ORDINANCE NO. NS-1804

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF AN AREA OF LAND FROM RM, URBAN MEDIUM 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 Planning Commission and Staff recommendation (File # 01-272), and has found that there is a public need and benefit for the proposed 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 below;

Lots 2, 3, 5, the southerly part of lot 6, and lot 10 of Williamson Professional Park and Lot 1 of Williamson Park and parcel 3 of partition plat 1994-48; Deschutes County, Oregon.

From RM, Urban Medium Density Residential to RH, Urban High Density Residential. and shown on the attached map described as Exhibit "A".

Read for the first time the 19th day of September, 2001.

Read for the second time the 3rd day of October, 2001.

Placed upon its passage the 3rd day of October, 2001.

YES: 7 NO: 0

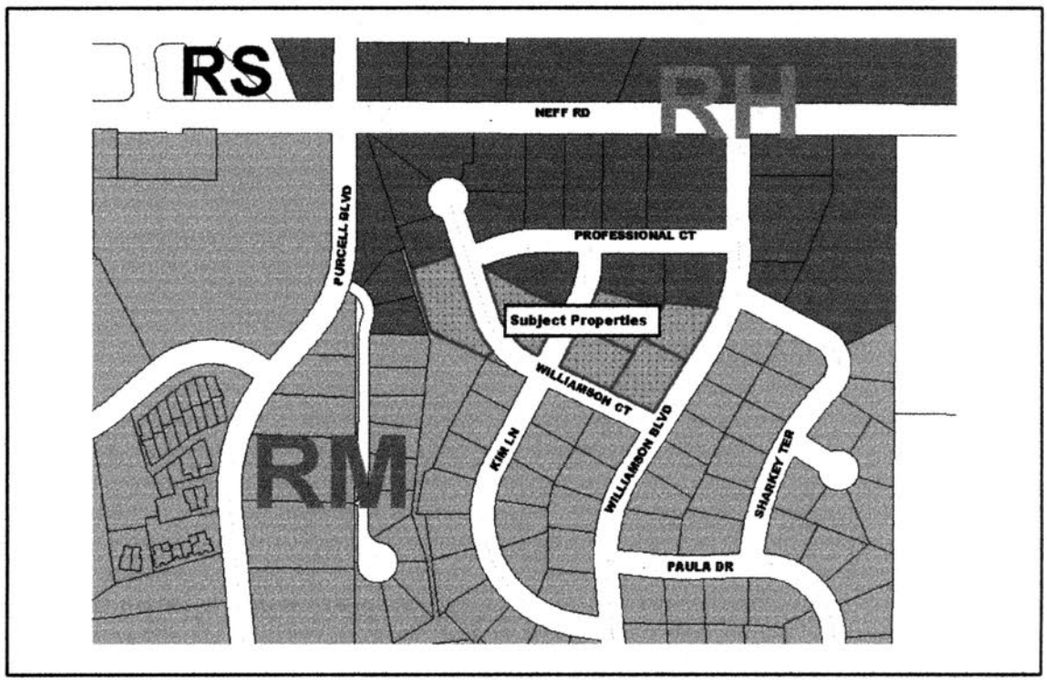
Authenticated by the Mayor the 3rd day of October, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

WILLIAMSON PARK -- EXHIBIT A
01 - 272 RM TO RH



Map produced by City of Bend
By: Jude Fulghum 07-20-01
v:\arcview\bc\01-272.apr

300 0 300 600 Feet

N

ORDINANCE NO. NS-1805

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF AN AREA 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 Planning Commission and Staff recommendation (File # 01-273), and has found that there is a public need and benefit for the proposed 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;

Exhibit 'A'

From RS, Urban Standard Density Residential to RH, Urban High Density Residential. as shown on the attached map described as Exhibit 'B'.

Read for the first time the 19th day of September, 2001.

Read for the second time the 3rd day of October, 2001.

Placed upon its passage the 3rd day of October, 2001.

YES: 7 NO: 0

Authenticated by the Mayor the 3rd day of October, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

Exhibit A

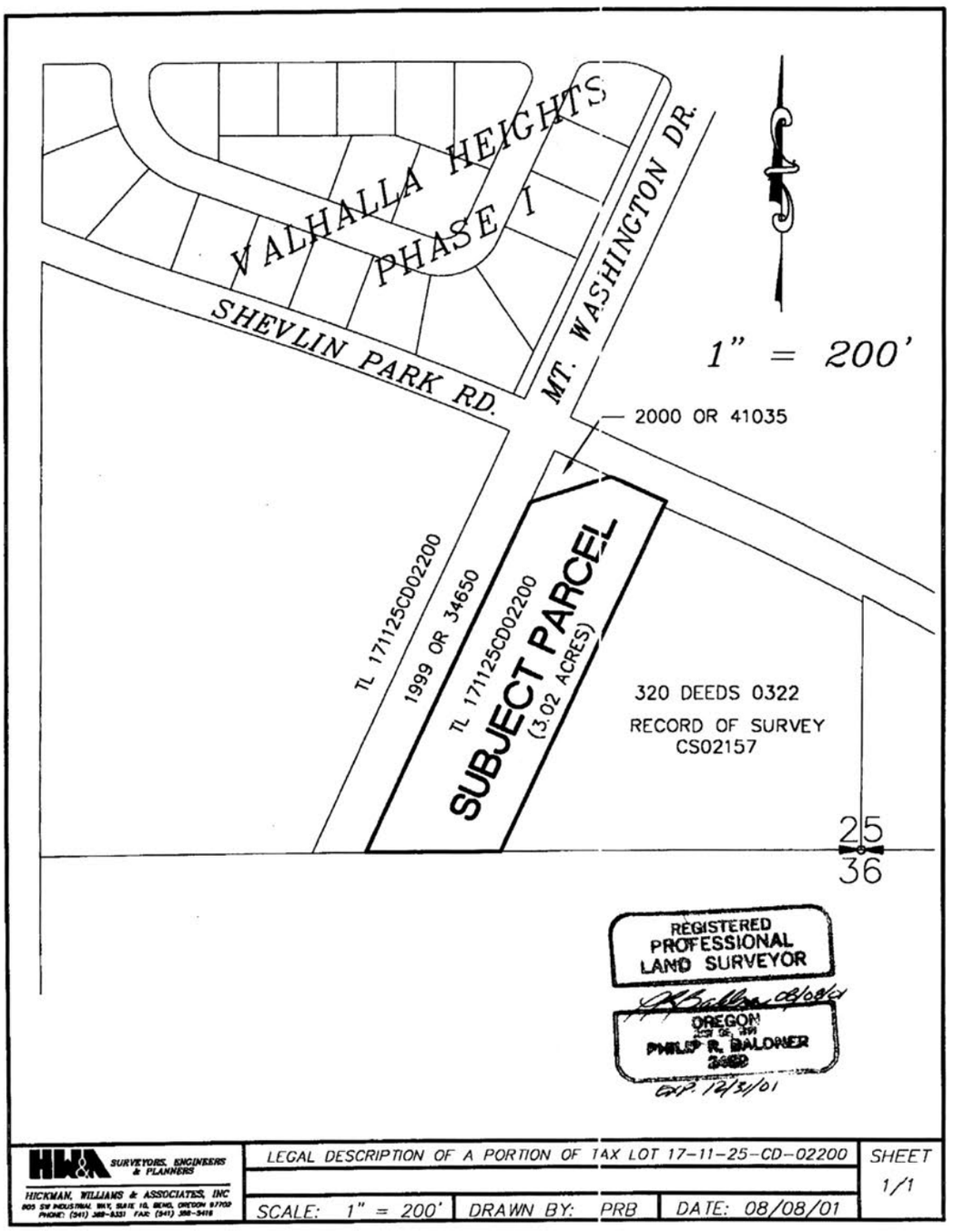
DESCRIPTION

A parcel of land lying in the Southeast One-Quarter of the Southwest One-Quarter(SE1/4 SW1/4) of Section 25, Township 17 South, Range 11 East, Willamette Meridian, in the City of Bend, Deschutes County, Oregon, being more particularly described as follows:

That portion of said Southwest One-Quarter (SW1/4) of said Section 25 lying easterly of the right of way of Mt. Washington Drive as said right of way is described in Volume 1999 at Page 34650 and in Volume 2000 at Page 41035 of Official Records of said county, lying southerly of the right of way of Shevlin Park Road, and westerly of that parcel of land described in Volume 320 at Page 0322 of Deeds in the office of the County Recorder of said county and shown on Record of Survey in the office of the County Surveyor and recorded as CS02157. Containing 3.02 acres, more or less.

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

Exhibit B


VALHALLA HEIGHTS
PHASE 1
SHEVLIN PARK RD.
MT. WASHINGTON DR.
1" = 200'
2000 OR 41035
TL 171125CD02200
1999 OR 34650
TL 171125CD02200
SUBJECT PARCEL
(3.02 ACRES)
320 DEEDS 0322
RECORD OF SURVEY
CS02157
25
36
REGISTERED
PROFESSIONAL
LAND SURVEYOR
OREGON
PHILIP R. BALDNER
EXP. 12/31/01
HW&A SURVEYORS, ENGINEERS & PLANNERS
HICKMAN, WILLIAMS & ASSOCIATES, INC
LEGAL DESCRIPTION OF A PORTION OF TAX LOT 17-11-25-CD-02200
SHEET 1/1
SCALE: 1" = 200'
DRAWN BY: PRB
DATE: 08/08/01

ORDINANCE NO. NS-1806

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF AN AREA OF LAND FROM RS, URBAN STANDARD DENSITY RESIDENTIAL TO IL, LIGHT INDUSTRIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Planning Commission and Staff recommendation (File # 01-274), and has found that there is a public need and benefit for the proposed 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 as;

Parcel 2 of Partition Plat #1999-12

From RS, Urban Standard Density Residential to IL, Light Industrial as shown on the attached map described as Exhibit 'B'.

Read for the first time the 19th day of September, 2001.

Read for the second time the 3rd day of October, 2001.

Placed upon its passage the 3rd day of October, 2001.

YES: 7 NO: 0

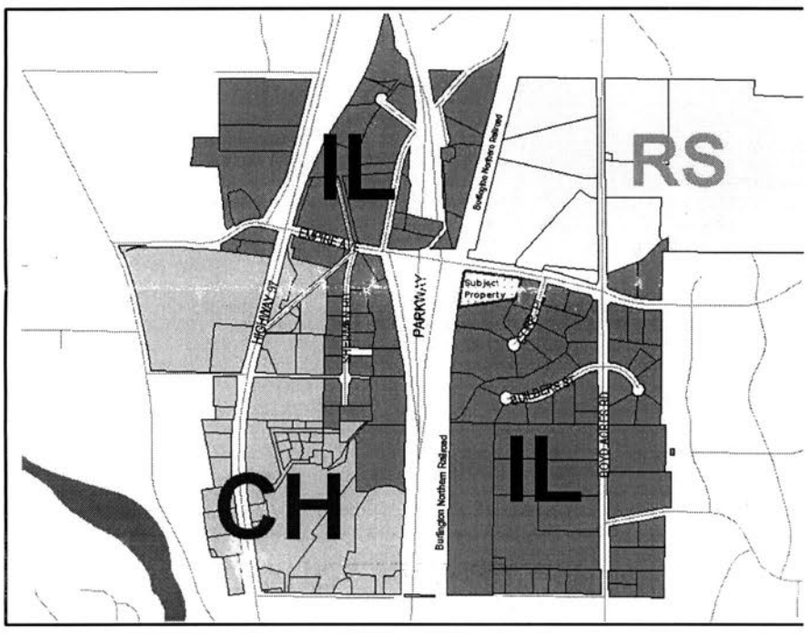
Authenticated by the Mayor the 3rd day of October, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

EMPIRE PARKWAY -- Exhibit
01-274 RS TO IL



Map produced by City of Bend
By: Barbara Connell 07-19-01
v:\arcview\bc\ww-empire...

0.3 0 0.3 Miles

ORDINANCE NO. NS-1807

AN ORDINANCE VACATING PORTION OF NW CROSSING DRIVE THAT LIES WITHIN W 1/2 OF SECTION 36, 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 August 15, 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 3rd day of October, 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 3rd day of October, 2001.

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

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

Yes: 7 No: 0

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

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

Please record 3 pages Ordinance NS-1807

After Recording return to: Deputy Recorder, City of Bend, 710 NW Wall, Bend, 97701

DESCHUTES COUNTY OFFICIAL RECORDS
MARY SUE PENHOLLOW, COUNTY CLERK
2001-59395

$41.00

00032122200100593950020034

12/03/2001 03:28:31 PM

D-ODN Cnt=1 Stn=1 JEFF
$15.00 $11.00 $10.00 $5.00

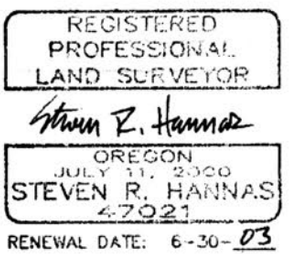
EXHIBIT "A"

City of Bend – Road Vacation
Legal Description

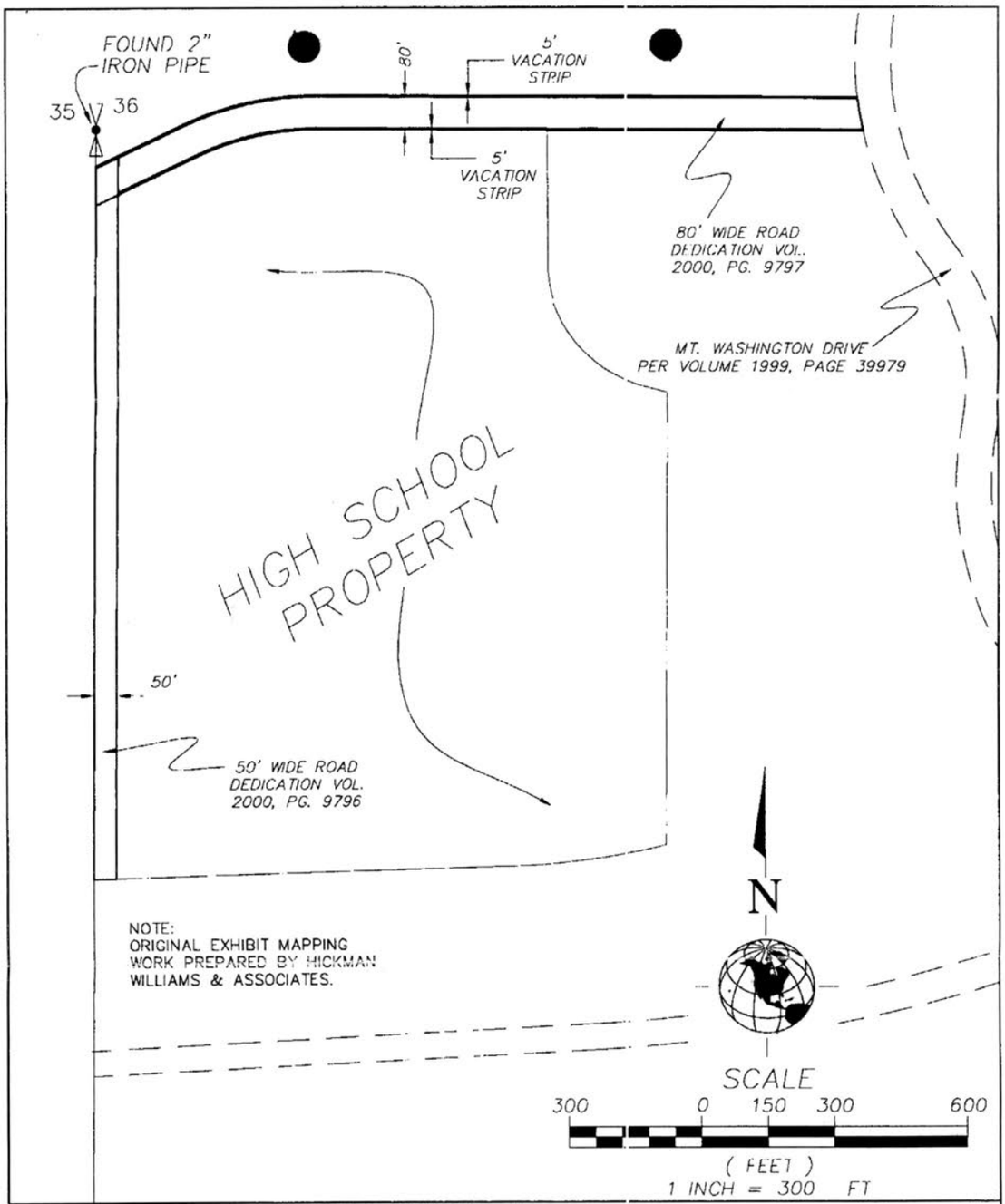
Two (2) strips of land located in the west one-half of Section 36, Township 17 South, Range 11 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being portions of that parcel of land described in Dedication Warranty Deed to the City of Bend, recorded in Volume 2000, Page 9797, Deschutes County Official Records, being more particularly described as follows:

The north 5.00 feet of said parcel of land. Said strip shall be lengthened or shortened to terminate at the west line of said Section 36 and the westerly right-of-way of Mt. Washington Drive, recorded in Volume 1999, Page 39979, Deschutes County Official Records.

Together with: the south 5.00 feet of said parcel of land. Said strip shall be lengthened or shortened to terminate at said westerly right-of-way of Mt. Washington Drive and the easterly right-of-way of the 50 foot road dedication, recorded in Volume 2000, Page 9796, Deschutes County Official Records.



I:\Projects\West Bend Property Company\828196 NWX District 1\Office\Word\wbpvactn.doc page 1 7/16/2001


FOUND 2" IRON PIPE
35
36
80'
5' VACATION STRIP
5' VACATION STRIP
80' WIDE ROAD DEDICATION VOL. 2000, PG. 9797
MT. WASHINGTON DRIVE PER VOLUME 1999, PAGE 39979
HIGH SCHOOL PROPERTY
50'
50' WIDE ROAD DEDICATION VOL. 2000, PG. 9796
NOTE:
ORIGINAL EXHIBIT MAPPING WORK PREPARED BY HICKMAN WILLIAMS & ASSOCIATES.
N
SCALE
300 0 150 300 600
(FEET)
1 INCH = 300 FT
DESIGNED BY:
DRAWN BY: JAM
LAST EDIT:
CHECKED BY: SRH
APPROVED BY: SRH
PLOT DATE: 7/16/01
DATE | BY | REV# | REVISION | CK'D | APPR
W&H PACIFIC
920 Emkay, Suite C-100 Bend, Oregon 97702-1041
WEST BEND PROPERTIES, LLC
NORTHWEST CROSSING
ROAD VACATION EXHIBIT MAP
Bend/Deschutes
Oregon
SCALE: 1"=300'
PROJECT NO. 8.28196
DRAWING FILE NAME: WBPVACTN.DWG
SHEET

ORDINANCE NO. NS-1808

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 RM, URBAN MEDIUM DENSITY RESIDENTIAL AND DECLARING AN EMERGENCY.

Whereas, The City of Bend has been ordered, through a Stipulated Judgment (Circuit Court Case No. 01 CV 0032 MA), to approve the zone change application in City File No. PZ00-358, on conditions set forth in the Stipulated Judgment a copy of which is attached hereto as Exhibit A; and

Whereas: The City of Bend finds that, because this zone change is ordered by the Circuit Court by way of a Stipulated Judgment in a proceeding on a Petition for 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.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. 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 "B"

from Urban Standard Density Residential (RS) to Urban Medium Density Residential (RM).

Section 2. This zone change is conditioned on the Applicant, Lyle Stratton, his successors and assigns complying with all the requirements set forth in the Stipulated Judgment (Circuit Court Case No. 01 CV 0032 MA), a copy of which is attached hereto as Exhibit A. If compliance with these conditions is not met, then the City of Bend may, upon amendment or repeal of this ordinance, return the subject property to the RS zone.

Section 3. This ordinance being necessary for the preservation of the public treasury, this ordinance takes effect upon its passage.

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

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

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

YES: 7 NO: 0

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

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

EXHIBIT B

Lots One (1) through Five (5), Block Seven (7), of ELLIS SUBDIVISION, lying East of the centerline of the Pilot Butte Canal, Deschutes County, Oregon, EXCEPTING that portion of Lots 1 and 2 described as follows: A portion of Lots 1 and 2 in Block 7, of ELLIS SUBDIVISION described as follows: Beginning at a point North 88°20'35" West, 1051.60 feet from the SE corner of the Northeast Quarter of the Southwest Quarter (NE1/4SW1/4) of Section Twenty-eight (28), Township Seventeen (17) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon, said point being on the South line of said Lot 1; thence North 88°20'35" West, 288.53 feet to the SW corner of said Lot 1; thence North 0°24'25" East, 276.95 feet along the West line of said Lot 1; thence South 88°20'35" East, 286.59 feet; thence South 277.0 feet to the Point of Beginning.

ALSO EXCEPTING that portion of Lots One (1) and Two (2) in Block Seven (7), of ELLIS SUBDIVISION, City of Bend, Deschutes County, Oregon, described as follows:

Beginning at a point North 88°20'35" West, 1,051.60 feet from the S.E. corner of the Northeast Quarter of the Southwest Quarter (NE1/4SW1/4) of Section Twenty-eight (28), Township Seventeen (17) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon, said point beginning on the South line of said Lot 1; thence South 88°20'35" East, 109.95 feet to the Southeast corner of said Lot 1; thence North along the East line of said Lots 1 and 2, 277 feet; thence North 88°20'35" West, 109.95 feet; thence South 277 feet to the Point of Beginning.

TOGETHER WITH that portion of Lot Five (5), Block Seven (7) ELLIS SUBDIVISION, lying West of Studio Road.

EXHIBIT A

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF DESCHUTES

LYLE STRATTON, Petitioner, vs. CITY OF BEND, Respondent.	Case No. 01 CV 0032 MA **STIPULATED JUDGMENT**

Petitioner Lyle Stratton ("Stratton") and Respondent City of Bend ("City") hereby stipulate to the judgment of this Court as follows:

1. Stratton's Petition for Writ of Mandamus is hereby allowed, and Respondent City shall approve Petitioner's zone change request in City of Bend Land Use Case No. PZ-00358, changing the zoning on two tax lots, 17-12-28 CA, Tax Lots 702 and 703, by ordinance adopted by City as soon as possible after the date of this judgment. Such zone change ordinance shall be subject to repeal if Petitioner, or Petitioner's successors or assigns, fails to make the payments to City required by

Law Office of
DAN VAN VACTOR
725 NW Broadway
Bend, OR 97701
Phone (541) 389-6700
Fax (541) 382-2439

paragraph 2 of this judgment.

2. In order to mitigate the traffic impacts of his proposed development on the described tax lots, Stratton is obligated, as a condition subsequent to the zone change hereby ordered, to do the following:

(a) Upon final approval by City of Stratton's site plan application for development on the rezoned property, Stratton shall pay to City the estimated cost for construction of a roundabout at the intersection of NE 8th Street and NE Butler Market Road in Bend, according to design criteria WB 50, pursuant to an estimate approved by the City Engineer. Stratton's payment of the estimated cost of the roundabout shall be paid to City upon such site plan approval and issuance of building permits to Petitioner. Petitioner shall promptly obtain a design and cost estimate for the roundabout, for approval of the City Engineer, before building permits are issued by the City. If the cost of construction of the roundabout is less than the estimate, the difference shall be refunded to Petitioner. If the cost of construction of the roundabout exceeds the estimate, Petitioner shall pay the difference to City upon demand, except as otherwise provided in paragraph 4.

(b) Upon adoption by City of a resolution of necessity and intent to condemn the necessary right of way for the roundabout, as a "quick take," Stratton shall also pay $10,000 to the City as the ODOT right-of-way acquisition fee for obtaining the necessary right-of-way for construction of the

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DAN VAN VACTOR
725 NW Broadway
Bend, OR 97701
Phone (541) 389-6700
Fax (541) 382-2439

roundabout. City shall adopt such a resolution authorizing the right-of-way acquisition on or before November 22, 2001.

3. The amounts paid by Stratton for costs of construction of the roundabout and the ODOT right-of-way acquisition fee shall be credited by City against systems development charges ("SCD's") otherwise payable by Stratton to City in connection with Stratton's development on the described tax lots. Any SDC's paid by third parties to City on lots and parcels within the rezoned property shall be reimbursed by City to Stratton. This paragraph shall be applied consistently with City of Bend Street Policy #5.

4. When construction of the roundabout is completed, the City shall ascertain the true cost of construction. If the true cost of the roundabout is less than the amount deposited by the Petitioner under Section 2a, the City shall promptly refund the difference to the Petitioner. If the true cost of the roundabout exceeds the amount deposited under Section 2a, Petitioner shall promptly pay that difference to the City, except that any cost increases due to design changes made or approved by City, after the original design approval under paragraph 2a, shall be paid by City, and any increased costs due to avoidable delay by City in contracting for construction of the roundabout shall be paid by City. City shall enter into a price specific contract with a qualified contractor before September 1, 2002 for immediate construction of the roundabout. If the true cost of construction exceeds the estimated cost of construction under Section 2a, because the City delayed beyond September 1, 2002 in contracting for the construction, the City shall be

Law Office of
DAN VAN VACTOR
725 NW Broadway
Bend, OR 97701
Phone (541) 389-6700
Fax (541) 382-2419

responsible for paying for the increased cost of construction that is attributable to such delay.

5. Neither party is awarded attorney fees or costs in this case. This action is dismissed, without prejudice. In the event of further judicial proceedings to enforce this judgment, the prevailing party shall be entitled to recover reasonable attorney fees in such further proceedings, including any appeal.

Petitioner

Lyle Stratton
Dated: 10-22-01

CITY OF BEND, an Oregon Municipal Corporation

By:
Name: Deborah McMahon
Title: Development Service Director
Dated: 10-24-01

Approved as to form:

Dan Van Vactor, OSB #72272
Of Attorneys for Petitioner
Dated: 10-22-01

James Forbes, OSB#78470
Of Attorneys for City of Bend
Dated: 10/23/01

IT IS SO ORDERED AND ADJUDGED this _____ day of _____, 2001.

Circuit Judge

Law Office of
DAN VAN VACTOR
725 NW Broadway
Bend, OR 97701
Phone (541) 389-6700
Fax (541) 382-2439

ORDINANCE NO. NS-1809

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF AN AREA OF LAND FROM SR 2 1/2, SUBURBAN 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 October 4, 31, 2001, file number PZ-01-192 and PZ-01-194.

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 Suburban Low Density Residential (SR 2 1/2) to Urban Standard Density Residential (RS).

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

Read for the second time the 5th day of December, 2001.

Placed upon its passage the 5th day of December, 2001.

YES: 6 NO: 0

Authenticated by the Mayor the 5th day of December, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

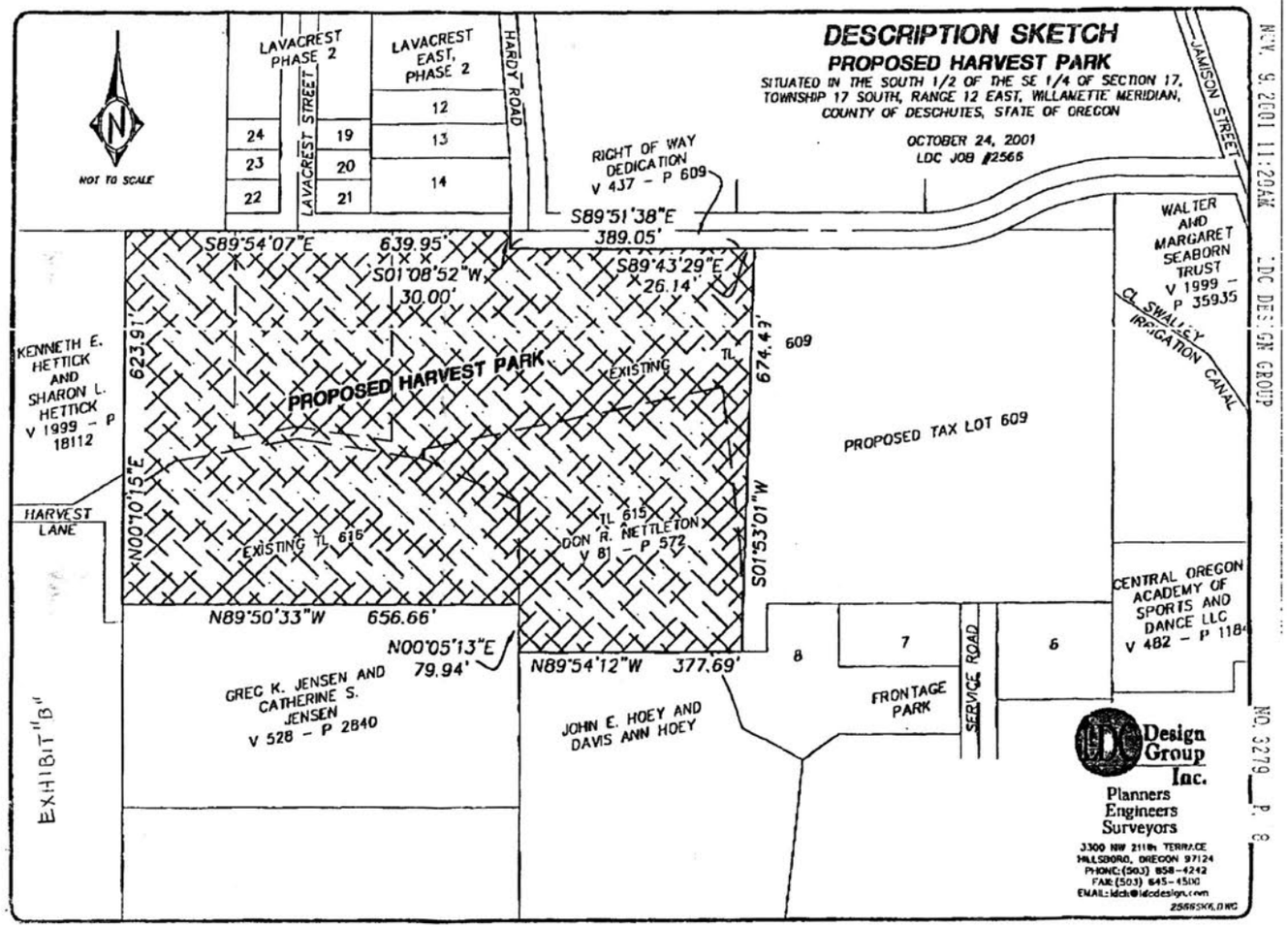
Proposed "Harvest Park" October 24, 2001
Boundary Legal Description

A portion of the South ½ of the Southeast ¼ of Section 17, Township 17 South, Range 12 East, Willamette Meridian, County of Deschutes, State of Oregon, being more particularly described as follows:

Beginning at a point on the North Line of Lot 8, "Frontage Park", a Plat of Record in Deschutes County, which bears S89°54'12"E, 53.15 feet from the 5/8" Iron Rod with an aluminum cap inscribed "OR 930 MBA" marking the Northwest Corner thereof; thence along the North line of said Lot 8, and continuing along the Westerly extension thereof, N89°54'12"W, 377.69 feet to the ¾" Iron Rod marking a point on the East Line of the Jensen Tract of Land as described in deed, recorded on December 29, 1998 in Volume 528, Page 2840, Deed Records of Deschutes County; thence along said East line, N00°05'13"E, 79.94 feet to the ¾" Iron Pipe marking the Northeast Corner thereof; thence along the North line of said Jensen Tract of Land, N89°50'33"W, 656.66 feet to the Easterly Right of Way Line of Harvest Lane; thence along said Right of Way Line, and continuing along the East line of the Hettick Tract of Land as described in deed, recorded on April 13, 1999 in Volume 1999, Page 18112, said Records, N00°10'15"E, 623.91 feet to the ½" Iron Pipe marking the Northeast Corner thereof, being a point on the North Line of the South ½ of the Southeast ¼ of Section 17; thence along said line, S89°54'07"E, 639.95 feet to the Westerly Line of that Right of Way dedicated on February 6, 1997 in Volume 437, Page 609, said Records; thence along said Right of Way Line, S01°08'52"W, 30.00 feet to the 5/8" Iron Rod with a plastic cap inscribed "HWA" marking the Southwest corner thereof; thence along the Southerly Line of said Right of Way, S89°51'38"E, 389.05 feet to the 5/8" Iron Rod with a plastic cap inscribed "HWA" marking an angle point; thence continuing along the Southerly Line of said Right of Way, S89°43'29"E, 26.14 feet; thence leaving said Right of Way, S01°53'01"W, 674.49 feet to the point of beginning.

Containing 15.404 Acres.

The bearings are based along the North Line of the South ½ of the Southeast ¼ of Section 17 pursuant to that Survey recorded on November 19, 1992 in CS 02527. The remaining courses and corners described hereon are based upon the actual Survey of said lands by LDC Design Group in June of this year. The record of this survey has not yet been recorded with the Deschutes County Surveyor.



NOV. 9. 2001 11:20AM LDC DESIGN GROUP NO. 3279 P. 8

ORDINANCE NO. NS-1810

AN ORDINANCE VACATING PORTION OF **BUSINESS WAY** THAT LIES WITHIN **NW** ¼ OF **SE** ¼ OF SECTION **4**, 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 September 5, 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 21st day of November, 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 21st day of November 2001.

Read for the second time the 5th day of December 2001.

Placed upon its passage the 5th day of December 2001.

Yes: 6 No: 0

Authenticated by the Mayor the 5th day of December 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

Please record pages 1 through 3 of Ordinance NS-1810

After Recording return to Deputy Recorder, City of Bend, 710 NW Wall, Bend, 97702

Exhibit "A" "

BUSINESS WAY
VACATION OF EASTERLY PORTION
OF CUL-DE-SAC

PROPERTY DESCRRIPTION

A parcel of land containing 1,624 Square Feet, moore or less, located in a portion of the Northwest One-Quarter of the Southeast One-Quarter (NNW1/4 SE1/4) of Section 4, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Commencing at the northwest corner of Lot 8, Wilsison Avenue Business & Industrial Park; thence along the easterly 30.00 foot right-of-way line of Business Way the following one curve and one bearing and distance:

around a 220.00 foot radius curve right 34.76 feet ((chord bears South 04° 30' 37" East, 34.72 feet);
South 00° 00' 57" West a distance of 19.37 feet tto the northerly most point of the easterly portion of the cul-de-sac in said Business Way;

thence along the easterly right-of-way line of said cul-dde-sac around a 55.00 foot radius non-tangent curve right 109.33 feet (chord bears South 00° 000' 57" West, 92.20 feet) to a point on said easterly 30.00 foot right-of-way line of Business WWay; thence North 00° 00' 57" East a distance of 92.20 feet to the "True Point of Beginning," " the terminus of this description.

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

See drawing attached hereto and hereby incorporated byy reference.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 19, 1994
DAVID R. WILLIAMS
2686

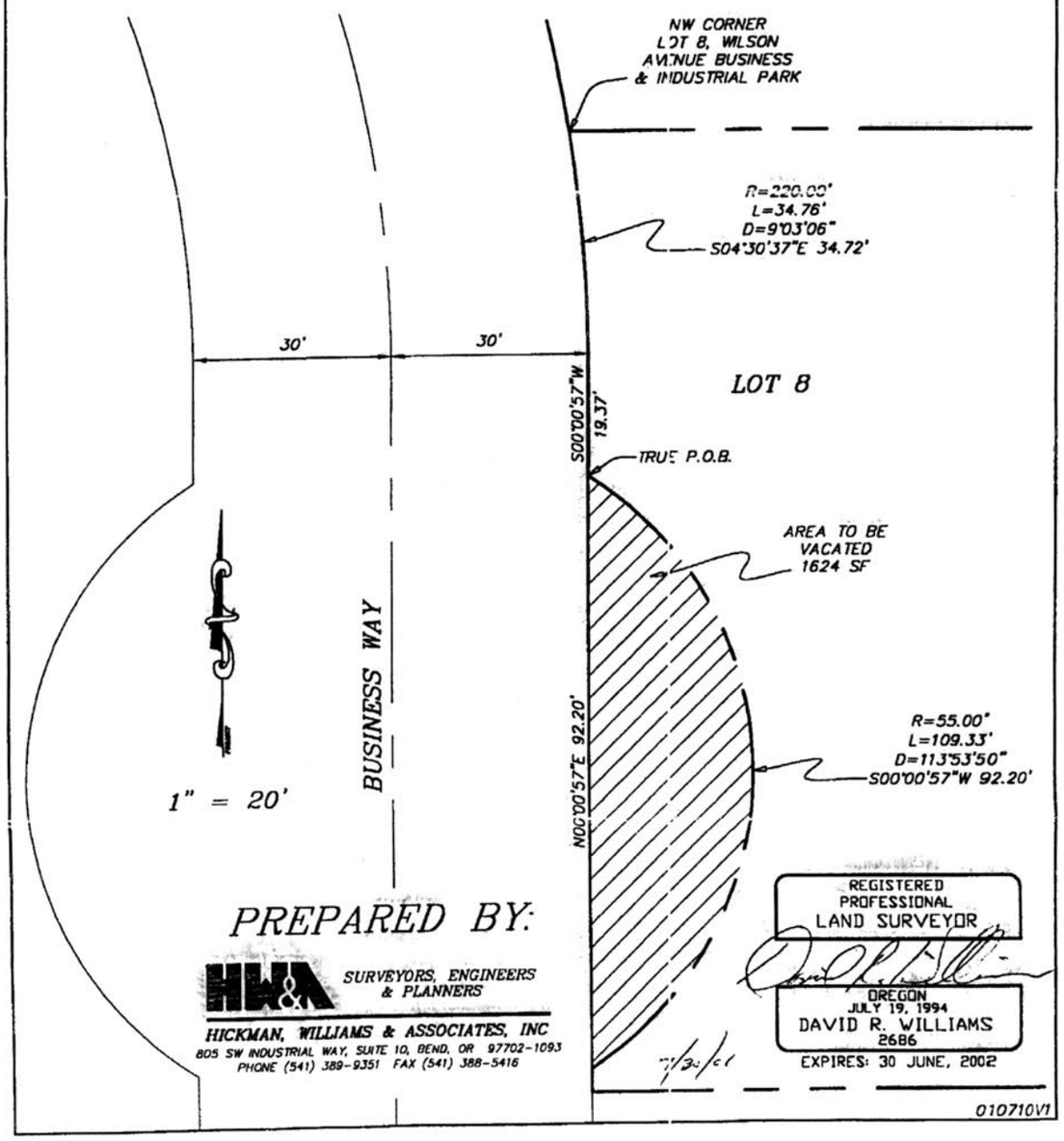
EXPIRES: 30 JUNE, 2002

7/30/01

S:\Land Projects\010710sentry\docs\vacation-business-way.doc

VACATION OF EASTERLY PORTION OF CUL-DE-SAC ON BUSINESS WAY

LOCATED IN: NW1/4 SE1/4 SECTION 4, T18S, R12E, W.M.,
CITY OF BEND, DESCHUTES COUNTY, OREGON



PREPARED BY:

HW&A SURVEYORS, ENGINEERS & PLANNERS

HICKMAN, WILLIAMS & ASSOCIATES, INC
805 SW INDUSTRIAL WAY, SUITE 10, BEND, OR 97702-1093
PHONE (541) 389-9351 FAX (541) 388-5416

DESCHUTES COUNTY OFFICIAL RECORDS
MARY SUE PENHOLLOW, COUNTY CLERK

2002-00783

$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-1811

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 AND DECLARING AN EMERGENCY.

