; thence along said west line North 01°38'45" West a distance of 469.66 feet; thence South 87°40'26" East a distance of 324.49 feet; thence North 39°45'16" East a distance of 267.60 feet to the point of beginning, the terminus of this description. Contains 16.23 acres, more or less.

Parcel 2-
Beginning at the Southwest One-sixteenth corner of said Section 5; thence along the west line of said NE1/4 SW1/4 North 01°39'52' West a distance of 376.00 feet to a point on the thread of the Deschutes River; thence along said thread the following two (2) courses:

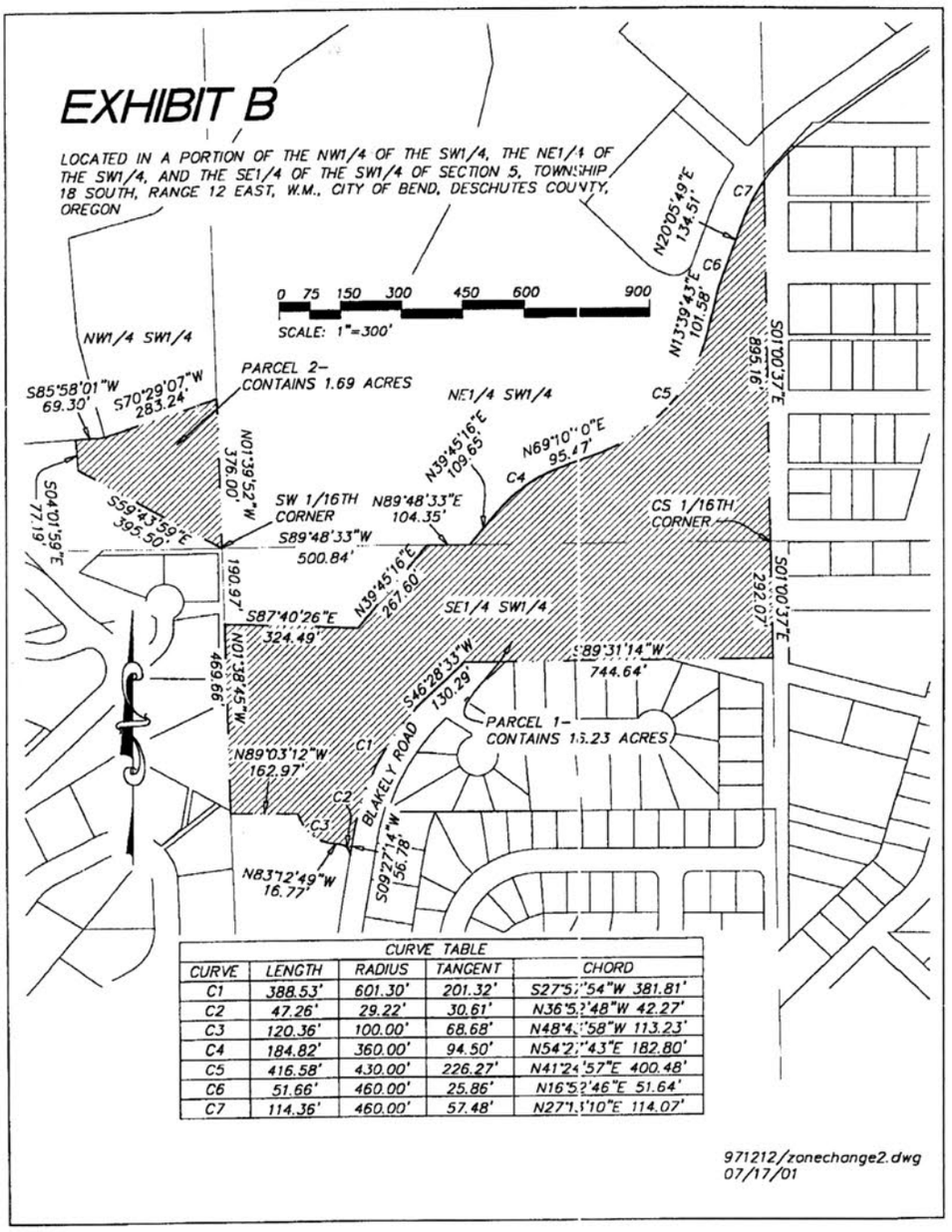
South 70°29'07" West a distance of 283.24 feet;
South 85°58'01" West a distance of 69.30 feet;

Thence leaving said thread South 04°01'59" East a distance of 77.19 feet; thence South 59°43'59" East a distance of 395.50 feet to the point of beginning, the terminus of this description. Contains 1.69 acres, more or less.

Subject to: All easements, restrictions and rights-of-way of record and those common and apparent on the land.

See attached map entitled "EXHIBIT B", hereby incorporated by reference.

07-17-01
REGISTERED
PROFESSIONAL
LAND SURVEYOR
Peter A. Manley
OREGON
JULY 17, 1986
PETER A. MANLEY
2214
EXPIRES 12-31-2002



CURVE TABLE				
CURVE	LENGTH	RADIUS	TANGENT	CHORD
C1	388.53'	601.30'	201.32'	S27°5?'54"W 381.81'
C2	47.26'	29.22'	30.61'	N36°5?'48"W 42.27'
C3	120.36'	100.00'	68.68'	N48°4?'58"W 113.23'
C4	184.82'	360.00'	94.50'	N54°2?'43"E 182.80'
C5	416.58'	430.00'	226.27'	N41°24'57"E 400.48'
C6	51.66'	460.00'	25.86'	N16°5?'46"E 51.64'
C7	114.36'	460.00'	57.48'	N27°1?'10"E 114.07'

(Text that is ~~struck through~~ is deleted;
text that is underlined is added.)

ORDINANCE NO. NS-1798

AN ORDINANCE REPEALING SECTIONS 7.584 THROUGH 7.590 OF THE BEND CODE PERTAINING TO DRUG PERAPHERNALIA (ORIGINALLY ADOPTED THROUGH ORDINANCE NS-1375); AND AMENDING ORDINANCES NO. NS; NS-1485 AND NS-1675

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. The Bend Code is hereby amended by repealing Sections 7.584 through 7.590 as follows:

~~**7.584 Permit Required**. It shall be unlawful for any person or persons as principal, clerk, agent or servant to sell any items, effect, paraphernalia, accessory or thing which is designed or marketed for use with illegal cannabis or drugs, as defined by ORS 163.575 and ORS Chapter 475, without obtaining a permit from the Chief of Police. Provided, however, the definitions in ORS 163.575 shall not include, for the purposes of this section, pipes commonly used for smoking tobacco, cigarette rolling papers or cigarette machines. Such permits shall be in addition to any or all other permits held by applicant.~~

~~**7.586 Application and Fee**. Application to sell any item, effect, paraphernalia, or drugs shall, in addition to all the permit requirements established in this Code be accompanied by affidavits by the applicant and each and every employee authorized to sell such items that such person has never been convicted of a drug-related offense. Permittees shall pay the annual permit fee set by resolution pursuant to Bend Code 1.800 – 1.806.~~

~~**7.588 Minors**. It shall be unlawful to sell or give or display items as described herein in any form to any person under eighteen years of age.~~

~~**7.590 Records**. Every permittee must keep a record of every item, effect, paraphernalia, accessory or thing which is designed or marketed for use with illegal cannabis or drugs which is sold and this record shall be open to the inspection of any police officer at any time during the hours of business. Such record shall contain the name and address of the purchaser, the name and quantity of the product, the date and time of the sale, and the permittee or agent of the permittee's signature, such records shall be retained for not less than two (2) years.~~

Section 2. Sections 7.584 through 7.590 of Ordinance No. NS-1375 are hereby repealed; and Ordinances No. NS-1485 AND NS-1675 are hereby amended to be consistent herewith.

Read for the first time the 1st day of August, 2001.

Read for the second time the 15th day of August, 2001.

Placed upon its passage the 15th day of August, 2001.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 15th day of August, 2001.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1799

AN ORDINANCE PROVIDING FOR THE ADOPTION OF FINDINGS IN SUPPORT OF THE 1998 REVISIONS TO THE BEND AREA GENERAL PLAN, GENERAL PLAN MAP, BEND AREA URBAN AREA BICYCLE AND TRAIL SYSTEM MAP, AND BEND AREA TRANSPORTATION SYSTEM PLAN

WHEREAS, City Council on November 18, 1998, adopted Resolution 2247 which approved revisions to the Bend Area General Plan, General Plan Map, Bend Urban Bicycle and Trail System Map and Bend Area Transportation System Plan Map;

WHEREAS, an appeal was filed to the adoption of Resolution 2247 and such appeal resulted in the remand by LUBA directing the City to make additional findings in support of the Resolution;

WHEREAS, City Council held a public hearing on July 18, 2001, to take testimony and consider findings of fact required by the Land Use Board of Appeals in its decision of January 14, 2000, held the record open for seven days to permit additional testimony;

AND WHEREAS, no additional testimony was received during that time; now therefore,

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section One. The Findings of Fact attached to this ordinance as Exhibit "A" are adopted in response to LUBA's decision of January 14, 2000 and in support of the City's decision contained in Resolution No. 2247 which approved the 1998 Revisions to the Bend Area General Plan, General Plan Map, Bend Urban Area Bicycle and Trail System Map and Bend Area Transportation System Plan Map.

Read for the first time the 1st day of August, 2001.

Read for the second time the 15th day of August, 2001.

Placed upon its passage the 15th day of August, 2001.

YES: 7 NO: 0 ABSTAIN:

Authenticated by the Mayor the 15th day of August, 2001.

Bill Friedman, Mayor

Attest:

Patricia Stell, City of Bend Recorder

#1 SECOND ASSIGNMENT OF ERROR - "...that the designation of 27th Street as a major arterial is inconsistent with **[A]** OAR 660-12-0060, **[B]** Statewide Planning Goals 9 (Economic Development) and 10 (Housing), and **[C]** pre-existing provisions of the BAP [Bend Area Plan]." [LUBA 98-210, p. 14]

Sub-assignment of Error [A] sustained in part. That the change of part of 27th Street to a major arterial "significantly affects" a transportation facility. The city must assure through findings or evidence that allowed land uses are consistent with the identified function, capacity, and performance standards of the Major Arterial designation of NE 27th Street and that the Major Arterial designation complies with the Transportation Planning Rule, OAR 660-12-0060. [See LUBA decision at page 14]

City of Bend Finds: In response to this sub-assignment of error the city finds that the allowed uses along NE 27th Street are consistent with the function, capacity, and standards of the Major Arterial designation for that roadway.

Evidence to support this finding is provided below.

A. As part of the update to the General Plan in 1998 a new Major Arterial functional roadway classification was applied to three road segments previously designated as Arterial roads. The three road segments are: Reed Market Road between Bond Avenue and SE 27th Street; 27th Street between Reed Market Road and Butler Market Road; and Empire Avenue between Butler Market Road to Highway 20.

B. A plan or land use regulation amendment "significantly affects" a transportation facility if it changes the functional classification of a roadway [OAR 660-12-0060(2)]. The change in classification to Major Arterial from Urban Minor Arterial for 27th Street is a technical change in the functional classification of Bend's arterial street system.

C. State Planning rules describe how to demonstrate that land uses are consistent with Major Arterial designation. Under OAR 660-12-0060(1)(a) & (b) a local government can demonstrate that allowed land uses are consistent with the function, capacity, and performance standards by either: (1) Limiting allowed land uses to match the transportation facility; or (2) Amending the TSP to provide transportation facilities that are adequate to support the proposed land uses.

D. Major Arterials described in General Plan. The 1998 General Plan text, which was repeated in the Bend TSP adopted in October 2000, states:

Major arterials are intended to serve as routes for travel between areas of major traffic generation and major activity centers...A greater emphasis on access control will be sought on these facilities. Efforts will be made to limit left turn movements on these roadways to controlled locations through the construction of raised medians.

Some segments of the major arterial street system may be constructed to four- or five-lane street widths, particularly at intersections to provide dedicated turn lanes, and sufficient right-of-way corridors (i.e. 100 feet wide) should be acquired for this type of future street design... [p. 7-14]

F. Major and minor arterials differ in design. The design standards for Bend's roadways are in table "A" of the City's subdivision ordinance. Table A lists the minimum street right-of-way for a Minor Arterial as 80 feet with a minimum pavement (lane) width of 40 to 52 feet plus two six foot bicycle lanes. A maximum pavement width of 52 feet does not provide enough width for a five-lane roadway section at intersections or travel corridors. The Major Arterial description on page 7-14 of the General Plan notes the need for a 100-foot wide right-of-way at some intersections and segments of major corridors. The additional right-of-way and pavement widths allows for 5 foot sidewalks and 7 foot planter strips on both sides of the

street, a 6 foot bicycle lane on both sides, 2 travel lanes in each direction, and a middle turn lane or planted median.

G. Major Arterial designation carries out policies in earlier General Plan. The adoption of the Major Arterial designation for the three roadway segments is a logical extension of policies that were in the Bend Area General Plan prior to the November 1998 amendments. These policies in the *Transportation Circulation Element* of the Plan provided for access control and design features in all types of arterials, including NE 27th Street. The policies were:

4. Access control shall be part of the design standards for collectors and arterials.
5. Building setback lines shall be established along existing major arterial streets to protect necessary future right-of-way from encroachment by buildings.
7. Streets and highway rights-of-way shall be adequate to allow for sidewalks, bikeways, and reasonable and effective planter strips.
8. Urban minor arterial streets should have landscaped median strips wherever possible, together with left-turn refuge lanes.

H. Development along NE 27th. In 1995 there were more than 2000 dwelling units within ¼ mile of this portion of NE 27th that was changed to the Major Arterial designation. Residents in this corridor use NE 27th Street as a major link to jobs, shopping, schools, and other parts of the community.

I. Traffic model forecasts existing and future traffic loading along city streets. The EMME/2 regional computer model is the preferred tool used by ODOT and others to forecast trip volumes on roadways. In 1996 Bend used the EMME/2 model with updated existing conditions to forecast trip volumes throughout the urban area. The model uses existing and forecast residential development and employment patterns and roadways within more than 100 geographic zones to generate vehicle trip volumes within these zones. These trips are assigned to the road network based on origin/destination trip tables and the capacity of the roadway system.

J. The Major Arterial designation is appropriate for NE 27th Street due to the housing and activity centers along the street corridor. As forecast in the 1996 EMME/2 computer model, new commercial and institutional development has occurred along the portion of NE 27th that is designated a Major Arterial. In the 3 ½ miles of NE 27th that is designated a Major Arterial there are almost 80 acres of commercial development, Bend's largest high school, St. Francis Catholic School, Trinity Lutheran School, St. Charles Medical Center, and several clinics or office buildings. The Major Arterial designation and associated design standards provide the appropriate level of road design and improvements that support the forecast vehicle loading on 27th Street and needed bike and pedestrian facilities.

K. Major Arterial roadway provides functional level needed to serve existing and future development. The adoption of the Major Arterial designation for these three roadway segments in the 1998 amendment to the General Plan is a step-up to a higher functional classification. The greater right-of-way width and five-lane configuration that may be used under the Major Arterial street classification is needed to meet forecast vehicle trip volumes along these corridors and to improve the design and safety of pedestrian and bicycle travel.

▾ End of this section – continued on next page ▾

#2 Sub-assignment of Error [B] is sustained. The major arterial designation requires an increased right-of-way. Thus, an increase in the minimum right-of-way through dedication or purchase could reduce the amount of buildable residential and commercial land within Bend. LUBA found that "The city does not identify any findings or evidence in the record demonstrating that the supply of buildable land and commercial sites remains consistent with the requirements of Goals 9 and 10..." [See LUBA decision at page 17]

City of Bend Finds: In response to this sub-assignment of error the city finds that the change in roadway designation from Arterial to Major Arterial for road segments in the revised Bend Area General Plan does not significantly reduce the supply of buildable land for residential or commercial uses.

Evidence to support this finding is provided below.

A. Existing development standards support additional road widening. Development standards in the City and County zoning codes for at least a decade prior to the General Plan update already anticipated the future need for additional right-of-way along Reed Market Road, 27th Street, and many other roadways in Bend. Prior to and following the amendments to the General Plan in 1998, both the City of Bend *Zoning Ordinance* and the Deschutes County *Bend Urban Growth Boundary Zoning Ordinance* had a section titled Special Setback Provisions on Certain Streets with a subsection on Future Width and Special Building Lines.[1]

B. Special setback identifies roads likely to be widened. The purpose of these Special Setback Provisions is to identify specific roadways that the city and county believed would need future widening or other improvements. The purpose wording is identical in each code and states:

> *Because of heavy or arterial traffic volume and congestion, existing or probable intensive or commercial development of abutting properties, substandard paving widths, the probability of inadequate sight distances, and other like conditions affecting traffic safety and light, air, and vision along streets, the City Council finds that the public health, safety and welfare require that building setback lines, as hereinafter specified be, and they are hereby, established on all properties abutting the following named streets and sections of streets. Where applicable, requirements set forth in this provision shall be in addition to the yard requirements specified for that zone.*
>
> *The distances set forth shall be measured from the centerline and at right angles to the centerline of the street with the required setback of the specific zone to be added to the special setback listed below.*

Street Name	*Setback From Center Line to Yard*	
Division Street	*50 feet*	[Bend code]
Boyd Acres	*50 feet*	[both city and county codes]
Studio	*50 feet*	[Bend code]
Butler Market	*50 feet*	[both city and county codes]
27th Street	***50 feet***	**[both city and county codes]**
Neff	*50 feet*	[both city and county codes]
Century Drive	*50 feet*	[Bend code]
Shevlin Park	*50 feet*	[Bend code]
Galveston	*50 feet*	[Bend code]
SE 9th Street	*50 feet*	[Bend code]
Wilson Avenue	*50 feet*	[Bend code]
Reed Market Road	***50 feet***	**[county code]**
15th Street	*50 feet*	[county code]

[1] See Bend City Code at 10-10.26(1) and Deschutes County Code Title 19, at Chapter 19.84.010. The County Code was replaced with the Bend City Code when the county portion of the urban area was annexed into the city limits on July 1, 1999.

Blakely	*50 feet*	[county code]
Cooley	*50 feet*	[county code]

C. Code requirements prevent structures in future right-of-way. The code requirements for an additional building setback distance of 50 feet measured from the roadway centerline provides a measure to prevent buildings being place within potential future right-of-way area. This additional 50-foot setback from roadway centerline (100 foot total width) matches the right-of-way width for the Major Arterial designation in the revised General Plan.

D. Additional right-of-way will not significantly impact supply of buildable land. Any additional purchase or dedication of land along 27th Street or Reed Market Road that may be needed to serve the Major Arterial function of these roadways will not reduce the supply of "buildable land" residential or commercial land. Because of the zoning code Special Setback standards these narrow strips of land adjacent to the roadways that might be needed for additional right-of-way have already been preserved for future roadway needs. These land strips are not part of the city's supply of buildable land for housing or economic development.

E. Empire Avenue not in list as a street where the special setbacks apply. Even though the special 50-foot building setback standard does not apply along Empire Avenue, the potential loss of buildable land along Empire due to an increase from an 80-foot right-of-way to a 100-foot right-of-way is negligible. The required ten-foot or twenty-foot building and parking setback distance in the Bend Zoning Code for all zones along Empire Avenue provides a land buffer that could be used for additional right-of-way functions such as sidewalk or planter strip.

F. Existing right-of-way width varies from 60 feet to 100 feet. Some portions of the three roadways, particularly those areas where recent development has occurred on each side of the road segment, already have a 100-foot wide right-of-way.

G. Amount of land needed for additional right-of-way is insignificant. The city has calculated the potential additional land that would be required to expand the Reed Market Road-27th Street-Empire Avenue Major Arterial corridor from the existing right-of-way width to a 100-foot right-of-way width. The parcel-by-parcel calculation assumed a 50-foot width from the road centerline. For individual parcels the amount of land that may be 'taken' for additional right-of-way beyond the 80-foot right-of-way required for a Minor Arterial is typically a narrow strip five or ten feet in width. The results of this calculation are that the *total amount additional right-of-way that may be taken to meet the Major Arterial standard for all three road segments is insignificant* compared to the buildable land inventory. The table below compares the potential extra land taken for right-of-way along the three Major Arterial corridors to the city's buildable land inventory.

Additional Land Needed for 100-foot Major Arterial Corridors

Land Type	Additional Acres Needed for increase to 100-foot ROW	Total Buildable Acres in UGB	Additional ROW as Percent of Buildable Acres
Residential	12.37	4120*	.003
Commercial	1.13	575**	.002
Industrial	2.04	549**	.004

* From 1998 General Plan; a new residential land inventory is scheduled for 2003 or 2004

** From 1999 city inventory.

H. Part of the land is already developed. Part of the land adjacent to the designated Major Arterial roadways is already developed to urban residential, commercial, or industrial uses. More than half of the frontage along Reed Market Road and 27th and about one-third of the Empire Avenue frontage have already been developed or has been subdivided into urban lots. Many of the developers of existing commercial, industrial and residential platted areas have dedicated additional right-of-way to provide for extra travel lanes or turning lanes along these three roadways.