Whereas, The City of Bend has been ordered, through a remand order for LUBA Case No. 2001-032, to review the zone change application in City File No. PZ00-280, in the Stipulated Motion for Voluntary Remand;

Whereas, The City of Bend has identified conditions that will make the zone change application consistent with the City's Zoning Ordinance and General Plan, therefore

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. 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).

Section 2. This zone change is conditioned on the Applicant, Mayberry Group, Inc. and Rare Properties, LLC, their successors and assigns complying with all the requirements set forth below:

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.

If compliance with these conditions is not met, then the City of Bend may, upon amendment or repeal of this ordinance, return the subject property to the RL zone.

Section 3. This ordinance being necessary for the protection of the public treasury and therefore the public welfare, an emergency is declared and this ordinance takes effect upon its passage.

Read for the first time the 5th day of December, 2001.

Read for the second time the 19th day of December, 2001.

Placed upon its passage the 19th day of December, 2001.

YES: 6 NO: 0

Authenticated by the Mayor the 19th day of December, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City of Bend Recorder

EXHIBIT "A"

PARCEL I:

Parcel 1 of Partition Plat No. 1990-14, being a portion of the Southeast Quarter (SE1/4) of Section 7, Township 18 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon.

PARCEL II:

Parcel 2 of Partition Plat No. 1990-14, being a portion of the Southeast Quarter (SE1/4) of Section 7, Township 18 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon.

PARCEL III:

That portion of Tract 15, WAYWEST PROPERTIES, Deschutes County, Oregon, described as follows:

Beginning at a point South 00°06'48" East, 19.29 feet from the Northeast corner of the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section 7, Township 18 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon; thence South 89°53' West 663.96 feet; thence South 00°07' East, 341.86 feet; thence North 89°51' East, 663.96 feet; thence North 00°06'48" West, 340.71 feet to the point of beginning.

EXCEPTING THEREFROM that portion lying within Porcupine Drive and Larkwood Drive (formerly Alder Drive).

PARCEL IV:

That portion of Tract 12, WAYWEST PROPERTIES, Deschutes County, Oregon, described as follows:

Commencing at the Southeast corner of said tract; thence North 00°07' West, 571.02 feet to the true point of beginning; thence continuing North 00°07' West, 285.51 feet to the Northeast corner of said tract; thence South 89°26'33" West, 762.00 feet; thence South 00°07' East 285.51 feet to a point which is located South 89°26'33" West, 760.84 feet from the true point of beginning; thence North 89°26'33" East, 760.84 feet to the true point of beginning.

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

ORDINANCE NO. NS-1812

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 October 10, 2001 file number PZ-01-174.

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 properties described as;

Tax Lots 600, 700 and 803 of Deschutes County Tax Map 18-12-07; and
Tax Lot 2500 of Deschutes County Tax Map 18-11-13;

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

Read for the first time the 5th day of December, 2001.

Read for the second time the 19th day of December, 2001.

Placed upon its passage the 19th day of December, 2001.

YES: 6 NO: 0

Authenticated by the Mayor the 19th day of December, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City of Bend Recorder

Blank Page

Words that are ~~struckthrough~~ are deleted from existing code; words that are underlined are added to existing code.

ORDINANCE NO. NS-1813

AN ORDINANCE REPEALING ORDINANCE NO NS-1796, AND AMENDING THE CITY OF BEND BUSINESS CODE (ORDINANCE NS-1375) TO INCREMENTALLY RAISE THE CITY'S TRANSIENT ROOM TAX FROM SEVEN PERCENT TO NINE PERCENT

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 1796, adopted by the Bend City Council on August 15, 2001 is hereby repealed.

Section 2. 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 then in effect under subsections (1), (2), and (3) of this Section. ~~of [seven percent (7%) 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 Code~~d~~ 7.010 (9), an allowance of ~~five~~ ten dollars ~~($5.00)~~ ($10.00) 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 3. That portion of Ordinance NS-1375, as amended, known as Bend Code Section 7.012 is amended by adding the following subsections:

(1) During the period of January 1, 2002 through June 30, 2002, the tax amount shall be 8% of the rent charged by the operator.

(2) During the period of July 1, 2002 through June 30, 2003, the tax amount shall be 8½% of the rent charged by the operator.

(3) Beginning on July 1, 2003, and subsequent thereto, the tax

amount shall be 9% of the rent charged by the operator.

Section 4. 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 to cover the operator's administrative costs associated with compliance with this ordinance.

Section 5. That portion of Ordinance NS-1375, as amended, known as Bend Code 7.036(1) is amended to read:

7.036 Administration.

Tourist ~~Promotion and Economic Development~~ Fund.
(a) 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. ~~21.42857% of the monies collected pursuant to the tax imposed by this code shall be paid directly into this fund.~~ From the effective date of this ordinance until December 31, 2002, 24% of the monies collected pursuant to the tax imposed under Bend Code Section 7.012 shall be paid directly into this fund. Thereafter, an additional 1.2 % of the monies collected under Section 7.012 shall be paid to this find each year until the total payment reaches 30% of the monies collected under Section 7.012. This increasing percentage shall be instituted as follows: From January 1, 2003 through December 31, 2003, 25.2% shall be paid into the fund; From January 1, 2004 through December 31, 2004, 26.4% shall be paid into the fund; From January 1, 2005 through December 31, 2005, 27.6% shall be paid into the fund; From January 1, 2006 through December 31, 2006, 28.8% shall be paid into the fund; and from January 1, 2007 onward, 30% of the money shall be paid into the fund. The Tourist ~~promotion and economic development~~ Fund shall be used for the promotion of tourism, as defined in Section 1 of HB 2934 (Oregon Laws, 2001) ~~and economic development~~, and the city is authorized to enter into contracts with the Bend Visitor & Convention Bureau, the Central Oregon Visitor's Association, ~~Bend Chamber of Commerce~~ or others entities deemed worthy by the City Council to carry out this purpose.

(b) Amendment to Tourist Promoton Fund. A decrease in the percentage of the monies to the tourist promotion fund, or a change in the definition of the Tourist Promotion Fund, shall require a vote of the people as provided in Section ___ of the Bend Charter.

Section 6. **Effective Date**. This ordinance, being necessary for the preservation of the health, safety and welfare of the public, an emergency is declared to exist and this ordinance shall take effect on January 1, 2002.

Read for the first time the 5th day of December, 2001.

Read for the second time the 19th day of December, 2001.

Placed upon its passage the 19th day of January, 2002.

YES: 6 NO: 0

Authenticated by the Mayor the 19th day of December, 2002.

Bill Friedman, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1814

AN ORDINANCE AMENDING THE CITY OF BEND GENERAL PLAN MAP AND ZONING ORDINANCE NO. NS-1178 (ZONING MAP), BY CHANGING THE ZONING DESIGNATION OF A PARCEL OF LAND FROM RL, LOW DENSITY RESIDENTIAL TO RS, 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 September 19, 2001, file number PZ-01-190.

Section 2. The Bend Urban Area General Plan Map is hereby amended by changing the designation of the property described in Exhibit "A" and depicted on Exhibit "B" from Low Density Residential (RL) to Standard Density Residential (RS)

Section 3. 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 Low Density Residential (RL) to Standard Density Residential (RS).

Read for the first time the 19th day of December, 2001.

Read for the second time the 16th day of January, 2002.

Placed upon its passage the 16th day of January, 2002.

YES: 6 NO: 0

Authenticated by the Mayor the 16th day of January, 2002.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

LEGAL DESCRIPTION

PARCEL 1:
Tract 8 of WAYWEST PROPERTIES, Deschutes County, Oregon.

TOGETHER WITH those portions of vacated Cypress Street and Lodgepole Drive being further described as follows:

Commencing at the NW corner of Tract 8 as shown on the plat of Waywest Properties as recorded in Cabinet A Page 159 in office of the Deschutes County Clerk; said point being on the centerline of Cypress Street; thence North 89° 44' 40" East 723.63 feet along the centerline of Cypress Street to a point on the East right-of-way line of the new alignment of Lodgepole Drive as surveyed by the Deschutes County Public Works Dept. in 1993, being the true point of beginning; thence continuing along said centerline of Cypress Street, North 89° 44' 40" East 231.68 feet to a point on the bulb of a 50 foot radius cul-de-sac as surveyed by the Deschutes County Public Works Dept. in 1993; thence, leaving the centerline of Cypress Street, along said cul-de-sac bulb 32.17 feet along the arc of a 50.00 foot radius non-tangent curve to the right, the long chord of which bears South 18° 41' 19" East 31.62 feet to a point on the South right of way line of Cypress Street; thence, along said South right of way line South 89° 44' 40" West 240.82 feet to a point on the East right of way line of the new alignment of Lodgepole Drive; thence leaving said South right of way line, along said East right of way line 30.02 feet along the arc of a 280.00 foot radius non-tangent curve to the left, the long chord of which bears North 1° 54' 38" West 30.01 feet to the true point of beginning.

And commencing at the NW corner of Tract 8 as shown on the Plat of Waywest Properties as recorded in Cabinet A Page 159 in office of the Deschutes County Clerk, said point being on the centerline of Cypress Street; thence North 89° 44' 40" East 452.30 feet along the centerline of Cypress Street to its intersection with the centerline of Lodgepole Drive as shown on said plat, said point being the true point of beginning; thence North 89° 44' 40" East 211.07 feet to a point on the West right of way line of the new alignment of Lodgepole Drive as surveyed by the Deschutes County Public Works Dept. in 1993; thence, leaving the centerline of Cypress Street, along said West right of way line 30.04 feet along the arc of a 220.00 foot radius non-tangent curve to the right, the long chord of which bears South 2° 21' 50" East 30.02 feet to a point on the South right of way line of Cypress Street; thence, along said South right of way line South 89° 44' 40" West 182.58 feet to a point on the East right of way line of Lodgepole Drive as shown on said plat; thence, leaving said South right of way line, along the East right of way line South 0° 32' 20" West 440.26 feet to a point on the West right of way line of the said new alignment of Lodgepole Drive; thence, leaving said East right of way line, along said West right of way line 353.30 feet along the arc of a 1,030.00 foot radius non-tangent curve to the left, the long chord of which bears South 10° 21' 55" West 351.57 feet to a point on the West right of way line of Lodgepole Drive as shown on said plat; thence along said West right of way line North 0° 32' 20" East 785.84 feet to a point on the South right of way line of Cypress Street; thence, leaving said West right of way line, along said South right of way line South 89° 44' 40" West 193.89 feet to a point on the South right of way line of Brookswood Blvd. as surveyed by the Deschutes County Public Works Dept. in 1993; thence, leaving the South right of way line of Cypress Street, along said South right of way line of Brookswood Blvd. 245.47 feet along the arc of a 590.00 foot radius non-tangent curve to the left, the long chord of which bears North 67° 15' 34" East 243.71 feet to a point on the centerline of Lodgepole Drive as shown on said plat; thence, leaving said South right of way line of Brookswood Blvd., along said centerline of Lodgepole Drive South 0° 32' 20" West 63.21 feet to the true point of beginning.

EXCEPTING from the above that portion conveyed to Deschutes County, a political subdivision of the State of Oregon by Warranty Deed recorded February 11, 1993 in Book 290 Page 1137 of Deschutes County Official Records.

LEGAL DESCRIPTION, continued

PARCEL 2:
That portion of the following described property lying Southerly of Brookswood Blvd.:

A portion of Tract 11, WAYWEST PROPERTIES, Deschutes County, Oregon, described as follows:

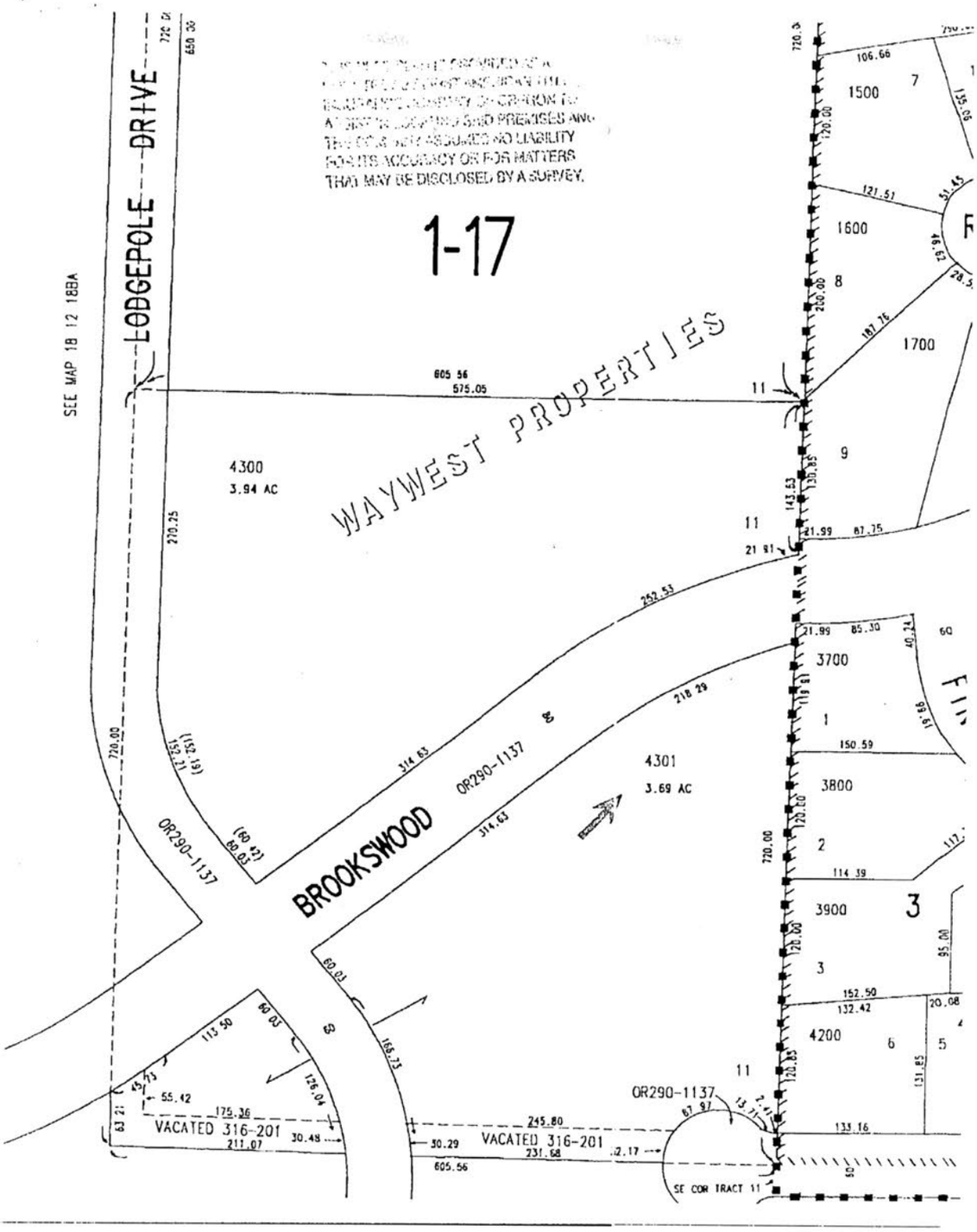
Beginning at the Southeast corner of said Tract 11; thence South 39° 26' 33" West 605.56 feet; thence North 00° 20' East 720.00 feet; thence North 89° 26' 33" East 605.56 feet; thence South 00° 20' West 720.00 feet to the point of beginning.

TOGETHER WITH those portions of vacated Cypress Street and Lodgepole Drive being further described as follows:

Commencing at the NW corner of Tract 8 as shown on the plat of Waywest Properties as recorded in Cabinet A Page 159 in office of the Deschutes County Clerk; said point being on the centerline of Cypress Street; thence North 89° 44' 40" East 452.30 feet along the centerline of Cypress Street to a point on the centerline of Lodgepole Drive as shown on said plat, said point being the true point of beginning; thence leaving the centerline of Cypress Street, along said centerline of Lodgepole Drive North 00° 32' 20" East 63.21 feet to a point on the South right of way line of Brookswood Blvd. as surveyed by the Deschutes County Public Works Dept. in 1993; thence leaving said centerline of Lodgepole Drive, along said South right of way line of Brookswood Blvd. 37.58 feet along the arc of a 590.00 foot radius non-tangent curve to the left, the long chord of which bears North 53° 30' 56" East 37.58 feet to a point on the East right of way line of Lodgepole Drive as shown on said plat; thence leaving said South right of way line of Brookswood Blvd., along said East right of way line South 00° 32' 20" West 55.42 feet to a point on the North right of way line of Cypress Street; thence leaving said East right of way line, along the North right of way line of Cypress Street North 89° 44' 40" East 175.36 feet to a point to a point on the West right of way line of the new alignment of Lodgepole Drive as surveyed by the Deschutes County Public Works Dept. in 1993; thence leaving said North right of way line of Cypress Street, along said West right of way line of the new alignment of Lodgepole Drive 30.48 feet along the arc of a 220.00 foot radius non-tangent curve to the right, the long chord of which bears South 10° 14' 43" East 30.46 feet to a point on the centerline of Cypress Street; thence leaving said West right of way line of the New alignment of Lodgepole Drive, along the centerline of Cypress Street South 89° 44' 40" West 211.07 feet to the true point of beginning.

And commencing at the NW corner of Tract 8 as shown on the plat of Waywest Properties as recorded in Cabinet A Page 159 in the office of the Deschutes County Clerk, said point being on the centerline of Cypress Street; thence North 89° 44' 40" East 723.63 feet along the centerline of Cypress Street to a point on the East right of way line of the new alignment of Lodgepole Drive as surveyed by the Deschutes County Public Works Dept. in 1993, said point being the true point of beginning; thence leaving the centerline of Cypress Street, along the East right of way line of the new alignment of Lodgepole Drive 30.29 feet along the arc of a 280.00 foot radius non-tangent curve to the left, the long chord of which bears North 08° 04' 55" West 30.28 feet to a point on the North right of way line of Cypress Street; thence leaving said East right of way line of the new alignment of Lodgepole Drive, along said North right of way line of Cypress Street North 89° 44' 40" East 245.80 feet to a point on the bulb of a 50 foot radius cul-de-sac as surveyed by the Deschutes County Public Works Dept. in 1993; thence leaving said North right of way line of Cypress Street, along the bulb of said cul-de-sac 32.17 feet along the arc of a 50.00 foot radius non-tangent curve to the left, the long chord of which bears South 18° 10' 38" West 31.62 feet to a point on the centerline of Cypress Street; thence leaving said cul-de-sac bulb, along said centerline of Cypress Street South 89° 44' 40" West 231.68 feet to the true point of beginning.

EXCEPTING from the above that portion conveyed to Deschutes County, a political subdivision of the State of Oregon by Warranty Deed recorded February 11, 1993 in Book 290 Page 1137 of Deschutes County Official Records.


LODGEPOLE DRIVE
SEE MAP 18 12 18BA
1-17
WAYWEST PROPERTIES
4300
3.94 AC
4301
3.69 AC
BROOKSWOOD
OR290-1137
VACATED 316-201
VACATED 316-201
SE COR TRACT 11
1500
1600
1700
3700
3800
3900
4200
605.56
575.05
314.63
252.53
218.29
220.25
720.00
650.00
245.80
231.68
211.07
175.36
133.16
132.42
114.39
150.59
106.66
121.51
187.76
87.75
85.30
152.50

ORDINANCE NO. NS-1815

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF A PARCEL OF LAND FROM SM, SURFACE MINING TO PF, PUBLIC FACILITIES.

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 September 18, 2001, file number PZ-01-264.

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 as depicted on Exhibit "B" from Surface Mining (SM) to Public Facilities (PF).

Read for the first time the 19th day of December, 2001.

Read for the second time the 16th day of January, 2002.

Placed upon its passage the 16th day of January, 2002.

YES: 6 NO: 0

Authenticated by the Mayor the 16th day of January, 2002.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

Exhibit "A"

DESCRIPTION SHEET

Bend Metro Park & Recreation District
Simpson Ave. Property – Consolidated Description

A tract of land lying in the Southeast Quarter of the Northwest Quarter (SE ¼, NW ¼) of Section 6, Township 18 South, Range 12 East, of the Willamette Meridian, Deschutes County, Oregon, described as follows:

Commencing at the Northeast corner of the Southeast Quarter of the Northwest Quarter (SE ¼, NW ¼) of said Section 6; thence S 0° 41' 16" E along the East line of the Southeast Quarter of the Northwest Quarter (SE ¼, NW ¼) of said Section 6, a distance of 69.78 feet to the southerly line of Simpson Ave.; thence S 76° 49' 47" W along the southerly line of said Simpson Ave., 71.43 feet to the **true point of beginning of this description**;

Thence leaving the southerly line of said Simpson Ave., S 27° 56' 07" W, 93.42 feet; thence S 41° 48' 23" W, 155.94 feet; thence continuing S 41° 48' 23" W, 208.25 feet; thence S 4° 25' 20" E, 552.33 feet; thence S 51° 21' 52" W, 35.15 feet; thence 61.50 feet along the arc of a non-tangent 289.27 foot radius curve, concave to the Southwest (the long chord of which bears N 44° 49' 16" W, 61.38 feet); thence N 50° 54' 42" W, 401.11 feet; thence 164.24 feet along the arc of a 206.58 foot radius curve concave to the Northeast (the long chord of which bears N 28° 08' 06" W, 159.95 feet); thence N 5° 21' 30" W, 344.56 feet to the southerly line of said Simpson Ave.; thence along the southerly line of said Simpson Ave., 100.69 feet along the arc of a non-tangent 1312.11 foot radius curve concave to the North (the long chord of which bears N 85° 48' 55" E, 100.66 feet); thence continuing along the southerly line of said Simpson Ave., 155.43 feet along the arc of a 1312.11 foot radius curve concave to the North (the long chord of which bears N 80° 13' 24" E, 155.34 feet); thence N 76° 49' 47" E, 493.10 feet to the true point of beginning.

Containing 7.34 acres more or less.

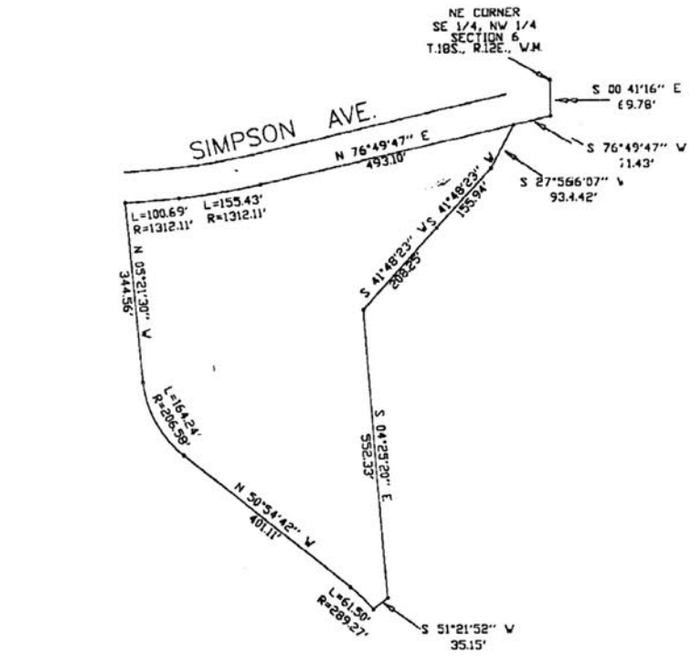
Jeff Kern

Jeff Kern & Assoc., Inc.
Professional Land Surveyors
P.O. Box 1244, Bend, Oregon 97709 ■ (541) 389-4736

EXHIBIT "B"

A TRACT OF LAND LYING IN THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER (SE1/4, NW1/4) OF SECTION 6, T.18S., R.12E., W.M., DESCHUTES COUNTY OREGON,, DESCRIBED AS FOLLOWS:

(SEE ATTACHED DESCRIPTION)



ORDINANCE NO. NS-1816

AN ORDINANCE AMENDING THE BEND AREA GENERAL PLAN MAP TO ADOPT REVISED BOUNDARIES FOR AREA OF SPECIAL INTEREST NO.1

WHEREAS, the City Council on September 19, 2001, adopted Ordinance No. NS 1802 which approved boundaries for upland areas of special interest except for ASI No. 1 which is located partly on land owned by Kim D. Ward LLC and which was deferred until a later date;

WHEREAS, City Council desires to take action on that particular ASI;

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 is amended by revising the boundaries for ASI No. 1 as shown on "Exhibit A".

"Exhibit A"

Read for the first time the 19th day of December, 2001.

Read for the second time the 16th day of January, 2002.

Placed upon its passage the 16th day of January, 2002.

YES: 6 NO: 0

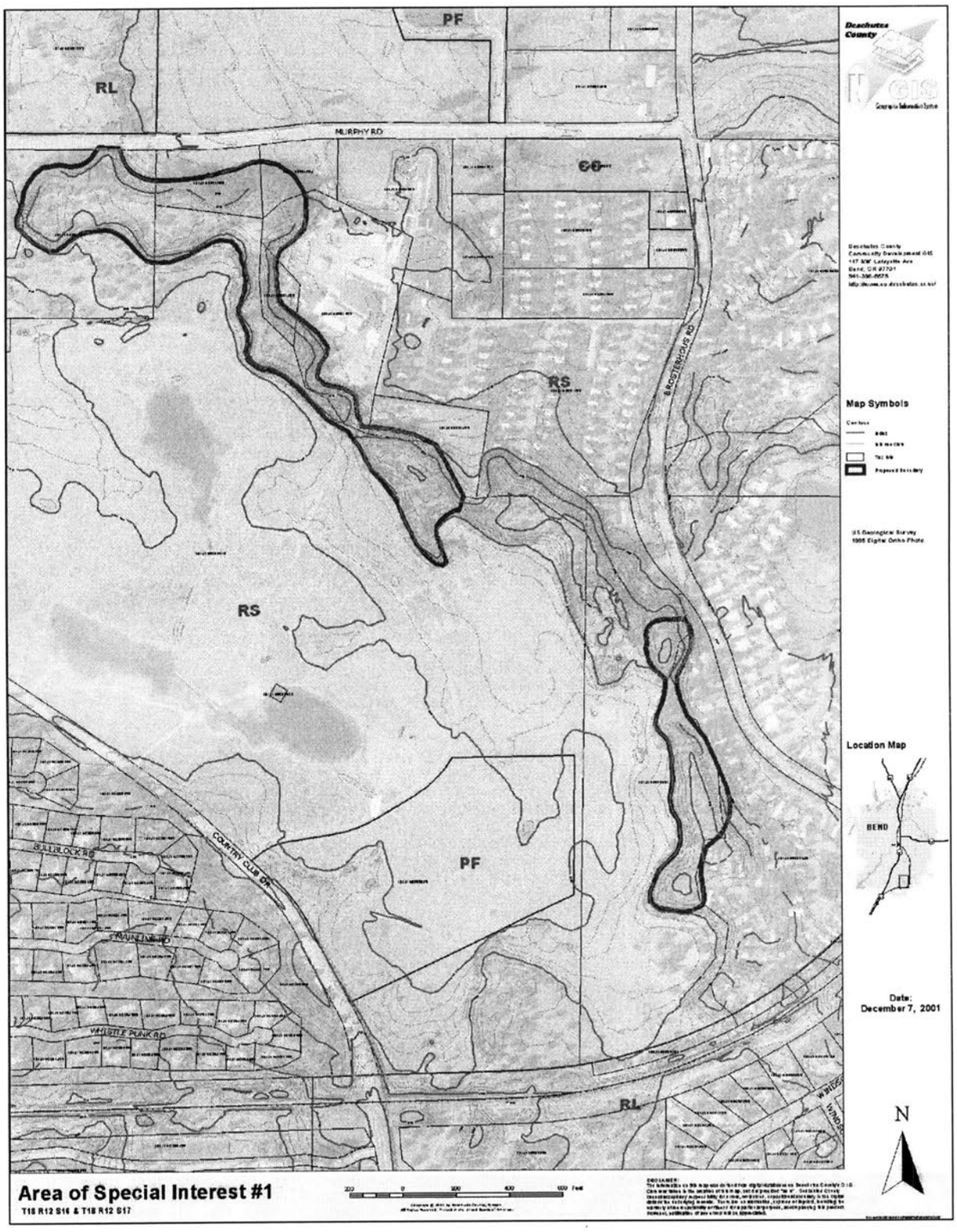
Authenticated by the Mayor the 16th day of January, 2002.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

Exhibit A


PF
RL
MURPHY RD
CG
RS
S MOSTERT'S RD
RS
PF
COUNTRY CLUB DR
S ALLOCK RD
S MAIN ST
WHISTLE PUNK RD
RL
W HIGHWAY 20
Deschutes County
Map Symbols
Location Map
BEND
Date:
December 7, 2001
N
Area of Special Interest #1
T18 R12 S16 & T18 R12 S17

ORDINANCE NO. NS-1817

AN ORDINANCE ESTABLISHING A PROCEDURE FOR THE APPROVAL OF CITY BILLS AND REPEALING INCONSISTENT PROVISIONS OF THE BEND CITY CODE

WHEREAS, the Bend City Council desires to establish a new procedure for the approval of payment of City bills and claims;

WHEREAS, the Bend City Code currently requires that Council approve all bills before such bills are paid by the City;

WHEREAS, the City Council finds that such a system of paying bills is no longer a practical and efficient way of doing business given the several hundred bills received each month by the City for payment;

AND WHEREAS, Council finds authorizing the City Manager to approve the payment of bills is consistent with the City Charter which designates the Manager as the Administrative Officer with the specific duty to oversee City contracts;

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 1.170 of the Bend City Code shall read as follows: "The payment of bills and claims against the City shall be reviewed and approved by the City Manager or the City Manager's designee. The City Manager shall have available on a monthly basis a list of all expenditures approved for payment by the City Manager or the City Manager's designee."

Section 2. The current Section 1.170 of the Bend City Code is repealed in its entirety.

Read for the first time the 19th day of December, 2001.

Read for the second time the 16th day of January, 2001.

Placed upon its passage the 16th day of January, 2001.

YES: 6 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 16th day of January, 2001.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1818

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 (ZONING MAP), BY CHANGING THE ZONING DESIGNATION OF 3 PARCELS OF LAND FROM UAR-10, URBAN AREA RESERVE, TO RS, 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. With the additional analysis and condition set forth in Section 3 of this ordinance, the Bend City Council adopts and incorporates herein the final Findings and Recommendation of the Hearings Officer dated January 4, 2001 file number PZ-01-384.

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 17-11-26 Tax Lot 103,105,106 from Urban Area Reserve (UAR-10) to Standard Density Residential (RS).

Section 3. The recommendation of the Hearings Officer is based upon the assumption that the Applicant's duty to provide infrastructure and to contribute towards the 14th and Newport Street roundabout will be satisfied by his payment of system development charges (SDCs), the West Side Consortium Development Agreements and a bond to pay for the purchase and placement of interim traffic safety devices at that intersection. Based upon that assumption, the Hearings Officer recommends that the Applicant be permitted to file a final plat and begin development, before the permanent improvement, i.e. the roundabout is completed.

It is noted that this represents a departure from the long-standing City practice and interpretation of its ordinances that interim infrastructure improvements do not satisfy a developer's obligation to provide permanent infrastructure improvements. The City has and will continue to require that permanent improvements be completed before a final plat is accepted for filing by the City. The justification for departing from that practice in this case is the existence of the Westside Consortium Agreements which contain secure financial commitments for various developers to complete the permanent infrastructure improvements and then to be reimbursed by the payment of system development charges. Also, the Agreement, which has been adopted by ordinance, contains a time-frame for completion of this particular roundabout of December 2002

While the Hearings Officer recognizes the significance of the Westside Consortium Agreements as justification for departing from the City's practice, the Hearings Officer did not consider the challenge to the city's SDCs in the current law suit by the Central Oregon Builders Association, Deschutes County Circuit Court Case No. 00CV0454AB. An adverse result in that case could undermine that Westside Consortium Agreements and the financial mechanism for paying for the roundabout. The assumption that a certain level of systems development charges will be paid, and therefore the certainty of the Hearings Officer that the roundabout will be built would be undermined.

Because the Hearings Officer's decision relies upon the payment of the present system development charges, it is appropriate to adopt the following additional condition of approval:

> "The City and [Developer] agree that these conditions of approval include the equirement that development on residential dwelling lots within the property subject to this zone change shall be required to pay transportation system development charges ("SDC") at the time of application for a building permit for any individual residential dwelling unit. The City shall collect SDCs at the rate of $3,309 per residential dwelling unit, or any future rates adopted by the Bend City Council. The Bend City Council may, from time to time, re-evaluate the SDC rates for residential, commercial and industrial development. In no event shall the SDC rate of $3,309 per residential dwelling unit decrease unless the Bend City Council approves a decrease in such rate. The obligation to pay SDCs at the rate established by the Bend City Council shall remain in effect regardless of the outcome of any challenge to the City's SDC rate in Deschutes County Circuit Court Case No. 00CV0454AB."

Section 4. The Community Development Staff shall implement when reviewing the final plat for the Shevlin Ridge Subdivision.

Section 5. The City Council takes official notice of its ordinances adopted the Westside Consortium Agreements and the Agreements; and the pleadings filed in Deschutes County Court from Central Oregon Builders Association v. City of Bend, Case No. 00CV0454AB

Read for the first time the 16th day of January, 2002.

Read for the second time the 6th day of February, 2002.

Placed upon its passage the 6th day of February, 2002.

YES: 7 NO: 0

Authenticated by the Mayor the 6th day of February, 2002.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

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ORDINANCE NO. NS-1819

AN ORDINANCE AMENDING THE BEND AREA GENERAL PLAN TEXT, BY ADDING NEW POLICY LANGUAGE TO CHAPTER 10.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Planning Commission recommendation, and has found that there is a public need and benefit for the proposed change.

Section 2. The Bend Area General Plan is amended by adding the new plan text and policies to Chapter 10 shown in Exhibit 'A'.

Read for the first time the 16th day of January, 2002.

Read for the second time the 6th day of February, 2002.

Placed upon its passage the 6th day of February, 2002.

YES: 7 NO: 0

Authenticated by the Mayor the 6th day of February, 2002.

Bill Friedman, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City of Bend Recorder

EXHIBIT "A"

Add new sub section titled 'Noise Related Issues' to Chapter 10 following the existing Air Quality sub section on pages 10-2 and 10-3 of the General Plan. Insert following text:

Noise Related Issues

Noise emissions come from many different sources. Many noises are inherent within different areas of a community. However, excessive noise can be detrimental to the health, safety and welfare of Bend's citizens. Excessive noise can also cause deterioration of the quality of life within a given area of a community.

The State sets forth rules and policy for regulating noise. These rules quantify acceptable types and thresholds of noise. However, the State no longer enforces these rules and relies on the local governments for enforcement. Section 5.385 of the Bend Code; was adopted by the City of Bend pursuant to the provisions of State statute ORS 467.100. This code specifically identifies and defines different noises that are considered to be loud and raucous. These noises are prohibited within the City. For other noise emissions not identified by the Bend Code, the City coordinates with the local DEQ staff and the ORS as a resource. The City Police Services Department assists in the actual enforcement of noise complaints.

Add new policy to Air Quality. Insert the following policy on page 10-7:

9. The City, in cooperation with State and local agencies and volunteer special interest groups, shall consider a long range strategy for improving air quality to address issues such as the reduction of air toxins, haze, and air particulate. At a minimum, the strategy shall include:

    - Provide prior notice to DEQ of pending land use development that might be a new source of air pollution.
    - Require that all new development comply with any applicable state or federal air quality standards as part of the land use application process.
    - Develop a "covered load" ordinance for construction, development, sand & gravel and debris hauling within the city limits.

Add new policy section and policy. Insert the following text on page 10-7 after the Air Quality policies:

<u>Noise Control</u>

1. The city shall coordinate with the DEQ as a resource regarding noise related issues and will require any applicable state or federal noise standards to be met as part of individual land use applications.

ORDINANCE NO. NS 1820

AN ORDINANCE AMENDING THE PROCEDURE FOR INITIATE AND REFERENDUM ELECTIONS

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code Section 1.200 is amended to read:

INITIATIVE AND REFERENDUM

1.200 All elections related to initiative and referendum elections shall be in compliance with the rules established by the Secretary of State's office and shall comply with State Law.

~~1.200 Definitions. As used in Sections 1.200 to 1.258, the following mean:~~

~~(1) City Elections Officer. The City Recorder for the City of Bend.~~

~~(2) Elector. A person who is qualified to vote in the City.~~

~~(3) Emergency Election. An election held as provided by ORS 221.230(2) when the Council finds that to avoid extraordinary hardship to the community it is necessary to hold an election sooner than the next available election date specified in ORS 221.230(1).~~

~~(4) Measure. A legislative enactment by the Council that is not necessary for the immediate preservation of the public peace, health and safety; a part of such enactment; or a proposed legislative enactment for the City.~~

~~(5) Petition. An initiative or referendum petition for ordering a measure to be submitted to the electors.~~

~~(6) Prospective Petition. The information, except title information and signatures and other identification of petition signers, required to be contained in a complete petition.~~

~~(7) Regular Election. A City election held at the same time as a primary or general biennial election for election of state and county officers.~~

~~(8) Special Election. An election held on a date specified in ORS 221.230(1) that is not a regular election.~~

~~(9) Write. To write, type or print.~~

~~1.202 Complete Procedure. Sections 1.200 to 1.258 and the City charter provide a complete procedure for the electors to exercise initiative and referendum powers.~~

~~1.204 Initiative Proposal. An initiative measure shall be proposed by filing with the City elections officer a complete petition that meets the requirements of Section 1.222 and orders the measure to be submitted to the electors.~~

~~1.206 Referendum Procedure. A measure shall be referred by:~~

~~(1) Filing with the City elections officer a complete referendum petition that meets the requirements of Section 1.222; or~~

~~(2) Submission of the measure to the electors by the Council.~~

~~1.208 Time for Referring Measure by Petition. A complete referendum petition for a measure, including the required signatures, must be filed with the City elections officer within 30 days after the Council enacts the measure.~~

~~1.210 Time for Referral by Council. The Council may refer a measure only at the session at which it enacts the measure.~~

~~1.212 Prospective Petition.~~

~~(1) A prospective petition shall be in the form prescribed by the secretary of state and the City charter.~~

~~(2) Prior to its circulation, a copy of the prospective petition shall be deposited with the City elections officer with a correct copy of the measure and a signed statement on the face of the petition stating the name and address of the person or persons, not to exceed three, under whose authority and sponsorship the petition was prepared and is to be circulated or, if the sponsor is an organization, its name and address and the name and address of each of the principal officers of the organization.~~

~~1.214 Elections Officers Duties. When a copy of a prospective petition is deposited with the City elections officer, the officer shall immediately:~~

~~(1) Check the form for compliance with Section 1.212;~~

~~(2) Advise the person depositing it whether it complies with Section 1.212 and, if it does not, how to correct it;~~

~~(3) Stamp the date and time on the petition;~~

~~(4) Provide a sample petition form prescribed by the secretary of state, if one has not already been obtained; and~~

~~(5) Send a copy to the City Attorney for preparation of the ballot title.~~

~~1.216 Ballot Title Preparation.~~

~~(1) The ballot title for a measure ordered by the Council or proposed to be ordered by petition shall be prepared and in the hands of the City elections officer within five working days after the Council orders the submission or after a copy of the prospective petition is deposited with the officer.~~

~~(2) When the Council orders submission of a measure to the electors or when a prospective petition is deposited with the City elections officer, the officer shall send a copy of the measure to the City Attorney, who shall prepare the ballot title and return it to the officer.~~

~~1.218 Ballot Title Appeals. An elector who is dissatisfied with the ballot title may, within five days after it is prepared and deposited with the City elections officer, appeal to the Council by a written appeal deposited with the officer asking for a different ballot title for the measure and stating why the title is unsatisfactory. Within three days after deposit of the appeal with the officer, the Council shall provide the appellant a hearing and either approve the title or prescribe another ballot title. The title thus adopted shall be the ballot title for the measure.~~

~~1.220 Captions and Statements. The ballot title shall be a concise and impartial statement of the purpose of the measure. It shall consist of:~~

~~(1) A caption not exceeding 10 words by which the purpose of the measure is commonly referred to;~~

~~(2) A question not exceeding 20 words that plainly states the purpose of the measure and is phrased so that an affirmative response to the question corresponds to an affirmative vote on the measure; and~~

~~(3) An abbreviated statement not exceeding the number of words permitted by Oregon law or City Charter that summarizes the measure.~~

~~1.222 Petition Requirements. Prior to circulation, a petition must:~~

(1) Be in the form prescribed by the secretary of state; a sample of the form is available in the office of the City elections officer;

(2) Contain the name and address of the sponsor or sponsors of the petition; and

(3) Have written in the foot margin of each signature sheet and on the cover:

(a) On an initiative petition, the caption that is part of the ballot title. The cover sheet shall contain the entire ballot title.

(b) On a referendum petition, the number and title of the measure to be referred as enacted by the Council. If there is no title, the title supplied by the petitioner shall be used as the title.

1.224 Number of Signatures.

(1) An initiative petition must be signed by a number of legal voters of the City of Bend equal to the greater of:

(a) fifteen percent (15%) of the votes cast for and against the person who received the greatest number of votes for a municipal office at the last preceding general municipal election;

(b) fifteen percent (15%) of the votes cast for and against a municipal measure at the last preceding general municipal election.

(2) A referendum petition must be signed by a number of legal voters of the City of Bend equal to the greater of:

(a) ten percent (10%) of the votes cast for and against the person who received the greatest number of votes for a municipal office at the last preceding general municipal election;

(b) ten percent (10%) of the votes cast for and against a municipal measure at the last preceding general municipal election.

1.226 Attachment of Measure to Sheets. A signature on a petition sheet shall not be counted unless a copy of the measure to which the petition refers is attached to the sheet at the time of signing and filing.

1.228 Signature Limits. Only the first 20 names on a page of a petition shall be considered in computing the number of valid signatures on the petition.

1.230 Verification of Signatures and Statement of Circulator. A signature on a petition sheet shall not be counted unless the person who circulated the sheet verifies by a signed statement on its face that the individuals signed the sheet in the presence of the circulator and the circulator believes that each individual who signed is a qualified elector. The circulator shall state whether or not he or she was paid for circulating the petition.

1.232 Certification of Signatures. Within 10 days after a petition is offered for filing with the City elections officer, the officer shall verify the number and genuineness of the signatures and the voting qualifications of the person who signed the petition by reference to the registration books in the office of the Deschutes County Clerk. If a sufficient number of electors signed the petition, the officer shall so certify and file the petition. If the officer determines that there is an insufficient number of signatures, the petition shall be returned to the person who offered the petition for filing.

1.234 Presentation to Council. At the next regular meeting of the Council after the proposal of a completed initiative measure, the City elections officer shall present the measure to the Council. The City Council may adopt or reject any measure over which it has legislative power. If the measure is not adopted by the Council it shall be submitted to the voter as set forth in Section 1.236.

~~1.236 Submission to Electors.~~

~~(1) The City elections officer shall cause a charter or charter amendment proposed by the initiative, and any other initiative measure not adopted within 30 days after its filing, to be submitted to the electors at the time provided by Section 1.238.~~

~~(2) The City elections officer shall cause a referred measure to be submitted to the electors at the time fixed by Section 1.238.~~

~~1.238 Voting on Measures.~~

~~(1) The time for voting on a measure shall be the first available election date more than 90 days after the verification and filing of a petition by the City elections officer.~~

~~(2) The Council may call an emergency election for a measure and set the date for it as provided by ORS 221.230.~~

~~1.240 Designating and Numbering Measures. Measures shall appear on a ballot by ballot title only. Initiative measures, referendum measures and charter amendments proposed by the Council shall be distinguished as provided by the charter. The sequence of measures to be voted on shall be the sequence in which the respective measures are ordered to be submitted to the electors, with the first measure to be numbered "51" in numerals, and the succeeding measures to be numbered consecutively "52," "53," "54," and so on.~~

~~1.242 Election Notice. The City elections officer shall give notice of all elections in accordance with the requirements of the City charter.~~

~~1.244 Information to County Clerk. When a measure is to be voted on at a regular or special election, the City elections officer shall furnish a certified copy of the ballot title and the number of each measure to be voted on to the Deschutes County Clerk in accordance with the time limits established by state law and City Charter.~~

~~1.246 Election Returns. The votes on a measure shall be counted, canvassed and returned by the county clerk as provided by state law and in accordance with the City charter.~~

~~1.248 Proclamation of Election Results.~~

~~(1) Immediately after completion of the canvass of the votes on a measure, the mayor shall issue a proclamation:~~

~~(a) Stating the vote on the measure;~~

~~(b) Declaring whether the vote shows a majority to be in favor of it; and~~

~~(c) If a majority of electors favor the measure, declaring it to be effective from the date of the proclamation and publication.~~

~~(2) The City elections officer shall give public notice of the proclamation by publishing it once in a newspaper of general circulation in the City within fifteen days after the election.~~

~~(3) The proclamation shall be filed with the measure.~~

~~1.250 Effective Date of Measure. A measure submitted to the electors shall take effect upon proclamation and publication as provided by the City charter. A measure shall have no effect while it is subject to the referendum.~~

~~1.252 Conflicting Measures. When conflicting measures are approved by the electors at an election, the one receiving the greater number of affirmative votes shall be paramount.~~

~~1.254 Voters Pamphlet. It shall not be necessary to distribute a voters pamphlet concerning any measure unless directed by the Council.~~

~~1.256 Unlawful Acts.~~

~~(1) No person other than a registered elector shall sign a petition.~~

~~(2) No person shall sign a petition with a name not his or her own.~~

~~(3) No person shall knowingly circulate, file or attempt to file with the elections officer a petition that contains a signature signed in violation of Sections 1.200 to 1.258.~~

~~(4) No person shall procure or attempt to procure a signature on a petition by fraud.~~

~~(5) No person shall knowingly make a false statement concerning a petition.~~

~~(6) No person shall make a document required or provided for by Sections 1.200 to 1.258 that contains a false statement.~~

~~(7) No officer shall wilfully violate a provision of Sections 1.200 to 1.256.~~

~~1.258 Penalties. Violation of a provision of Section 1.256 is a Class C Civil Infraction.~~

1.270 Nomination of Candidates for City Council.

~~(1) Candidates for the City Councilor positions to be filled at the 1998 general election may be nominated for those offices by filing a declaration of candidacy as provided by State law.~~

~~(2) After the 1998 general election,~~ (1) Candidates for City Councilor can only be nominated for that office by filing a nominating petition; and may not be nominated by filing a declaration of candidacy. The requirements of the nominating petition, and the procedures for filing it, shall be as provided by State Law except that the nominating petition shall contain at least 150 signatures of electors within the City of Bend.

Read for the first time the 16th day of January, 2002.

Read for the second time the 6th day of February, 2002.

Placed upon its passage the 6th day of February, 2002.

YES: 7 NO: 0

Authenticated by the Mayor the 6th day of February, 2002.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

Underlined text is new;
~~struckthrough~~ text is deleted.

ORDINANCE NO. NS 1821

AN ORDINANCE AMENDING THE BEND CODE RELATING TO PROCEDURES FOR ~~INITIATIVE AND REFERENDUM ELECTIONS~~ Public Contracting

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code Sections 1.550 through 1.590 are amended to read:

CONTRACT REVIEW BOARD

1.550 Designation of Board. The City Council is designated as the local contract review board.

1.551 Public contracts shall be let by the City of Bend according to Oregon Law, including rules adopted by the Oregon Attorney General as they now exist and as they may be amended in the future.

~~**1.552 Definitions**. For the purpose of Bend Code 1.550–1.568, the following mean:~~

~~(1) Board. The local contract review board as esstablished in Section 1.550.~~

~~(2) Informal Bid. For purchases, an informal bid shall be considered the procedure whereby the City Manager, or designee, ascertains by correspondence, telephone calls or by direct contact the various prices for the items involved, quoted by a number of reliable firms that have the items for sale. For sales, an informal bid shall be considered the procedure whereby the City Manager, or designee, ascertains by correspondence, telephone calls or by direct contact what price can be obtained for City personal property that is no longer needed for City purposes. For purchases, after the low bid is determined, the purchase may be made by the City Manager or designated agent. For sales, after the high bid has been determined, the sale may be made by the City Manager or designated agent.~~

~~(3) Public Contract. Any purchase, lease or sale by the City of personal property, public improvements or services other than agreements which are exclusively for personal services.~~

~~(4) Public Improvement. Any construction of improvements on real property by or for the City.~~

~~**1.554 Competitive Bids Exemption**.~~

~~(1) All contracts shall be based on competitive bids except:~~

~~(a) Contracts made with, or the cost of which is provided by, other public agencies or the federal government.~~

~~(b) Contracts for any purchase, sale or lease, the amount of which is less than $2,500.~~

~~© Contracts for any item which is available only through one company, firm or individual.~~

(d) Contracts for any purchase, sale or lease, the amount of which is $2,500.00 or more and less than $7,500.00, which may be by an informal bid.

(e) Contracts for the purchase of computer equipment and software, which may be by informal bid.

(2) The contract review board may by resolution exempt other contacts from competitive bidding if it finds:

(a) Lack of bids will not result in favoritism or substantially diminish competition in awarding the contract; and

(b) The exemption will result in substantial cost savings. In making such findings, the board may consider the type, cost, amount of the contract, number of persons available to bid and such other factors as the board may deem appropriate.

1.556 Emergency Contracts. A contract may also be exempted from competitive bidding if the board by unanimous vote determines that emergency conditions require prompt execution of the contract. A determination of the emergency shall be entered into the record of the meeting at which the determination is made.

1.558 Brand Name Specification.

(1) Specifications for contracts shall not require any product by any brand name or mark, nor the product of any particular manufacturer or seller, unless the product is exempted from the requirement by the board under this section. However, this section shall not be construed to prevent reference in the specification to a particular product as a description of the type of item required.

(2) The board may by resolution exempt certain products or classes of products upon any of the following findings:

(a) It is unlikely that such exemption will encourage favoritism, the awarding of the contract or substantially diminish competition.

(b) The specification of a product by brand name or maker, or the product of a particular manufacturer or seller, would result in substantial cost savings.

© There is only one manufacturer or seller of quality required.

(d) Efficient utilization of existing equipment or supplies requires the acquisition of compatible equipment or supplies.

1.560 Exemption Hearing. Whenever the board is considering an exemption to the requirements for competitive bids or brand names specifications, it shall provide a notice to the public and an opportunity for a public hearing on whether the exemption should be allowed.

1.562 Bid Rejection. The Council or an official designated by it may reject any bid not in compliance with all prescribed public bidding procedures and requirements and may reject all bids if it is in the public interest to do so.

1.564 Bidder Disqualification. The Council or an official designated by it may disqualify any person as a bidder on a contract if:

(1) The person does not have sufficient financial ability to perform the contract. Evidence that the person can acquire a surety bond in the amount and type required shall be sufficient to establish financial ability;

~~(2) The person does not have equipment available to perform the contract;~~

~~(3) The person does not have key personnel available of sufficient experience to perform the contract; or~~

~~(4) The person has repeatedly breached contractual obligations to public and private contracting agencies.~~

~~**1.566 Appeal of Disqualification**. A person who has been disqualified as a bidder may appeal the disqualification to the board as provided in this section.~~

~~(1) The person shall, within three business days after receipt of notice of disqualification, in writing notify the City Manager that the person appeals the disqualification.~~

~~(2) Immediately upon receipt of the written notice of appeal, the manager shall inform the board.~~

~~(3) Upon receipt of the notice of appeal, the board shall notify the person ap pealing of the time and place of the hearing.~~

~~(4) The board shall conduct the hearing according to the provisions of ORS 279.045(3), decide the appeal within ten days after receiving the notification, and shall set forth in writing the reasons for its decisions.~~

~~**1.568 Additional Authority**. In addition to the powers and duties established by Sections 1.550 to 1.568, the board shall have such additional powers as authorized by state law.~~

~~**1.590 Polystyrene Foam Products**. No readily disposable products containing or composed of polystyrene foam (styrofoam) shall be purchased by the City of Bend.~~

Read for the first time the 16th day of January, 2002.

Read for the second time this 6th day of February, 2002.

Placed upon its passage this 6th day of February, 2002.

YES: 7 NO: 0

Authenticated by the Mayor this 6th day of February, 2002.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1822

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 (ZONING MAP), BY CHANGING THE ZONING DESIGNATION OF A PARCEL OF LAND FROM UAR-10, URBAN AREA RESERVE, TO RS, 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. With the additional analysis and condition set forth in Section 3 of this ordinance, the Bend City Council adopts and incorporates herein the final Findings and Recommendation of the Hearings Officer dated November 21, 2001 (as amended by Findings on Request for Reconsideration dated January 3, 2002, and by decision of Council adopted on 02/20/02) file number PZ-01-295.

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 Urban Area Reserve (UAR-10) to Standard Density Residential (RS).

Section 3. At the time that this zoning amendment and underlying Planned Unit Development (PUD) were being considered by Hearing Officer Karen Green, a similar zoning amendment and subdivision application were being considered by Hearing Officer Sharon Smith. The hearings officers have reached differing conclusions about the same legal questions. These conflicting decisions create a purely legal dispute which treats similar applicants differently and which Council resolves with the adoption of this ordinance. Because the City Community Development staff has administratively approved several other applications that are consistent with the Smith analysis and decision, the result in this case is even more disparate and is appropriate for Council's resolution in this manner.

The City Council adopts the reasoning of Hearing Officer Smith regarding "Orderly Pattern and Sequence of Growth" contained on pages 7 to 10 of her decision, but with the addition of the below explanation and condition. That modified reasoning and condition is to apply to this zoning amendment and application. While Council accepts the basic premises of her decision, Council believes her reasoning needs additional explanation and analysis. The recommendation of the Hearings Officer Smith is based upon the assumption that the Applicant's duty to provide infrastructure and to contribute towards the 14th and Newport Street roundabout will be satisfied by his payment of system development charges (SDCs), the West Side Consortium Development Agreements and a bond to pay for the purchase and placement of interim traffic safety devices at that intersection. Based upon that assumption, the Hearings Officer Smith recommended that the Applicant be permitted to file a final plat and begin development, before the permanent improvement, i.e. the roundabout is completed.

It is noted that this represents a departure from the long-standing City practice and interpretation of its ordinances that interim infrastructure improvements do not satisfy a developer's obligation to provide permanent infrastructure improvements. It is that practice and interpretation that Hearings Officer Green applied to

this case. The City has and will continue to require that permanent improvements be completed before a final plat is accepted for filing by the City. The justification for departing from that practice in this case is the existence of the Westside Consortium Agreements which contain secure financial commitments for various developers to complete the permanent infrastructure improvements and then to be reimbursed by the payment of system development charges. Also, the Agreement, which has been adopted by ordinance, contains a time-frame for completion of this particular roundabout of December 2002.

While Hearings Officer Smith recognizes the significance of the Westside Consortium Agreements as justification for departing from the City's practice, the Hearings Officer did not consider the challenge to the city's SDCs in the current law suit by the Central Oregon Builders Association, Deschutes County Circuit Court Case No. 00CV0454AB. An adverse result in that case could undermine that Westside Consortium Agreements and the financial mechanism for paying for the roundabout. The assumption that a certain level of systems development charges will be paid, and therefore the certainty of the Hearings Officer Smith that the roundabout will be built would be undermined.

Because the reasoning of H.O. Smith relies upon the payment of the present system development charges, it is appropriate to adopt the following additional condition of approval:

> "The City and Shevlin Commons Developer agree that these conditions of approval include the requirement that development on residential dwelling lots within the property subject to this zone change shall be required to pay transportation system development charges ("SDC") at the time of application for a building permit for any individual residential dwelling unit. The City shall collect SDCs at the rate of $3,309 per single-family residential dwelling unit, planned unit development residential unit of $2,572, senior care or $743, manufactured homes of $1,663 per unit, condominium units of $2,026, and apartment units of $2,293 or any future rates adopted by the Bend City Council. The Bend City Council may, from time to time, re-evaluate the SDC rates for residential, commercial and industrial development. In no event shall the SDC rate of $3,309 per residential dwelling unit decrease unless the Bend City Council approves a decrease in such rate. The obligation to pay SDCs at the rate established by the Bend City Council shall remain in effect regardless of the outcome of any challenge to the City's SDC rate in Deschutes County Circuit Court Case No. 00CV0454AB."

Section 4. The Community Development Staff shall implement this ordinance and condition when reviewing the final plat for the Shevlin Common PUD.

Section 5. The City Council takes official notice of its ordinances adopted the Westside Consortium Agreements and the Agreements; and the pleadings filed in Deschutes County Court from Central Oregon Builders Association v. City of Bend, Case No. 00CV0454AB

Read for the first time the 6th day of February, 2002.

Read for the second time the 20th day of February, 2002.

Placed upon its passage the 20th day of February, 2002.

YES: 7 NO: 0

Authenticated by the Mayor the 20th day of February, 2002.

Bill Friedman, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City Recorder

Exhibit A

PARCEL 2
MP-5-85

PROPERTY DESCRIPTION

A parcel of land located in Sections 23 and 26, Township 17 South, Range 11, East of the Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the intersection point of the North-South centerline of said Section 23, with the Southerly right-of-way of Shevlin Park Road which bears North 00°11'55" East, a distance of 1048.27 feet from a 3" brass cap marking the North one-quarter corner of said Section 6; thence along said Southerly right-of-way line of Shevlin Park Road, the following 3 curves and 3 bearings and distances:

following the arc of a 294.00 foot radius curve to the right, a distance of 203.93 feet (chord bears South 21°46'24" East, 199.87 feet);
South 01°54'07" East, a distance of 160.94 feet;
following the arc of a 580.08 foot curve to the left, a distance of 704.19 feet (chord bears South 36°40'45" East, 661.74 feet);
South 71°27'24" East, a distance of 209.29 feet;
following the arc of a 676.20 foot radius curve to the right, a distance of 322.76 feet (chord bears South 57°46'57" East, 319.71 feet);
South 44°06'32" East, a distance of 618.88 feet;

thence leaving said Shevlin Park Road right-of-way the following 3 curves and 3 bearings and distances:

North 86° 09' 10" West a distance of 126.55 feet;
following the arc of a 900.00 foot radius curve to the left, a distance of 132.50 feet (chord bears South 89° 37' 47" West, 132.38 feet);
South 85° 24' 43" West a distance of 235.15 feet;
following the arc of a 550.00 foot radius curve to the left, a distance of 298.70 feet (chord bears South 69° 51' 13" West, 295.04 feet);
South 54° 00' 43" West a distance of 132.69 feet;
following the arc of a 100.00 foot radius curve to the left a distance of 98.78 feet (chord bears South 25° 59' 45" West, 94.82 feet);
South 02° 18' 12" East a distance of 533.13 feet to a point on the north line of the Southwest One-Quarter of the Northeast One-Quarter of said Section 26;

thence along said north line, North 89°43'11" West, a distance of 481.02 feet to the Northwest corner of said Southwest One-Quarter of the Northeast One-Quarter; thence South 00°02'49"

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West, a distance of 1316.45 feet to the Southwest corner of said Southwest One-Quarter of the Northeast One-Quarter;

thence along the East-West centerline of said Section 26 North 89°34'47" West, a distance of 922.03 feet to a point which is the intersection of said East-West centerline of said Section 26 and the Easterly boundary of Bend Metro Park & Recreation property (per survey on file with the Deschutes County Surveyor's Office by Century West Engineering Corp., dated 11/30/82); thence following said Easterly boundary line of said Bend Metro Park & Recreation property, the following 18 bearings and distances:

North 39°05'56" West, a distance of 198.39 feet;
North 20°48'42" West, a distance of 324.62 feet;
North 00°36'42" East, a distance of 162.41 feet;
North 08°08'15" East, a distance of 240.63 feet;
North 33°02'22" East, a distance of 162.45 feet;
North 06°29'33" East, a distance of 75.86 feet;
North 57°50'04" East, a distance of 124.58 feet;
North 65°23'43" East, a distance of 275.02 feet;
North 24°09'06" East, a distance of 196.89 feet;
North 34°46'25" East, a distance of 307.17 feet;
North 01°35'16" East, a distance of 346.62 feet;
North 14°56'42" East, a distance of 245.63 feet;
North 07°11'00" East, a distance of 363.58 feet to a point on the North line of said Section 26 from which said North one-quarter corner of Section 26 bears South 89°51'34" East, a distance of 302.01 feet;
North 07°11'00" East, a distance of 154.27 feet;
North 15°39'11" East, a distance of 234.27 feet;
North 20°49'59" East, a distance of 105.34 feet;
North 22°49'16" East, a distance of 477.02 feet to a point on the North-South centerline of said Section 23;

thence North 00°11'55" East, following said North-South centerline of Section 23, a distance of 130.37 feet to the point of beginning, the terminus of this description.

Reserving a non-exclusive easement for road and utility purposes over the South half of the road right-of-way as described in the document to Cascade Motorcycle Club, Inc., recorded June 29, 1967 in Book 154 Page 4 Deed Records.

TOGETHER with a non-exclusive easement for road and utility purposes over the North half of the road right-of-way as described in the document to Cascade Motorcycle Club, Inc., recorded June 29, 1967 in Book 154 Page 4 Deed Records.

EXCEPTING THEREFROM: That portion lying within the Southeast One-Quarter of said Section 23.

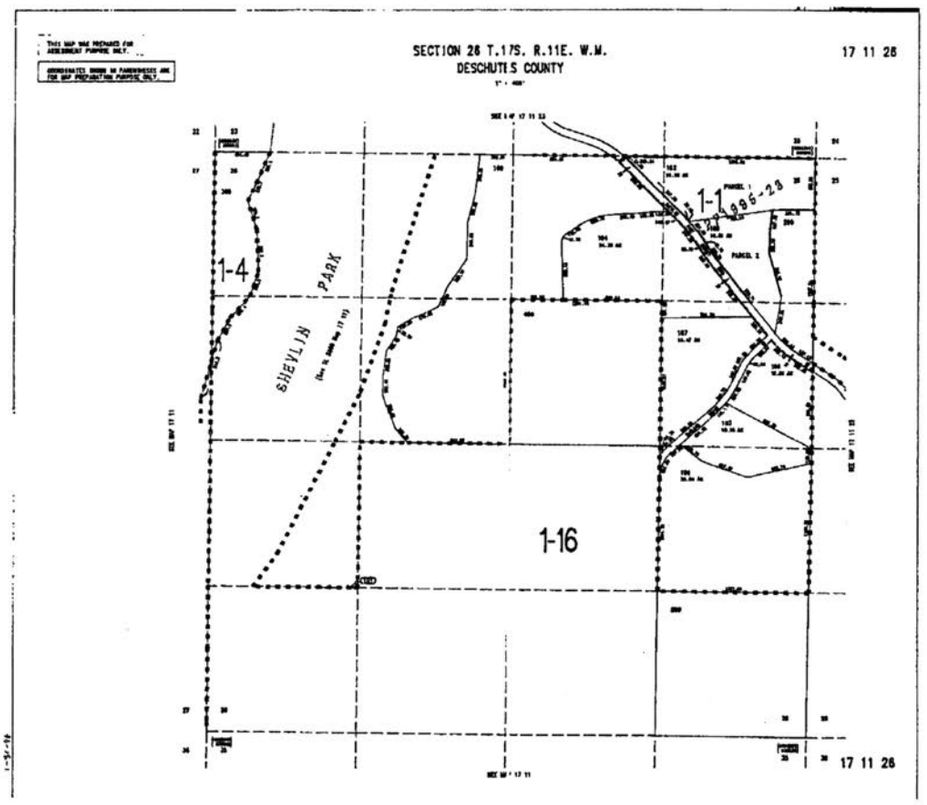
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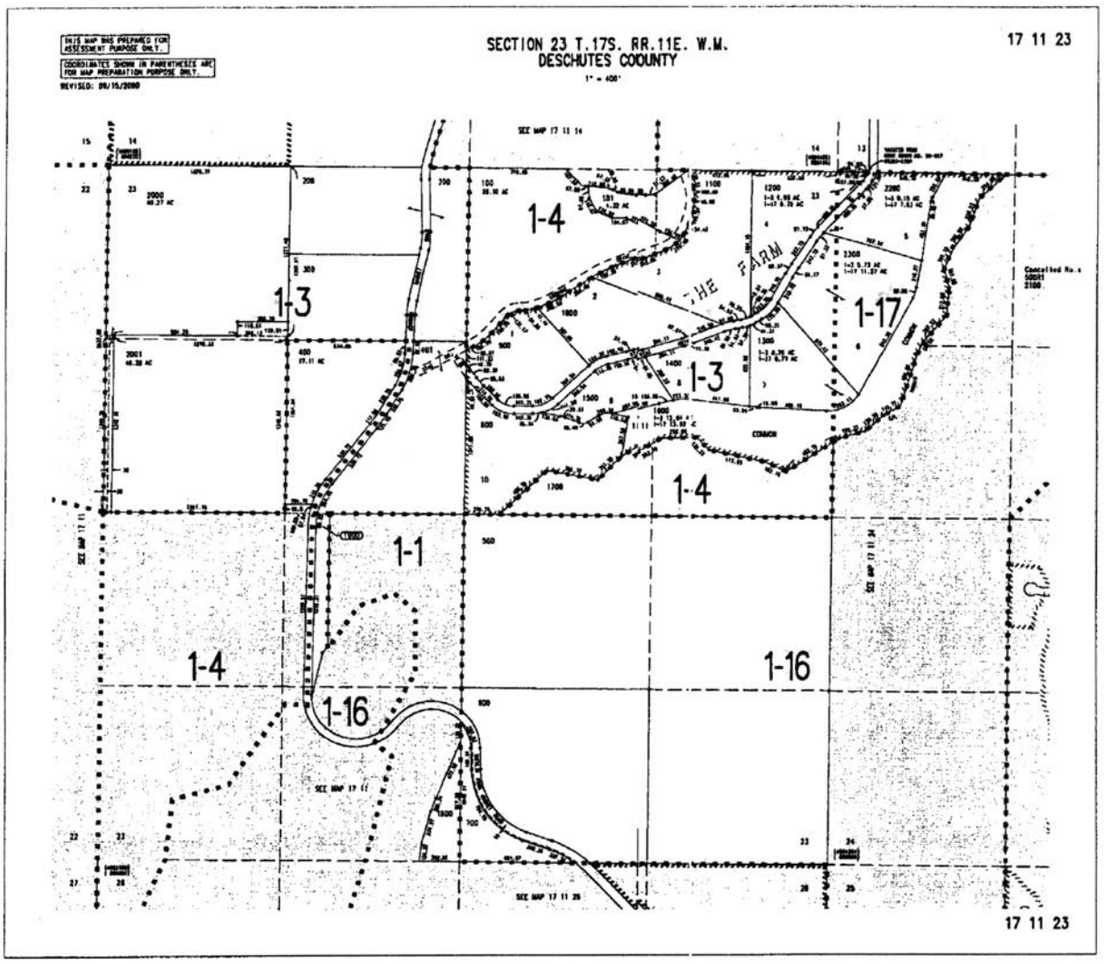
Subject to: All easements, restrictions and rights-of-way oof record and those common and apparent on the land.

REGISTEREED
PROFESSIONNAL
LAND SURVEEYOR

OREGON
JULY 19, 19994
DAVID R. WILLLIAMS
2886
EXPIRES: 30 JUNNE, 2002

Exhibit B


SECTION 26 T.17S. R.11E. W.M.
DESCHUTES COUNTY
17 11 26
1-4
PARK
SHEVLIN
1-16
17 11 26


THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY.
COORDINATES SHOWN IN PARENTHESIS ARE FOR MAP PREPARATION PURPOSE ONLY.
REVISED: 09/15/2000
SECTION 23 T.17S. RR.11E. W.M.
DESCHUTES COUNTY
1" = 400'
17 11 23
SEE MAP 17 11 14
1-4
1-3
THE FARM
1-17
1-3
1-4
1-1
1-4
1-16
1-16
SEE MAP 17 11
SEE MAP 17 11 26
17 11 23

Words that are ~~struckthrough~~ are deleted from existing code; words that are underlined are added to existing code.

ORDINANCE NO. NS-1823

AN ORDINANCE AMENDING THE CITY OF BEND CODE (ORDINANCE NS-1497 as amended) TO REGULATE LOCAL IMPROVEMENTS.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. That portion of Ordinance NS-1487, as amended, known as Bend Code 2.116 is amended to read:

2.116 Length of Driveway Approach Apron. The width of driveway approach aprons shall not exceed the following dimensions:

(1) For residential driveways, 14 feet for single driveways, ~~and~~ 20 feet for double driveways and 35 feet for triple driveways; ~~and~~ not more than one driveway approach shall be permitted per lot when said lot is 50 feet or less in width fronting on any street or avenue.

Section 2. EFFECTIVE DATE. This ordinance shall be effective March 21, 2002.

Read for the first time the 6th day of February 2002.

Read for the second time the 20th day of February 2002.

Placed upon its passage the 20th day of February 2002.

YES: 7 NO: 0

Authenticated by the Mayor the 20th day of February 2002.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1824

AN ORDINANCE RENAMING THE NORTHEAST SEGMENT OF PINE DRIVE TO HOLLYGRAPE STREET AND DESIGNATING THE NAME OF PINE DRIVE ONLY FOR THE CURRENT SOUTHWEST SEGMENT WITHIN THE CITY OF BEND, OREGON.

THE COMMUNITY DEVELOPMENT DEPARTMENT WILL ADVISE THE LOCAL UTILITY COMPANIES, THE U.S. POST OFFICE, THE COUNTY TAX ASSESSOR'S OFFICE, 9-1-1 AND OTHER EMERGENCY SERVICES AGENCIES OF THIS STREET NAME CHANGE.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. That the street name of the northeast segment of Pine Drive be changed to Hollygrape Street and the name of Pine Drive be designated only for the current southwest 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 6th day of February 2002.

Read for the second time the 20th day of February 2002.

Placed upon its passage the 20th day of February 2002.

YES: 7 NO: 0

Authenticated by the Mayor the 20th day of February 2002.

Bill Friedman, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City Recorder

Please record one page Ord. NS-1824. After recording return to:
Deputy Recorder, City of Bend, 710 NW Wall, Bend, 97701

DESCHUTES COUNTY OFFICIAL RECORDS
MARY SUE PENHOLLOW, COUNTY CLERK

2002-15077

$31.00

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D-ODN Cnt=1 Stn=4 MARSHA
$5.00 $11.00 $10.00 $5.00

DESCHUTES COUNTY CLERK

CERTIFICATE PAGE

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DESCHUTES COUNTY OFFICIAL RECORDS
MARY SUE PENHOLLOW, COUNTY CLERK

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$5.00 $11.00 $10.00 $5.00

DESCHUTES COUNTY CLERK

CERTIFICATE PAGE



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ORDINANCE NO. 1825

AN ORDINANCE RENAMING THE NORTH/SOUTH SEGMENT OF HAYES AVENUE TO SILVER LAKE BOULEVARD AND DESIGNATING THE NAME OF HAYES AVENUE ONLY FOR THE CURRENT EAST/WEST SEGMENT AND ANY FUTURE IMPROVEMENT OF THE EAST/WEST RIGHT-OF-WAY WITHIN THE CITY OF BEND, OREGON.

THE COMMUNITY DEVELOPMENT DEPARTMENT WILL ADVISE THE LOCAL UTILITY COMPANIES, THE U.S. POST OFFICE, THE COUNTY TAX ASSESSOR'S OFFICE, 9-1-1 AND OTHER EMERGENCY SERVICES AGENCIES OF THIS STREET NAME CHANGE.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. That the street name of the north/south segment of Hayes Avenue be changed to Silver Lake Boulevard and the name of Hayes Avenue be designated only for the current east/west segment and 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 6th day of February 2002.

Read for the second time the 20th day of February 2002.

Placed upon its passage the 20th day of February 2002.

YES: 6 NO: 1

Authenticated by the Mayor the 20th day of February 2002.

Bill Friedman, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City Recorder

Please record one page Ord. NS-1825. After recording return to:
Deputy Recorder, City of Bend, 710 NW Wall, Bend, 97701

ORDINANCE NO. NS-1826

AN ORDINANCE VACATING PORTION OF **WILSON AVENUE** THAT LIES WITHIN **SE ¼** OF **NE 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 December 5, 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 20th day of February 2002, 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 20th day of February 2002.

Read for the second time the 6th day of March 2002.

Placed upon its passage the 6th day of March 2002.

Yes: 7 No: 0

Authenticated by the Mayor the 6th day of March 2002.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

Please record 4 pages Ordinance NS-1826
After recording return to:
Deputy Recorder
City of Bend
710 NW Wall St.
Bend, OR 97701

DESCHUTES COUNTY OFFICIAL RECORDS
MARY SUE PENHOLLOW, COUNTY CLERK

2002-15079

$46.00

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D-ODN Cnt=1 Stn=4 MARSHA
$20.00 $11.00 $10.00 $5.00

DESCHUTES COUNTY CLERK

CERTIFICATE PAGE



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if document is re-recorded.
Do Not remove from original document.**

EXHIBIT A

Two parcels of land located in a portion of the Southeast One-quarter of the Northeast One-quarter (SE1/4 NE1/4) 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-
Beginning at the northeast corner of Lot 11 of the plat of Upper Terrace, Phase II as recorded on January 15, 1999 in plat cabinet E, page 156 in the office of the Deschutes County Clerk; thence along the northerly boundary line of said Lot 11 the following two (2) courses and one (1) curve:

North 59°24'02" West a distance of 215.38 feet;
North 54°45'46" West a distance of 317.75 feet;
22.38 feet along the arc of a tangent curve to the left with a radius of 23.00 feet, the chord of which bears North 82°37'58" West a distance of 21.50 feet;

Thence, leaving said northerly boundary line North 50°03'13" West a distance of 4.27 feet; thence North 25°49'45" East a distance of 13.12 feet; thence North 82°45'47" East a distance of 32.92 feet; thence South 58°26'04" East a distance of 6.01 feet; thence South 20°53'42" East a distance of 13.60 feet; thence South 53°26'17" East a distance of 34.83 feet; thence South 54°56'24" East a distance of 84.10 feet; thence South 54°02'06" East a distance of 94.45 feet; thence South 55°09'19" East a distance of 98.54 feet; thence South 56°35'52" East a distance of 63.37 feet; thence South 59°15'30" East a distance of 61.63 feet; thence South 70°10'18" East a distance of 31.67 feet; thence North 82°52'28" East a distance of 26.09 feet to a point on the easterly boundary line of said plat; thence along said easterly boundary line South 07°07'32" East a distance of 44.19 feet to the point of beginning, the terminus of this description. Contains 9,521 sq. ft., more or less.