▾End of this section – continued on next page▾

#3 Sub-assignment of Error [C] is sustained. The reclassification of NE 27th Street to a Major Arterial and 'demand management' or 'system management' improvements to NE 27th could be contrary to General Plan "Residential Compatibility" policies #1 and 4 and three specific Transportation Goals. "The city does not respond to this subassignment of error, or point to findings or evidence demonstrating either the amendments do not implicate the citied policies and goals, or that those amendments are consistent with the policies and goals." [See LUBA decision at pages 18 and 19]

City of Bend Finds: In response to this sub-assignment of error the city finds that the General Plan amendments to reclassify NE 27th and possible demand management or system management measures are consistent with the cited policies and goals. These changes are also consistent with other policies in the General Plan.

A. Policy #1 addresses compatibility between housing types. Policy #1 in the Housing and Residential Lands chapter has been interpreted in the past to address compatibility between residential development types, not compatibility between different uses such as roads and residential. Evidence of this interpretation is the placement of this policy with and prior to the next two policies that address residential-to-residential compatibility.

B. Even if Policy #1 is broadly interpreted to link land use and infrastructure, the Major Arterial designation for NE 27th does not 'implicate' this policy. The housing mix along NE 27th includes apartment complexes, multi-plex subdivisions, high-density retirement housing, manufactured home parks, and single family subdivisions. The housing development standards vary greatly along NE 27th such that there is no consistent character to the existing development.

C. The Major Arterial designation is necessary for the safety and convenience of people living in the various housing developments along NE 27th. General Plan text in the Housing and Residential Lands chapter at page 5-1 describes that a transportation system that ties neighborhoods to shopping, jobs, parks and schools is an important factor in building and maintaining a sense of community. Improvements to NE 27th allowable under the Major Arterial classification including more travel lanes to handle existing and future road volumes, bike lanes and sidewalks, will serve to tie the various neighborhoods to the nearby medical center, commercial areas, schools and parks.

D. Policy #4 has been interpreted to mean non-residential land uses such as schools, churches, and fire stations that are often located in residential areas. Evidence of this interpretation is supported by the placement of this policy with and prior to the next policy that also addresses non-residential uses next to residential areas.

E. Even if Policy #4 is interpreted to include roads, the designation of NE 27ths as a Major Arterial does not implicate this policy. Arterial roadways cross through every type and price level of residential development within Bend. The City's design standards for all arterial streets include features to make them more compatible with all types of residential development: a planted median to soften the appearance of the street; a planter strip with trees behind the curb line that emulates the typical residential streetscape; and sidewalks at the property line behind the planter strip.

F. Designating NE 27th as a Major Arterial does not create a *de facto* eastside bypass. The Major Arterial designation along 27th Street is only applied to the highest volume sections of 27th between Reed Market Road and Butler Market Roads where the highest concentration of dwellings, businesses, and services exist. The Major Arterial designation applies only to the northern 3¼ miles of NE 27th, and is not applied to the southerly 2 miles of 27th or the 4¼ miles of Knott Road that connects to the south urban

area and Highway 97. If the city had intended to create a *de facto* eastside bypass as alleged by the petitioners, the Major Arterial designation would have been applied to the whole 9½ miles of this route.

G. Plan text clearly dismisses 27th Street as an eastside bypass. The General Plan text at pages 7-22 and 7-23 discusses the eastside bypass concerns raised by the petitioners prior to adoption of the revisions to the General Plan in 1998. The Plan text states:

> *The potential for the Empire Avenue/East 27th Street corridor to become a Highway 20 truck diversion route is also a concern. This facility will be designed as a local arterial, and as such, it is not intended to carry through truck traffic...In recent transportation modeling, conducted as part of the latest General Plan update, the north south travel needs of the community remain satisfied by the present proposed system of arterials and collectors. Therefore, the need for a new major transportation facility, such as an additional eastside expressway or bypass, has yet to be demonstrated within the Bend urban area.*

H. The designation of 27th Street as a Major Arterial does not implicate the goal to "Encourage the development of land use patterns that provide efficient, compact use of land, and facilitate a reduced number and length of trips." The allocation of higher density residential land uses, commercial centers, schools, and medical facilities along NE 27th Street is a land use pattern that encourages fewer vehicle trips or shorter trips. By putting a mix of uses along an arterial, many of the trips generated by a household – to work, school, shopping, or medical services – can be shorter or trip-purposes combined for more efficient trip making. Improvements to NE 27th Street allowable under the Major Arterial classification support this goal by providing more efficient vehicle travel and by adding bike lanes and sidewalks that encourage other transportation modes.

I. The designation of 27th Street as a Major Arterial does not implicate the goal to "Implement transportation improvements to foster economic development and business vitality." Features allowed under the Major Arterials classification such as additional travel lanes, protected left turn movements, and better bicycle and pedestrian facilities are designed to provide safe movement to and from businesses. Parts of NE 27th Street that are currently not built to the Major Arterial standard have congested travel lanes and inadequate or missing bike and pedestrian facilities. These conditions create unsafe access and egress movements for employees and customers and discourage economic development and business vitality.

J. The designation of 27th Street as a Major Arterial does not implicate the goal to "Design and locate transportation facilities to be sensitive to protecting the livability of the community." Features allowed under the Major Arterial classification such as landscaped median, a landscaped planter strip to separate the sidewalk from the street, and wide bicycle travel lanes have been development to make the roadways more compatible, more attractive, and safer to use. These features are intended to protect the livability of the community.

K. Public and agency involvement. Due to the sensitivity of existing uses adjacent to the segment of NE 27th from Neff Avenue Drive to Butler Market Road, the City shall involve the public and other governmental agencies in developing a design for improvements that is consistent with Arterial Streets Policy 17 in Chapter 7 of the November 1998 General Plan and the Transportation Implementation Plan adopted by the City Council on May 2, 2001.

For that segment of NE 27th Street from Forum Drive to Neff Avenue, the City shall place the issue of widening and the design of widening before a

hearings officer who will review the widening of that segment consistently with Arterial Streets Policy 17. The hearing officer's decision will be appealable to the City Council.

This finding is consistent with the Capital Improvement Plan adopted by the City Council on June 22, 2001. [*Note: Arterial Streets Policy 17 in the 1998 General Plan became Policy 21 in the adopted Transportation System Plan.*]

#4 SIXTH ASSIGNMENT OF ERROR – "...that the revised BAP fails to include provisions governing UGB amendments to implement the requirements of **[A]** Statewide Planning Goal 14 (Urbanization) and ORS 197.298, and **[B]** provisions implementing the requirements of Goal 14 for converting urbanizable land to urban uses." [See LUBA at page 26]

Sub-assignment of Error [B] sustained. Petitioners argue that the revised BAP deletes various Urbanization Policies that implemented Goal 14 requirements for converting urbanizable land to urban uses. "Petitioners argue that, absent those policies, the revised BAP contains no provisions whatsoever regulating the conversion of urbanizable land with the UGB to urban uses, as required by Goal 14....[W]e agree with the petitioners that the city and county are required to demonstrate in this review proceedings that the revised BAP continues to comply with Goal 14." [See LUBA at page 27]

City of Bend Finds: In response to this sub-assignment of error the city finds that the updated Bend Area General Plan, as revised in November 1998, continues to comply with Goal 14 conversion standards for "urbanizable land".

Evidence to support this finding is as follows:

A. Standards listed in Statewide Planning Goal 14. The standards for the conversion of "urbanizable land" to urban uses are contained in the wording of Goal 14. Goal 14 states:

"...Conversion of urbanizable land to urban uses shall be based on the consideration of:

(1) Orderly, economic provision for public facilities and services;

(2) Availability of sufficient land for the various uses to insure choices in the market place;

(3) LCDC goals or the acknowledged comprehensive plan; and,

(4) Encouragement of development within urban areas before conversion of urbanizable areas."

B. Oregon's land use planning Goals have the effect and power of law as ORS 197.250 requires that local plans comply with the land use Goals. The state law wording is directive rather than enabling. Therefore, the Goal 14 standards for converting urbanizable land to urban uses are a matter of state law. It is not necessary for the city to repeat the Goal 14 urbanization standards 'word-for-word' as policies in the city's General Plan. DLCD has not required that land use plans contain policies that mimic state law as a requirement for Acknowledgement.

C. Other policies in the revised General Plan provide for the conversion of urbanizable land to urban uses. In updating the General Plan the city deleted some policies that related to the conversion of land within the urban growth boundary. However, the deleted policies were considered to be duplicative and unnecessary to ensure continued compliance with the statewide planning Goals and rules.

D. The revised November 1998 General Plan contains several policies that provide for the efficient and timely development of land for urban development. The policies retained or added as changes to the General Plan that were adopted as part of the update in November 1998 cover all of

the conversion factors listed in Goal 14. The following policies in the revised 1998 General Plan ensure orderly and efficient conversion of "urbanizable land" to urban uses:

CHAPTER 1 – PLAN MANAGEMENT AND CITIZEN INVOLVEMENT:

Urban Planning Coordination

1. Growth in the Bend Area shall be managed through the cooperative efforts of the City of Bend and Deschutes County.

2. The city and special districts shall work toward the most efficient and economical method for providing their services within the UGB.

3. No new water or sewer service districts shall be created within the UGB without the concurrence of the city.

Development within the Urban Growth Boundary

4. New developments shall pay to extend planned sewer, water, and transportation facilities to and through the property if the development occurs prior to the scheduled construction of those facilities shown in the capital improvement plan.

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

6. The city and county will encourage infill and redevelopment of the core area of the city.

CHAPER 5 – HOUSING AND RESIDENTIAL LANDS

Public utilities and services

42. All residential areas shall be provided with community water and sewer services and other facilities necessary for safe, healthful, convenient urban living consistent with the density of development.

CHAPTER 8 – PUBLIC FACILITIES AND SERVICES:

Urban sewer

1. The city shall encourage development of serviced land prior to unserviced land or require the extension of sewer lines as part of any development within the UGB.

2. The city shall coordinate the provision of sewer service with other providers within the Urban Growth Boundary.

3. All development within the Urban Growth Boundary shall be sewered or provide for sewers through a binding sewer service agreement with the city.

4. No further special districts shall be formed to provide sewer service within the Urban Growth Boundary, nor shall any annexation be allowed to an existing district.

5. The city shall be the primary provider of sewage collection and treatment services for the Bend urban area.

6. To reduce the reliance on individual sewage disposal systems within the Urban Growth Boundary the city will assist established neighborhoods that commit to a sewage collection system by extending pressure or gravity lines to the subdivision.