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

Parcel 2-
Beginning at the southeast corner of Lot 10 of the plat of Upper Terrace, Phase II as recorded on January 15, 1999 in plat cabinet E, page 156 in the office of the Deschutes County Clerk; thence along the easterly boundary line of said plat South 07°07'32" East a distance of 9.08 feet; thence leaving said easterly boundary line North 68°59'26" West a distance of 51.86 feet; thence North 65°24'37" West a distance of 57.41 feet; thence North 64°30'56" West a distance of 58.51 feet; thence North 61°00'46" West a distance of 61.21 feet; thence North 64°32'09" West a distance of 60.43 feet; thence North 63°00'06" West a distance of 57.89 feet; thence North 61°54'56" West a distance of 59.42 feet; thence North 62°23'03" West a distance of 31.75 feet; thence North 46°53'16" West a distance of 20.92 feet to a point on the southerly boundary line of said Lot 10 which bears

South 65°06'40" East a distance of 15.26 feet from the southwest corner of said Lot 10; thence along said southerly boundary line the following two (2) courses:

South 65°06'40" East a distance of 377.32 feet;
South 59°24'01" East a distance of 76.14 feet to the point of beginning, the terminus of this description. Contains 6,145 sq. ft., 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 titled "EXHIBIT B", hereby incorporated by reference.

7-19-01

REGISTERED
PROFESSIONAL
LAND SURVEYOR

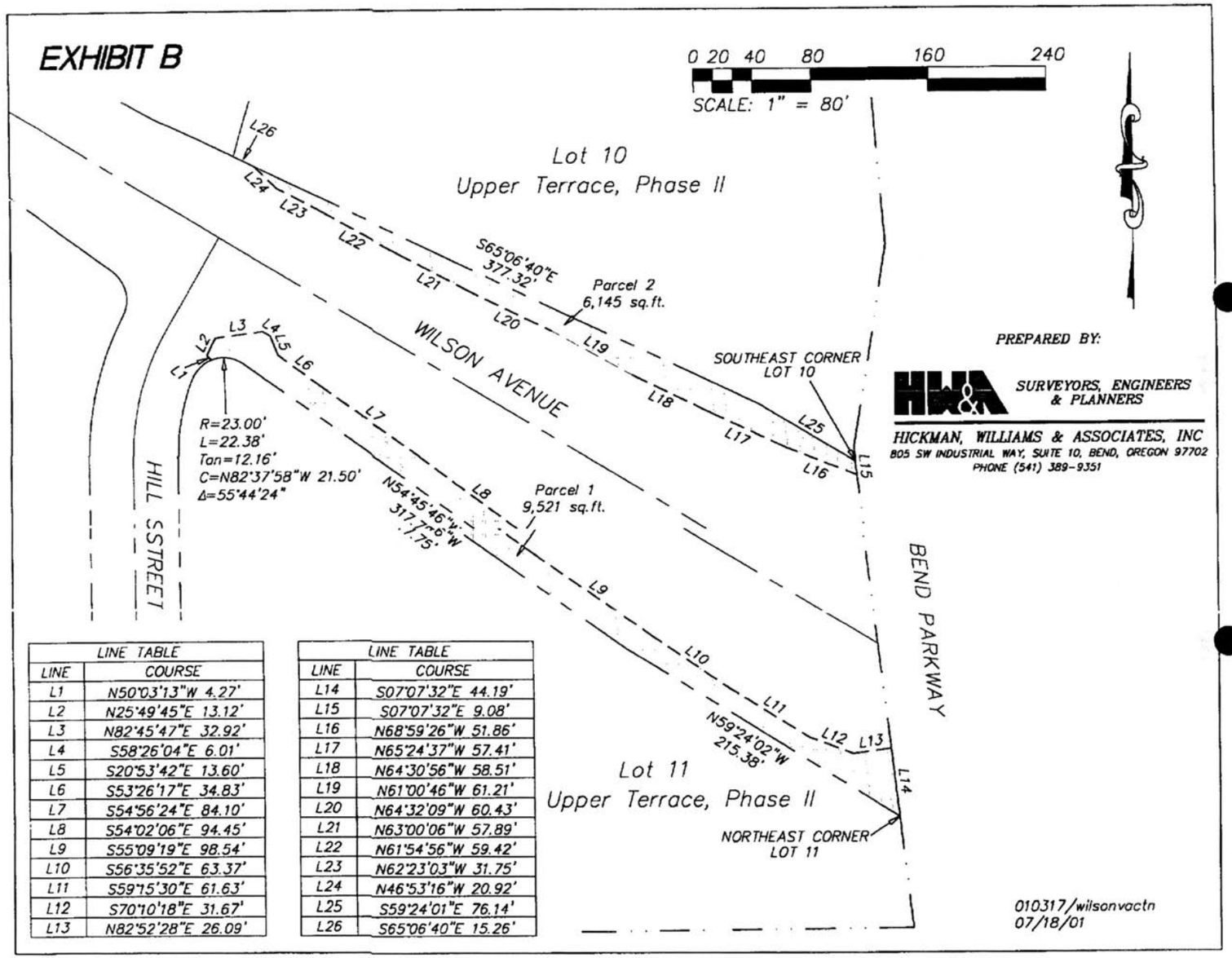
OREGON
JULY 17, 1986
PETER A. MANLEY
2214

EXPIRES 12-31-2002

JOB # 010317
DATE 07-19-01
BY PAM
CHKD PF

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July 18, 2001

EXHIBIT B



LINE TABLE	
LINE	COURSE
L1	N50°03'13"W 4.27'
L2	N25°49'45"E 13.12'
L3	N82°45'47"E 32.92'
L4	S58°26'04"E 6.01'
L5	S20°53'42"E 13.60'
L6	S53°26'17"E 34.83'
L7	S54°56'24"E 84.10'
L8	S54°02'06"E 94.45'
L9	S55°09'19"E 98.54'
L10	S56°35'52"E 63.37'
L11	S59°15'30"E 61.63'
L12	S70°10'18"E 31.67'
L13	N82°52'28"E 26.09'

LINE TABLE	
LINE	COURSE
L14	S07°07'32"E 44.19'
L15	S07°07'32"E 9.08'
L16	N68°59'26"W 51.86'
L17	N65°24'37"W 57.41'
L18	N64°30'56"W 58.51'
L19	N61°00'46"W 61.21'
L20	N64°32'09"W 60.43'
L21	N63°00'06"W 57.89'
L22	N61°54'56"W 59.42'
L23	N62°23'03"W 31.75'
L24	N46°53'16"W 20.92'
L25	S59°24'01"E 76.14'
L26	S65°06'40"E 15.26'

PREPARED BY:

HW&A SURVEYORS, ENGINEERS & PLANNERS

HICKMAN, WILLIAMS & ASSOCIATES, INC
805 SW INDUSTRIAL WAY, SUITE 10, BEND, OREGON 97702
PHONE (541) 389-9351

010317/wilsonvactn
07/18/01

ORDINANCE NO. NS-1827

AN ORDINANCE AMENDING THE BEND SIGN CODE TO REFINE EXCEPTIONS FROM COMPLIANCE TO REFLECT INTENT OF CITY

WHEREAS, the City of Bend and Bend Area Chamber of Commerce in April 2001, reached an agreement as to those occurrences which require nonconforming signs to be brought into compliance;

WHEREAS, City Council believes that it is necessary to more clearly define the ordinance provisions to accomplish the intent of the above referenced agreement;

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. The current Section 9-17.17(4) of the Bend City Code is repealed and replaced by the new Section 9-17.17(4) which shall read as follows:

"(4)The requirements contained in Section 17(c) apply to require compliance with this Sign Code, except as follows:

(a)Multiple Tenant Signs. The substitution or change of tenant sign faces on sign structures containing multiple tenant sign panels are not subject to Section 17(3)(c) and (d), as long as the supporting sign structure is not replaced or relocated. The new sign face or panel must comply with the background color and illumination requirements of this ordinance. This exception from compliance, however, does not apply when there is a name change of the business complex, shopping center etc upon which the multiple tenant sign is located.

(b)Public Safety. A nonconforming sign may be structurally altered where such alteration is necessary for public safety; however, this exception does not apply when the sign has been damaged by more than 50 percent of its total replacement value or destroyed from any cause whatsoever.

(c)Reconstruction Due To Public Project. A nonconforming sign may be reconstructed if moved for construction or repair of public facilities and if such reconstruction is completed within one year after completion of the public project at the location of the sign."

(d)For the purposes of subsection 4(a) only, "multiple tenant sign" means a sign structure that identifies either through the use of sign faces or panels more than two businesses located within the shopping center, business complex, etc.

Section 2. Section 9-17.17(5) is added to the Bend Code to read as follows:

"(5)A nonconforming sign face may be replaced, if all of the following conditions are met:

(1)the sign area is not increased in size or relocated,
(2)the new sign face complies with the color and illumination requirements in this ordinance, and
(3)none of the situations listed in Section17(3) exist.

Read for the first time the 6th day of March, 2002.

Read for the second time the 20th day of March, 2002.

Placed upon its passage the 20th day of March, 2002.

YES: 6 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 20th day of March, 2002.

Bill Friedman, Mayor

Attest: Patricia S. Stell

Patricia Stell, City Recroder

ORDINANCE NO. NS-1828

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF AN AREA OF LAND FROM RL, URBAN LOW DENSITY RESIDENTIAL TO RM, URBAN MEDIUM 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 16, 2002 file number PZ-01-320.

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 Urban Low Density Residential (RL) to Urban Medium Density Residential (RM).

Read for the first time the 20th day of March, 2002.

Read for the second time the 3rd day of April, 2002.

Placed upon its passage the 3rd day of April, 2002.

YES: 7 NO: 0

Authenticated by the Mayor the 3rd day of April, 2002.

Bill Friedman, Mayor

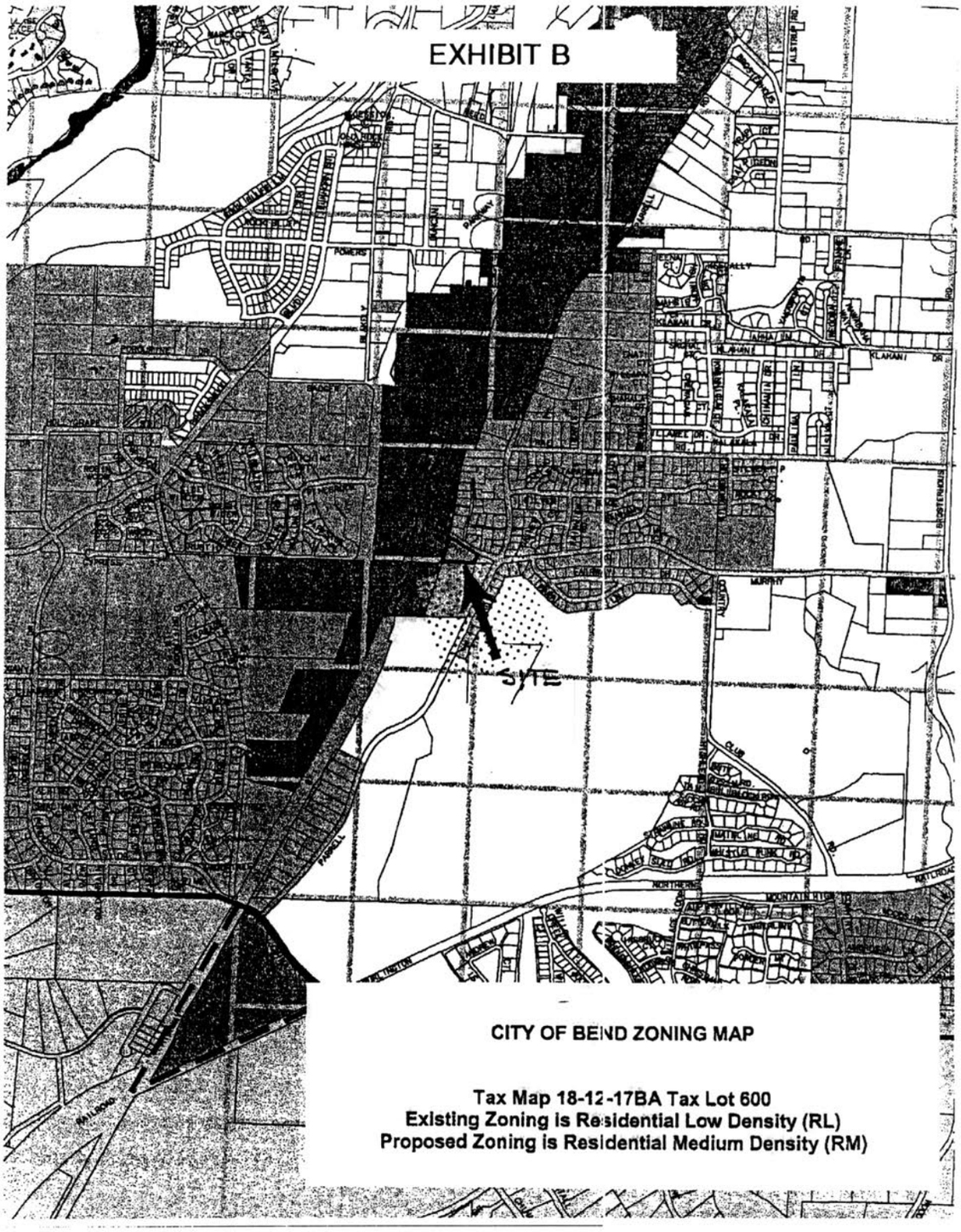
ATTEST:

Patricia Stell, City of Bend Recorder

EXHIBIT "A"

A portion of the Northeast Quarter of the Northwest Quarter of Section Seventeen (17), Township Eighteen (18) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon, described as follows: Beginning at the Southeast corner of the Northeast Quarter of the Northwest Quarter of Section 17, Township 18 South, Range 12, E.W.M.: thence North 89° 43' West along the South boundary of said Northeast Quarter of the Northwest Quarter 152.0 feet to the true point of beginning; thence North 22° 05' East 116.7 feet to a point on the Southerly boundary of the R. S. Hamilton Road; thence in a generally Northwesterly direction along the Southerly boundary of the R. S. Hamilton Road, as surveyed and constructed by Deschutes County, 753.68 feet, more or less, to the point of intersection with the Easterly right of way of The Dalles-California State Highway, according to the revised location thereof, as established in 1926; thence South 16° 34' West along said Highway boundary 316.20 feet; thence South 77° 33' 36" East 349.12 feet; thence South 16° 34' West 144.37 feet to a point on the South boundary of the Northeast Quarter of the Northwest Quarter of Section 17; thence South 89° 39' 02" East along the South boundary of the Northeast Quarter of the Northwest Quarter of Section 17, a distance of 368.56 feet, more or less, to the point of beginning, together with 2.7 acres water, Arnold Irrigation District.

EXCEPTING therefrom that portion lying within Partition Plan 1997-20.


EXHIBIT B
SITE
CITY OF BEND ZONING MAP
Tax Map 18-12-17BA Tax Lot 600
Existing Zoning is Residential Low Density (RL)
Proposed Zoning is Residential Medium Density (RM)

ORDINANCE NO. NS-1829

AN ORDINANCE AMENDING THE BEND AREA GENERAL PLAN, BY CHANGING THE ZONE OF AN AREA OF LAND FROM RL, URBAN LOW DENSITY RESIDENTIAL TO RM, URBAN MEDIUM 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 16, 2002 file number PZ-01-320.

Section 2. The Bend Area General Plan is amended by changing the designation of the property described in Exhibit "A" and depicted on Exhibit "B" from Urban Low Density Residential (RL) to Urban Medium Density Residential (RM).

Read for the first time the 20th day of March, 2002.

Read for the second time the 3rd day of April, 2002.

Placed upon its passage the 3rd day of April, 2002.

YES: 7 NO: 0

Authenticated by the Mayor the 3rd day of April, 2002.

Bill Friedman, Mayor

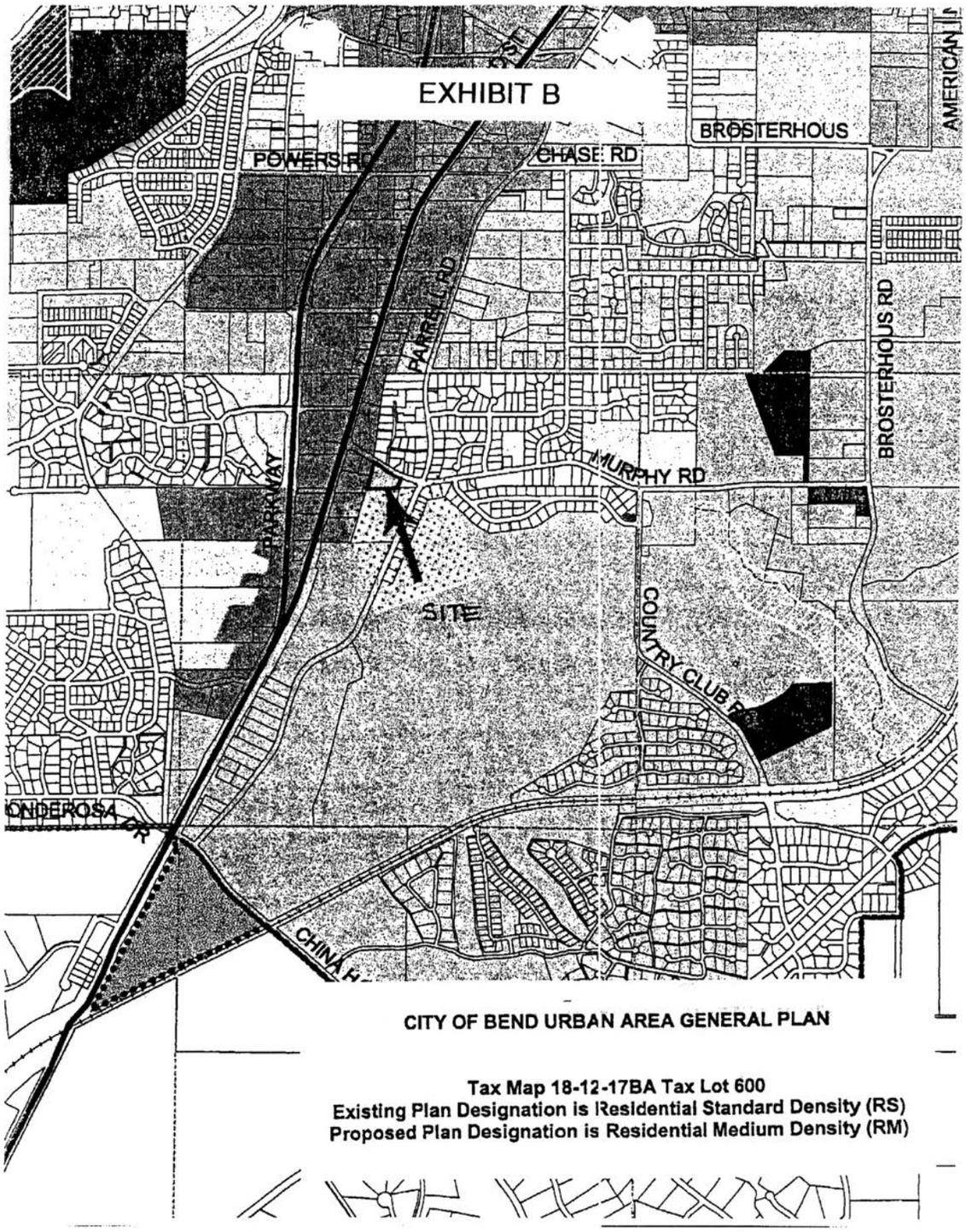
ATTEST:

Patricia Stell, City of Bend Recorder

EXHIBIT "A"

A portion of the Northeast Quarter of the Northwest Quarter of Section Seventeen (17), Township Eighteen (18) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon, described as follows: Beginning at the Southeast corner of the Northeast Quarter of the Northwest Quarter of Section 17, Township 18 South, Range 12, E.W.M.; thence North 89° 43' West along the South boundary of said Northeast Quarter of the Northwest Quarter 152.0 feet to the true point of beginning; thence North 22° 05' East 116.7 feet to a point on the Southerly boundary of the R. S. Hamilton Road; thence in a generally Northwesterly direction along the Southerly boundary of the R. S. Hamilton Road, as surveyed and constructed by Deschutes County, 753.68 feet, more or less, to the point of intersection with the Easterly right of way of The Dalles-California State Highway, according to the revised location thereof, as established in 1926; thence South 16° 34' West along said Highway boundary 316.20 feet; thence South 77° 33' 36" East 349.12 feet; thence South 16° 34' West 144.37 feet to a point on the South boundary of the Northeast Quarter of the Northwest Quarter of Section 17; thence South 89° 39' 02" East along the South boundary of the Northeast Quarter of the Northwest Quarter of Section 17, a distance of 368.56 feet, more or less, to the point of beginning, together with 2.7 acres water, Arnold Irrigation District.

EXCEPTING therefrom that portion lying within Partition Plan 1997-20.


EXHIBIT B
BROSTERHOUS
POWERS RD
CHASE RD
PARRELL RD
BROSTERHOUS RD
MURPHY RD
PARKWAY
SITE
COUNTRY CLUB
CHINA H
CITY OF BEND URBAN AREA GENERAL PLAN
Tax Map 18-12-17BA Tax Lot 600
Existing Plan Designation is Residential Standard Density (RS)
Proposed Plan Designation is Residential Medium Density (RM)

ORDINANCE NO. 1830

AN ORDINANCE AMENDING BEND CODE SECTIONS 9.200 AND 9.228 RELATING TO OREGON ADMINISTRATIVE RULES ADOPTING SPECIALITY CODES AND ARCHIVING OF RECORDS

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Sections 3,4,6,7 and 8: Bend Code Section 9.200 and 9.228 is amended to read:

BUILDING CODES

9.200 The City of Bend Building Official is authorized to administer and enforce following State of Oregon Codes for the City of Bend:

(1) The Oregon Structural Specialty Code, as adopted by OAR 918-460-0010 through 918-460-0015.

(2) The Oregon Mechanical Specialty Code, as adopted by OAR 918-440-0010 through 918-440-0040.

(3) The ~~1985~~ Oregon Plumbing Specialty Code as adopted by **OAR** ~~918-750-0010~~. **918-750-0190.**

(4) The Oregon Electrical Specialty Code, as adopted by OAR ~~918-290-0010~~ **918-305-000/0260.**

(5) The Oregon One and Two Family Dwelling Specialty Code, as adopted by OAR 918-480-000 through 918-480-0010.

(6) The manufactured dwelling park and mobile home park rules adopted by OAR ~~918-600-0005 through 918-600-0110~~ **918-600-005/0095.**

(7) The manufactured dwelling rules adopted by OAR ~~918-500-0000 through 918-500-0500 and OAR 918-520-0010 through 918-520-0020.~~ **918-500-005/0020,0063/0065 and 0500.**

(8) The recreational park and organization camp rules adopted by OAR ~~918-650-0000 through 918-650-0085.~~ **918-650-0005/0085.**

(9) The 1994 ICBO Uniform Code for the Abatement of Dangerous Buildings is adopted as part hereof, except as modified by this jurisdiction.

9.228 Retention of Plans

One set of approved plans, specifications and computations shall be retained by the building official for a period of not less than ~~90 days~~ **24 months** from date of completion of the work covered therein; and one set of approved plans and specifications shall be returned to the applicant, and said set shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.

Read for the first time the 3rd day of April, 2002.

Read for the second time the 17th day of April, 2002.

Placed upon its passage the 17th day of April, 2002.

Yes: 7 No: 0 Abstain: 0

Authenticated by the Mayor the 17th day of April, 2002.

Bill Freedman, Mayor

Attest:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1831

AN ORDINANCE AMENDING THE CITY OF BEND GENERAL PLAN MAP AND ZONING ORDINANCE NO. NS-1178 (ZONING MAP), BY CHANGING THE ZONING DESIGNATION OF A PARCEL OF LAND FROM RS, STANDARD DENSITY RESIDENTIAL TO RM, MEDIUM 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 April 4, 2002, file number PZ-01-434.

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 Standard Density Residential (RS) to Medium Density Residential (RM).

Read for the first time the 1st day of May, 2002.

Read for the second time the 15th day of May, 2002.

Placed upon its passage the 15th day of May, 2002.

YES: 7 NO: 0

Authenticated by the Mayor the 15th day of May, 2002.

Bill Friedman, Mayor

ATTEST:

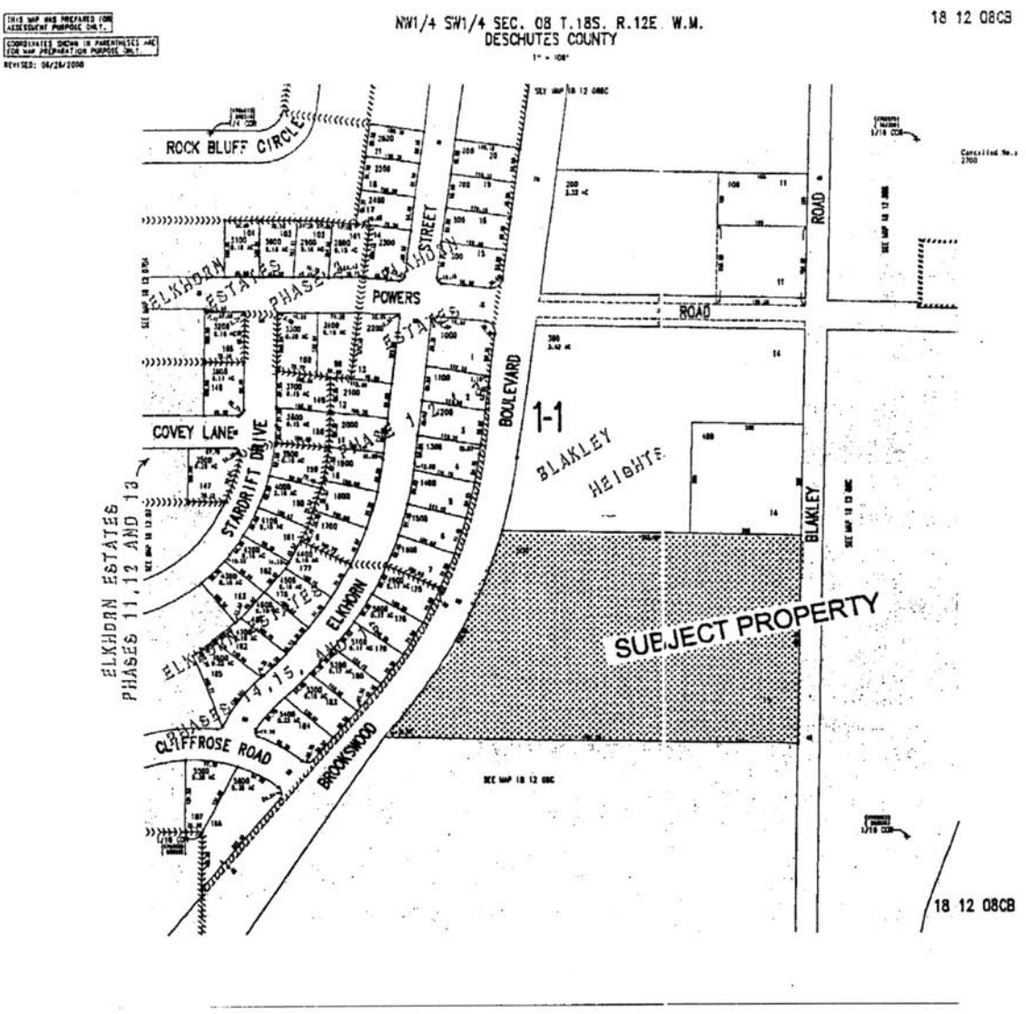
Patricia Stell, City of Bend Recorder

Order No.: **140767**
Page No. 3

EXHIBIT "A"

Tract 15, BLAKLEY HEIGHTS, Deschutes County, Oregor.

EXHIBIT B



ORDINANCE NO. NS-1832

AN ORDINANCE RATIFYING INTERGOVERNMENTAL AGREEMENT CREATING CENTRAL OREGON CITIES ORGANIZATION AS INTERGOVERNMENTAL ENTITY

WHEREAS, ORS 190.085 requires local governments to enact ordinances ratifying the creation of intergovernmental entities through intergovernmental agreements prior to the effective date of such agreements; and

WHEREAS, the City of Bend and other Central Oregon cities intend to establish an intergovernmental entity called the Central Oregon Cities Organization (COCO) to effectively and efficiently promote the common interests of the cities of Central Oregon; and

WHEREAS, the parties have agreed that COCO shall have the power to enter into contracts, provide agreed upon representation of the parties to this agreement before the state legislature, the US Congress and administrative agencies; and to provide administrative and support services necessary in furtherance of these objectives;

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1.

The Agreement which is attached to this Ordinance is ratified. According to the terms of the Agreement, the Central Oregon Cities Organization shall be formed and the Agreement effective upon the ratification of that agreement by two cities.

Section 2.

The purpose for creating COCO is to have an organization that effectively and efficiently promotes the interests of the cities of Central Oregon.

Section 3.

The attached Agreement sets forth in more detail the specific powers, duties and functions of COCO. The primary function of COCO shall be the lobbying through a contract lobbyist of state and federal government according to a lobbying agenda approved by the participating cities.

Section 4.

The Mayor is authorized to execute the Agreement, and the City staff is directed to file the appropriate documents with the Secretary of State in order to complete the registration of the governmental entity known as the Central Oregon Cities Organization.

Read for the first time the 1st day of May, 2002.

Read for the second time the 15th day of May, 2002.

Placed upon its passage the 15th day of May, 2002

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 15th day of May, 2002.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

INTERGOVERNMENTAL COOPERATIVE AGREEMENT ESTABLISHING THE CENTRAL OREGON CITIES ORGANIZATION

This agreement is between the Cities of Redmond, Bend, Madras and Culver ("initial member cities"). The member cities agree as follows:

1. Introduction

ORS 190.010 allows the formation of intergovernmental entities. Pursuant to this statute, an intergovernmental entity is hereby created by this agreement, to be called the Central Oregon Cities Organization (COCO). This agreement shall be governed and construed in accordance with the laws of the State of Oregon.

2. Purpose

The purpose of this agreement is to create an organization to effectively and efficiently promote the common interests of the cities of Central Oregon.

3. Board of Directors

3.1 The Board of Directors of COCO (Board) shall consist of 1 voting member from each member city and an alternate member. As time goes on, the initial cities anticipate and desire that additional cities will join the COCO organization. This can be accomplished by the initial cities and the new city or cities adopting an amendment to this Intergovernmental Agreement. As each new city joins, the size of the Board shall increase by one member and an alternate member. Each member city shall also appoint an alternate member who can vote in the absence the voting member from that particular city. The alternative member is encouraged to attend every meeting and may participate but not vote in the presence of the voting member.

3.2 At its first meeting of each calendar year, the Board shall appoint from the voting member a chairman and a vice-chairman for that year. The Board shall be responsible for the management, supervision, policy and direction of all programs, functions and activities established and operated under COCO. Also at the first meeting of each calendar year, the Board shall designate an administrative officer who shall account for the financial matters of COCO and handle other necessary administrative functions.

3.3 The term of each voting member and alternate member of the Board shall be 1 year. Each member of the Board shall hold office until the city he or she represents appoints a successor.

3.4 Any member who has 3 consecutively unexcused absences from Board meetings may be removed by the City appointing such member.

3.5 A vacancy on the Board shall be filled by the City that appointed the member who created the vacancy.

3.6 The first meeting of the Board shall be on the first Monday following the effective date of approval of this agreement by the second city to so approve. Thereafter, regular meetings of the Board shall be held at such time and place as shall be determined by the Board. Special meetings of the Board may be called by the Chair. Notice of special meetings may be given telephonically or by other means of electronic communication.

3.7 A quorum shall consist initially of 2 board members. Until five cities join COCO, the quorum shall be 2 board members. In the event COCO consists of a total of five to six cities, then the quorum shall be 3 board members. The concurrence of a majority of the quorum is necessary for the Board to decide a matter before the

Board. The Board may meet telephonically or by other means of electronic communication.

3.8 The Administrative Officer shall provide a financial report at each monthly meeting and an annual report at the July meeting for the previous fiscal year. The monthly report shall include a list of expenditures the payment of which shall be approved by the Board, and the balance of all depository accounts.

3.9 Lobbying Agenda and Budget. No later than March 1 of each year, the Board shall adopt a tentative budget and lobbying agenda. The tentative budget and lobbying agenda shall be submitted to each city council for approval. A city which does not approve of the budget or lobbying agenda shall not be required to contribute towards those matters. Nevertheless, if a majority of the financially contributing cities approve of the budget and lobbying agenda, those matters will be considered adopted.

4. Bylaws

The Board may adopt bylaws for appointment of officers and to establish procedures for management of COCO, if the Board finds that bylaws would be conducive towards the furtherance of COCO business.

5. Funds

The Board shall, from time to time, recommend an amount of money that should be contributed by each member city to fund the functions and activities of COCO. The initial formula shall be based upon the relative populations of each city. The governing body of each member city shall, in its sole discretion, decide whether to appropriate such amount to fund such functions and activities. In the event that a particular city decides not to provide funding, then the City may participate in all COCO activities and meetings, but shall not have a voting representative on the Board.

6. No Joint and Several Liability

6.1 Member cities are *not* jointly and severally liable with other member cities for any tort (as defined by ORS 30.260(8)) committed by an elected or appointed official, employee or agent of such city acting in connection with this agreement.

6.2 Nothing in this agreement shall be construed to increase tort liability that any member city would otherwise have under Oregon Law.

6.3 Obligations of COCO arising from contract or quasi contract shall be the obligations of COCO alone, and member cities are *not* jointly and severally liable for such obligations, unless one or more of the member cities agree, in writing, to individually guarantee performance of a specific obligation.

7. Employment Liabilities

Each member city shall be responsible for any and all claims arising from its respective employer/employee relationships. For the purpose of this agreement, elected and appointed public officials are included in the employer/employee relationship. Examples of the employer/employee relationship include selection, termination, discipline, benefits and equal employment opportunity issues. Each member city shall provide its own Workers' Compensation coverage as provided by law, and each member city shall indemnify and defend other member cities for any claim(s) arising from the employer/employee relationship. (Member cities do not, however, agree to indemnify or defend other member cities for claims arising from alleged torts, contracts or quasi contracts, as set forth in Section 6 of this agreement.)

8. Effectiveness, Duration, Termination and Withdrawal

8.1 This agreement and the formation of COCO shall be effective upon the adoption by ordinance of this agreement by two cities.

8.2 This agreement shall be perpetual unless terminated by agreement of the member cities.

8.3 Any member city may withdraw at any time by act of its governing body by giving written notice to the other member cities.

9. Distribution of Assets on Termination or Withdrawal

9.1 Upon termination of this agreement, each remaining member city shall be entitled to reclaim any then existing non-monetary assets contributed by that city to COCO. In addition, upon termination of this agreement each remaining member city shall be entitled to reclaim monetary contributions from funds then in COCO's possession according to the percentage of all monetary contributions made by such member city, compared to other member cities, throughout the existence of COCO. (e.g., if a city contributes 10% of all funds ever contributed to COCO during COCO's existence, and COCO has $5,000 on hand at the time of termination, then such city shall be entitled to reclaim $500.)

9.2 A city that withdraws from this agreement shall be entitled to reclaim any then-existing non-monetary asset it contributed to COCO, but shall not be permitted to reclaim any monetary contributions it made to COCO in the fiscal year in which the city withdraws.

10. This agreement embodies the entire agreement of the member cities. There are no promises, terms, conditions or obligations other than those contained herein. This agreement shall supercede all prior communications, representations or agreements, either written or oral, on the same subject between the parties.

11. The Parties acknowledge that previous efforts in 2000 to form a central Oregon cities organization were not successful as that circulated intergovernmental agreement required seven cities to join and an insufficient number joined. The parties hereto agree that that organization was not constituted as an intergovernmental entity. To the extent that the associated group of cities conducted business, the parties agree that the business of that putative organization has been concluded, and that the assets and obligations associated with it have been agreeably distributed and resolved. All funds that had previously been contributed to the putative organization shall be carried over and deposited in the account of the organization formed by this agreement.

Dated this __ day of _____, 2002
CITY OF BEND

By:_____
Title:_____

Dated this __ day of _____, 2002
CITY OF REDMOND

By:_____
Title:_____

Dated this __day of _____, 2002
CITY OF CULVER

By:_____
Title:_____

Dated this ___ day of _____, 2002
CITY OF MADRAS

By:_____
Title:_____

ORDINANCE NO. NS-1833

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF AN AREA OF LAND FROM RM, URBAN MEDIUM DENSITY RESIDENTIAL TO CL, LIMITED COMMERCIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council adopted a Resolution of Intent to Rezone on November 6, 1996 limiting the development to uses permitted in the CL Zone which the ITE Manual indicates are anticipated to generate no more than 100 PM peak hour daily vehicle trips.

Section 2. The Owner of the property has fulfilled the above terms and conditions by developing the site with a hotel generating less than 100 PM peak trips.

Section 3. 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 below;

Lots 1 through 15 and a portion of lots 16 through 18, Block 15, Lytle Subdivision, Bend, Deschutes County, Oregon.

From RM, Urban Medium Density Residential to CL, Limited Commercial as shown on the attached map described as Exhibit "A".

Read for the first time the 5th day of June, 2002.

Read for the second time the 19th day of June, 2002.

Placed upon its passage the 19th day of June, 2002.

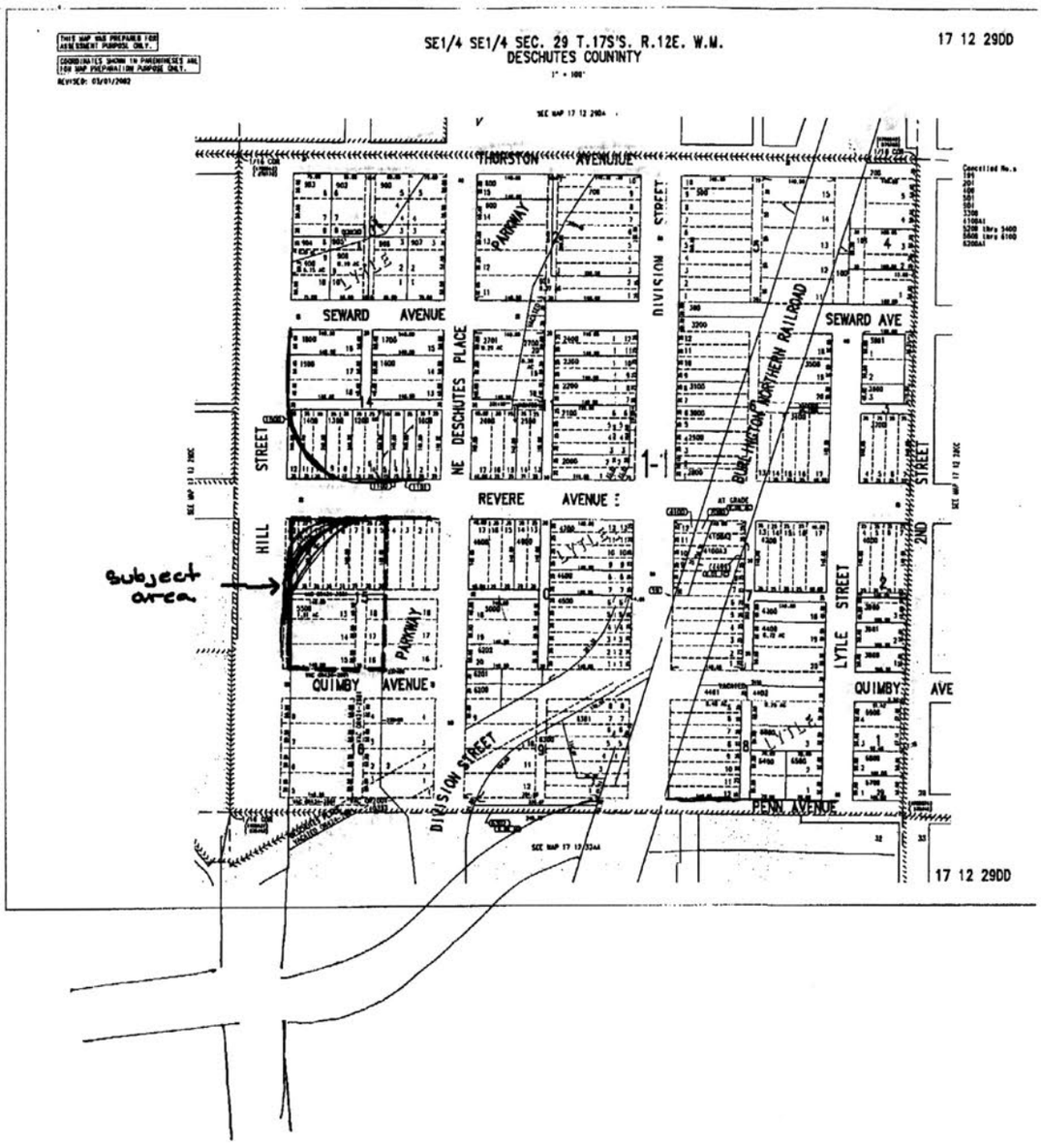
YES: 5 NO: 0

Authenticated by the Mayor the 19th day of June, 2002.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder


SE1/4 SE1/4 SEC. 29 T.17S'S. R.12E. W.M.
DESCHUTES COUNTNTY
17 12 29DD
THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY.
COORDINATES SHOWN IN PARENTHESES ARE FOR MAP PREPARATION PURPOSE ONLY.
REVISED: 03/01/2002
THURSTON AVENUE
SEWARD AVENUE
SEWARD AVE
REVERE AVENUE
QUIMBY AVENUE
QUIMBY AVE
PENN AVENUE
PARKWAY
DIVISION STREET
NE DESCHUTES PLACE
HILL STREET
LYTLE STREET
2ND STREET
BURLINGTON NORTHERN RAILROAD
Subject area
17 12 29DD

ORDINANCE NO. NS-1834

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONING DESIGNATION OF CERTAIN REAL PROPERTY FROM RS, URBAN STANDARD DENSITY RESIDENTIAL TO RM, URBAN MEDIUM DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considering 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 1, 2002, File Number PZ-01-35; however, expressly rejects the reasoning of the Hearing Officer as to the requirement that rezoning be permitted when adequate sewer service is available to the property even though other facilities such as streets and water are not adequate. The Council has on numerous occasions endorsed its interpretation of the City's land use ordinances to require that all public facilities be adequate or that reasonable provision be made for such facilities before a zone change can be approved. The Council finds that the Street/Intersection improvement, i.e. the 27th and Bear Creek Intersection Improvement Project, has been approved as part of the 2002-2003 Capital Improvement Program, and therefore the Zone Change can proceed on that basis as adequate facilities are available.

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 RS, Urban Standard Density Residential to RM, Urban Medium Density Residential.

Read for the first time on 19th of July 2002.

Read for the second time on 7th of August 2002.

Placed upon its passage the 7th of August 2002.

YES: 7 NO: 0

Authenticated by the Mayor the 7th of August 2002.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

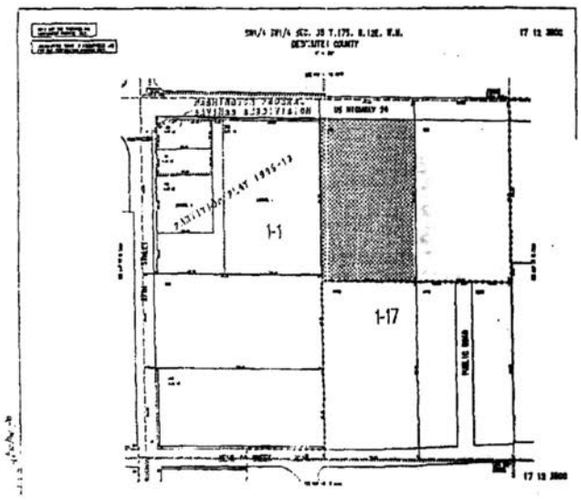
EXHIBIT "A"

A tract of land located in the Southwest Quarter of the Southwest Quarter(SW1/4SW1/4) of Section Thirty five (35), Township Seventeen, (17) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon described as follows;

Beginning at a point whence the Northwest corner of said SW1/4 SW1/4 of Section 35 bears North 89°42'06" West, 648.47 feet; thence South 89°42'06" East, 340.00 feet; thence South 00°41'50" East, 658.60 feet; thence North 89°33'05" West, 340.00 feet; thence North 00°41'50" West, 637.73 feet to the point of beginning.

EXCEPTING THEREFROM the Northerly portion lying within the right of way U.S. Highway 20.

EXHIBIT "B"



DESCHUTES COUNTY OFFICIAL RECORDS
MARY SUE PENHOLLOW, COUNTY CLERK

2002-48276

$41.00

00095067200200482760040049

09/04/2002 02:34:09 PM

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-1835

AN ORDINANCE VACATING PORTION OF BLAKELY ROAD THAT LIES WITHIN E ½ OF SW 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 November 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 7th day of August, 2002, 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 7th day of August 2002.

Read for the second time the 21st day of August 2002.

Placed upon its passage the 21st day of August 2002.

Yes: 6 No: 0

Authenticated by the Mayor the 21st day of August, 2002.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

Please record pages 1 through 3 of Ord. NS-1835.
After recording return to: Deputy Recorder
City of Bend, 710 NW Wall, Bend, OR 97701

EXHIBIT A

A parcel of land containing 0.98 acres, more or less, located in a portion of the East One-half of the Southwest One-quarter (E1/2 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:

Beginning at a point which bears South 80°48'44" East a distance of 777.31 feet from the Southwest One-sixteenth corner of said Section 5; thence North 46°28'57" East a distance of 671.84 feet; thence 81.90 feet along the arc of a tangent curve to the right with a radius of 173.24 feet, the chord of which bears North 60°01'34" East a distance of 81.14 feet to a point on the north-south centerline of said section 5 which bears South 01°00'37" East a distance of 956.62 feet from the Center One-quarter corner of said Section 5; thence along said north-south section centerline South 01°00'37" East a distance of 63.56 feet; thence leaving said north-south section centerline 36.57 feet along a non-tangent curve to the left with a radius of 113.24 feet, the chord of which bears South 55°44'05" West a distance of 36.41 feet; thence South 46°28'57" West a distance of 634.29 feet; thence 70.81 feet along a non-tangent curve to the right with a radius of 700.00 feet, the chord of which bears North 75°33'41" West a distance of 70.78 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.

See attached map entitled "EXHIBIT B", hereby incorporated by reference.

04-17-01

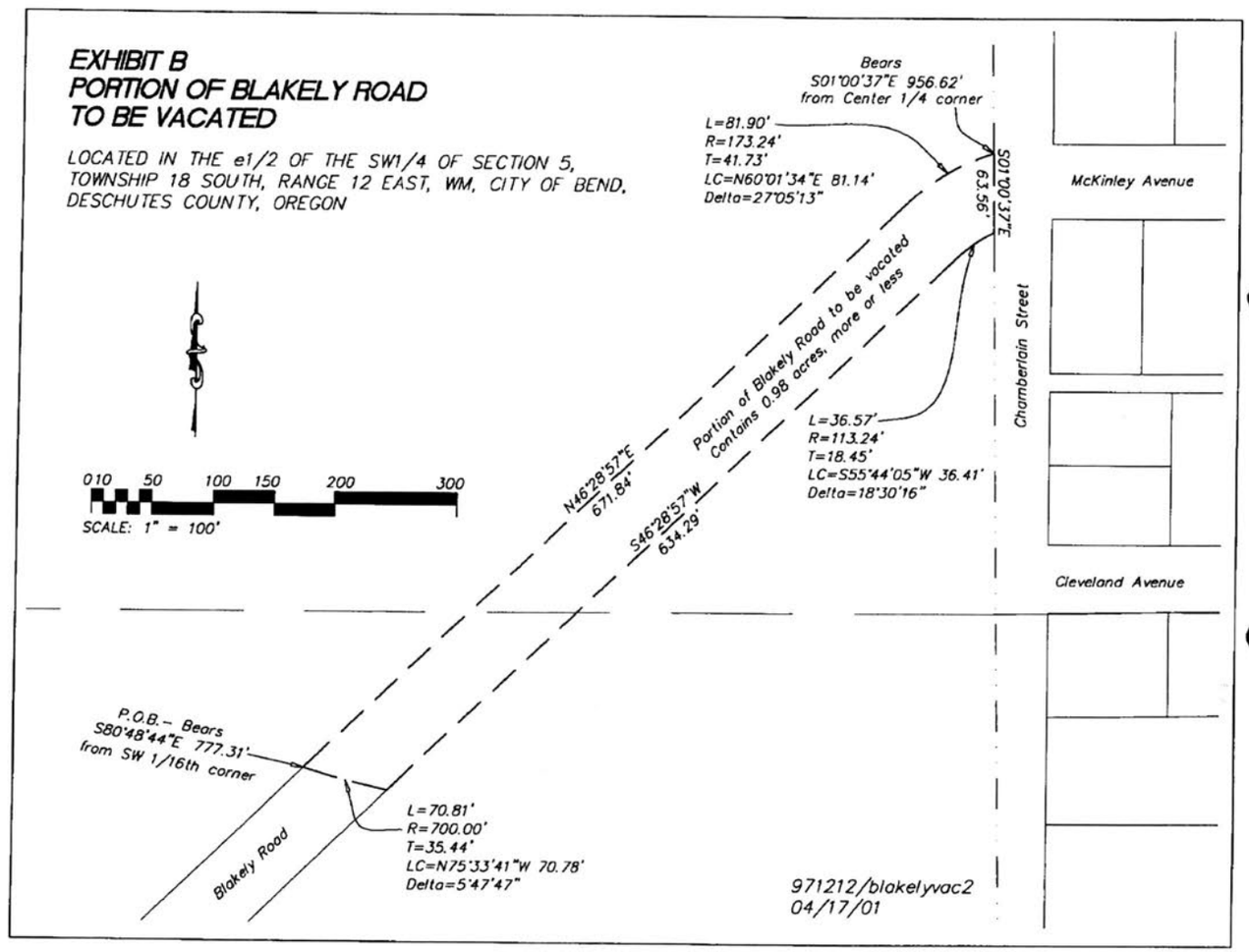
REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 9, 1986
PETER A. MANLEY
2214

EXPIRES 12-31-02

April 16, 2001
S:\Land Projects\Old Mill District\dwg\OldmillMisc-971212\docs\Blakely vacation legal.doc
Page 1 of 1

805 SW Industrial Way, Suite 10 • Bend, Oregon 97702-1093 • (541) 389-9351 • Fax (541) 388-5416


EXHIBIT B
PORTION OF BLAKELY ROAD
TO BE VACATED
LOCATED IN THE e1/2 OF THE SW1/4 OF SECTION 5, TOWNSHIP 18 SOUTH, RANGE 12 EAST, WM, CITY OF BEND, DESCHUTES COUNTY, OREGON
Bears S01°00'37"E 956.62' from Center 1/4 corner
L=81.90'
R=173.24'
T=41.73'
LC=N60°01'34"E 81.14'
Delta=27°05'13"
S01°00'37"E 63.56'
McKinley Avenue
Chamberlain Street
Cleveland Avenue
Portion of Blakely Road to be vacated Contains 0.98 acres, more or less
N46°28'57"E 671.84'
S46°28'57"W 634.29'
L=36.57'
R=113.24'
T=18.45'
LC=S55°44'05"W 36.41'
Delta=18°30'16"
0 10 50 100 150 200 300
SCALE: 1" = 100'
P.O.B. – Bears S80°48'44"E 777.31' from SW 1/16th corner
Blakely Road
L=70.81'
R=700.00'
T=35.44'
LC=N75°33'41"W 70.78'
Delta=5°47'47"
971212/blakelyvac2
04/17/01

ORDINANCE NO. NS-1836

AN ORDINANCE VACATING PORTION OF REED MARKET ROAD THAT LIES WITHIN S ½ OF SECTION 6, 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 April 17, 2002 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 7th day of August, 2002, 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 7th day of August 2002.

Read for the second time the 21st day of August 2002.

Placed upon its passage the 21st day of August 2002.

Yes: 6 No: 0

Authenticated by the Mayor the 21st day of August, 2002.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

Please record pages 1 through 4 of Ord NS-1836. After recording return to: Deputy Recorder, City of Bend, 710 NW Wall, Bend, OR 97701

DESCHUTES COUNTY OFFICIAL RECORDS
MARY SUE PENHOLLOW, COUNTY CLERK

2002-48277

$46.00

00095068200200482770050052

09/04/2002 02:34:09 PM

D-ODN Cnt=1 Stn=3 SHIRLEY
$20.00 $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.**

EXHIBIT A

Two parcels of land located in a portion of the South One-half of Section 6, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Parcel A
Beginning at a the northeast corner of the tract of land conveyed per warranty deed recorded on August 21, 1987 in Volume 150, Page 0762 of Official Records in the office of the Deschutes County Clerk, being a 5/8" iron rod with a yellow plastic cap marked "C.W.E.C" which bears North 17°44'20" East a distance of 626.84 feet from the south one-quarter corner of said Section 6; thence along the east boundary of said tract South 04°36'50" West a distance of 44.43 feet; thence leaving said tract boundary 84.86 feet along a non-tangent curve to the right with a radius of 339.50 feet, the chord of which bears South 71°54'54" West a distance of 84.64 feet; thence 50.92 feet along a non-tangent curve to the right with a radius of 72.00 feet, the chord of which bears North 47°19'09" West a distance of 49.86 feet to a point on the north boundary of said tract to a point hereinafter known as Point A; thence along the north boundary of said tract North 73°03'46" East a distance of 126.16 feet to the point of beginning, the terminus of this description.

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

Contains 0.11 acres, more or less.

Parcel B
Beginning at a point on the north boundary of the tract conveyed per warranty deed recorded on August 21, 1987 in Volume 150, Page 0762 of Official Records in the office of the Deschutes County Clerk which bears North 42°43'02" West a distance of 732.81 feet from the south one-quarter corner of said Section 6; thence along the north boundary of said tract the following one (1) curve and one (1) course:

338.98 feet along a curve to the left with a radius of 371.04 feet, the chord of which bears South 80°45'53" East a distance of 327.32 feet;
North 73°03'46" East a distance of 174.93 feet to a point which bears South 73°03'46" West a distance of 80.49 feet from above Point A;

Thence leaving the north boundary of said tract 57.17 feet along a non-tangent curve to the right with a radius of 74.00 feet, the chord of which bears South 25°50'33" West a distance of 55.76 feet; thence South 78°06'33" West a distance of 214.21 feet; thence 243.13 feet along a non-tangent curve to the right with a radius of 250.00 feet, the chord of which bears North 74°01'40" West a distance of 233.66 feet; thence North 46°10'02" West a distance of 44.28 feet; thence North 05°14'25" East a distance of 0.94 feet to the point of beginning, the terminus of this description.

S:\Land Projects\010118-MBV\docs\ReedVac2002.doc Page 1 of 2

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

Contains 0.33 acres, more or less.

Acreage Summary:
Parcel A- 0.11 acres, more or less
Parcel B- 0.33 acres, more or less
Total = 0.44 acres, more or less

See attached map titled "EXHIBIT B" hereby incorporated by reference.

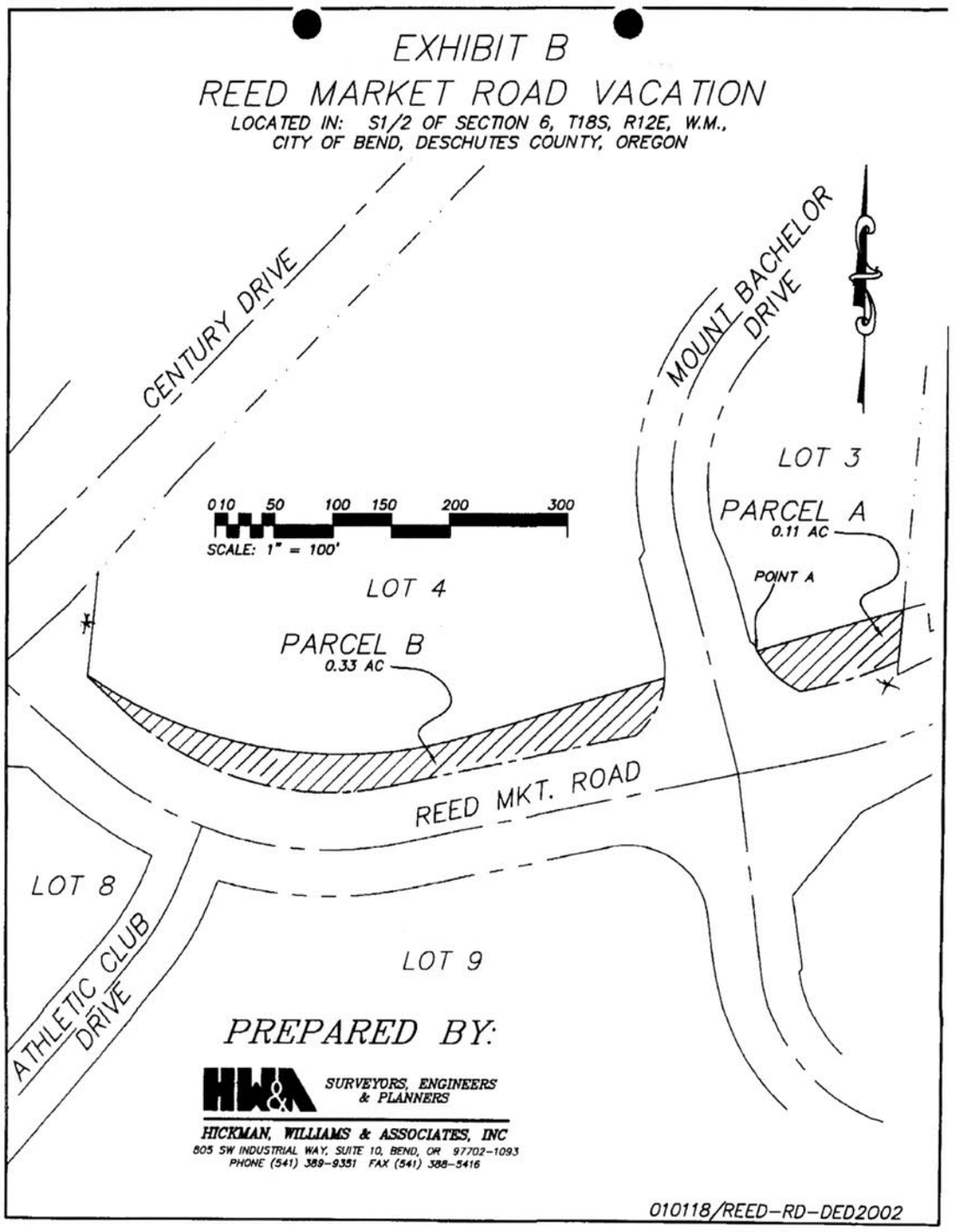
03-22-08

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Peter A. Manley

OREGON
JULY 17, 1986
PETER A. MANLEY
2214

RENEWAL DATE: 12/31


EXHIBIT B
REED MARKET ROAD VACATION
LOCATED IN: S1/2 OF SECTION 6, T18S, R12E, W.M.,
CITY OF BEND, DESCHUTES COUNTY, OREGON
CENTURY DRIVE
MOUNT BACHELOR DRIVE
0 10 50 100 150 200 300
SCALE: 1" = 100'
LOT 3
PARCEL A
0.11 AC
POINT A
LOT 4
PARCEL B
0.33 AC
REED MKT. ROAD
LOT 8
ATHLETIC CLUB DRIVE
LOT 9
PREPARED BY:
SURVEYORS, ENGINEERS & PLANNERS
HICKMAN, WILLIAMS & ASSOCIATES, INC
805 SW INDUSTRIAL WAY, SUITE 10, BEND, OR 97702-1093
PHONE (541) 389-9351 FAX (541) 388-5416
010118/REED-RD-DED2002

ORDINANCE NO. NS-1837

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF THREE PARCELS 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 July 17, 2002 file number PZ-02-26.

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 properties described as;

Tax Lots 4400 and 4500 of Deschutes County Tax Map 18-12-18AB; and Tax Lot 1000 of Deschutes County Tax Map 18-12-18BA;

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

Read for the first time the 7th day of August, 2002.

Read for the second time the 21st day of August, 2002.

Placed upon its passage the 21st day of August, 2002.

YES: 6 NO: 0

Authenticated by the Mayor the 21st day of August, 2002.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

Exhibit "A"

January 15, 2002
Order No. 167481-JT

LEGAL DESCRIPTION

PARCEL I:
A portion of Tract 11 of WAYWEST PROPERTIES, Deschutes County, Oregon, described as follows:

Beginning at the Northeast corner of said Tract 11; thence South 89° 26' 33" West 605.56 feet; thence South 00° 20' West 720.00 feet; thence North 89° 26' 33" East 605.56 feet; thence North 00° 20' East 720.00 feet to the point of beginning.

EXCEPTING THEREFROM that portion lying within the boundaries of the following described parcel: Beginning at the Northeast corner of Tract 11 of WAYWEST PROPERTIES as platted and recorded; thence South 89° 26' 33" West 606.77 feet; thence South 0° 20' West 70 feet; thence North 89° 26' 33" East 606.77 feet; thence North 0° 20' East 70 feet to the point of beginning.

PARCEL II:
That portion of Tract 11 of WAYWEST PROPERTIES, Deschutes County, Oregon, described as follows: Commencing at the Northwest corner of said Tract 11; thence South 00° 20' West along the West line of said Tract 11 a distance of 378.76 feet to the true point of beginning; thence East 453.75 feet to a point which is located South 00° 20' West 376.81 feet from the North line of said Tract 11; thence South 00° 20' West 480.00 feet; thence West 453.75 feet to a point on the West line of said Tract 11 which is located South 00° 20' West 480.00 feet from the point of beginning; thence North 00° 20' East along the West line of said Tract 11 a distance of 430.00 feet to the true point of beginning.

PARCEL III:
A portion of Tract Eleven (11), WAYWEST PROPERTIES, Deschutes County, Oregon, more particularly described as follows:

Beginning at the Northeast corner of Tract 11, as platted and recorded; thence South 89° 26' 33" West, 606.77 feet; thence South 00° 20' West, 70 feet; thence North 89° 26' 33" East, 606.77 feet; thence North 00° 20' East, 70 feet to the point of beginning.

ORDINANCE NO. NS-1838

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF AN AREA 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 July 24, 2002 file number PZ-01-260.

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

Read for the first time the 21st day of August, 2002.

Read for the second time the 21st day of August, 2002.

Placed upon its passage the 4th day of September, 2002.

YES: 7 NO: 0

Authenticated by the Mayor the 4th day of September, 2002.

Bill Friedman, Mayor

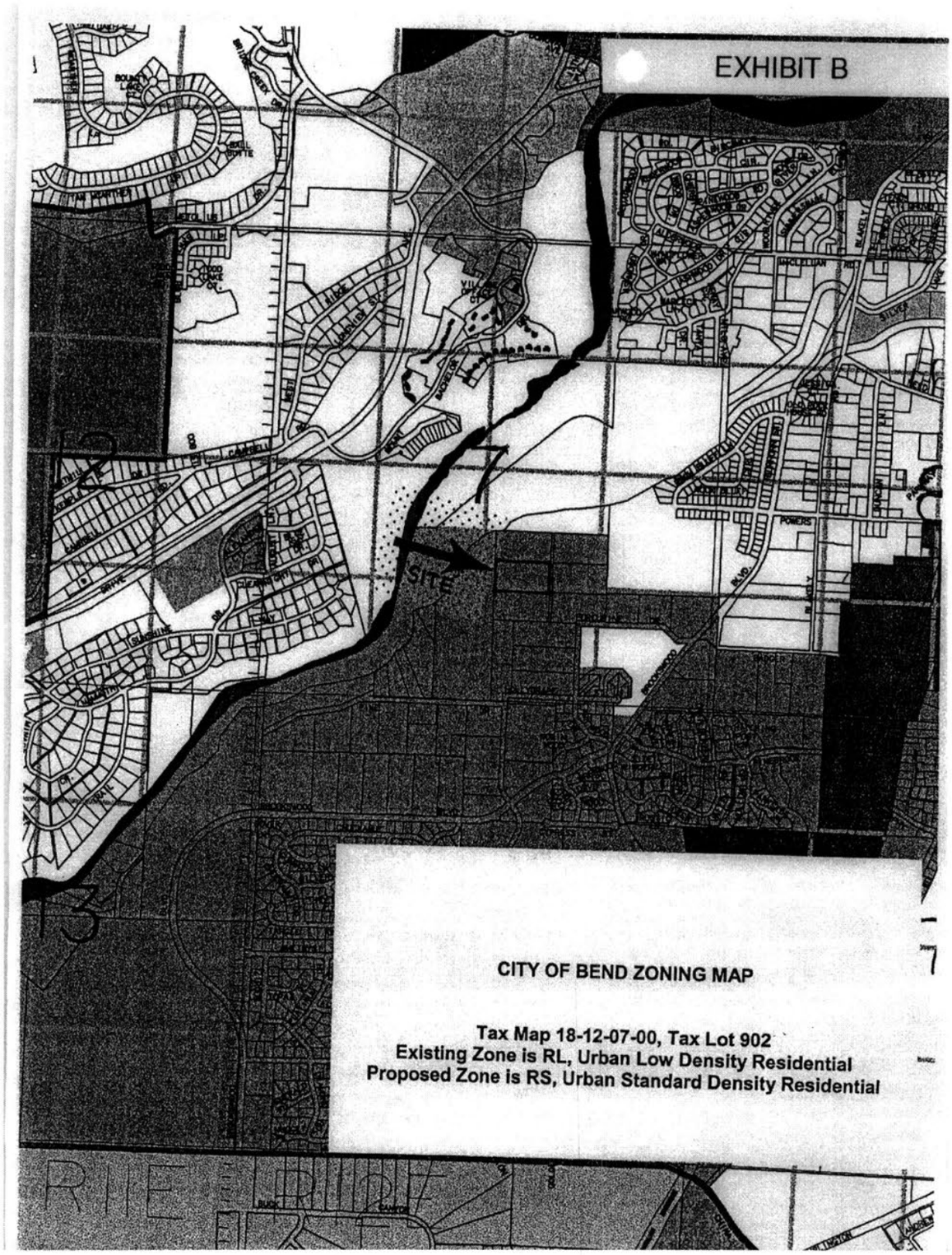
ATTEST:

Patricia Stell, City of Bend Recorder

EXHIBIT A

In Township Eighteen (18) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon: Section Seven (7): Beginning at a point which is North 0°20'40" West, 1307.94 feet along the North-South centerline from the South 1/4 corner of said Section 7; thence North 0°20'40" West, 340.70 feet along said North-South centerline; thence North 89°53'23" East, 662.56 feet; thence South 0°07' East, 340.70 feet; thence South 89°53' West, 661.17 feet to said North-South centerline and the Point of Beginning.

EXCEPTING THEREFROM the Easterly 30 feet (erroneously described as 20 feet) which is reserved for roadway.


EXHIBIT B
SITE
CITY OF BEND ZONING MAP
Tax Map 18-12-07-00, Tax Lot 902
Existing Zone is RL, Urban Low Density Residential
Proposed Zone is RS, Urban Standard Density Residential

ORDINANCE NO. NS-1839

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 (ZONING MAP), BY CHANGING THE ZONING DESIGNATION OF A PARCEL OF LAND FROM SM, SURFACE MINING, TO RS, 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 June 20, 2002 file number PZ-02-154.

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 Lot 17-11-25, Tax Lot 400 from Surface Mining (SM) to Urban Standard Density Residential (RS).

Read for the first time the 21st day of August, 2002.

Read for the second time the 21st day of August, 2002.

Placed upon its passage the 4th day of September, 2002.

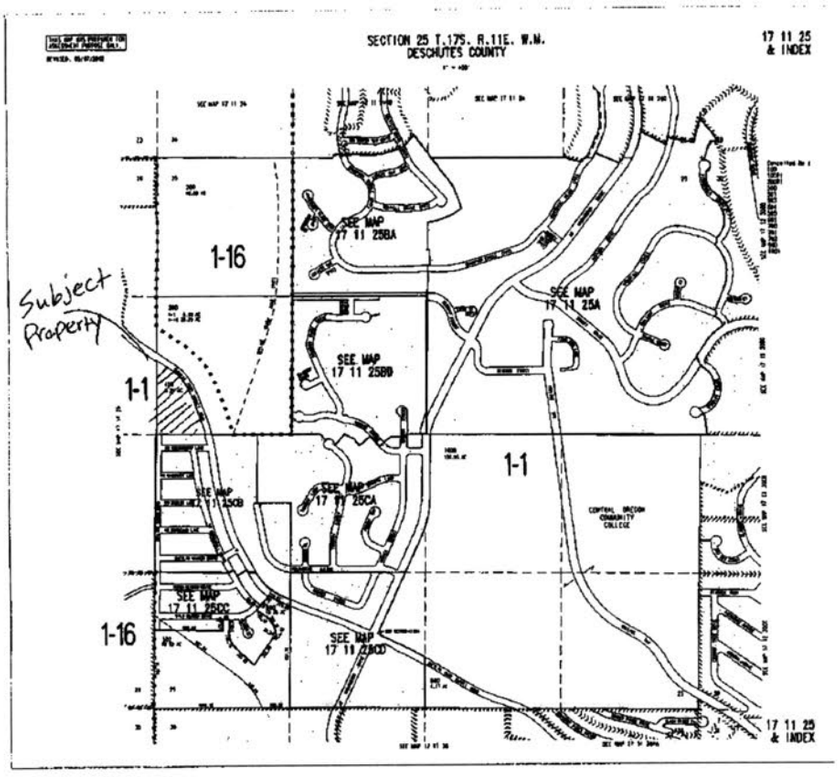
YES: 7 NO: 0

Authenticated by the Mayor the 4th day of September, 2002.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder



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ORDINANCE NO. NS-1840

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONING DESIGNATION OF CERTAIN REAL PROPERTY 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, considering 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 August 14, 2002, File Number PZ-02-205.

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 RL, Urban Low Density Residential to RS, Urban Standard Density Residential.

Section 3. The Bend City Council adopts the following condition of approval: Deeds to all Sterling Pointe residential lots must contain notice to the purchasers that industrial land will probably be developed on the City owned land to the east of the subdivision, and that the stubbed streets that intersect with the east property line may connect through to the City owned land and proposed industrial land.

Read for the first time the 18th day of September, 2002.

Read for the second time the 2nd day of October, 2002.

Placed upon its passage the 2nd day of October, 2002.

YES: 5 NO: 1

Authenticated by the Mayor the 2nd day of October, 2002.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

EXHIBIT "A" PAGE 1 OF 2

PARCEL 2:

A parcel of land located in the Southeast Quarter (SE¼) of Section 9, TOWNSHIP 17 SOUTH, RANGE 12, EAST OF THE WILLAMETTE MERIDIAN, Deschutes County, Oregon, more particularly described as follows:

Beginning at the Southeasterly section corner of said Section 9; thence along the Easterly line of said section North 00°03'26" West, 953.23 feet (record 953.00 feet); thence continuing along said section line North 00°03'26" West, 1223.39 feet to a 5/8" iron rod and plastic cap stamped "HWA"; thence leaving said section line South 89°56'34" West, 1045.58 feet to a 5/8" iron rod and plastic cap stamped "HWA"; thence South 42°51'50" West, 385.06 feet to the TRUE POINT OF BEGINNING of this description; thence North 00°14'03" West, 693.61 feet to a point which bears South 00°14'03" East 54.90 feet from the center East 1/16 corner of said section; thence Southwesterly along the Burlington Northern Railroad right-of-way (100 feet wide) South 42°13'44" West, 318.22 feet; thence along a spiral curve to the left with a theta angle of 2°02'10", an arc distance of 196.50 feet (short tangent bears South 41°10'50" West, 65.51 feet, long tangent bears south 43°13'00" West, 131.01 feet); thence along a curve to the left with a radius of 2764.79 feet, an arc distance of 119.77 feet (chord bears South 38°52'05" West, 119.76 feet); thence leaving said right-of-way;

South 23°37'48" East, 81.52 feet;
South 12°21'22" East, 51.82 feet;
South 02°13'13" West, 56.68 feet;

thence North 71°48'02" East, 223.27 feet to the centerline of the Swalley Irrigation Canal; thence along the centerline of said canal;

South 34°19'06" East, 66.59 feet;
South 01°09'40" East, 36.80 feet;
South 19°02'33" East, 118.38 feet;

thence leaving said centerline North 42°51'50" East, 133.40 feet to the TRUE POINT OF BEGINNING OF this description.