Urban water

7. Within the urban planning area, public and private water systems should be consistent with city standards for construction and service capabilities.

8. The city shall continue to coordinate with private providers and irrigation districts in matters of water concerns within the Urban Growth Boundary.

E. There is no "urbanizable land" within the UGB. The Goal 14 standards to convert "urbanizable land" to urban land do not apply because all the land within the Bend UGB is already 'urban' by definition. Goal 14 defines *Urban Land* as

"...those places that must have an incorporated city. Such areas may include lands adjacent to and outside the incorporated city and may also:

(a) Have concentrations of persons who generally reside and work in the area.

(b) Have supporting public facilities and services."

The land within the Bend UGB meets the definition of "urban" land for three reasons. First, all of the land within the UGB is within the Bend city limits. Second, the population and employment areas are distributed throughout the UGB, and have been at the edge of the UGB in many areas for several years. Third, the public and private utility facilities needed to support urban level development – streets, water, natural gas, phone, cable TV, fire protection and police protection – are already distributed throughout the city limits/UGB. In addition, the city sewer service can be provided at a reasonable cost and within a reasonable amount of time to any area not yet served. Because there is no urbanizable land to convert there is no need for policies that specifically address the Goal 14 land conversion standards.

◂ End of Report ▸

ORDINANCE NO. NS-1800

AN ORDINANCE AMENDING EMERGENCY ORDINANCE NO. NS-1783, DETERMINING THE CONDITIONS UPON WHICH JUNIPER UTILITY COMPANY PROVIDES WATER, IRRIGATION AND WASTE WATER SERVICE AND OCCUPIES PUBLIC STREETS AND RIGHT-OF-WAY WITHIN THE CITY OF BEND, AND DECLARING AN EMERGENCY

Whereas: The City of Bend adopted Emergency Ordinance No. NS-1783 on May 30, 2001, in order to insure provision of adequate water, wastewater and irrigation service to the residents of Bend who live within the Juniper Utility Company service territory; and

Whereas: The City Council finds that Juniper Utility Company is not interpreting certain provisions of Ordinance No. NS-1783 in the manner intended by the City Council, and

Whereas: The City Council finds that it is in the public interest to clarify the intent of Ordinance No. NS-1783 through the legislative process,

The City of Bend Does Ordain as Follows: Ordinance No. NS-1783 is re-adopted and amended to read as follows (text shown in underlined typeface is added, text in ~~strikethrough~~ typeface is deleted):

Section 1: Purpose.

The purpose of this ordinance is to provide conditions upon which Juniper Utility Company provides water, irrigation and waste water service to the residents of the City of Bend; to provide performance standards for the operations of Juniper Utility Company; and to provide conditions upon which Juniper Utility Company may occupy the streets and other public right-of-way within the City of Bend.

Section 2: Definitions.

For the purpose of this ordinance, the following terms shall have the meaning provided below:

(1) "City" is the City of Bend, Oregon.

(2) "Company" is Juniper Utility Company, and its successors or assigns.

(3) "Council" is the City Council of the City of Bend.

(4) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

(5) "Facilities" shall mean all real property, fixtures and equipment used by Company in the provision of water, irrigation and wastewater services throughout its system, whether located inside or outside of City, and includes, but is not limited to, main transmission lines, distribution systems and all other things used in the provision of water, irrigation and wastewater services by Company.

(6) "Urban Growth Boundary" shall mean those properties within City's present city limits and the Urban Growth Boundary as they now exist and as they may change from time to time in the future.

(7) "Individual Service Connection" shall mean a connection of a residential dwelling unit (including mobile homes and RVs), commercial, industrial or institutional building (including schools) to the Facilities.

Section 3: Grant of Authority.

City grants to Company the right and privilege to construct, erect, operate and maintain its facilities, in, upon, along, across, above, over and under the streets, alleys, and public ways now laid out or dedicated, and all extensions thereof, and additions thereto, for the provision of water, irrigation and wastewater services in City. This grant of authority is nonexclusive in that the City reserves the right to operate a water, irrigation and wastewater system within the public ways and to grant a similar use of streets, alleys and public ways to another person, as provided by law.

Section 4: Compliance with Laws, Rules and Regulations.

Company shall at all times comply with all applicable laws, rules and regulations of the United States of America, the State of Oregon, and the City of Bend; including appropriate agencies and subdivisions thereof. Company shall be subject to the lawful exercise of the police power of City and to such reasonable regulations as City may from time to time hereafter adopt.

Section 5: Company Liability, Indemnification of City and Insurance.

(1) Company shall at all times conduct its operations in or upon City streets and other public right-of-way, including installation, construction or maintenance of its facilities, in a safe and workmanlike manner so as not to present a danger to the public or City.

(2) Company shall at all times maintain, a comprehensive liability insurance policy which shall contain the following provisions:

(a) Bodily injury policy limits of $500,000 for each person and $500,000 for each occurrence.

(b) Property damage policy limits of $500,000.

(c) An endorsement for completed operations coverage.

(d) A designation of City, its officers, agents and employees, as an additional insured for liability arising from or in connection with Company's operations within the City of Bend.

(e) An endorsement requiring 10 days' written notice to City prior to the cancellation of the insurance coverage.

(f) A certificate evidencing insurance as described in this ordinance shall be deposited with City.

(g) In the event that City's tort liability limits are raised by the Oregon Legislature to exceed the limits described in this Section, Company shall obtain and maintain insurance in the amount of City's tort liability limits.

Section 6: Facilities and Service Standards.

Company shall construct, operate and maintain its facilities and provide services as follows:

(1) Company shall provide its customers with good quality water and wastewater services; and supply potable water, irrigation water and wastewater to its customers in compliance with all applicable laws, rules and regulations.

(2) Company shall construct and maintain those portions of its facilities that are located within the City of Bend and within the Urban Growth Boundary surrounding the City, as it exists and changes, in compliance with City and State standards for the provision of the service. Compliance with City standards shall include, but not be limited to:

(a) Standards for construction and installation of the water system, including the use of C-900 or ductile iron pipe and restoration of City streets.

(b) Provision of standard City fire flows throughout the water system, subject to verification by the Fire Department. At least annually or upon request by the City, the Company will provide the City with a written report of individual hydrant conditions.

(c) City inspection and approval of system design and installation pursuant to generally accepted practices and standards in the water, irrigation and waste water utility area.

(3) Company shall maintain and improve its facilities according to generally accepted practices and standards in the regional water, irrigation and wastewater utility industry.

(4) Company's potable water service to properties within the City and the Urban Growth Boundary shall be confined to the properties shown on the map entitled "Water Franchise Map, Juniper Utility Company. ~~Utility Franchise Area~~" which is marked EXHIBIT A, attached hereto and incorporated by reference herein. Company shall not provide potable water service to any other properties within the City by utilizing City streets or other City right-of-way without first obtaining a right-of-way permit from the City specifically allowing such extension of service.

(5) Company's waste water service to properties within the City and the Urban Growth Boundary shall be confined to the properties shown on the map entitled "Sewer Franchise Map. Juniper Utility Company. ~~Utility Franchise Area~~"which is marked EXHIBIT ~~A~~B attached hereto and incorporated by reference herein. Company shall not serve any other properties within the City by utilizing City streets or other City right-of-way without first obtaining a right-of-way permit from the City specifically allowing such extension of service.

(6) Company's irrigation service to properties within the City and the Urban Growth Boundary shall be confined to the properties shown on the map which is marked "Water Franchise Map, Juniper Utility Company. ~~Utility Franchise Area~~" EXHIBIT A, attached hereto and incorporated by reference herein. Company shall not provide irrigation service to any other properties within the City by utilizing City streets or other City right-of-way without first obtaining a right-of-way permit from the City specifically allowing such extension of service.

(7) Unless prohibited by law or the Oregon Public Utilities Commission, in cases where City provides sewer services to a Company customer, Company shall terminate the service of Company's customer, at the request of City, if the customer becomes delinquent in the payment of the customer's sewer service bill.

(8) Company shall be required to make modifications, additions and extensions to its physical equipment, and shall connect new and additional customers to its system, as reasonable or necessary in the public interest as provided by law, and as directed by the City, consistent with the statutes, rules, regulations and determinations of the State of Oregon and its Public Utilities Commission.

(a) Subject to any rules, regulations, or orders of the Public Utility Commission, Company shall not refuse to connect new customers or existing customers to either its water, wastewater or irrigation facilities (including provision of adequate fire flows) upon request of a person within Company's service territory, as shown on Exhibits A or B. Company shall promptly furnish proof to any person seeking a building permit within the territory shown on Exhibits A or B, where such building permit application requires proof of water, wastewater or irrigation service (including provision of adequate fire flows) as a condition of receiving the building permit."

(b) If the Company establishes a charge to connect new customers or existing customers, the Company must file a rate schedule with the PUC showing the charge. The Company must charge all persons the charge shown in the schedule. The Company cannot charge any person a charge that is more than or less than the charge shown in the schedule, including connecting any person free of charge. The Company shall not give free service or reduced rates to it owners, creditors, officers, directors, employees, or members of their families.

(9.) Minimum and Maximum Water Pressure Requirements:

(a) At all times, Company shall be required to maintain an average system-wide, minimum static water pressure of 60 psi throughout the Mountain High subdivision. The maximum static water pressure to each individual service connection throughout the Mountain High Subdivision shall at no time exceed 80 psi

(b) At all times, Company shall be required to maintain an average system-wide, minimum static water pressure of 60 psi throughout the Timber Ridge subdivision. The maximum static water pressure to each individual service connection throughout the Timber Ridge Subdivision shall at no time exceed 80 psi.

(c) At all times, Company shall be required to maintain an average system-wide, minimum static water pressure of 60 psi throughout the Tillicum Village subdivision. The maximum static water pressure to each individual service connection throughout the Tillicum Village Subdivision shall at no time exceed 80 psi. The Jewell Elementary School shall be considered a part of the Tillicim Village subdivision.

(d) At all times, Company shall be required to maintain an average system-wide, minimum static water pressure of 60 psi throughout the Nottingham Square subdivision. The maximum static water pressure to each individual service connection throughout the Nottingham Square Subdivision shall at no time exceed 80 psi.

(e) At all times, Company shall be required to maintain an average system-wide, minimum static water pressure of 60 psi throughout The Pines Mobile Home Park. The maximum static water pressure to each individual service connection throughout The Pines Mobile Home Park shall at no time exceed 80 psi.

(f) At all times, Company shall be required to maintain an average system-wide, minimum static water pressure of 60 psi throughout the Quail Ridge Mobile Home Park. The maximum static water pressure to each individual service connection throughout the Quail Ridge Mobile Home Park shall at no time exceed 80 psi.