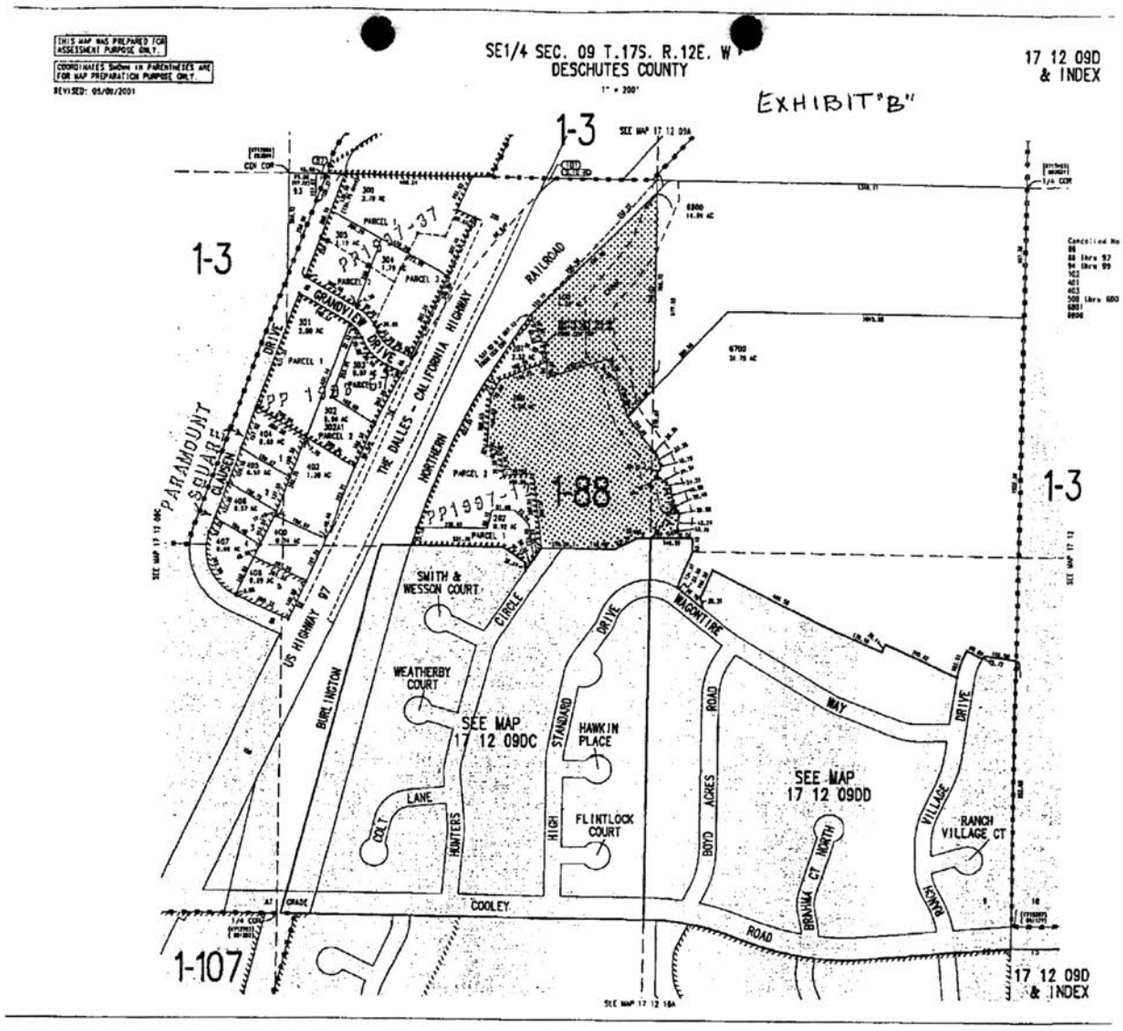
EXHIBIT "A" PAGE 2 OF 2

PARCEL 3:
A parcel of land located in the Southeast Quarter (SE¼) of Section 9, TOWNSHIP 17 SOUTH, RANGE 12, EAST OF THE WILLAMETTE MERIDIAN, Deschutes County, Oregon, more particularly described as follows:

Beginning at the Northwesterly corner of Hunter's Circle, said point being marked by a 5/8" iron rod and plastic cap stamped "LS 980" and which bears North 51°56'14" West, 2150.05 feet from the Southeasterly section corner of said section, said point being the TRUE POINT OF BEGINNING of this description; thence North 07°31'16" West, 267.94 feet (record North 07°34'04" West, 268.31 feet), to a 5/8" iron rod without cap; thence South 85°41'44" West, 109.86 feet (record North 85°45'00" East, 109.83 feet), to a "PK" nail in rock (record 5/8" iron rod); thence North 06°40'44" West, 79.20 feet (record South 06°35'51" East, 79.12 feet), to a 5/8" iron rod without cap; thence North 64°26'30" West, 55.70 feet (record South 64°45'07" East, 55.60 feet), to a disturbed 5/8" iron rod without cap; thence North 02°30'49" East, 168.55 feet (record South 02°35'23" West, 168.95 feet), to a 5/8" iron rod without cap; thence North 27°18'34" East, 72.17 feet (record South 27°17'12" West, 72.58 feet) to a 5/8" iron rod without cap; thence North 68°05'36" East, 182.29 feet (record South 68°18'40" West, 184.72 feet) to a 5/8" iron rod without cap; thence South 02°13'13" West, 56.68 feet (record South 11°38'01" East, 50.00 feet) to a 5/8" iron rod without cap; thence North 71°48'02" East, 223.27 feet (record North 72°47'47" East, 210.19 feet), to the centerline of the Swalley Irrigation Canal; thence along the centerline of said canal the following 19 courses:

South 34°19'06" East, 66.59 feet (record South 32°51'57" East, 68.00 feet);
South 01°09'40" East, 36.80 feet (record South 01°07'27" East, 36.54 feet);
South 19°02'33" East, 118.38 feet (record South 19°00'26" East, 118.45 feet);
South 39°12'20" East, 144.92 feet (record South 39°10'07" East, 145.00 feet);
South 39°12'20" East, 26.55 feet;
South 27°56'48" East, 33.36 feet;
South 05°03'47" East, 18.78 feet;
South 30°58'20" East, 22.72 feet;
South 45°14'51" East, 18.79 feet;
South 54°30'03" East, 26.34 feet;
South 36°05'04" East, 24.31 feet;
South 14°41'43" East, 48.09 feet;
South 21°43'29" East, 39.46 feet;
South 11°09'46" East, 20.00 feet;
South 06°05'36" East, 43.24 feet;
South 19°40'05" East, 13.78 feet;
South 41°04'21" East, 27.95 feet;
South 89°59'38" East, 69.84 feet;
South 87°01'19" East, 53.22 feet (record North 86°58'13" East, 53.20 feet);
South 63°32'46" East, 87.98 feet (record North 63°28'33" East, 87.89 feet);

thence leaving said canal centerline North 89°54'14" West, 253.36 feet (record South 89°52'58" East, 251.41 feet), to the TRUE POINT OF BEGINNING and the terminus of this description.



17-12-09D0-LOTS 00100 & 00200

ORDINANCE NO. NS-1841

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 (ZONING MAP), BY CHANGING THE ZONING DESIGNATION OF A PARCEL OF LAND FROM UAR-10, URBAN AREA RESERVE, TO RS, 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 August 29, 2002 file number PZ-02-221.

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 Tax Lot 17-11-26, Tax Lot 104 from Urban Area Reserve (UAR-10) to Urban Standard Density Residential (RS).

Read for the first time the 18th day of September, 2002.

Read for the second time the 2nd day of October, 2002.

Placed upon its passage the 2nd day of October, 2002.

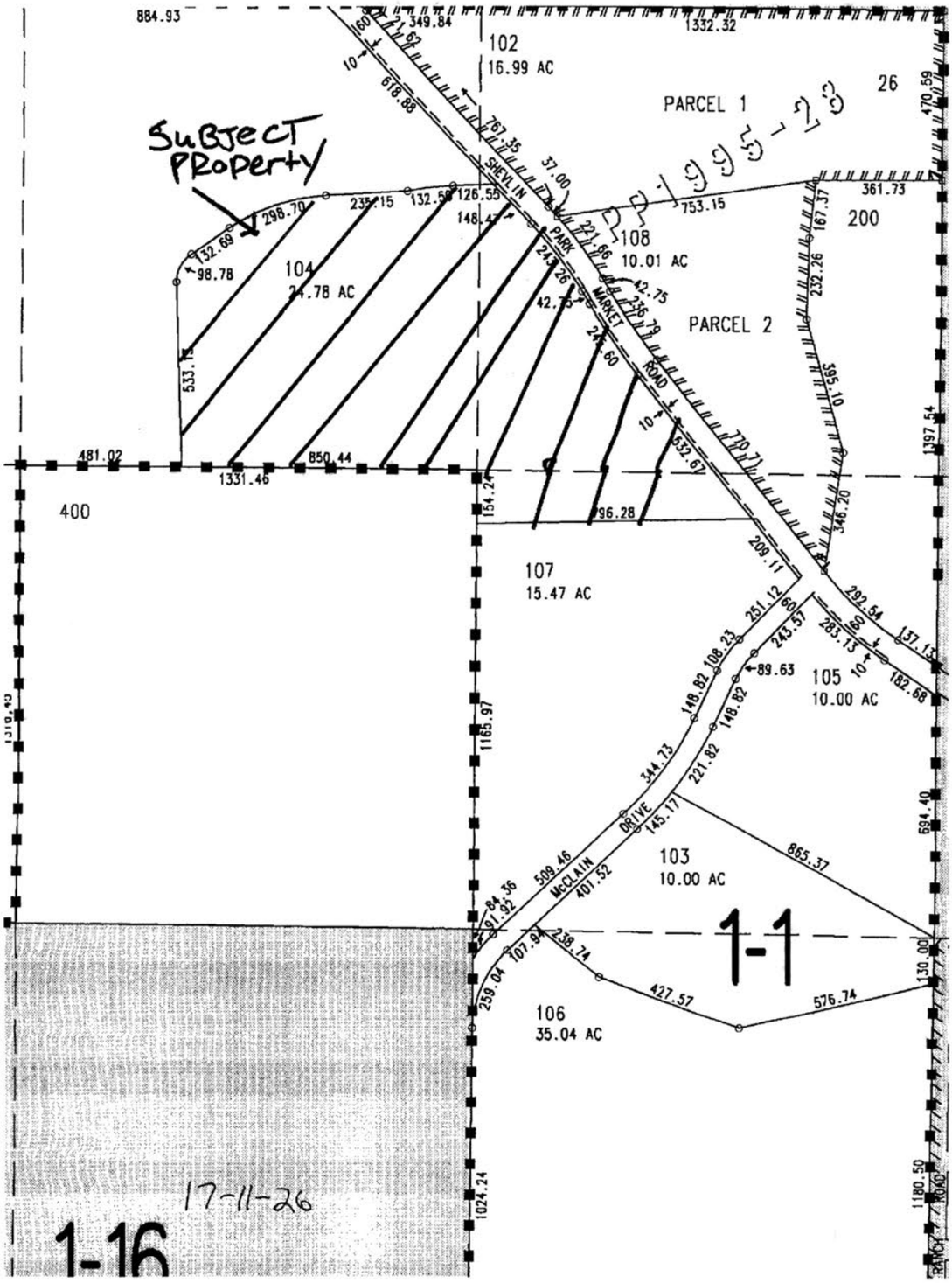
YES: 6 NO: 0

Authenticated by the Mayor the 2nd day of October, 2002.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder


SUBJECT PROPERTY
884.93
1332.32
102
16.99 AC
PARCEL 1
26
200
108
10.01 AC
104
24.78 AC
PARCEL 2
107
15.47 AC
105
10.00 AC
103
10.00 AC
106
35.04 AC
400
SHEVLIN PARK ROAD
MARKET
DRIVE
McCLAIN
1331.46
481.02
850.44
1165.97
1024.24
1-1
1-16
17-11-26

ORDINANCE NO. NS-1842

AN ORDINANCE RATIFYING AN INTERGOVERNMENTAL AGREEMENT ESTABLISHING THE BEND METROPOLITAN PLANNING ORGANIZATION AS AN INTERGOVERNMENTAL ENTITY

WHEREAS, ORS 190.085 requires local governments to enact ordinances ratifying the creation of intergovernmental entities through intergovernmental agreements prior to the effective date of such agreements;

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1.

The Agreement which is attached to this Ordinance is ratified. According to the terms of the Agreement, the Bend Metropolitan Planning Organization shall be formed and the Agreement effective upon the ratification of that agreement by the Bend City Council, Deschutes County Commission, and the Oregon Department of Transportation.

Section 2

The Mayor is authorized to execute the Agreement.

Read for the first time the 2nd day of October, 2002.

Read for the second time the 16th day of October, 2002.

Placed upon its passage the 16th day of October, 2002

YES: 6 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 16th day of October, 2002.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

DRAFT

INTERGOVERNMENTAL COOPERATIVE AGREEMENT ESTABLISHING THE BEND METROPOLITAN PLANNING ORGANIZATION

This agreement is between the City of Bend ("City"), Deschutes County ("County"), and the Oregon Department of Transportation, by and through the Oregon transportation Commission ("ODOT"). City, County and ODOT may be referred to in this intergovernmental agreement ("IGA") as "member units."

1. Introduction By the authority granted in ORS 190.110 and 283.110, state agencies may enter into agreements with units of local government or other state agencies for the performance of any or all functions and activities that parties to the agreement, its officers, or agents have the authority to perform. Pursuant to this statute, an intergovernmental entity is hereby created by this agreement, to be called the Bend Metropolitan Planning Organization ("BMPO") located at 710 NW Wall Street, Bend, Oregon 97701. This agreement shall be governed and construed in accordance with the

laws of the State of Oregon. "Exhibit A" outlines and further describes the governance structure of the BMPO.

2. Purpose

2.1 The purpose of the BMPO is to carry out planning, coordination and integration of activities necessary to maintain a comprehensive, cooperative, and continuing multi-agency transportation planning program; and further, as specified by the Policy Board of the BMPO, carry out other related specific tasks including implementation thereof.

2.2 The BMPO will establish a setting in which to undertake effective decision-making processes regarding transportation in the metropolitan area; evaluate transportation alternatives that are realistic and scaled to address the needs of the metropolitan area; develop and maintain a long range transportation plan for the metropolitan area which covers a 20 year planning horizon; and develop a Transportation Improvement Program ("TIP") which establishes a blueprint for the use of transportation resources to meet the capital and operating needs of the BMPO.

2.3 The BMPO will promote public participation in the decision making process through public meetings. The BMPO will exercise leadership and initiative in planning and assisting development of efficient, integrated transportation system facilities in the Bend area.

2.4 The area within the BMPO includes the urban area as defined by the 2000 U.S. census plus all area within the Urban Growth Boundary and other additional areas that may be annexed to accommodate expected growth and anticipated development for the next twenty years. The areas included outside of the Urban Growth Boundary can be described as Deschutes River Woods to the South, the Woodside Ranch area, an area East of the UGB from Stevens Road to Hwy 20, an area East of the UGB from Neff to Butler Market Road, the Bend Pine nursery area, an area along Hwy 97 north of the UGB and the area located NE of the UGB that the City is considering annexing. Based upon the 2000 census count, this area qualifies as a U.S. Census designated Urban Area.

3. Governing Body of BMPO

3.1 Policy Board The Policy Board of BMPO shall consist of representatives appointed by the governing body of each member agency to this Intergovernmental Agreement based upon a formula of one (1) representative per each 15,000 people with a minimum of 1 representative for each agency. The three agencies represented on the Policy Board are the three major transportation providers within the geographical boundaries that form the BMPO. As future major transportation providers form, such as a Transit District, they shall be added to the Policy Board. Based on this formula, the representatives are as follows:

Jurisdiction	Policy Board Members
City of Bend	3 (1 of whom is a City Council member appointed to COACT)
Deschutes County	1 (a County Commissioner appointed to COACT)
ODOT	1
	Total 5

3.2 Appointment of each Policy Board Member shall be for a period of one year. Each member of the Policy Board shall hold office until the member unit he or she represents appoints a successor. Policy Board members may be re-appointed by the governing body of the member unit that appointed that Policy Board Member. A Policy Board Member need not be a member of the governing body of the member unit that appointed the Policy Board Member.

4. Policy Board Members, Terms of Office, Officers and Meetings

4.1 The Policy Board of the BMPO shall elect the following officers at its first meeting of the calendar year to serve for that year: Chair and Vice Chair. In the absence of the Chair, or upon her/his inability to act or serve, the Vice Chair shall have the powers of the Chair. The Chair and Vice Chair will serve without compensation and shall serve for a period of one year, renewable.

4.2 The Policy Board shall be responsible for the management, supervision, policy and direction of all programs, functions and activities established and operated under BMPO. Also at the first meeting of each calendar year, the Policy Board shall designate an Administrative Officer who shall account for the financial matters of BMPO and handle other necessary administrative functions.

4.3 Any member who has three (3) consecutively unexcused absences from Policy Board meetings may be removed by the member unit appointing such member.

4.4 A vacancy on the Policy Board shall be filled by the member unit that appointed the member who created the vacancy.

4.5 The first meeting of the Policy Board shall be on the first Monday following the effective date of approval of this agreement by all member units. Thereafter, regular meetings of the Policy Board shall be held at such time and place as shall be determined by the Policy Board. Special meetings of the Policy Board may be called by the Chair. All Policy Board members are entitled to notice. No action may be taken unless all Policy Board members are given notice. Notice of meetings may be given telephonically or by other means of electronic communication.

4.6 The Policy Board may meet telephonically or by other means of electronic communication.

4.7 The Policy Board shall follow the Public Meeting Laws of Oregon.

4.8 BMPO business may not be conducted without representation at the Policy Board meeting by at least one Policy Board Member from each of the three BMPO member units.

4.9 Any conflict of interest must be stated prior to discussion of that particular agenda item.

4.10 A consensus of all three agencies will constitute passage. This means that a majority of the three Bend representatives must support any given decision item, as well as each of the other agencies.

4.11 The Administrative Officer shall provide a financial report at each monthly meeting and an annual report at the August meeting for the previous fiscal year. The monthly report shall include a list of expenditures the payment of which shall be approved by the Policy Board, and the balance of all depository accounts.

4.12 The decision making process outlined in this IGA has been designed to be consistent in structure with those of the City of Bend and Deschutes County.

5. Bylaws The Policy Board may adopt bylaws to establish procedures for management of the BMPO, if the Policy Board finds that bylaws would be conducive towards the furtherance of BMPO business.

6. Powers and Responsibilities of BMPO

6.1 The BMPO Policy Board is responsible for all actions, agreements, and functions to be carried out by the Bend Metropolitan Planning Organization. To this end, the BMPO may:

6.1.1 Serve in a review capacity to insure that all federal and state assisted development projects are consistent with integrated regional transportation plans and programs;

6.1.2 Accept contributions and grants-in-aid;

6.1.3 Contract with the Federal Government for planning assistance and other transportation-related planning projects, products, and services;

6.1.4 Contract for the provision and receipt of planning or associated products or services;

6.1.5 Administer grants, Planning Funds (Federal Highway Administration "FHWA" funds) and Section 5303 Funds (Federal Transit Administration "FTA" funds);

6.1.6 Own property, facilities and equipment;

6.1.7 Incur debt, subject to Oregon Constitution Article II, Sections 9 and 10;

6.1.8 Issue bonds;

6.1.9 Maintain financial records, supporting documentation for financial records and records relating to procurement and management of contracts for implementation of its work plan;

6.1.10 Take such other and further actions as are reasonably necessary to carry out its responsibilities.

6.2 The BMPO is responsible for development of the following essential products:

6.2.1 Regional Transportation Plan;

6.2.2 Transportation System Plan;

6.2.3 Long Range Transportation Plan;

6.2.4 Transportation Improvement Program, fiscally constrained;

6.2.5 Title VI Civil Rights Review;

6.2.6 Unified Planning Work Program ("UPWP")/Budget;

6.2.7 Transportation Improvement Program ("TIP") the program that establishes a blueprint for the use of transportation resources to meet the capital and operating needs of the BMPO;

6.2.8 Audit of BMPO activities; and

6.2.9 Other products deemed essential may be authorized by the Policy Board as specified in the UPWP.

7. Technical Advisory Committee ("TAC")

7.1 The BMPO shall have a Technical Advisory Committee ("TAC"). The membership of the TAC has been selected to include agencies within the BMPO that are impacted by the decisions and that have significant contributions to the BMPO. The TAC is composed of technical and/or managerial staff representatives from each of the participating agencies. In addition, there may be one or more ex-officio non-voting representative each from the FHWA and the FTA. Each ex-officio non-voting member must be approved by the agency he/she represents.

7.2 As future major transportation providers form, such as a Transit District, they shall be added to the TAC. In addition, a representative from any technical subcommittee or advisory group that is formed shall have a seat on the TAC. Policy Board directive may also add additional positions (as members or as ex-officio members) to the TAC, such as a citizen representative, a business representative, a freight stakeholder, and/or citizen groups.

7.3 The TAC has authority and primary responsibility to conduct technical reviews and analyses regarding all work activities of the UPWP, and any related issues as specified by the BMPO Policy Board and to so advise the Policy Board on appropriate actions to be taken. The TAC works closely with the BMPO staff, providing guidance and direction for development of the annual UPWP/Budget and work activities defined therein.

7.4 TAC Membership

7.4.1 Voting membership on the BMPO TAC shall be as follows:

City of Bend - Three (3) positions: (to be named by City Council)

Deschutes County - One (1) position (to be named by County Board of Commissioners):

ODOT - One (1) position: Region 4 Coordinator or designee

COIC - One (1) position: (to be named by governing body)

COACT - One (1) position: (to be named by governing body)

COCC - One (1) position: (to be named by governing body)

Commute Options - One (1) position: (to be named by governing body)

Deschutes County Bike/Pedestrian Advisory Committee - One (1) position: (to be named by governing body)

Bend-Lapine School District - One (1) position: (to be named by governing body)

7.4.2 Ex-Officio Members on the BMPO TAC shall be as follows:

Federal Highway Administration

Federal Transit Administration

Oregon Department of Land Conservation and Development

Oregon Department of Environmental Quality

The person in each of the positions under Section 7.4.2 may, by a written statement to the Chairs of the Policy Board and the TAC, designate a regular alternate. Non-regular alternates (i.e. for a particular meeting) must be declared when the meeting is called to order.

7.4.3 Organization of management of the TAC shall be according to bylaws adopted by the TAC and approved by the BMPO Policy Board.

8. BMPO Finances

8.1 The fiscal year for the BMPO shall commence on July 1 of each year.

8.2 The BMPO shall have the power to receive funds from any public or private source including, but not limited to, the federal, state and local governments, voluntary associations, non-profit corporations, firms, partnerships, or person or any combination thereof, bequests, donations, devices, grants and gifts of all kinds of property.

8.3 The BMPO Policy Board Chair shall call for an annual audit of the financial affairs of the BMPO to be made by a certified public accountant selected by the members of the BMPO Policy Board at the end of each federal fiscal year. The audit is a public record, and shall be made available to all BMPO members.

9. Formation of Committees

9.1 The BMPO Policy Board, as deemed necessary, may create special BMPO committees. A special committee may be either an ad hoc committee for a specific work task or a standing committee for one or more work tasks. Any such special committee will be responsible to the BMPO Policy Board.

9.2 At the direction of respectively the Chairs of the Policy Board and the TAC, subcommittees may be formed to investigate a particular work task or issues relevant to the BMPO.

9.3 The BMPO Policy Board shall define the duties, and authorize the power of all special committees. Special committees shall follow parliamentary procedures as defined in this agreement for the Policy Board and TAC. Special committees, unless membership consists exclusively of employees of the member jurisdictions, shall observe the Public Meeting Laws of Oregon.

9.4 The BMPO Policy Board and/or the TAC shall determine membership on a special committee. The BMPO Policy Board and/or the TAC may appoint, at its discretion, any individual it deems qualified to serve on a special committee.

10. BMPO Staff

10.1 The BMPO will remain a separate entity from its member units with a separate budget, its own governing body and separate operating principles as outlined in this IGA.

10.2 The BMPO may contract for support staff or hire staff as necessary, including legal counsel. The BMPO staff consists of an Executive Director and supporting staff personnel. The Executive Director of the BMPO shall report directly to and

take direction from the BMPO Policy Board. Supporting staff personnel shall report directly to and take direction from the Executive Director.

10.3 The BMPO Policy Board will be responsible for preparing a Request for Proposals for staffing of the MPO. The Policy Board will also be responsible for developing the evaluation criteria for the proposals, rating the proposals, selecting the successful candidate, and awarding the contract. The RFP shall request, and the successful proposal must include, a description of how autonomy will be retained, including descriptions of where the agency will be housed, who will staff the agency, and whether there will be any overlap with member jurisdictions regarding employee responsibilities. The RFP and selection process shall begin after the Policy Board is formed in January 2003 and shall be completed prior to the start of the BMPO's first fiscal year on July 1, 2003.

10.4 BMPO member units may donate personnel to serve as staff to the BMPO, subject to the provisions of Section 12.

11. No Joint and Several Liability

11.1 Member units are *not* jointly and severally liable with other member units for any tort (as defined by ORS 30.260(8)) committed by an elected or appointed official, employee or agent of such unit acting in connection with this agreement.

11.2 Nothing in this agreement shall be construed to increase tort liability that any member unit would otherwise have under Oregon Law.

11.3 Obligations of BMPO arising from contract or quasi contract shall be the obligations of BMPO alone, and member units are *not* jointly and severally liable for such obligations, unless one or more of the member units agree(s), in writing, to individually guarantee performance of a specific obligation.

12. Employment Liabilities. Each member unit shall be responsible for any and all claims arising from its respective employer/employee relationships with respect to any donated employee of the member unit during any time that the employee of the member unit is working on BMPO matters. For the purpose of this agreement, elected and appointed public officials are included in the employer/employee relationship. Examples of the employer/employee relationship include selection, termination, discipline, benefits and equal employment opportunity issues. Each member unit shall provide its own Workers' Compensation coverage as provided by law with respect to any employee of the member unit during any time that the employee of the member unit is working on BMPO matters.

13. Effectiveness, Duration, Termination and Withdrawal

13.1 This agreement and the formation of BMPO shall be effective upon the adoption by ordinance of this agreement by the City and County, and by ODOT upon adoption by the Oregon Transportation Commission.

13.2 This agreement shall be perpetual unless terminated by agreement of the member units.

Dated: _____

CITY OF BEND

By:_____
Title: Bill Friedman, Mayor

DESCHUTES COUNTY

By:_____
Title: Dennis Luke, County Commissioner

By:_____
Title: Mike Daly, County Commissioner

By:_____
Title: Tom DeWolf, County Commissioner

For Recommended Approval:
By:_____
Title: Mark Devoney, ODOT Region 4

Governance and Structure of the Bend Metropolitan Planning Organization

The following outlines the governance, structure, and membership composition of the BMPO. The structure of the BMPO has been designed by the BMPO Coordinating Committee according to federal requirements and recommendations from ODOT.

Maintaining Autonomy

The structure of the BMPO has been designed so that it operates as a separate entity from any of its member agencies and so that no single member agency dominates the organization's decision-making processes. The Intergovernmental Agreement (IGA) explicitly states that the BMPO will remain a separate entity from its member units with a separate budget, its own governing body, and separate operating principles. The IGA also specifies that the Policy Board will make all decisions by consensus of the participating agencies, and that no decisions will be made without representation from all member agencies.

Decision-Making

The decision-making process outlined in the IGA has been designed to foster consensus and cooperation among member units. The BMPO's IGA specifies that no decisions shall be made by the Policy Board without representation from all member jurisdictions. In addition, all decisions by the Board shall be made by consensus of the participating agencies. Consensus of the participating agencies refers to consensus among the ODOT representative, the County representative, and at least two of the three Bend representatives.

Governance

The BMPO Policy Board will fulfill the governance and policy-making function for the organization. Representation on the Policy Board will be based on population. Each local jurisdiction will have one representative on the Policy Board for every 15,000 people that live within the portion of its land use planning jurisdiction that falls within the BMPO boundary, with a minimum of one representative per jurisdiction. (The City of Bend has approximately 55,000 people living within the portion of its land use planning jurisdiction that falls within the BMPO boundary; Deschutes County has less than 10,000 people living within the portion of its land use planning jurisdiction that falls within the BMPO boundary). ODOT will have one representative on the Policy Board. As future major transportation providers form, such as a Transit District, they will be added to the Policy Board as well.

Based on the above formula, the Policy Board will be structured as follows:

- 3 elected officials from the City of Bend (one of whom sits on the board of COACT)
- 1 elected official from Deschutes County (who sits on the board of COACT)
- 1 representative from ODOT (Region 4)

Committee Structure

The BMPO will be assisted by a Technical Advisory Committee (TAC) which will advise BMPO staff and the Policy Board in the preparation of transportation plans and programs. The TAC will have authority and primary responsibility to conduct technical reviews and analysis regarding all work activities of the BMPO and to advise the Board on appropriate actions to be taken, working closely with BMPO staff, and providing guidance and direction in the development of BMPO work products.

The TAC will be composed of technical and/or managerial staff representatives from each of the participating agencies. The TAC will also include representation from other agencies and organizations that deal with transportation issues (such as education providers, regional government, state government, and non-profit organizations), as well as agencies that have expertise in the areas of economic development, land use, and environmental issues.

The TAC will be structured as follows:

Members

- City of Bend - Public Transit Manager
- City of Bend - two additional positions
- Deschutes County – one position
- ODOT (Region 4) – one position
- Central Oregon Intergovernmental Council – one position
- Central Oregon Area Commission on Transportation – one position
- Central Oregon Community College –one position
- Commute Options for Central Oregon – one position
- Deschutes Bicycle/Pedestrian Advisory Committee – one position
- Bend-LaPine School District – one position

Ex-officio members

- Federal Highway Administration – one position
- Federal Transit Administration – one position
- Oregon Department of Land Conservation and Development – one position
- Oregon Department of Environmental Quality – one position

As future major transportation providers form, such as a Transit District, they shall be added to the TAC. In addition, a representative from any technical subcommittee or advisory group that is formed shall have a seat on the TAC. Policy Board directive may also add additional positions (as members or as ex-officio members) to the TAC, such as a citizen representative, a business representative, a freight stakeholder, and/or citizen groups.

Technical Subcommittees

The Deschutes County Bicycle/Pedestrian Advisory Committee will function as a technical subcommittee to the TAC, advising and reporting to the Committee on bicycle and pedestrian issues in the MPO area. Due to staffing and budget constraints in the first year, no additional technical subcommittees will be formed. After the first year of operation, the Policy Board will determine if additional technical subcommittees are needed and if the resources exist to staff these additional committees.

A diagram and a table representing the BMPO committee structure, a table representing the required and optional stakeholders (prepared by ODOT), and a proposed committee structures table (prepared by ODOT) are attached.

Relationship with COACT

The BMPO Coordinating Committee has determined that coordinating and cooperating with COACT will be a key component to effective transportation planning by the BMPO. Formal links with COACT will be established through representation on the Policy Board and the TAC. The BMPO IGA specifies that one of the elected officials representing the City of Bend on the BMPO Policy Board, and the Deschutes County representative on the BMPO Policy Board, shall also sit on the COACT Board. The Coordinating Committee has also resolved to request that the COIC seat on the TAC be filled by the person serving as staff support to COACT. In addition, the Coordinating Committee has resolved that the BMPO will keep COACT fully informed about its activities (by providing COACT with all Policy Board and TAC meeting agendas and minutes), will allow COACT to comment on key planning documents, and will coordinate with COACT in the development of priority transportation projects for submission to the STIP.

Boundaries

The boundaries of the BMPO have been determined by consensus by the members of the Coordinating Committee. The area within the BMPO includes the urbanized area as defined by the 2000 US census, all of the area within the Urban Growth Boundary (UGB), the area north of town that the City intends to annex, and areas along the eastern edge of the UGB. In addition to the urbanized area, the BMPO encompass the land that will be available for development over the next 20 years, as well as some areas along the eastern edge of the UBG that have been included in order to smooth the boundary.

Staffing

The BMPO staff will consist of an Executive Director and supporting staff personnel. In the first year of operation, the BMPO will plan for 1.5 FTEs. Based on examination of other MPOs of similar size, this appears to be the minimum number of staff needed to operate the MPO and to complete the required planning products. The IGA specifies that the BMPO may contract for staff services and participating agencies may donate personnel to serve as staff to the BMPO. BMPO personnel policies will be outlined in the bylaws adopted by the BMPO Policy Board.

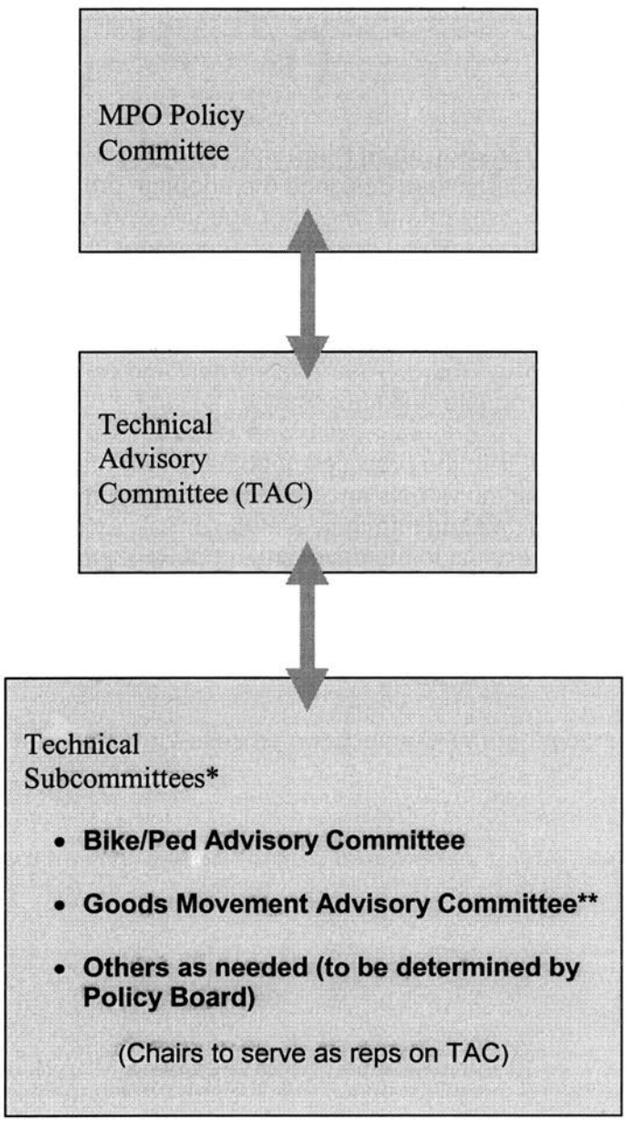
Adoption Process for Transportation Planning Products

The BMPO Coordinating Committee designed the adoption process for transportation planning products to be consistent with member agencies' processes for adopting key work products. The process involves the following: staff prepares a document, the TAC reviews the draft and provides comments, the Policy Board reviews the document and provides comments, and the Policy Board holds a hearing to receive public comment. The document is then sent to the FHWA, the FTA, and ODOT for review and comments, before being adopted by the BMPO Policy Board. After each review and comment period, staff will revise the document where appropriate and necessary.

This process is consistent with the practices of both the City of Bend and Deschutes County, and offers opportunities for individuals and agencies that are involved with the BMPO, as well as the public, to provide input into the development of key plans and other work products. This process pertains to the development of Regional Transportation Plans, Transportation System Plans, Long Range Transportation Plans, Transportation Improvement Programs, Title VI Civil Rights Reviews, Unified Planning Work Programs, Budgets, Audits of BMPO Activities, and other products authorized by the Policy Board and specified in the UPWPs.

A diagram representing the BMPO's adoption process for transportation planning products is attached.

Committee Structure Diagram for the Bend Metropolitan Planning Organization



* Technical Subcommittees other than the Bike/Ped Advisory Committee to be determined by the Policy Board.

** A Goods Movement Advisory Committee (GMAC) would include representatives of freight carriers, airports, ports and also local businesses that ship and/or receive freight.

Committee Structure for the Bend Metropolitan Planning Organization

	Policy Board		Technical Advisory Committee		Other Recommendations
	Required Stakeholders	Optional Stakeholders	**Required Stakeholders**	Optional Stakeholders	
Bend MPO	**City of Bend** **Deschutes County** **ODOT**		**City of Bend** **Deschutes County** **ODOT**	• FHWA • DLCD • DEQ • DSL • Central Oregon Intergovernmental Council • Central Oregon ACT • Central Oregon Community College • Commute Options for Central Oregon • Bike/Ped Advisory Committee • Bend-LaPine School District	• The Deschutes County Bike/Ped Advisory Committee will serve as a technical subcommittee to the TAC. • All other advisory committees and subcommittees will be developed by the Policy Board as needed and as resources allow. • Language is included in the IGA to allow a future transit district to be added as a PC member.

Required and Optional Stakeholder Template - Oregon MPOs (prepared by ODOT)

Policy Committee (PC)		Technical Advisory Committee (TAC)		Other Recommendations
Required Stakeholders	Optional Stakeholders [1]	**Required Stakeholders [2]**	Optional Stakeholders	
Elected local official from each city. **Elected local official from each county.** **Local official from the transit agency.** **Official from the ODOT region in which the MPO lies.**	Elected official from the regional government agency with land use authority. (ex. Metro) Official from university and/or the local school district board. Official from maritime port. Official from the railroads (mainlines and/or shortlines) that operate within the MPO boundaries. Official from the major local airport. If MPO is adjacent to another MPO, it may be appropriate to include an official from that MPO. (ex. Metro)	**Technical staff person from each city.** **Technical staff person from each county.** **Technical staff person from transit agency.** **Technical staff person from the ODOT region in which the MPO lies.**	Business representative/citizens of MPO area. [3] Representative advocating bicycling & walking in the MPO area. [3] Goods movement representative of MPO area. [3] Technical staff people from airport, port and railroads (mainlines and shortlines). Technical staff person from local school district and universities. Representatives of adjacent counties, nearby cities with strong commute patterns or that impact MPO transportation planning. Representative of the council of government if COG does not staff the MPO. Representative from the ACT in which MPO lies. ACT representative should be a representative from outside MPO boundaries. Officials from DEQ, DLCD, DSL and FHWA.[4]	Establish a business/ citizens advisory committee. Establish a bike/ pedestrian advisory committee. Establish a goods movement advisory committee (reps. of freight carriers, airports, ports and also local businesses that ship and/or receive freight).

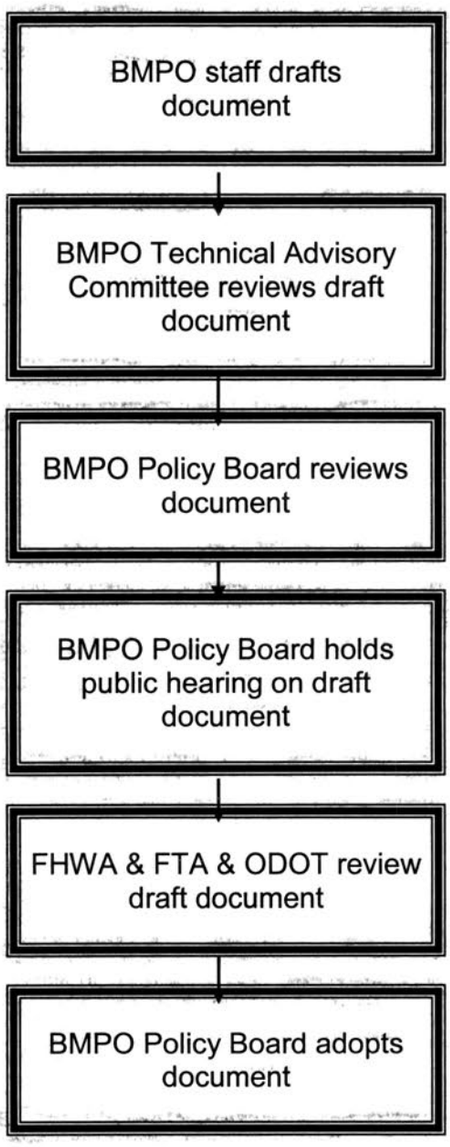
[1] – Additions to PC members beyond required stakeholders need to address voting privileges.
[2] – Although not required by federal regulations, it would be difficult for a PC to prepare the required plans & programs without a TAC.
[3] – Representatives could be independent or associated with an advisory subcommittee of the TAC (as listed in "Other Recommendations"). Strongly recommended by the Oregon Transportation Commission. An example of this type of advisory committee is RVCOG's TRADCO.
[4] – These members (DEQ, DLCD, DSL and FHWA) may not have voting privileges.

Proposed Committee Structures for Emerging MPOs (prepared by ODOT)

	Policy Committee		Technical Advisory Committee		Other Recommendations
	Required Stakeholders	Optional Stakeholders	**Required Stakeholders**	Optional Stakeholders	
Corvallis/ Philomath MPO	**City of Corvallis** **City of Philomath** **Adair Village** **Benton County** ODOT		**City of Corvallis** **City of Philomath** **Adair Village** **Benton County** **ODOT**	Oregon State University City of Albany City of Tangent Linn County FHWA [1] DLCD [1] DEQ [1] DSL [1] - Chair of Business Owners/Citizen Advisory Committee - Chair of Goods Movement Advisory Committee - Chair of the Bike/Ped Advisory Committee - Rep. from Cascades West ACT - Rep. from Cascades West COG	1. Establish a Business Owners/Citizens Advisory Committee as a standing committee to the TAC & PC. [2] 2. Establish a Goods Movement Advisory Committee as a technical subcommittee. [3] 3. Establish a Bike/Ped Advisory Committee as a technical subcommittee. 4. Include appropriate language in initial agreements to allow a future transit district to be added as a PC member. 5. Staffing and voting arrangements are determined by the coordinating committee with the Governor having veto rights.
Bend MPO	**City of Bend** **Deschutes County** **ODOT**		**City of Bend** **Deschutes County** **ODOT**	City of Redmond FHWA [1] DLCD [1] DEQ [1] DSL [1] - Chair of the Business Owners/Citizen Advisory Committee - Chair of Goods Movement Advisory Committee - Chair of the Bike/Ped Advisory Committee - Bend - La Pine School Dist. - Rep. from Central Oregon ACT - Rep. from Central Oregon Intergovernmental Council	1. Establish a Business Owners/Citizen Advisory Committee as a standing committee to the TAC & PC. [2] 2. Establish a Goods Movement Advisory Committee as a technical subcommittee. [3] 3. Establish a Bike/Ped Advisory Committee as a technical subcommittee. 4. Include appropriate language in initial agreements to allow a future transit district to be added as a PC member. 5. Staffing and voting arrangements are determined by the coordinating committee with the Governor having veto rights.

[1] - These members (DEQ, DLCD, DSL and FHWA) may not have voting privileges.
[2] - Strongly recommended by the Oregon Transportation Commission. An example of this type of advisory committee is RVCOG's TRADCO.
[3] - The Goods Movement Advisory Committee would include reps of freight carriers, airports, ports and also local businesses that ship and/or receive freight.

Bend Metropolitan Planning Organization
Adoption Process for Transportation Planning Documents



The above process applies to the adoption by the BMPO of the following planning documents: Regional Transportation Plan, Transportation System Plan, Long Range Transportation Plan, Transportation Improvement Programs, Title VI Civil Rights Review, Unified Planning Work Program, Budget, Audit of BMPO Activities, other products authorized

_____
Title: Deputy Director, Transportation Development

Approved for ODOT for Legal Sufficiency

By:_____
Assistant Attorney General

ORDINANCE NO. NS-1843

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONING DESIGNATION OF CERTAIN REAL PROPERTY 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, considering 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 August 30, 2002, File Number PZ-02-265.

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 RL, Urban Low Density Residential to RS, Urban Standard Density Residential.

Read for the first time the 2nd day of October, 2002.

Read for the second time the 16th day of October, 2002.

Placed upon its passage the 16th day of October, 2002.

YES: 6 NO: 0

Authenticated by the Mayor the 16th day of October, 2002.

Bill Friedman, Mayor

ATTEST:

Patricia Stell by Deputy Recorder Kim Parsons

Patricia Stell, City of Bend Recorder

Exhibit "A"

That portion of Tract 15, WAYWEST PROPERTIES, in Section 7, Township 18 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon, described as follows:

Beginning at a point which is North 00°20'40" West, 1307.94 feet along the North-South centerline from the South quarter corner of said Section 7; thence North 89°53' East, 661.17 feet; thence South 00°07' East 341.86 feet; thence South 89°51' West, 659.78 feet to the North-South centerline; thence North 00°20'40" West along said North-South centerline 342.18 feet to the point of beginning.

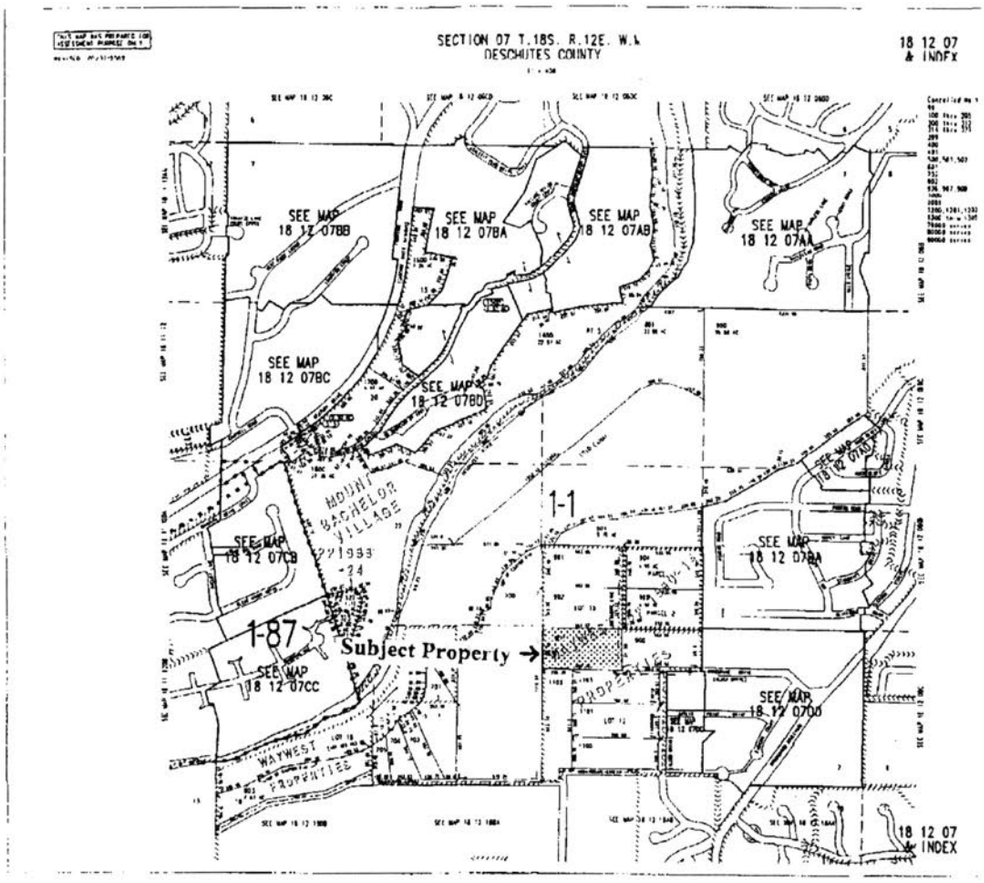


EXHIBIT "B"

ORDINANCE NO. NS-1844

AN ORDINANCE CANCELLING THE DECEMBER 4, 2002 CITY COUNCIL MEETING PURSUANT TO BEND CODE, SECTION 1.100

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. Section 1.100(1) of Bend Code, Chapter 1 specifies that the Bend City Council shall hold regular meetings on the first and third Wednesdays of each month at 7:00 p.m. unless otherwise cancelled by ordinance.

The first Wednesday of December is December 4th, 2002 and a quorum of the City Council, the City Manager and the City Recorder will be attending the National League of Cities Congress of Cities in Salt Lake City on that date; therefore, the Bend City Council hereby cancels the December 4, 2002 City Council meeting. Proper notice shall be made to the public and media representatives.

Read for the first time the 2nd day of October, 2002.

Read for the second time the 6th day of November, 2002.

Placed upon its passage the 6th day of November, 2002.

YES: 6 NO: 0

Authenticated by the Mayor the 6th day of November, 2002

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1845

AN ORDINANCE AMENDING SECTION 10.10.21A OF THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, TO PROVIDE AN EXCEPTION TO THE 10 ACRE MINIMUM LAND AREA FOR MASTER DEVELOPMENT PLANS.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Section 10.10.21A(2) of NS-1178 is hereby amended to read as follows:

(2) Development Plans Required. The Mixed-use Riverfront zone shall only be applied to the area designated on the Bend Area General Plan Map. Before development of properties can occur in the MR zone, a Facilities Plan shall be reviewed and approved. Before development of properties, other than property described in Section 4(d) below can occur in the MR zone, a Master Development Plan shall be reviewed and approved. The Facility Plan shall be processed as a Type II Activity. The Bend Urban Area Planning Commission acting as the Design Review Board shall review and approve the Master Development Plan.

Section 2. Section 10.10.21A(4) of NS-1178 is hereby amended to read as follows:

(4) Master Development Plan. The minimum acreage for a Master Development Plan shall be ten acres unless specifically exempted as described in Section (4)(d) below. The Master Development Plan shall include maps and descriptive text as described in (a) and (b) below which shall serve as approval standards for the Master Development Plan.

Section 3. Section 10.10.21A(4) of NS-1178 is hereby amended by adding sub-section (d) to read as follows:

(d) Exemptions:

(A) Properties less than ten (10) acres in size that are not a part of a previously approved and valid Master Development Plan and cannot practicably be combined with surrounding properties in the MR zone may apply independently for a Master Development Plan in accordance with Section (4) above; and

(B) As an alternative to sub-section (A) above, properties that were less than ten (10) acres in size on or before August 4, 1995 and that are not part of a previously approved and valid master Development Plan may develop after obtaining site plan and design review approval from the Bend Urban Area Planning Commission after demonstrating compliance with Sections 10.10.23, 10.10.23A(6)(a)(E) and 10.10.24 of the City Zoning Ordinance. The Commission shall use the master planning and design objectives set forth in Sections 10.10.21A(4)(b)(A)-(J), to the extent applicable to the subject property, when determining compliance with Section 10.10.23. Section 10.10.23A(6)(a)(E) applies to a Section (d)(B) site plan review even if Section 10.10.23(A)(6)(a)(E), by its express terms, would not otherwise apply to such an application.

Read for the first time the 16th day of October, 2002.

Read for the second time the 6th day of November, 2002.

Placed upon its passage the 6th day of November, 2002.

YES: 6 NO: 0

Authenticated by the Mayor the 6th day of November, 2002.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1846

AN ORDINANCE AMENDING THE CITY OF BEND GENERAL PLAN AND ZONING ORDINANCE NS-1178 BY ADOPTING A GOAL 5 INVENTORY AND PROGRAM, AND THE WATERWAY OVERLAY ZONE; AND AMENDING THE ZONING MAP, BY DESIGNATING THE WATERWAY OVERLAY ZONE; AND AMENDING THE BEND URBAN AREA GENERAL PLAN MAP BY DESIGNATING RIVER CORRIDOR 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 changes.

Section 2. The Bend City Council held a public hearing on October 2, 2002, considered the Planning Commission's recommendation and record, and has found that there is a public need and benefit for the proposed amendments.

Section 3. The Bend Area General Plan is amended by adopting as appendices the Goal 5 Inventory and Analysis Report, attached as Exhibit A, the Conflicting Uses, ESEE Analysis, and Goal 5 Program, attached as Exhibit B, and the Local Wetlands Inventory Report, attached as Exhibit E, and by amending the text of Chapter 2, as provided in Exhibit C.

Section 4. The City of Bend Zoning Ordinance NS-1178 is amended by adding Section 22, the Waterway Overlay Zone, and related amendments as described in Exhibit D.

Section 5. The City of Bend Zoning Map is amended by adding the Waterway Overlay Zone boundaries as described in Exhibit D.

Section 6. The Bend Urban Area General Plan Map is amended by adding the River Corridor Areas of Special Interest boundaries as described in Exhibit B, attached.

Read for the first time the 6th day of November, 2002.

Read for the second time the 20th day of November, 2002.

Placed upon its passage the 20th day of November, 2002.

YES: 6 NO: 1

Authenticated by the Mayor the 20th day of November, 2002.

Bill Friedman, Mayor

ATTEST:

Kim Parsons

~~Patricia Stell~~, City of Bend Recorder

Kim Parsons Deputy



Exhibit "A"

Goal 5 Inventory and Analysis Report

Adopted by City Council November 20, 2002
Effective December 20, 2002

City of Bend Periodic Review

Goal 5 Inventory and Analysis

December 2000

Prepared for the City of Bend
By Darcy McNamara, Bend Riverway

City of Bend Periodic Review, Goal 5 Inventory and Analysis

by Darcy McNamara, December 2000 on behalf of the Bend Riverway
with edits and additions by the City of Bend Planning Staff

Contributors:
- Christina Veverka: Wetland inventory, public involvement
- Pamela Bodie, MLA. Research, public involvement, mapping, and regulatory analysis

The Bend Riverway is a community project of the Bend Park and Recreation Foundation.

Other documents prepared concurrently for Goal 5:

Goal 5 Reference Material for the City of Bend
City of Bend Local Wetlands Inventory

Reprints with credit to the Bend Riverway, the City of Bend and the author.

Acknowledgements

Many thanks to:
Mike Byers, Principal Planner, City of Bend
Wendy Robinson, Senior Planner, City of Bend

Many state and local community members helped in preparing this report. Special thanks to the following agency and non-profit representatives for their assistance.

Dana Field, Wetlands Planner, Oregon Division of State Lands
Steven George, Oregon Department of Fish and Wildlife
Kyle Gorman, Oregon Water Resources Department
David Dobkin, High Desert Ecological Research Institute
Jan Houck, Oregon State Parks
Bonnie Lamb, Oregon Department of Environmental Quality
Dave Leslie, Deschutes County Community Development
Laren Woolley, Oregon Department of Land Conservation and Development

ACRONYMS

UGB	Urban Growth Boundary
ESEE	Economic, Social, Environment and Energy
FIRM	Federal Insurance Rate Map
OSW	Oregon Scenic Waterway
OFWAM	Oregon Freshwater Wetland Assessment Methodology
LWI	Local Wetland Inventory
NWI	National Wetland Inventory
SWI	State Wetland Inventory
OAR	Oregon Administrative Rule

Agency and Committee Acronyms

BUAPC	Bend Urban Area Planning Commission
BMPRD	Bend Metro Park and Recreation District
COID	Central Oregon Irrigation District
DEQ	Department of Environmental Quality
DLCD	Department of Land Conservation and Development
DSL	Oregon Division of State Lands
FEMA	Federal Emergency Management Agency
LCDC	Land Conservation and Development Commission
LUBA	Land Use Board of Appeals
ODFW	Oregon Department of Fish and Wildlife
OPRD	Oregon State Parks and Recreation Department
TID	Tumalo Irrigation District

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EXECUTIVE SUMMARY

Background
In February 2000, the State of Oregon's Department of Land Conservation and Development approved the City of Bend's work program to conduct a "periodic review" of its General Plan and development codes to make sure they are consistent with new state planning goals and rules. One of the topics the City must review are the planning rules for state land use planning Goal 5, "to conserve open space and protect natural and scenic resources." There are seven basic steps to the Goal 5 review:

1. Determine the scope of work for the Goal 5 review
2. Collect information about Goal 5 resource sites (inventory)
3. Determine the adequacy of the information
4. Determine the significance of the resource sites
5. Adopt a list of significant resource sites
6. Conduct an analysis of the consequences of allowing, limiting or prohibiting conflicting uses for any significant sites (ESEE analysis) if applicable.
7. Develop and adopt a program to achieve Goal 5

The State developed the scope of work with the City of Bend (Step 1 above) and has directed the city to conduct a review of the following Goal 5 resources:

- Riparian areas (river, streams and associated areas)
- Wetlands
- Wildlife habitat
- Oregon Scenic Waterways

The city contracted with the Bend Riverway, a non-profit community project of the Bend Park and Recreation Foundation, to conduct an inventory of Goal 5 resources within the Urban Growth Boundary in Bend. This document focuses on Step 2 above and contains an inventory of riparian areas, wetlands, wildlife habitat and scenic waterways. This report also documents early public involvement conducted during the inventory process. In addition to this document, the Bend Riverway also prepared a separately bound appendix of related information titled Goal 5 Reference Material for the City of Bend, and the City of Bend Local Wetlands Inventory.

About the Inventory
The Goal 5 inventory was conducted in compliance with the procedures and requirements for complying with Goal 5 (OAR 660-023-0000). The inventory methodology varied somewhat for each of the four topic areas but, in general consisted of the following:

- Gather and review maps, aerial photos, studies, and reports from:
  - Federal, State and local agencies
  - Organizations and groups
  - Local knowledge
  - Existing information
- Request new studies and mapping from agencies
- Conduct site visits to key areas
- Confirm findings with State experts
- Prepare inventory report

Citizen Involvement

Citizen involvement plays an important role in the Goal 5 review. The State directs the city to provide timely notice to landowners and opportunities for citizen involvement at the earliest possible opportunity during the inventory process. Toward this end extensive work was done to identify stakeholders. Over 1400 stakeholders were invited by mail and the public was invited by paid advertisement and articles in the local newspaper, the Bend Bulletin, to attend one of two public meetings to gather early landowner and public comment on the inventory.

Additional efforts to contact special interest groups with knowledge of potential Goal 5 resources were undertaken. As a result information was gathered from over a dozen interest groups. Major landowners with potential Goal 5 resources were contacted. Further public involvement, including public hearings, will be conducted by the city during the Planning Commission and City Council review.

Findings

Riparian Areas

The Goal 5 riparian resources within the UGB are approximately ten miles of the Deschutes River and approximately a quarter-mile of Tumalo Creek. The city currently has river setbacks of varying widths (from 30 to 100 feet) on the Deschutes River. There are currently no setbacks for Tumalo Creek. A fill and removal restriction of 10 feet on either side of the top of bank applies to both. If either the Deschutes or Tumalo Creek is determined to be significant, the city must show that current riparian protections meet state goals or make appropriate changes. In order to meet the state's requirements the city may retain existing regulations, adopt the state's "safe harbor" regulations (50 – 75 foot riparian protection buffer depending on flow) or modify the safe harbor to match existing conditions and community values. An ESEE analysis (a review of the positive and negative economic, social, environmental and energy consequences that could result from a decision to allow, limit, or prohibit a conflicting use) is required for options other than the state specified safe harbor.

Wetlands

Local governments are required to use criteria and procedures established by the Land Conservation and Development Commission to identify significant wetlands under Statewide Planning Goal 5. To comply, a Local Wetlands Inventory (LWI) was conducted for the City of Bend. The inventory revealed that there are no known significant Goal 5 wetland resources outside of the riparian corridor of the Deschutes River. The entirety of the Deschutes River within the UGB was evaluated as a single

wetlands system at the recommendation of the Department of State Lands wetland biologist. The wetland meets the state criteria for significance, meaning that the city must meet the state goals for protecting it. This may be accomplished through a new wetland protection ordinance or by modifying existing river corridor regulations. A summary of the LWI methodology and findings are located in this document. The complete LWI is separately bound.

Wildlife Habitat

For the purpose of Goal 5, wildlife habitat is defined as a documented area that wildlife depends on for food, water, shelter, and reproduction. Examples include wildlife migration corridors, big game winter range, and nesting and roosting sites. The wildlife inventory for Bend relies upon information provided by Oregon Fish and Wildlife, local experts' previous reports and field visits. If significant wildlife habitat is located, the city is required to develop programs to protect wildlife habitat if none exist. ODFW concluded there are no significant Goal 5 wildlife habitat resources requiring protection in the UGB. ODFW did make number of specific land use and regulatory recommendations to the city for consideration. In addition, local citizens and a wildlife biologist expressed a strong interest in protecting elk and deer winter range within the UGB.

State Scenic Waterways

There are two sections of State Scenic Waterway within the City of Bend's UGB. They are located at the north and south ends of the river within the UGB. City regulations do not protect portions of the State Scenic Waterway due to the recent annexation of these areas into the city. The city must address these sections of the State Scenic Waterway in the city code.

BACKGROUND

Background

The State of Oregon is conducting a routine review to determine if the City of Bend is fulfilling the State's goals for protection of riparian areas, wetlands, wildlife habitat and scenic waterways. This process is called a periodic review for Goal 5.

The objective of Goal 5 is to protect natural resources and conserve scenic and historic areas and open spaces. To do this the state requires that "local governments adopt programs that will protect natural resources and conserve scenic, historic and open space resources for present and future generations. These resources promote a healthy environment and natural landscape that contributes to Oregon's livability."

There are seven basic steps to the Goal 5 review:

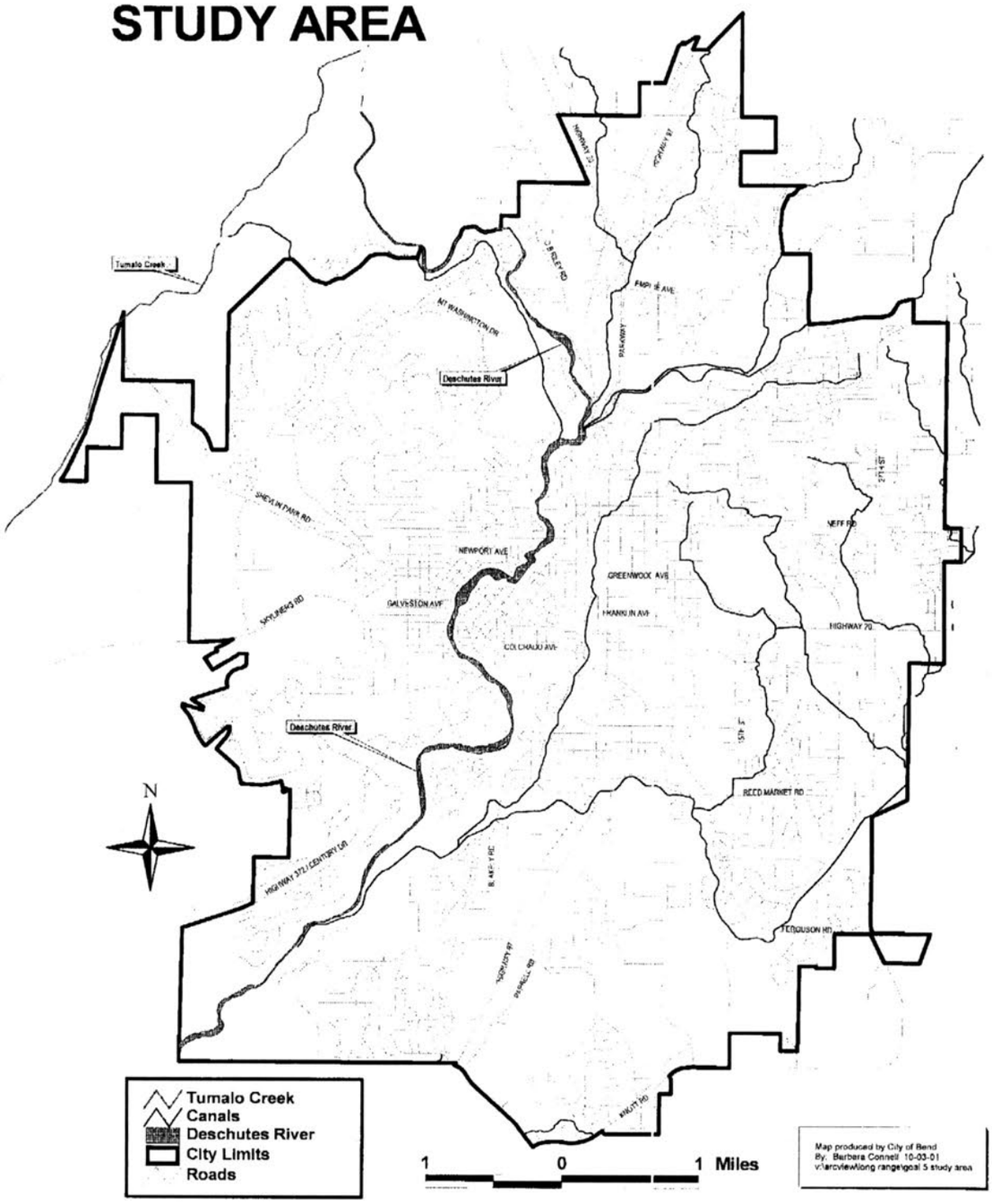
1. Determine the scope of work for the Goal 5 review
2. Collect information about Goal 5 resource sites
3. Determine the adequacy of the information
4. Determine the significance of the resource sites
5. Adopt a list of significant resource sites
6. Conduct an analysis of the consequences of allowing, limiting or prohibiting conflicting uses for any significant sites (ESEE analysis)
7. Develop and adopt a program to achieve Goal 5

The State has directed the City of Bend to conduct an inventory and review existing methods of protection for the following areas:

- Riparian areas (river, streams and associated areas)
- Wetlands
- Wildlife habitat
- Oregon Scenic Waterways

The Bend Riverway, a non-profit community project of the Bend Park and Recreation Foundation, conducted the inventory. The inventory was conducted in compliance with OAR 660-023-0000, the "Procedures and Requirements for Complying with Goal 5," found in Goal 5 Reference Material, separately bound.

STUDY AREA



City of Bend Periodic Review - Goal 5 Inventory and Analysis 2

CITIZEN INVOLVEMENT

Summary

Citizen involvement plays an important role in the Goal 5 review. The State directs the city to provide timely notice to landowners and opportunities for citizen involvement at the earliest possible opportunity during the inventory process. Toward this end extensive work was done to identify stakeholders. Over 1400 stakeholders were invited by mail and the public was invited by paid advertisement and articles in the Bend Bulletin, to attend one of two public meetings to gather early landowner and public comment on the inventory. Additional efforts to contact special interest groups with knowledge of potential Goal 5 resources were undertaken. As a result information was gathered from over a dozen interest groups. Major landowners with potential Goal 5 resources were contacted. Further public involvement, including public hearings, will be conducted by the city during the Planning Commission and City Council review. The separately bound Goal 5 Reference Material contains the State rule for citizen involvement (OAR 660-023-0060.)

Public comments were recorded and addressed in this report. Public concerns focused on wetlands and riparian areas, especially those on the Deschutes River at Colorado Street, the proposed Southern bridge crossing, and at Woodriver Village; and wildlife, especially bird, elk, fish and otter habitat. Appendix C contains a copy of the public meeting invitation sent to stakeholders, advertisements and articles on the public meeting, and agency comments. Letters from the public are separately bound in the Goal 5 Reference Material.

Public Meetings

Two public education and comment meetings were held regarding Goal 5 resources in the Bend Urban area. The City of Bend and the Bend Riverway, a local non-profit group hired by the city to work on Goal 5 issues, hosted the meetings. Twenty-one citizens attended the meetings. Fourteen written comment forms, one video, and 21 comments written on maps were gathered.

Notification

Notification of the public meeting included articles and paid advertisements in the Bulletin, a local daily newspaper, a mailing to identified stakeholders; and an announcement at the City Planning Commission meeting. See Appendix C for copies of the announcement.

A mailing to 1,475 stakeholders was mailed on June 6, 2000. The stakeholders were identified using Deschutes County Geographic Information Systems (GIS), and the Bend Riverway's mailing list of interested parties and stakeholders. The list included:

660 Landholders within 200' of the Deschutes River
440 Landholders within 1320' of the Scenic Waterways portion of the Deschutes River
1700 Bend Riverway mailing list
2800 Total

After merging the three lists 1475 addresses were identified. A complete list of stakeholders is available at the city's Long Range Planning Office. An article about the meetings ran in The Bulletin on June 8 and 19, and a paid advertisement ran in the Bulletin on June 11 and June 17 (see Appendix C for copy). The city Planning Commission was informed of the public meeting on June 5, 2000.

Meeting Process
Meetings were scheduled for 1:00 p.m. - 3:00 p.m. and again at 6:00 p.m. - 8:00 p.m. on June 22 to offer two opportunities for the public to be able to attend the meeting. A 20-minute presentation about Goal 5 was given by Mike Byers, City of Bend, and Darcy McNamara, Bend Riverway at both meetings. They described the Periodic Review process, what Goal 5 resources are and invited questions and comments from the public. The public had the opportunity to comment directly maps or forms, or mail-in comment sheets later.

Individual stations were provided for each major topic, (riparian, wetlands, State Scenic Waterways, and wildlife habitat) and were staffed to help answer public questions. Each table held maps showing affected areas and areas of interest, and each map was covered with an overlay to allow the public to write on the map, locating their local knowledge and concerns. A variety of flyers provided by the state were available to help answer questions and provide information concerning wetlands, State Scenic Waterways, and Goal 5 regulations. In addition, mail-in comment sheets were available on each topic area to invite additional and more detailed comments and concerns.

The meetings were staffed by Mike Byers and Wendy Robinson from the City of Bend, Steve George of the Oregon Department of Fish and Wildlife, and Darcy McNamara, Pam Bodie and Christine Veverka of the Bend Riverway. Representatives from State Parks and the Division of State Lands were invited, but unable to attend.

Public Comments from meeting
Public comment included 21 comments on map overlays, 14 comment sheets, and one video. Comments are summarized in this report and copies of citizen letters are in the separately bound Goal 5 Reference Materials. A list of those attending, original comment letters, a copy of the video and the maps are available at the City of Bend's Long Range Planning Office. The comments are recorded and addressed in the following tables.

Comments from Maps

from Public Meeting, June 22, 2000

Public Comment	Response
Scenic Waterway	
1. Trash and dumping along river off of Brookswood/Hollygrape	Area was identified & is a problem. However, it is well back from the edge of the rimrock above the river & is not affecting a Goal 5 resource.
Wetlands	
1. Hatfield Lakes: this is important bird habitat - is it protected?	n/a – not within Goal 5 study area
2. Wetland just off Woodriver Village Park - off of Oakwood Place (across from Mt. Bachelor Village)	Inventoried – Wetland #R8
3. Ward Ponds - off of Country Club Road and Brosterhouse	Inventoried – Wetland #U12
4. Wetland @ E of River in SW corner of UGB	Inventoried – Wetland #R9
Deschutes River Corridor (Riparian)	
1. NW Quiet River: houses here encroach on setback (Scenic Waterway). Lots are >50% in setback - why was house approved? why do we even have setbacks?	This area is not in the designated State Scenic Waterway area.
2. Swans nest between NW Wilmington and Scenic Heights Drive. Too much development?	Swans are not a Goal 5 resource according to ODFW.
3. Old Mill District - keep structure out of 100' setback - no variances.	Noted
4. Lots of bird nesting in Colorado St. Wetland (West side of river, upstream of bridge.)	Noted in inventory.
5. (Same Locations) Why are RR cars allowed in Riparian Area so close to the River?	They are setback from the river's ordinary high water mark. Bend lacks a setback from wetland edge.
6. (Same Location) Protect this riparian area	Noted. Area inventoried – Wetland # R5
7. Southern Crossing would degrade natural beauty of this section of the river.	Noted.
8. River (@ Mt. Bachelor Village) Fish habitat should include woody debris sources.	Woody debris was included in the wetlands inventory
9. River upstream of Mt. Bachelor Village - Bird Migration follows river, needs special protection of Riparian Habitat.	Bird inventory & info on the importance of river corridor included in report
10. Across from Mammoth Drive, along River: Otter and Beaver habitat	Noted. Not Goal 5 resources.
11. Below River Bluff Trail: Osprey fishing tree	Photographed and included in wetlands inventory – Wetland #R9

Comments from Maps Cont.

Public Comment	Response
12. Elk Meadow and Sunrise Village areas:	
Major Elk habitat	ODFW report states there is no Goal 5 elk habitat requiring protection / independent report notes habitat
Heron nesting (Great Blue)	Searched, but could not locate rookery in study area
Osprey, beaver, otter habitat and Bluebird habitat	ODFW report states there is no Goal 5 habitat for these species that requires protection

Public comments from comment sheets, letters and videos.

Comments from letters were divided into topic areas: General comments, Riparian, Scenic Waterways, Wetland Resources, Wildlife Resources. Comments from letters were edited for responses. Copies of the letters are separately bound in the Goal 5 Reference Materials. The original letters and video are on file in the City of Bend Long Range Planning Office.

*The comment number refers to a letter or comment from an individual. Some individuals made a number of points on different topics in their comments – these were addressed separately.

General Comments from Letters

#*	Comment	Response
G-1	Noise from proposed So. Crossing. Suggests only an access road to 22-acre open space	Any new code changes resulting from Goal 5 will apply to new bridges and new roads.
G-13	City should complete work on Goal 5 before giving final approval to projects that would have a significant impact on important wildlife or riparian areas.	State law does not require suspension of an application review or approval until Goal 5 is complete or new codes (if needed) are adopted. ODFW did not request a suspension.
G-14	Contact ODFW & Audubon for important habitat areas including non-game.	This has been done. See wildlife section for results.
G-3	Filled 6 litterbags of mostly construction debris on a river clean-up.	It is a violation of city code to litter in parks.
G-4	Strongly urges a detailed inventory of all Goal 5 resources – especially those designated as a wildlife refuge.	Inventories are as complete as possible given the resources and state requirements.
G-7	City should address Goal 10 simultaneously with Goal 5.	When the city plan was updated in 1998 the city satisfied the current state requirements for housing (Goal 10) planning.
G-8	Actively solicit input from ODFW, BMPRD, Audubon Society and others.	All have been contacted and have had input to the process.

Public Comments on Riparian Resources

#*	Comment	Response
G-3	Bend's codes should require more aesthetic landscaping near riparian areas	The BUAPC may require landscaping as allowed in the Deschutes River Combining Zone 10-10.22A (6) & Mixed Use Riverfront Zone 10-10.21A (6)(e).
G-3	Need public education initiative to promote river values for property owners including riparian vegetation, landscaping, use in insecticides, fertilizers, septic. How is Bend doing now on city owned land?	Non-profit groups like the Bend Riverway, Upper Deschutes Watershed Council has done some work in this area. City recently hired a Conservation Specialist that may be able to help in this area. City land was included in the inventory.

Public Comment on Scenic Waterways

#*	Comment	Response
G-12	Inventory should summarize basic standards of the 2 State Scenic Waterways in UGB. Also provide overview of how much development actually meets these standards. Build on work of Riverway and Bend Urban lands Survey and map developed & natural areas within the scenic waterway while there is still an opportunity to maintain a river corridor with a natural appearance.	Inventory summarizes Scenic Waterway requirements. It does not include an inventory of development meeting the criteria. The state is the responsible agency for compliance. Part of the inventory work included looking at the effect of regulations on developed and undeveloped land and identified the remaining high quality natural areas in the wetland inventory.

Public Comment on Wetland Resources

#*	Topic	Comment	Response
G-11	wetland	Wetlands should inventory document relative scarcity/abundance & condition/importance.	This was analyzed in the Local Wetland Inventory as part of OFWAM questionnaire.
G-11	wetland	Inventory should include wetlands at Newport Bridge, First Street, Colorado Bridge, Sawyer Park, and COID off Blakely & Ward Ponds (which may have been significantly altered recently). Hatfield Lake although outside UGB should also be inventoried due to valuable habitat.	All of the wetlands listed were inventoried except Hatfield Lake, which is outside the UGB and the study area. All non-riparian wetlands were determined to be not significant based on OFWAM methodology.
G-2	wetland	Develop incentives for golf courses to become Audubon certified (even though golf hazards are not Goal 5 resources.	This is suggested in the report for consideration by the city.
G-2	wetland	Hatfield Lake provides important wildlife habitat	Hatfield Lake is not within the UGB and therefore not included in the inventory.
G-8	wetland	Inventory all wetlands in UGB even those under ½ acre due to the scarcity of wetland areas in Central Oregon.	All wetlands, irrigation ponds, leaky irrigation ditches and golf hazards of any size were inventoried – precisely due to the scarcity of wetlands in our area. However, all non-riparian wetlands were determined to be not significant based on OFWAM methodology.

Public Comment on Wildlife Resources

#*	Comment	Response
G-10	Video of elk herd at elk meadow across from Brookswood Elementary on river and in meadow.	Video presents documented account of elk in the UGB. Issues of elk in the UGB are discussed in the report and in ODFW letter. ODFW states that the deer and elk migration range designations do not apply to within the UGB. Independent report recognizes habitat.
G-2	Locate intermittent flows into Deschutes & include in inventory. Concerned about adverse impacts on fish habitat & water quality due to sediment & run-off.	There are no known natural flows into the Deschutes in the UGB. Stormwater runoff does enter the river via culverts. Concerns about water quality will be addresses in the city's review of Goal 6 issues with DEQ.
G-5	Have documented elk, osprey, deer, and coyote visiting property adjacent to forest service land (Bachelor View) on a regular basis.	These species and the importance to wildlife of USFS land adjacent to the UGB were included in the inventory.
G-6	Somewhat concerned about development west of Broken Top. It is a large bird nesting area with blue-birds, winter wrens, hairy & Lewis woodpecker, flickers, swallows, meadowlark, nuthatches, sparrow, hawk, green tailed towhee, spotted towhee, olive sided & Western peewee, flycatchers & more. Development will reduce habitat.	Development will reduce and fragment habitat for the species listed. These species and more are listed in the inventory. However, they are not considered Goal 5 resources (species of statewide significance).
G-6	Concerned about development on elk habitat at Elk Meadow. Has viewed elk there & area needs to be reestablished as elk habitat.	Elk herd has been well documented in the area. Reestablishment of habitat after the fire is occurring naturally, but slowly over time.
G-7	Elk herd with10-70 head visit area on southern boundary of UGB each winter (usually between December & May). Elk follow very specific, unwavering routes on both sides of river. Area elk are using is a designated Area of Special Interest by city, within State Scenic Waterway & has a special tax status as a wildlife refuge. Permits are currently being reviewed by city (large PUD on east, short plat on west). Although area was recently annexed into city habitat values are still present. Both sides of river should be protected.	Thank you for the specific information about the herd's movement. The information has been documented in the inventory. The development proposed on the property will reduce and/or fragment the habitat for the elk.

Wildlife Resources cont.

#*	Comment	Response
G-8	Important that inventory describe and map deer and elk winter range within UGB including current & historical use. Winter ranges which may have been dropped from ODFW maps due to new location inside city limits should be given full consideration.	ODFW has shown areas within the UGB as elk & deer migration areas, but because these areas are now within UGB they are not recognized by ODFW.
G-9	There is an osprey nest on the west side of the river near south UGB boundary that is used annually. Bald eagle and great blue heron are seen in area.	Thank you. Nest is noted and photographed in the inventory.
G-3	Concerned about [current] development impacts and possible encroachments on setbacks on the riparian area and wildlife habitat in Sawyer Park and the south boundary on the west side of the Deschutes.	New homes south of Sawyer Park are reducing upland habitat, but are within current city regulations for riparian setbacks in that area. Lot subdivision on the west side of the river at the south UGB may have an impact on elk migration to the east side of the river.
G-14	Ward Ponds & Hatfield lake have provided habitat historically for shorebirds that are not found elsewhere in Bend. Identify & assess mapped and actual winter deer and elk range. Include Elk Meadow on both sides of Deschutes and Tumalo Creek.	Ward Pond has been inventoried in the wetland inventory. It is not significant based on Goal 5 methodology because is artificially created. Hatfield Lake is outside UGB. Elk habitat is discussed in the inventory.