(g) At all times, Company shall be required to maintain an average system-wide, minimum static water pressure of 60 psi throughout the Crown Villa RV Park.

The maximum static water pressure to each individual service connection throughout the Crown Villa RV Park shall at no time exceed 80 psi.

(h) At no time, except on a temporary basis necessitated by repairs to the facilities or by the fire department's drawing water from fire hydrants, shall the minimum static pressure for domestic and irrigation water service to any individual service connection in the Mountain High Subdivision; the Timber Ridge Subdivision, the Tillicim Village Subdivision, the Nottingham Square Subdivision, The Pines Mobile Home Park, the Quail Ridge Mobile Home Park or the Crown Villa RV park drop below be 30 psi. If the Company determines that it needs to make repairs to any part of its facilities that will cause static pressure of either its domestic or irrigation water systems to drop below 30 psi at any single service connection, Company shall immediately provide the City advance written notice and shall post advance written notice at a conspicuous place at each individual service connection stating: (1) the nature of the repairs being undertaken and (2) the estimated time when water pressure will be restored. Prior written notice shall be required in all cases except in the case of an unanticipated failure of a part of the facilities, in which case written notice setting forth: (1) the nature of the repairs being undertaken and (2) the estimated time when water pressure will be restored, shall be provided to the City and posted at a conspicuous location at each affected service connection at Company's earliest opportunity.

(i) In sections (6)(1) and (9)(a) through (9)(g) of this ordinance, a temporary reduction in water pressure caused by failure of part of the facilities or Bend Fire Department hydrant tests shall not, in and of itself, result in a violation of this ordinance. However, in the event of a temporary reduction in water pressure caused by a failure of facilities, company shall provide written notice to the City and shall post notice at all affected service connections as provided in Section (9)(h) of this ordinance. Any temporary reduction in water pressure caused by failure of part of the facilities shall be allowed for no longer than the minimum amount of time reasonably required to repair the facilities. If the reduction in pressure exceeds the time reasonably necessary for repairs to the facilities, such reduction in pressure shall be a violation of Sections (6)(1) and (9)(a) through (9)(g) of this ordinance.

Section 7: Company Rules.

Company shall have authority to promulgate such reasonable rules and regulations governing the conduct of its business as shall be reasonably necessary to enable Company to exercise its rights and perform its obligations under this ordinance, and to assure uninterrupted service to its customers. Company rules and regulations shall be subject to the provisions of this ordinance and any other governmental regulations. A copy of said rules and all amendments thereto shall be filed with the Office of City Manager.

Section 8: Conditions on Street Occupancy.

Company agrees to comply with the following conditions:

(1) Use. All facilities installed by Company within the Urban Growth Boundary after the date of this ordinance shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the streets, alleys or other public ways or places. Company shall obtain street cut permits for all street cuts and shall comply with the provisions of City's street cut ordinance.

(2) Restoration. In case of any disturbance of pavement, sidewalk, driveway or other surfacing by Company, Company shall, at its own cost and expense and in a manner approved by City, replace and restore all paving, sidewalk, driveway or

surface of any street or alley disturbed, in as good condition as before the disturbance. If Company fails to make restoration as required, City shall cause the repairs to be made at the expense of Company.

(3) Relocation. City may require Company to change the location of any facility within the public right of way when the public convenience requires such change or removal and the expense thereof shall be paid by Company. City shall give Company reasonable notice of any changes required and Company shall have a reasonable time within which to make the requested change. If Company refuses to make the change requested by City or does not make the change within a reasonable time after the request of City, City may make the change and collect the cost of making said change from Company.

(4) Placement of Facilities. Company shall not place its facilities where they will interfere with any existing gas, electric or telephone fixture or sewer or water facility. All facilities placed in the City street shall be placed as City directs.

Section 9: Notice of Intent to Sell.

Company shall not enter into any binding agreement to sell, assign, dispose of or transfer in any manner whatsoever any interest in facilities located in City streets or other right-of-way, nor transfer, permit transfer of controlling interest in the Company, without first providing to the City sixty (60) days written notice of Company's intent to sell.

Section 10: Transfer of Company Assets.

Company shall not sell, assign, dispose of or transfer in any manner whatsoever any interest in the technical facilities used on City streets or other right-of-way, nor transfer or permit transfer of controlling interest in Company without prior written approval of Council. Such approval shall be based upon the following criteria: Company shall be required to demonstrate to the satisfaction of the Council that Company's proposed purchaser, assignee or transferee has such financial and managerial resources as are sufficient to maintain the then current quality of service and to comply fully with the terms of this ordinance prior to the Council granting such approval. Such approval, based upon the above criteria, shall not be unreasonably withheld by the Council. If the PUC approves the transfer, the transfer shall be presumed to be reasonable.

Section 11: City's Rights.

In addition to other rights conferred by law or otherwise, City shall have the right to inspect all construction or installation of Company facilities, subject to the provisions of this ordinance and to make such inspections as it shall find necessary to ensure compliance with governing laws, rules and regulations.

Section 12: Company Records and Reports.

Company shall keep accurate books of account at an office within the State of Oregon at all times. Company shall produce its books of account for inspection by City at any time during normal business hours, after reasonable notice by City, and City may audit Company's books from time to time. City may require periodic reports from Company relating to its operation and revenue within City. Prior to requesting periodic reports, City shall first review the annual report submitted by Company to the P.U.C.

Section 13: System Data.

Company shall maintain, at a local office, current maps and other operational data relating to its facilities and system operations in the City of Bend. City may inspect these maps and data at any time during normal business hours.

Section 14: Enforcement.

City and Company shall have all remedies provided by law, including termination of company's right to operate a utility on City Streets or other right-of-way, to enforce the terms and conditions of this ordinance. Failure to enforce any provision of this ordinance shall not be construed as a waiver of a breach of any other term, condition or obligation of this ordinance.

Section 15: Constitutionality.

If any section, subsection, sentence, clause or portion of this ordinance is for any reason held invalid or is rendered unconstitutional by court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the constitutionality of the remaining portion hereof.

Section 16: Emergency Declared. Immediate Effective Date.

The City of Bend hereby finds and declares that this ordinance is necessary for the immediate preservation of the public health, safety and welfare. An Emergency is therefore declared to exist, and this ordinance shall be effective upon its passage.

Read for the first time the 5th day of September, 2001.

Read for the second time this 19th day of September, 2001.

Placed upon its passage this 19th day of September, 2001.

YES: 7 NO: 0

Authenticated by the Mayor this 19th day of September, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

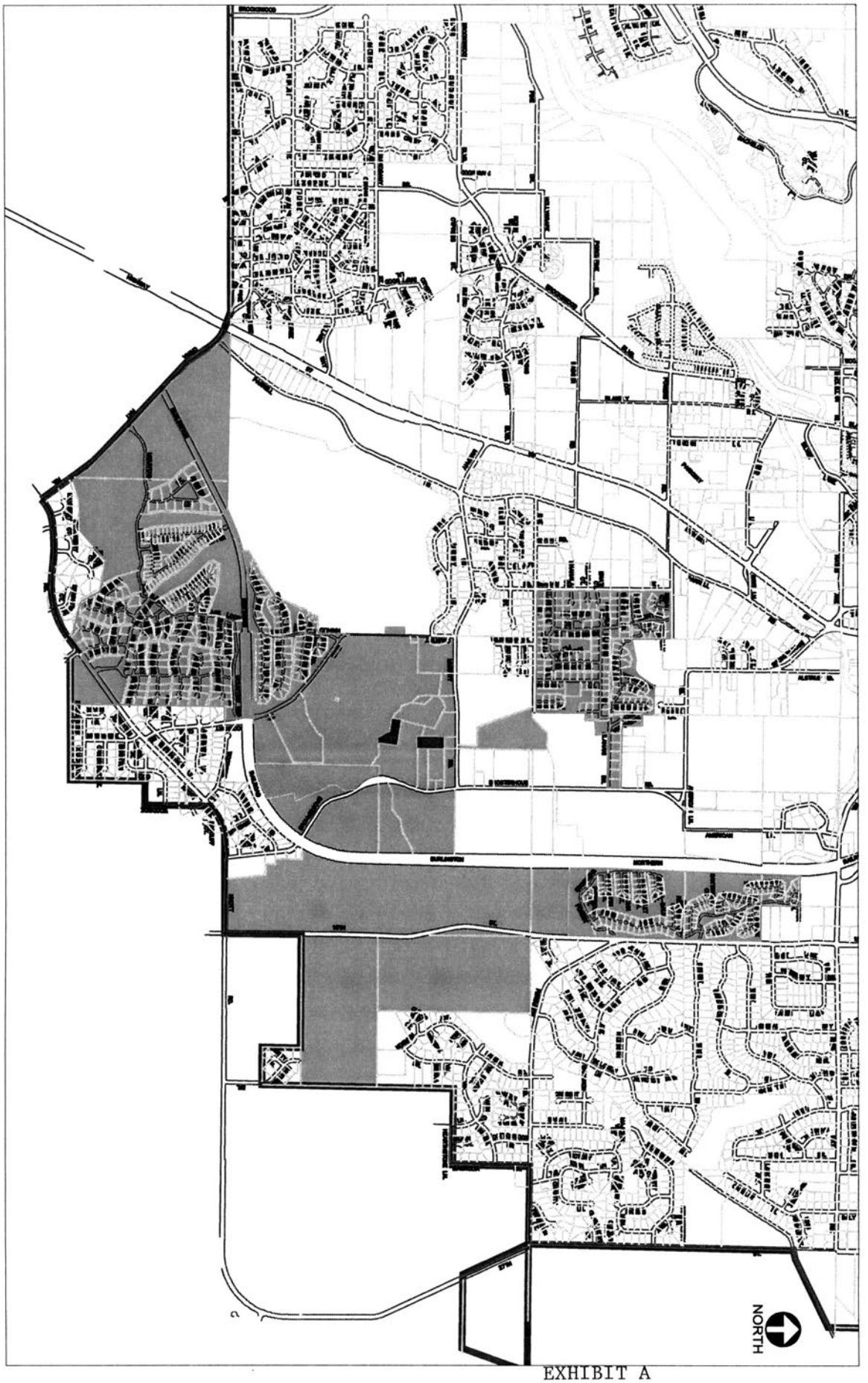


EXHIBIT A

DRAWING NO. W 1.0

DESIGN:
DRAWN: STS
DATE: AUGUST 30, 2001
SCALE: NTS
FILE: D:\PUW Drawings\

REVISIONS

WATER FRANCHISE MAP

JUNIPER UTILITY COMPANY
CITY OF BEND
DESCHUTES COUNTY, OREGON

COMMUNITY PROJECTS DIVISION, PUBLIC WORKS COMPLEX, 1375 N.E. FORBES AVE., BEND, OREGON 97701

CITY LIMITS

JUNIPER UTILITY CO

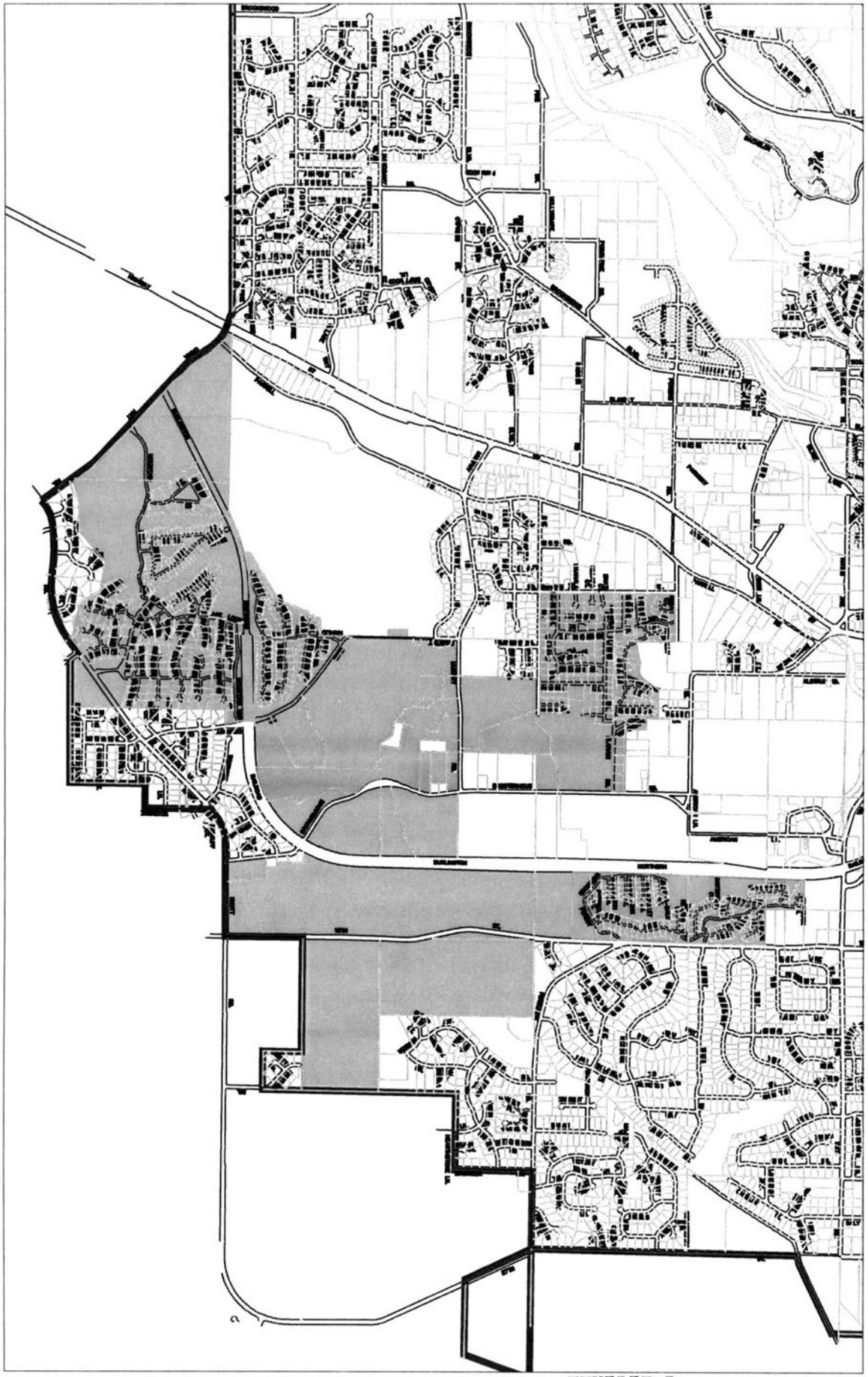


EXHIBIT B

	DESIGN:	
	DRAWN: STS	
	DATE: AUGUST 30, 2001	
	SCALE: NTS	
	FILE: D:\PUW Drawings\	
		REVISIONS

DRAWING NO. S 1.0

BEND

SEWER FRANCHISE MAP

JUNIPER UTILITY COMPANY
CITY OF BEND
DESCHUTES COUNTY, OREGON

COMMUNITY PROJECTS DIVISION, PUBLIC WORKS COMPLEX, 1375 N.E. FORBES AVE., BEND, OREGON 97701

ORDINANCE NO. NS-1801

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF A LOT FROM RL, LOW DENSITY RESIDENTIAL TO RS, URBAN STANDARD DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated July 12, 2001 file number PZ-01-221.

Section 2. Section 7(1) of Ordinance NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the property described as Lot 4, Block 1, Daly Estates subdivision from Urban Low Density Residential (RL) to Urban Standard Density Residential (RS).

Read for the first time the 5th day of September, 2001.

Read for the second time the 19th day of September, 2001.

Placed upon its passage the 19th day of September, 2001.

YES: 7 NO: 0

Authenticated by the Mayor the 19th day of September, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1802

AN ORDINANCE AMENDING THE BEND AREA GENERAL PLAN MAP TO ADOPT REVISED UPLAND AREAS OF SPECIAL INTEREST BOUNDARIES.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Planning Commission's recommendation and record, and has found that there is a public need and benefit for the proposed change.

Section 2. The Bend Area General Plan Map amended by revising the Upland Areas of Special Interest boundaries as shown on "Exhibit A", except that action is deferred on that portion of ASI #1 described as 18-12-16, TL 106 consisting of 20.69 acres, for a period of thirty (30) days.

Read for the first time the 5th day of September,2001.

Read for the second time the 19th day of September,2001.

Placed upon its passage the 19th day of September,2001.

YES: 7 NO: 0

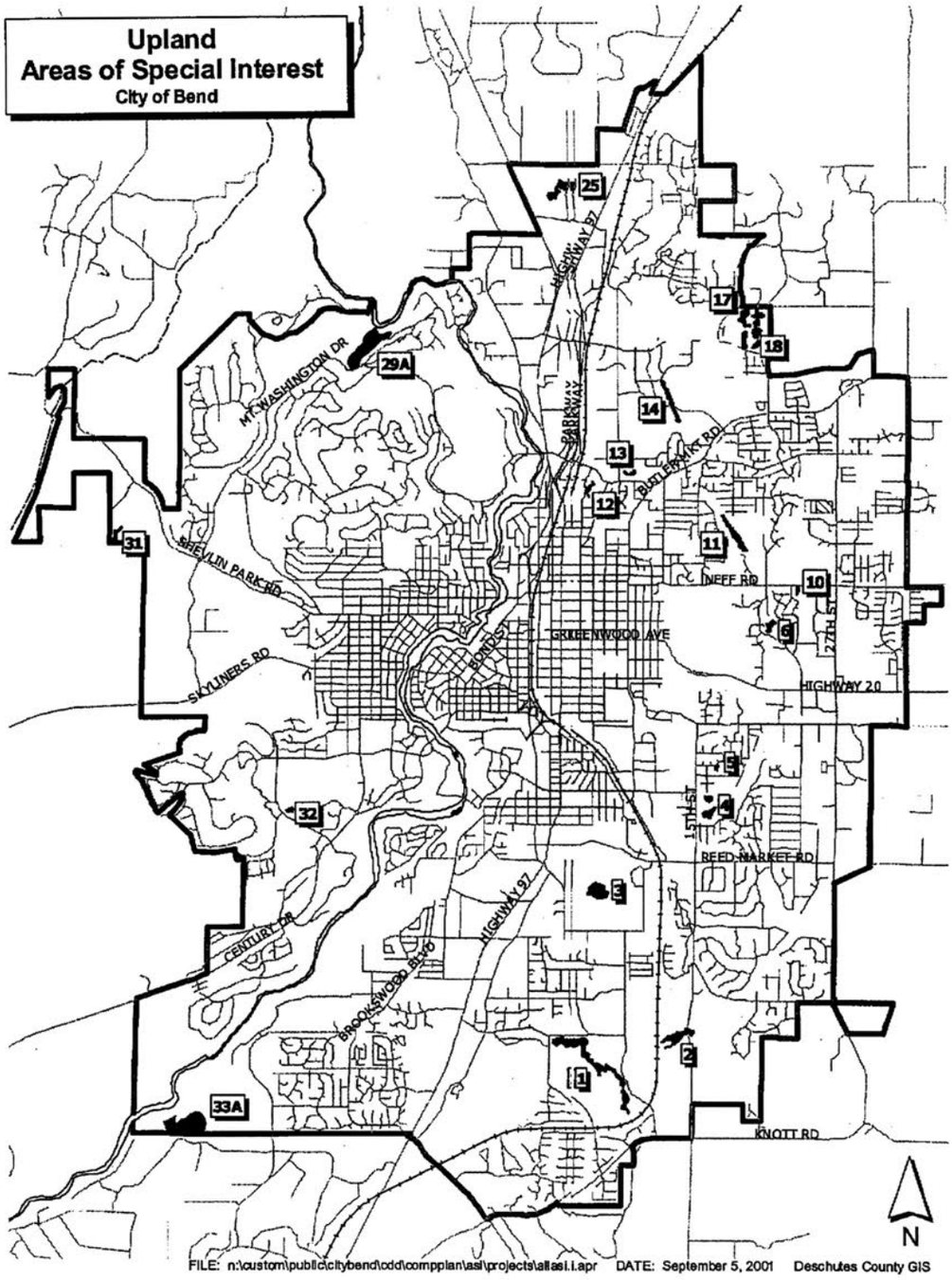
Authenticated by the Mayor the 19th day of September,2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

Exhibit A


Upland
Areas of Special Interest
City of Bend
25
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18
29A
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13
12
11
10
6
31
32
5
4
3
2
1
33A
MT. WASHINGTON DR
SHEVLIN PARK RD
SKYLINERS RD
CENTURY DR
BROOKSWOOD BLVD
HIGHWAY 97
PARKWAY
BUTLER MKT RD
NEFF RD
GREENWOOD AVE
BOND ST
15TH ST
HIGHWAY 20
REED MARKET RD
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FILE: n:\custom\public\citybend\cdd\compplan\asi\projects\allasi.apr DATE: September 5, 2001 Deschutes County GIS

ORDINANCE NO. NS-1803

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NS-1178 BY ADDING AN UPLAND AREAS OF SPECIAL INTEREST OVERLAY ZONE AND AMENDING THE ZONING MAP, BY ADDING THE AMENDED BOUNDARIES OF AREAS OF SPECIAL INTEREST.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Planning Commission's recommendation and record, and has found that there is a public need and benefit for the proposed change.

Section 2. The City of Bend Zoning Ordinance NS-1178 is amended by adding Section 26C; Upland Areas of Special Interest Overlay Zone as described in "Exhibit A".

Section 3. The City of Bend Zoning Ordinance NS-1178 is amended by adding to the Definitions Section 10.10.4 new definitions that apply to the Upland Areas of Special Interest as described in "Exhibit B".

Section 4. The City of Bend Zoning Map is amended by adding the Areas of Special Interest boundaries as described in "Exhibit C" with the exception of that portion of ASI #1 described as 18-12-16, TL 106, consisting of 20.69 acres, for a period of thirty (30) days.

Read for the first time the 5th day of September,2001.

Read for the second time the 19th day of September,2001.

Placed upon its passage the 19th day of September,2001.

YES: 7 NO: 0

Authenticated by the Mayor the 19th day of September,2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

Exhibit A

Section 26C. Upland Areas of Special Interest Overlay Zone

As early as 1975, Areas of Special Interest have been identified as important features in the landscape intended to be preserved as growth occurs. These areas represent potential private and public open space. The upland features consist of scattered rock outcrops, stands of trees, and dominant ridges and faults that are typical of the Central Oregon landscape. These areas contain high points or changes in elevation that break the line of sight so that the area retains a feeling of undeveloped open space.

(A) **Purpose:** Bend is a community that values its natural features of trees and rocks. This section of the ordinance will fulfill the vision of the Bend Area General Plan to retain and conserve the "natural character" of Bend. Natural resources such as rock outcroppings, draws, mature trees, natural vegetation and animal habitat are assets to the community.

The Upland Areas of Special Interest Overlay Zone is intended to protect valuable natural resources within the City of Bend's Urban Growth Boundary while ensuring reasonable use of the property. This section of the ordinance will establish clear and objective design and development standards to protect these resources and preserve and enhance this vision for Bend's future livability.

(B) **Applicability:**

1. **Affected Property.** The procedures and requirements of the Upland Areas of Special Interest Overlay Zone apply to any real property designated as having an ASI as mapped on the Bend Area General Plan map and the City Zoning Map. These standards shall be in addition to the standards of the underlying zone.

2. **Activities Subject to Review.** Unless specifically exempted from review as described in Section (C)(3), activities subject to review and which require a permit, shall include all development on properties described below:

   a) Partitioning and subdividing of land.
   b) New structural development.
   c) Exterior expansion of any building or structure, or increases in impervious surfaces or storage areas.
   d) Site modifications including grading, excavation or fill, installation of new utilities, construction of roads, driveways, or paths.
   e) Removal of trees or cutting or clearing of any native vegetation within the Upland Area of Special Interest.

3. **Exemptions.** Activities exempt from this section of the ordinance include:

   a) The sale of property.
   b) Temporary emergency action necessary for the safety and protection of property or the public.
   c) Commercial forest practices regulated by the Oregon Forest Practices Act.

(C) **ASI Review Process.** For all activity subject to the Upland Area of Special Interest Overlay review, the following shall apply:

(a) The ASI Review shall be processed as a "Land Use Permit" as defined in the City Procedures Ordinance. When practicable, the ASI Review shall be processed concurrently with other land use permits.
(b) The ASI Review application is subject to the provisions of this Chapter.
(c) The ASI Review application shall be filed on a form provided by the City and shall be accompanied by a filing fee, drawings and information specified in this Chapter.

(D) **Development Standards**. The ASI Boundary is delineated by the outside edge of the boundary line shown on the Bend Area General Plan map and the City Zoning Map. No development as defined in this Chapter shall occur within an Upland Area of Special Interest boundary unless expressly permitted by the provisions of this Chapter.

The Development Standards shall apply to structures, fences, impervious surfaces including streets and driveways except where provided for in this Section and landscaping as described in Section (E)(5). In addition, No stock piling of fill materials, parking or storage of equipment or personal property shall be placed within an Upland Area of Special Interest.

1. **Setbacks.** There shall be a 25-foot setback from the ASI boundary for all structures requiring a building permit to provide adequate fire fuel break and to reduce the visual impact to the Area of Special Interest. This additional setback area may be used in addition to the ASI area to calculate any density credit.

The permanent alteration of an Upland Area of Special Interest by grading, excavation or fill, the placement of impervious surfaces, or by the removal of existing vegetation is only permitted in association with the following enumerated uses and subject to the requirements:

2. **Streets and driveways.** Public or private streets and driveways may be placed within an Upland Area of Special Interest to access development activities if it is shown that no other practicable method of access exists. If allowed, the applicant shall demonstrate that:

   (a) No other practicable access to the buildable area exists, or access from an off-site location through the use of easements is not possible;

   (b) Roads and driveways are designed to be the minimum width necessary and the minimum intrusion into the Upland Area of Special Interest while also allowing safe passage of vehicles and/or pedestrians;

   (c) The need for future extensions of shared access, access easements, or private streets to access potential new building sites have been considered at the time of this application in order to avoid subsequent encroachments into an Upland Area of Special Interest.

3. **Utilities and Drainage Facilities.** Public and private utilities or drainage facilities may be placed underground within an Upland Area of Special Interest when it is shown that no other practicable alternative location exists. If allowed, the applicant shall demonstrate that:

(a) No other practicable access exists or access from an off-site location through the use of easements is not possible;

(b) The corridor necessary to construct utilities shall be the minimum width practicable.

(c) Removal of existing trees and native vegetation shall be avoided unless absolutely necessary.

Any permanent alteration of an Upland Area of Special Interest by the construction of public or private streets, driveways, utilities or drainage facilities is subject to the mitigation requirements under Section (G) of this Chapter.

4. **Removal of Vegetation.** Removal of existing vegetation from an Upland Area of Special Interest is prohibited, except as indicated below:

(a) A tree in danger of falling and thereby posing a hazard to life or property may be removed, following an assessment evaluation from a Qualified Professional. If no hazard will be created, the tree or snag may be required to be left in place within the Upland Area of Special Interest to provide wildlife habitat.

(b) Diseased or dying trees that may pose a threat to the health of surrounding vegetation as determined by a Qualified Professional.

(c) The removal of noxious weeds and non-native grasses (e.g. knap weed, toad flax or cheat grass) is encouraged when practicable with minimal disturbance to the ASI.

5. **Enhancement of an Upland Area of Special Interest.** Planting of additional vegetation within an Upland Area of Special Interest is permitted as indicated below:

(a) Plant materials shall be native to Central Oregon and similar to the existing plant species in the vicinity of the ASI.

d) No permanent irrigation shall be installed.

6. **Development Credit.** When an applicant preserves an Upland Area of Special Interest, the development potential for the preserved area may be transferred to the balance of the parcel for development or applied to the subject property as indicated below:

a) For residential lands where the property owner preserves an Upland Area of Special Interest, the property owner shall receive a density credit equivalent to the area being preserved as determined through the land use permit process.

b) Where the applicant preserves an Upland Area of Special Interest, the property owner may initiate one or more of the activities listed below, provided that the compensation does not exceed the benefit of the ASI protection as determined through the land use permit process.

- substitute the preserved ASI as the equivalent required on-site landscaping;
- receive up to 10% reduction in the required on-site parking spaces;

- reduce the front yard setback up to 50% of the standards required for the applicable zone;
- develop accessory dwelling units on lots abutting an area of special interest.

c) For subdivision development, where the applicant preserves an Upland Area of Special Interest, the property owner may incorporate flexible lot development standards typical of a P.U.D. when the area of special interest occupies more than 20% of the subject property.

d) Opportunities for tax benefit in accordance with the provisions of the Deschutes County Tax Assessor.

(E) Exceptions and Variances. An exception or variance to the provisions of this ordinance shall apply to property where no further land division is feasible. An exception or variance is permitted only when considered necessary to allow reasonable economic use of the subject property or to provide public benefit.

1. Exceptions.

a) Properties which have existing structures or site development within an ASI on the effective date of this Chapter, and which do not conform to the standards stated herein, shall be considered non-conforming.

b) For existing platted lots where the location of an Upland Area of Special Interest results in a building area depth for a single family dwelling of 25 feet or less or a building envelope of 800 square feet or less, or a commercial building area depth of 100 feet, the front and side yard setbacks may be reduced up to 50% of the standard required for the applicable zone.

c) For existing platted lots where the entire lot is located within an ASI, the property may be developed with permitted uses, subject to the applicable land use review, in a manner that will have the least impact to the ASI.

d) The construction of public trails or paths that provide public access into the preserved Upland Areas of Special Interest.

2. Variances. A variance shall only apply to property where strict interpretation of the standards would preclude reasonable use of the land that could be expected to occur in the zone, and that the property owner would be precluded a substantial property right enjoyed by the majority of landowners in the vicinity.

Criteria: No variance request shall be granted unless the applicant can establish:

(a) That special conditions exit which are peculiar to the subject property which make conformance to the standards of this Chapter impractical.

(b) The variance is the minimal deviance from the standards of this chapter needed to accomplish the objective.

(c) The varied standard will conform to the purpose and objectives of the Bend Area General Plan and this Chapter.

In any case, the granting of a variance shall not adversely affect the potential for public access into an Area of Special Interest, adequate provision for fire protection or the visual integrity of the Area of Special Interest.

A variance to the standards of this Chapter shall be processed as a "Land Use Permit" as defined in the City Procedures Ordinance. The Review Authority may attach conditions to any variance granted to insure that the variance meets the objectives of the Bend Area General Plan and this Chapter.

(F) Areas of Special Interest Mitigation Standards. The development activities listed in Section (C) and (E) may trigger a requirement for mitigation. When a proposed development impacts an Upland Area of Special Interest by grading, excavation, or fill, the placement of impervious surfaces, or by the removal of vegetation, a mitigation plan prepared by a qualified professional shall be submitted to the review authority. The mitigation plan shall include the following:

(a) The location of the impact, the existing conditions and area size of the resource prior to impact, the location and size of the proposed mitigation area, and a proposed mitigation plan that represents a 1:1 replacement value;

(b) All proposed vegetation planted within the mitigation area shall be native to the region and similar to the vegetation removed. Species to be planted in the mitigation area shall replace those impacted by the development activity at a 2:1 ratio;

(c) Additional mitigation measures may be required based on the nature of the impact such as:
- Site reclamation
- Screening of structures, cuts or fills
- Increased vegetative quantities and/or sizes

(G) Standards for Designating New Upland Areas of Special Interest. Any individual or organization may apply for designating new Upland Areas of Special Interest. Designation of new areas shall be coordinated with the affected property owners. An "Upland Area of Special Interest" designation may be imposed or modified pursuant to an ASI analysis. During January of each "odd numbered" calendar year, individuals may apply to the City for new ASI designations to be added to the General Plan and zoning maps. The City will process applications received during this time without fee. During the same time period, the City shall review City owned properties for potential new ASI designations. A new designation shall be processed as a map amendment to both the General Plan and Zoning maps pursuant to the City of Bend Procedures Ordinance and this Section.

Procedure.

1. The applicant shall file an application for a General Plan Map amendment and Zoning map amendment on a form provided by the City and shall be accompanied by a filing fee, drawings and appropriate information.
2. The Review Authority shall conduct an evaluation. Using the "ASI" Analysis Methodology, the outcome of the analysis must establish that the proposed sites merit resource protection as an "Area of Special Interest" in order to proceed.

ASI Analysis Methodology. The City shall evaluate potential Upland Areas of Special Interest using the 1999 Natural Areas Scoring System (NASS) developed by the Bend Urban Land Survey team. The NASS is a numerical ranking which represent the relative values of a natural resource site. The following nine criteria and scoring system are used to determine the total assessment score:

Natural Area Scoring System

Criteria	Score	Explanation
Existing Site Use	6	Undeveloped
	4	Minor development
	2	Significant development
	0	Development that substantially reduces open space value
Habitat Value	6	Supports a broad diversity of bird and/or animal life
	4	Supports moderate diversity of bird and/or animal life
	2	Limited habitat value
	0	Almost no habitat value
Trees and Vegetation	6	Mature trees, quality riparian vegetation or other significant vegetation
		Some trees, other lower quality vegetation
	4	Little significant vegetation
		Almost no vegetation
	2	
	0	
Natural Features	6	Uncommon or outstanding natural features
		Natural features of good quality
	4	Natural features are not distinctive
	2	Almost no natural features
	0	
Conflict with Adjacent Land Use	6	No Conflicts
	4	Slight conflicts
	2	Moderate conflicts
	0	Severe conflicts
Wildlife Linkages	6	Quality connections to other wildlife areas
		Some connections
	4	Minor connections
	2	No connections
	0	
Scenic Resources	6	Highly attractive scenic resources
	4	Moderately attractive
	2	Limited scenic value
	0	Unattractive
Public Access	6	Potential for high use
	4	Potential for moderate use
	2	Low potential for use
	0	No potential for use
Type of Water Present	6	Has a variety of flows
	4	Year-round water source of good quality
		Seasonal water
	2	No water or low quality water source
	0	

(H) **Delineation of New Upland Areas of Special Interest**. The ASI delineation is a more precise determination of the location of the designated area. The delineation is determined by several factors including but not limited to the topographical contours, the presence of significant trees and an on-site field location conducted by the Review Authority.

(a) Topography. The boundary of the designated area will be determined to be at the toe of the slope or slope transition for upland features as illustrated on an adopted map specific to each ASI unless otherwise determined by the Review Authority based on field observation.

(b) Significant Trees. The ASI boundary may include significant trees as defined in this ordinance measured at the outer edge of the tree canopy based on aerial photos and field observation.

(c) Evaluation Methodology: A potential new site within the "Upland Feature" category would be evaluated using the following method.

Upland features are natural areas consisting of geologic features and / or vegetation that provide visual and spatial breaks in the developed landscape.

ASI #4 on the east side of 15th Street

Upland Features

1. Use the following three criteria:
   a. Scenic Resources
   b. Existing Site Use
   c. Natural Features

2. Apply the NASS scoring system for these criteria

3. The combined score must total a minimum of 10 points.

Proposed new sites in the Upland feature category with a minimum score of 10 points would be subject to a second review using all nine NASS criteria. Under the second review, the site must total a minimum of 20 points to be further considered for adoption as an Upland Area of Special Interest.

Exhibit B

The definition section for the Upland Areas of Special Interest Overlay Zone shown below will be added to the existing Section 10.10.4. Where necessary, the existing text of the definitions will be amended.

Definitions:

Upland Area of Special Interest: Areas identified and mapped on the Bend Area General Plan Map and the City of Bend Zoning Map as having significant natural features and /or habitat. Also referred to as ASI.

"City": means City of Bend.

Chapter: means the chapter untitled "Upland Areas of Special Interest Overlay Zone.

Delineation: An analysis of a resource by a qualified professional that determines its boundary according to an approved methodology.

Development: Any human caused change to improved or unimproved property, including but not limited to buildings or other structures, mining dredging, filling, grading, paving, excavation or drilling operations located within or adjacent to an area of special interest.

Excavation: Removal of organic or inorganic material (e.g. soil, sand, sediment) by human action.

Fill: Deposition of organic or inorganic material (e.g. soil, sand, sediment) by human action.

Grade, existing: The actual ground surface as naturally occurring formations.

Grading: The clearing, grubbing, excavating or filling of a site.

Habitat: The area or type of environment in which an organism or biological population normally lives or occurs.

Impervious Surface: Any material (e.g. rooftops, asphalt, concrete) which reduces or prevents absorption of water into soil.

Mitigation: A means of compensating for impacts to an Area of Special Interest or its buffer including but not limited to: restoration, creation, or enhancement.

N.A.S.S.: Acronym for Natural Area Scoring System

Native Vegetation: Plants identified as naturally occurring and historically found within Central Oregon.

Qualified Professional: An individual approved by the City with academic and field experience that provides he/she with expertise in natural resources and urban forestry. This may include arborists certified by the International Society of Aboriculture, or certified forester by the Society of American Foresters or other professionals acceptable to the City.

Review Authority: Includes the Planning Director or designee, Planning commission, Hearings Officer, or City Council for the City of Bend.

Significant Trees: Those healthy, coniferous trees having a main trunk diameter of twelve (12) inches or greater excepting native juniper trees having a trunk diameter of eight (8) inches or greater and deciduous trees having a main trunk diameter of six (6) inches or greater measured at a distance 4.5 feet above

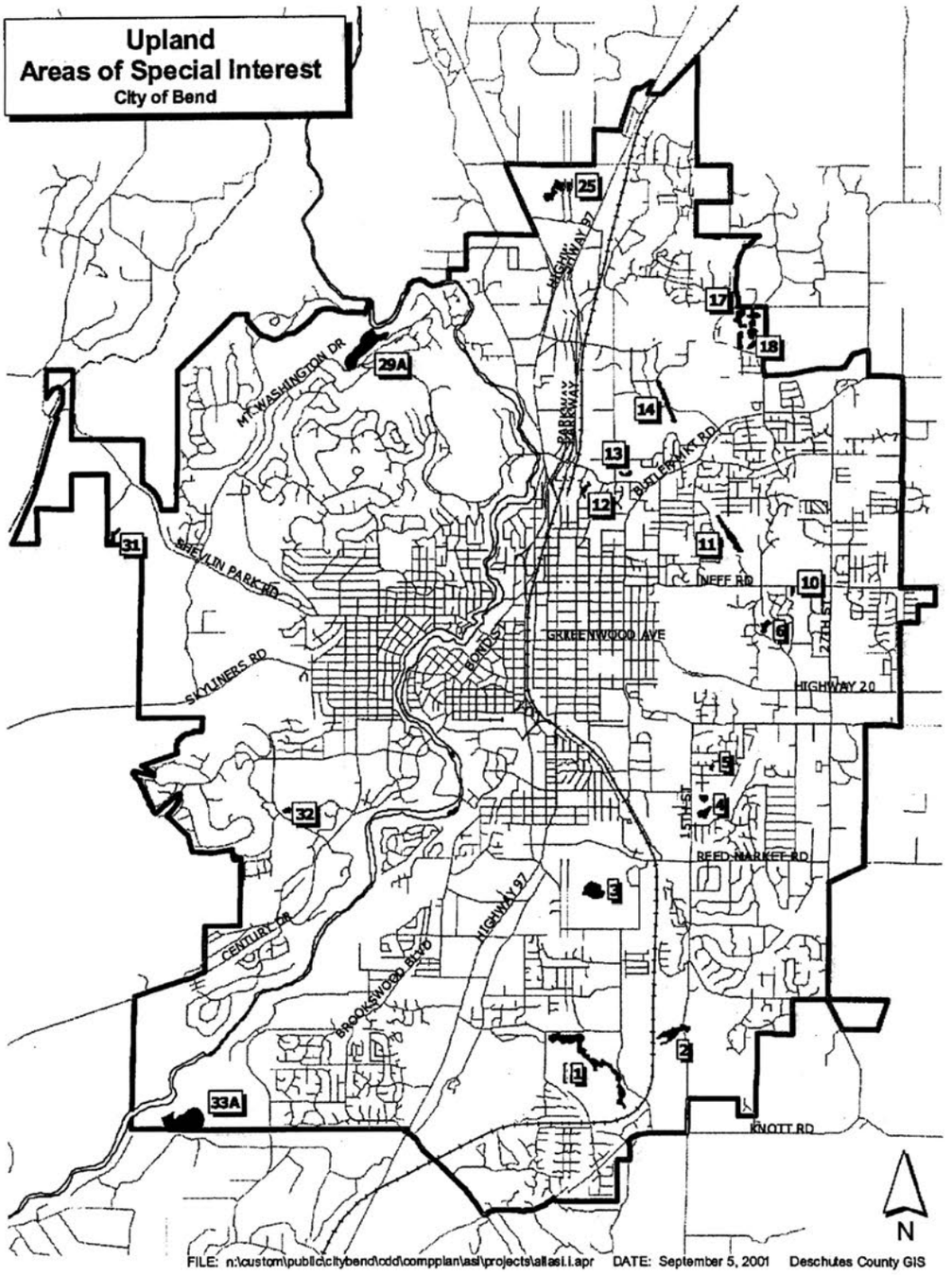
the existing grade.

Slope Transition: The area where the natural grade of an upland feature changes from relatively level terrain to an up or down sloping terrain.

Tree: means any woody, perennial plant characterized by having a main stem of trunk, six inches or more in diameter 4.5 feet above natural grade.

Upland features: are natural areas consisting of geologic features and / or vegetation that provide visual and spatial breaks in the developed landscape.

Exhibit C


Upland
Areas of Special Interest
City of Bend
25
17
18
29A
14
13
12
11
10
9
31
32
5
4
3
2
1
33A
HIGHWAY 97
MT. WASHINGTON DR
BEAVER PARK RD
SKYLINERS RD
BOND ST
GREENWOOD AVE
NEFF RD
HIGHWAY 20
15TH ST
REED MARKET RD
CENTURY DR
BROOKSWOOD BLVD
KNOTT RD
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