Other Public Involvement

Over a dozen interest groups were contacted by letter and phone to inform them of the Goal 5 process and solicit additional information for the Goal 5 inventory. The groups included:

1. ARLU-DeCo, Bob Bates (phone)
2. Central Oregon Audubon Society, Chris Carey (phone)
3. Central Oregon Flyfishers*, Dave McNall
4. Deschutes Basin Land Trust, Brad Chalfant (phone)
5. Deschutes Basin Resources Conservancy*, Lisa Nye
6. Deschutes Soil and Water Conservation District, Jeff Rola (phone)
7. Friends of Bend, John Neilson, Liz Rewick (meeting)
8. High Desert Ecological Research, David Dobkin (meeting)
9. Morrow Planning, Catherine Morrow (meeting)
10. Natural Areas Association, Reid Schuller (phone)
11. Oregon Native Plant Society, Stu Garrett (phone)
12. Oregon Natural Desert Association, Tim Lillebo (phone)
13. Oregon Trout*, Jim Myron

14. Sierra Club*, Sandy Lonsdale
15. Sisters Forest Planning Association, Paul Dewey (meeting)
16. Trout Unlimited*, Dave Nolte
17. Upper Deschutes Watershed Council, Barbara Lee (meeting)
18. Wilderness Management Institute, Bob Davison (meeting)

*no response to letter and/or follow-up call.

In addition a number of potentially affected landowners with large parcels or publicly owned property were contacted about the inventory and the Goal 5 process. They include the owners of riparian wetlands as follows:

- Bend Metro Park and Recreation District (meeting with Carrie Ward and Bruce Ronning)
- Brooks Resources (meeting with Mike Hollern)
- Central Oregon Irrigation District (phone call with Ron Nelson)
- River Bend Limited Partnership (meeting with Bill Smith and Mary Campbell)
- Riverhouse Resort (left message for Wayne Purcell)
- Thompson, Stephen (left message)
- Tumalo Irrigation District (meeting with Elmer McDaniel)

The Planning Commission was informed of the Goal 5 process with periodic updates from staff. These included reports on the following dates:

1/25/99	Mike Byers presented a memo summarizing Periodic Review process
4/10/00	Mike Byers presented memo outlining inventory process
6/5/00	Mike Byers informed Commission of the upcoming public meeting
2/12/01	Mike Byers provided an update on the results of the inventory and next steps
6/11/01	Mike Byers presented a slide show on riparian issues and provided draft General Plan and Zoning Code amendments to the Commission

Future Public Involvement

Future public involvement will include public hearings before the Planning Commission and the City Council. Both bodies will review the inventory and analysis, and make decisions about the significance of Goal 5 resources.

GOAL 5 WORK ITEMS

Riparian Areas

Summary

The state requires that riparian resources be inventoried and, if determined to be significant, they must be protected. The Goal 5 riparian resources within the UGB are along approximately 9 miles of the Deschutes River and approximately a quarter-mile of Tumalo Creek. A combination of a safe harbor inventory (defined below) and a standard Goal 5 inventory of these resources was conducted. The city currently has river setbacks of varying widths (from 30 to 100 feet) on the Deschutes River. There are currently no setbacks in the city code for Tumalo Creek. A fill and removal restriction of 10 feet on either side of the top of bank applies to both. If either the Deschutes or Tumalo Creek is determined to be significant, the city must show that current riparian protections meet state goals or make appropriate changes. In order to meet the state's requirements the city has options ranging from determining that the existing regulations fulfills the safe harbor requirement and submitting it to the state for review, to adopting the safe harbor regulations to match the state requirements or, modifying the safe harbor to match existing conditions and community values. An ESEE analysis (a review of the positive and negative economic, social, environmental and energy consequences that could result from a decision to allow, limit, or prohibit a conflicting use) is required for options other than safe harbor.

Goal 5 Riparian Resources Defined

A riparian area is the area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem. A riparian area is one component of a riparian corridor. A riparian corridor is a Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary. Note: areas along irrigation canals and laterals are not Goal 5 riparian resources.

Local governments are required to conduct an inventory process and determine significant riparian corridors by following either the safe harbor methodology or the standard Goal 5 inventory process. The inventory methods are described below. See Goal 5 Reference Material, separately bound for the complete state rule on inventory methodology.

At the conclusion of either inventory process, the city is required to develop programs to protect significant Goal 5 riparian resources if programs (regulations) do not already exist. The city must coordinate with appropriate state and federal agencies when adopting programs intended to protect riparian resources.

Safe Harbor Inventory Process
The safe harbor inventory process defines significant riparian corridors using a standard setback distance from all fish bearing streams. The setback distances are predetermined by the state. For streams with an average annual stream flow greater than 1000 cubic feet per second the riparian corridor boundary is 75 feet upland from the top of each bank. For streams with an average annual stream flow less than 1000 cubic feet per second, the riparian boundary is 50 feet from the top of bank. Riparian wetlands are included in the riparian corridor. In locations along the river corridor where there are predominantly steep cliffs the city must apply the standard inventory methodology. This inventory finds that in some areas where steep cliffs are present there are also intermittent but substantial riparian areas. In these areas, a combination of safe harbor and standard inventory methodology may be appropriate. The safe harbor provisions specify use restrictions in riparian corridors and provide options for hardship variance and restoration in lieu of fully meeting the safe harbor standards.

Standard Goal 5 Inventory Process
The standard Goal 5 inventory process consists of a more detailed inventory and analysis process which includes identifying land uses which conflict with protection of riparian corridor and adopting a program to achieve Goal 5 (policies, zoning, land use ordinances or other mechanisms). The first step is to inventory the resource using the following steps: a) collect information about the resource sites; b) determine the adequacy of the information; c) determine the significance of the resource sites; d) adopt a list of significant resource sites. Upon completion of the inventory the city must weigh the importance of protecting the significant riparian corridor against the need for allowing conflicting uses by conducting an ESEE analysis (a review of the positive and negative economic, social, environmental and energy consequences that could result from a decision to allow, limit, or prohibit a conflicting use).

Inventory Methodology

A combination of safe harbor and standard inventory methods were used for the riparian inventory for the City of Bend. The inventory was conducted concurrently with the riparian portion of the Local Wetlands Inventory (LWI). See the Wetlands section of this document for information about the LWI.

The inventory for the Deschutes River and Tumalo Creek consisted of:

- field visits to most of the nine miles of Deschutes River corridor and the portion of Tumalo Creek within the Urban Growth Boundary;
- field visits to all riparian wetland areas;
- a review of the extensive inventory work conducted in 1998 by the Bend Riverway as documented in The Bend Riverway, A Community Vision;
- discussions with individuals and groups to collect local knowledge (see list in the Citizen Involvement section.)
- a review of the Bend Urban Lands Survey, completed in 1999;
- an analysis of aerial photos (1 inch = 1680 feet) dated June 2000;
- an analysis of average annual flows;
- an analysis of topographic maps (1 inch equals 100 feet);

- a review and analysis of current riparian setbacks and other policies and regulations;
- a review of existing land use;
- a review of the General Plan zoning;
- an analysis of the safe harbor setback of 75 and 50 feet;

In addition the following resources were consulted:
- United States Geological Service (USGS) 7.5 quadrangle maps;
- National Wetlands Inventory maps;
- Federal Emergency Management Agency (FEMA) FIRM (Federal Insurance Rate Maps) flood maps (dates August 1988);
- Aerial photos dated August 1998
- Additional resources were consulted and are located in Appendix B.

To assist in the analysis of the effectiveness of the safe harbor method, a map was developed showing the city's current minimum riparian setbacks for the Deschutes River as required by the Deschutes River Design Review Corridor Combining Zone. See maps titled "Deschutes River Design Review Corridor," showing these setback distances.

The Deschutes River was divided into three areas called "reaches" to aid in the inventory. A reach was defined as a stretch of the river with similar characteristics. The three reaches: South Canyon, Pioneer and Awbrey are identified on the maps titled "Deschutes River Design Review Corridor." The reaches were defined with the assistance of a Department of State Lands wetlands biologist. The break between South Canyon and Pioneer was determined by changes in topography and landforms, surrounding vegetation, water characteristics (rapids to flat calm water). The break between Pioneer and Awbrey was determined by changes in topography and landform, a large dam (33 feet high) and flow rates during irrigation. Each reach is described in detail in the Inventory Results section.

In areas where the top of each bank is not clearly defined, or where the predominant terrain consists of steep cliffs, local governments are required to conduct a standard inventory methodology rather than apply the safe harbor provisions of this section. For the purposes of this inventory, a steep slope is defined as an area with:
- 60 percent slope or greater and
- a vertical rise of 20 feet or greater and
- a continuous horizontal length of 50 feet or more.

Inventory Results

There are only two riparian corridors with Bend's UGB. They are the approximately 9 miles of the Deschutes River and approximately a quarter-mile of Tumalo Creek. Based on the criteria in OAR 660-023-0030 both areas could be determined to be significant Goal 5 riparian resources. The criteria (quality, quantity, and location) are evaluated as follows:

Criteria for Determining Significant Riparian Resources

The criteria for riparian areas is determined using the standard Goal 5 inventory as follows:

Quality
Both the Deschutes and Tumalo Creek are high quality riparian resources in terms of wildlife habitat, scenic beauty, native vegetation, fishery resources, water quality, and recreation and education opportunities according to:

- The Bend General Plan
- Bend Riverway Plan
- Bend Urban Lands Survey
- Oregon Department of Fish and Wildlife

Quantity
There are only two riparian corridors within the 32.25 square miles of the City of Bend's UGB making these resources unique.

Location
The area around Bend is called the High Desert. Bend is located in a transition zone between the ponderosa pine and shrub-steppe vegetation zones in the High Lava Plains Physiographic Province of Oregon. Juniper, ponderosa pine, bunchgrass, bitter brush and sagebrush characterize the area. All riparian resources are of regional significance in the high desert.

Riparian Functions
There are many functions performed by riparian areas. A riparian area provides a buffer zone between upland land uses and water resources, protection or enhancement water quality, erosion prevention, and flow moderation. They can provide important wildlife habitat and contribute to in-stream habitat for fish. The Deschutes provides a very important riparian corridor for migratory song birds.

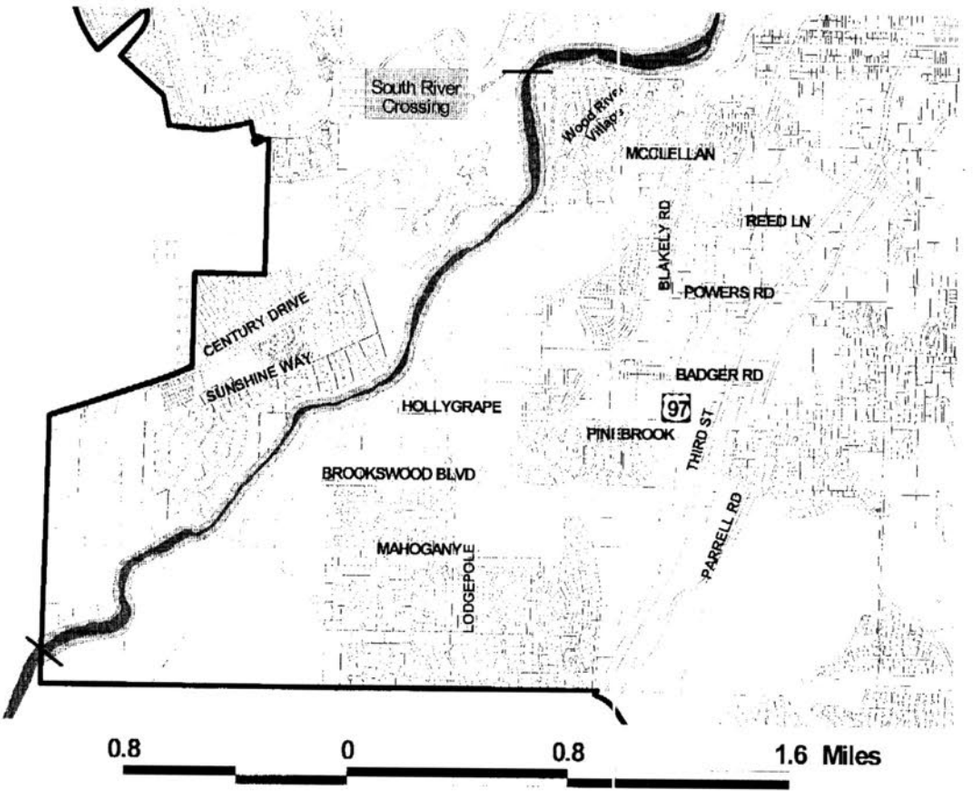
An undisturbed, densely vegetated riparian area traps sediment, inhibits erosion and filters runoff that originates from impervious surfaces, lawns, golf courses etc. A well-developed riparian area can moderate in-stream temperatures by shading the water. A cold water temperature is critical for some species of fish. A wider riparian corridor with dense woody vegetation will provide more interior area with good cover for wildlife. In comparison a lawn or maintained riparian edge is not useful to most wildlife, provides little or no hydrologic buffering or erosion control.

Description of the Deschutes River Reaches
For planning purposes the Deschutes River was divided into three areas called reaches. Running downstream from south to north the reaches are: South Canyon, Pioneer, and Awbrey. The following is a description of each reach. See the Inventory Methodology section for information on how river reaches were determined. Maps of each reach follow the description.

South Canyon
Location: From south UGB to the approximate location of the proposed Southern bridge crossing (at northern end of Mt. Bachelor Village Resort.)

This is the most undeveloped stretch of river in the Bend Riverway. The river is in a steep rocky canyon for most of its length. Water is fast and the canyon is narrow. There is white water with deep pools and waterfalls. Lava rock is a dominant feature with boulder fields and steep slopes. There are areas of impressive rimrock. Upstream from the Reach boundary on the west side of the river is US Forest Service land and the river above the diversion is designated an Oregon Scenic Waterway. Deschutes River Woods, a large low-density sub-division is on the upstream, east side of the river outside of the UGB. The Central Oregon Irrigation District (COID) facilities feature prominently in this Reach. The diversion for the Central Oregon Canal originates in the southern end of the Reach. This is only the second diversion of the Deschutes River. A steel flume and canal road runs north from the diversion for 1.5 miles along the river on the east side. An underground COID hydro facility is located on the east riverbank across the river from Mt. Bachelor Village Resort. Public access is limited in this Reach, as most of the land is privately owned. Other than the resort, there are no currently no commercial businesses on this stretch of river (although a retirement home is proposed.) Woodriver Park is a small, unimproved neighborhood park within the Wood River subdivision. It has a 1/4 mile unimproved nature trail along the river. Advanced (non-motorized) boaters occasionally launch from the park. Mt. Bachelor Village has a 1.2-mile nature trail along the east bank of the river. The trail is privately owned but the walking public is currently allowed. COID maintains a third trail that is open to the public and runs east to west down to the river. In addition many people use the flume road for recreation which is in private (COID) ownership. Much of the area is forested with Ponderosa of varying ages. The Awbrey Hall fire came through the southern portion of the Reach in 1990 destroying 22 homes and altering wildlife habitat. Streamside vegetation is well developed along river's edge providing excellent wildlife habitat. There are three important wetland areas, at the south UGB border, along COID's property and at the COID hydro facility. All are primarily on the east side of the river. Wintering elk herds are often seen in the south end of the Reach from late December to early May. They cross the river in a couple of places. The meadow and forested areas are especially important for the elk herd and deer during severe winters. Other wildlife frequently seen include heron, osprey, hawks, kestrel, otter, porcupine, and mink. An osprey nest is used annually and a heron rookery may exist in the area – but is likely outside the UGB. Knapweed and other invasive weeds are gaining at toe-hold throughout the Reach - primarily along the canal and associated road and at the north end of the Reach.

DESCHUTES RIVER DESIGN REVIEW CORRIDOR
SOUTH CANYON REACH
UGB to South River Crossing



Pioneer Reach

Location: From approximately location of the proposed Southern bridge crossing to the North Canal Dam. The area is divided into three units: Old Mill, Downtown, and 1st Street

Old Mill Unit: From approximately the proposed Southern bridge crossing to Colorado Street Bridge:

This area is undergoing tremendous change. Formerly it was home to the Shevlin-Hixon and the Brooks Scanlon lumber mills. The river was used to move logs and river access was closed to the public. Today most of the mill buildings are gone or are being reconstructed. A new park, office buildings, retail, a movie theater and restaurants are built, under construction or planned. Almost the entire Old Mill Unit is disturbed. A riparian vegetation fringe is reestablishing along the river's edge. There is a well-defined transition to upland, usually 20 feet or less, from the river. The upland is mostly knapweed and other non-native species. Much of the area was rezoned to "mixed-use riverfront" which provides guidelines for development that includes encouraging public access. Two new bridges were recently opened - a footbridge and a vehicular bridge. As the area develops, public access will increase. There is an extensive, well-developed scrub-shrub wetland created by the Colorado dam (which was built in 1916 to create a millpond.) An undeveloped riverfront trail skirts the western shores of the river between the construction. As the trail heads upstream, the river sweeps west and the construction area is left behind. Tall red-gold cliffs topped by office buildings and a hotel border this area. Portions of the cliff contain one of the best areas in the world for viewing pyroclastic ash flow tuff from an eruption at Broken Top Mountain. Across the river to the east is the site of the old log deck where logs were stored by the mills. A new bridge, road and park are in the planning phases (called the Southern River Crossing) for this area. Storing logs for over 50 years has resulted in organic debris up to 20 feet deep on the site. At the writing of this report (November 2000) this fill was being removed. Prior to the beginning of the fill removal, the area was rapidly being overtaken by knapweed and will soon be again. Despite all the construction and lack of vegetative cover throughout most of the Reach, wildlife, from waterfowl to mammals, is frequently seen including otter, mink, osprey and trumpeter swan.

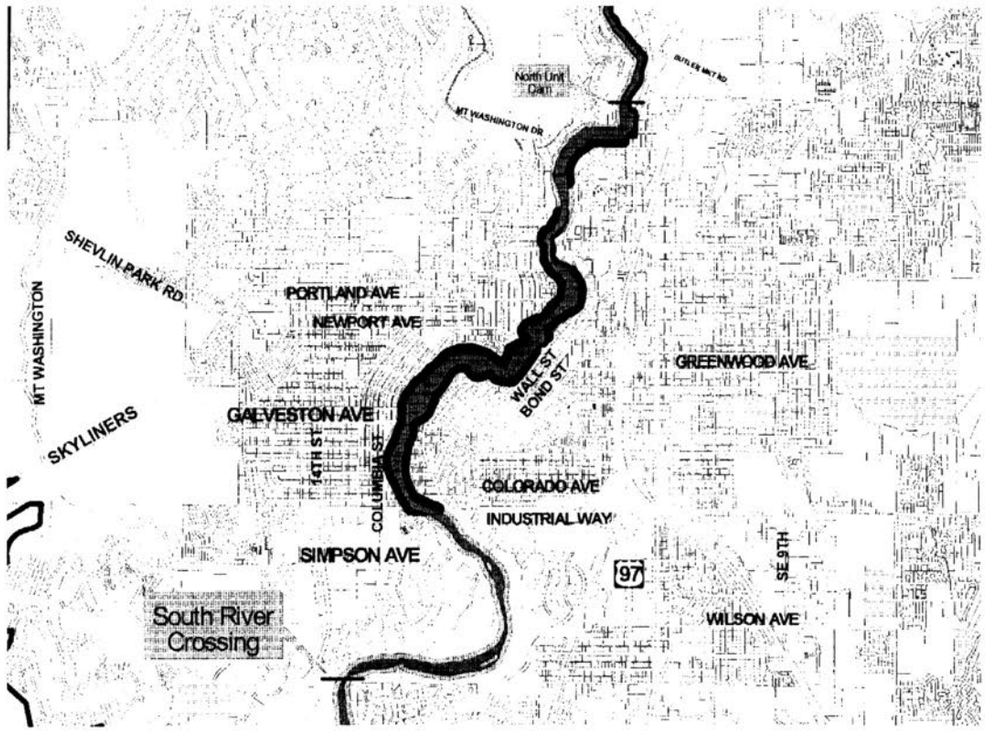
Downtown Unit: From Colorado Street to Newport Bridge (Bend Hydroproject):

This is the most developed reach in the UGB. It is characterized by large riverfront parks, a vibrant downtown and lovely old homes. The river is relatively wide and slow moving throughout most of the reach. Mirror Pond, a beloved feature in the landscape, is created by the Bend Hydroproject dam that has been in place since 1910. There are a few small islands in the river that are washing away. Silt is building up in the quieter waters behind the dam, creating very shallow areas. This area was dredged in the early 1980's. Much of the river is edged by concrete or rock wall that has been in place since the 1920's. There are large expanses of lawn adjacent to the river and sporadic areas of healthy riverside vegetation. The parks have large mature trees with some younger trees and limited understory vegetation. Wildlife species most often seen includes Canada geese, mute swans, ducks and other waterfowl, mink, river otter, and beaver. The best quality habitat is found in the north and south ends of the reach unit. People are a key feature in this reach and there is lots of public access. The river is an important tourist attraction, bringing people to the area for scenic beauty as well as many special events in the parks. Powerlines cross the river at the Galveston bridge and Pacific Park - disrupting bird flight.

First Street Unit: From Newport Bridge to North Canal Dam:
The river flows from the Newport Bridge over the dam associated with the Bend Hydroproject through an area with homes and multifamily units on the west and Pacific Power Hydro plant and sub station on the east. The river runs under Portland Avenue over the Steidl Dam which creates an area of quiet water in front of Pioneer Park. Tumalo Irrigation District (TID) has a diversion on the westside of the river at this location. A new fish screen is planned. Tumalo Irrigation District placed the irrigation canal underground and this has created the opportunity to develop the Deschutes River trail that runs for ¾ of a mile along this unit and continues on for another 3 miles. The eastside of the river has developed into a large wetland that has some of the highest quality urban wildlife habitat in Bend and the area is home to otter, osprey, owl, and marmot along with other animals. The river is backed up by the North Canal dam and is slow and meandering with lots of cattails and rushes. The dam creates a pond area that is best viewed from Riverview Park which has several parking spots and a developed boardwalk for wildlife viewing and fishing.

DESCHUTES RIVER DESIGN REVIEW CORRIDOR
PIONEER REACH

South River Crossing to North Unit Dam



1 0 1 2 Miles

BEND UGB
DESCHUTES RIVER
30 FT SETBACK
40 FT SETBACK
100 FT SETBACK
PARK
TAXLOTS

Map produced by City of Bend
By: J. Fulghum 10-8-01
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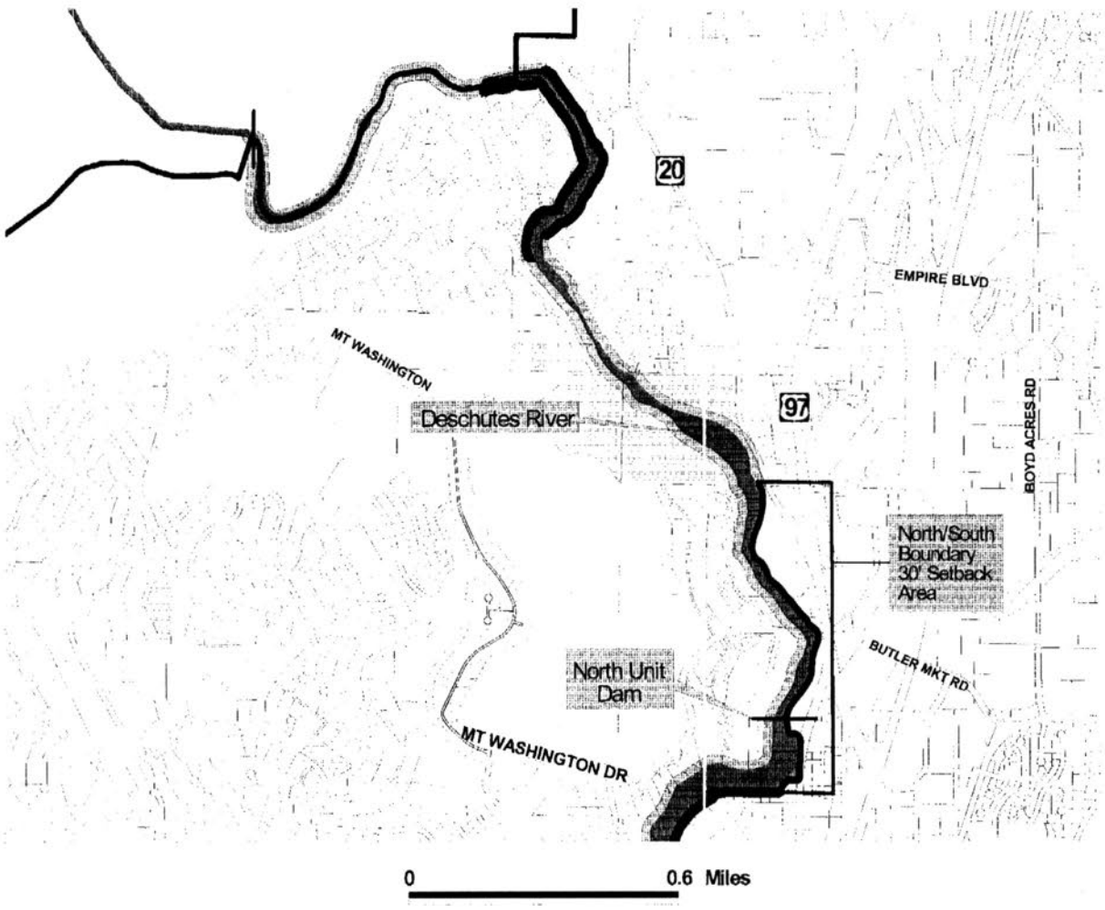
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Awbrey Reach

Location: From the North Canal Dam to the north UGB (located on the river just west of the ravine on the north side of Awbrey Butte)

Below the dramatic North Canal Dam the water is fast and moves swiftly through a scenic canyon. The water level varies a great deal due to three diversions at the dam. In the winter the water is high and flowing fast through the steep canyon. It is a popular white water kayaking run. In the summer when the water is diverted, the river becomes a small creek. All of the water rights in this section of the river have been assigned which can result in very low flows (30 cubic feet per second is the agreed upon lowest flow.) This water fluctuation influences the type, amount and location of the riverside vegetation. The river flows under the Mount Washington bridge and past motels and houses that line the riverbanks. It then flows through Sawyer Park, a 61-acre natural park with a mature forest, well-developed scrub-shrub wetland, and streamside vegetation that provides excellent wildlife habitat for many species including hummingbirds, owls, deer, and mink. The river passes several more housing developments and then curves to the west. Land use along the remainder of this Reach is entirely residential with most houses perched on the rimrock cliffs. The South Canyon and Awbrey Reaches are physically very similar (natural features, wildlife, steep canyons, rocks, cliffs, mature trees, native vegetation, and primarily residential land use) and are valued by the community similarly in the Bend Riverway, A Community Vision.

DESCHUTES RIVER DESIGN REVIEW CORRIDOR
AWBREY REACH
North Unit Dam to UGB

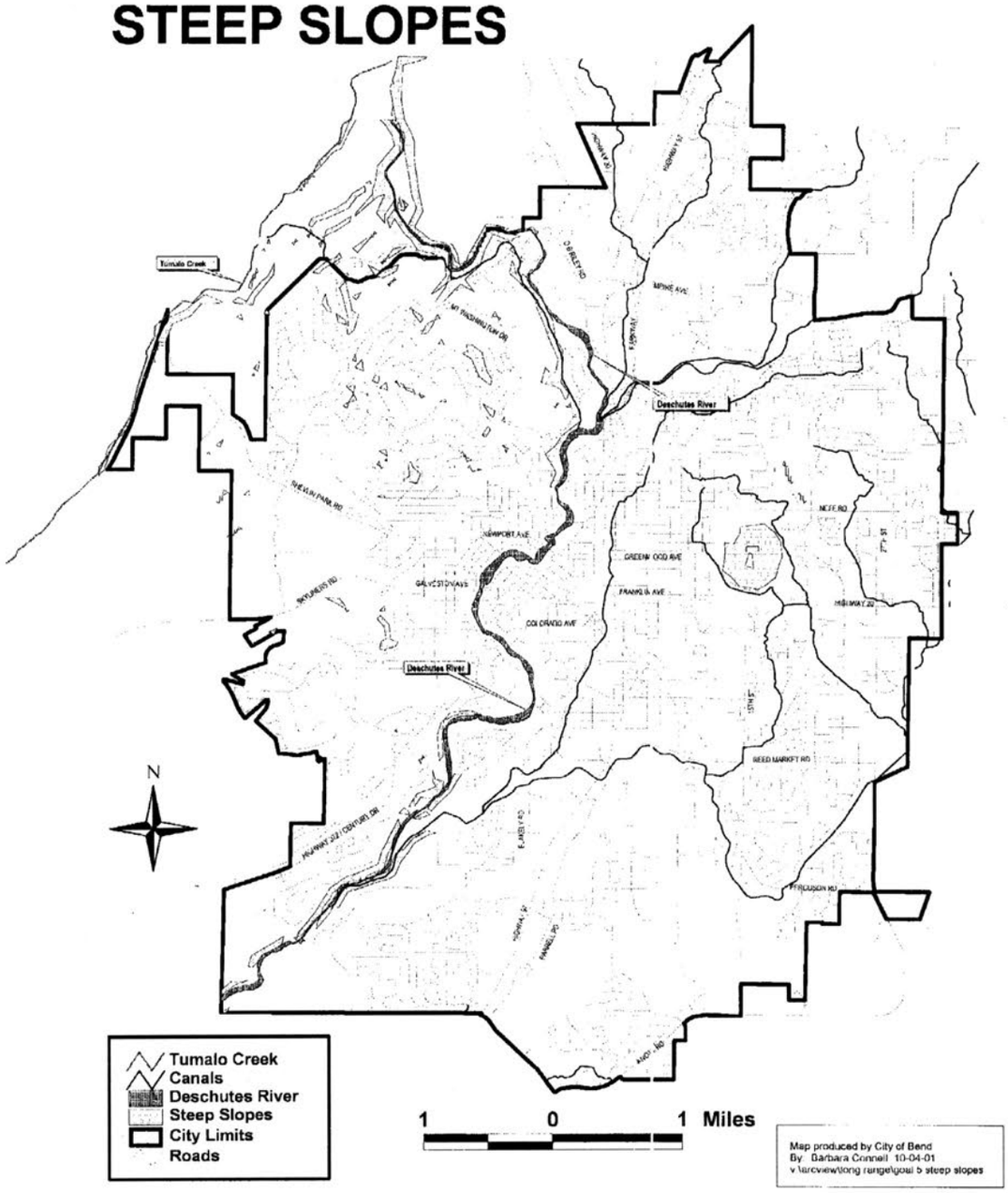


Steep Slopes, Floodplains and Areas of Special Interest

Steep Slopes

Areas of steep slopes were defined for the purposes of this report in the Inventory Methodology for Riparian Areas. The map on the following page shows general patterns of significant steep slope areas in Bend, and most of the cliffs in the canyons of the Deschutes River corridor. Cliff conditions may exist along the river in areas not shown on this map; at the same time, flatter and broader riparian areas may be present where steep slopes are indicated. Steep slopes are located in nearly all of South Canyon and Awbrey Reach and a short section in Pioneer Reach in the Old Mill Unit. In the areas of steep slopes Division of State Lands is primarily concerned about setbacks for vegetation for wetlands and riparian areas– mature trees in particular are protected on steep slopes. The state wants to protect trees that might have the opportunity to fall into the river because they add structure and nutrients important to a quality riparian condition. Ponderosa Pine is the tallest, most common tree in the river corridor. It grows to a potential height of 100 feet. Cottonwood can potentially grow taller (120 feet), but they are rare in the riparian area. The potential tree height (PTH) can figure into the setback distance for riparian protection.

STEEP SLOPES



City of Bend Periodic Review - Goal 5 Inventory and Analysis 25

Flood Plains

Flow in the Deschutes River is controlled by the Wickiup Dam and has very little fluctuation. The river is tightly controlled and rises and falls as dictated by irrigation and water storage needs. Maps showing the 100-year flood plain are maintained by the Federal Emergency Management Agency (FEMA). The river in Bend has only flooded significantly once in the past 20 years. The flood was due to an ice buildup that caused water to back up and eventually flood homes along Riverfront Street. This problem has been prevented since, by the installation of an ice boom when the temperatures dip. There has been some minor flooding just south of Sawyer Park and outside the area mapped by FEMA. The city has requested FEMA reassess this area and include it on the FIRM (Federal Insurance Rate Map) map if necessary.

Areas of Special Interest

There are two "Areas of Special Interest" (ASI) designated in the General Plan located along the banks of the Deschutes. These areas were designated to be conserved as a means of retaining the visual character and quality of the community. ASI's 29 and 33 encompass the river canyons and rimrock in the north and south portions of the urban area. See a City of Bend General Plan map for location. Regulations to protect ASI's were not adopted at the time they were designated.

Riparian Vegetation Inventory

Riparian vegetation is dependent on the pattern and availability of water. Examples of riparian vegetation commonly found along the Deschutes in the study area include; willow, alder, Oregon ash, spiraea, cattail, bulrush, and sedges. Depending on topography, soils, hydrology and other factors, riparian vegetation can extend inland for 100 feet or more. This is not the case along the Deschutes in Bend. A tightly controlled hydrologic flow combined with steep topography and low precipitation result in relatively narrow riparian vegetation borders along the river. The transition from riparian (or wetland) to upland is often abrupt and easily defined. There are however a number of flatter areas that formerly served as floodplains. Most of these areas have been severely disturbed over the past 100 years and may no longer support extensive riparian vegetation. This disturbance takes many forms including:

- permanent structures in riparian area
- fill placed in area changing the amount of water available in root zone
- maintenance (pruning, mowing or brush hogging riparian vegetation)
- replacement vegetation (lawn)
- hard edges placed on river's edge (rip rap, rock walls)

Each of these disturbances reduces the ability of native riparian vegetation to grow. Remedies to reestablish riparian vegetation include:

- remove structures from riparian area
- remove fill and reestablish natural grade and plant riparian vegetation
- reduce or limit maintenance
- remove non native vegetation and replace with riparian
- remove hard edges, re-contour grade and plant riparian vegetation

The diversions on the Deschutes have altered the natural flooding pattern of the river causing a disruption in the riparian vegetation. Water diversions (resulting in lower than naturally occurring flows) during the normal plant growing season have allowed woody vegetation to encroach unnaturally into the flood plain, constricting the river channel in places.

In a riparian area cottonwoods are often the tallest trees – growing 120 feet high or more. Cottonwoods usually require a flooding regime and coarsely textured soils (mineral soils) for reproduction. The flow in the Deschutes is tightly controlled in Bend and rarely floods. Lack of regular flooding may have reduced the cottonwood population. There are only a few cottonwood trees remaining in the study area. The following table has a list of riparian plants found along the Deschutes. See the Local Wetlands Inventory for a more extensive plant list.

Native Riparian Vegetation Likely to be found on the Deschutes River

Plant Type	Scientific Name	Common Name
Tree	Fraxinus oregana	Oregon ash
	Populus trichocarpa	black cottonwood
	Salix lasiandra	willow
Shrubs	Alnus sp. (probably not A. sinuata)	alder
	Angelica arguta	
	Heracleum lanatum	cow parsnip
	Prunus virginiana var. demissa	
	Rosa woodsii var. ultramontana (furthest away from river channel)	wild rose
	Salix geyeriana	geyer willow
	Spirea douglasii	spirea or hardhack
	Symphoricarpos albus	snowberry
Herbs	Lemna minor	duck weed
	Mentha arvensis	mint
	Mimulus guttatus	monkey-flower
	Montia perfoliata	miner's lettuce
	Polygonum coccineum	water smartweed
	Urtica dioica	nettle
	Veronica americana	veronica
Grass or grass like	Carex aquatilis	water sedge
	Carex canescens	gray sedge
	Carex vesicaria	inflated sedge
	Glyceria elata	
	Juncus balticus	
	Scirpus microcarpus	small-fruited bull rush
	Typha latifolia	cat-tail

Source: Reid Schuller 1999.

Safe Harbor Inventory Results

The safe harbor inventory and setbacks are based on the amount of average annual flow determined by cubic feet per second (cfs). The average annual flow of the Deschutes varies considerably from year to year. To determine average annual water year flows,

data from 1966-1999 (33 years) was analyzed. After consultation with Kyle Gorman, watermaster with the Oregon Water Resources Department, it was determined that the river through Bend can be split into three distinct areas based on water flow. The three areas are:

- Upstream of the COID diversion (approximately river mile 170) the average annual flow is above 1000 cfs.
- The North Canal Dam (approximately river mile 165) flow is significantly below 1000 cfs due to significant irrigation diversions at the North Canal Dam
- The cfs between the COID diversion and the North Canal Dam gradually decreases as the river flows downstream. Flows from the Old Mill District to Portland Street are an average of 966 cfs.

The flow is reduced seasonally in Bend due to significant irrigation diversions within the UGB. See the following table for more detailed information. It is clear that the Deschutes would be over 1000 cfs flowing through Bend if not for diversions. However, the river has been diverted for irrigation for nearly 100 years. There has been action in recent years to maintain higher stream flow, including lining canals and repairing leaks. Despite these efforts, it is anticipated that significant amounts of water will continue to be diverted from the Deschutes in this area and that flows will average below 1000 cfs during the planning cycle.

Average Annual Flows in the upper Deschutes River 1966 – 1999

	Month (flows shown are cubic feet per second – cfs)												
Location	**Oct**	**Nov**	**Dec**	**Jan**	**Feb**	**Mar**	**April**	**May**	**June**	**July**	**August**	**Sept**	**Yearly**
Deschutes River at Benham Falls	1030	718	796	870	912	969	1280	1861	2096	2185	2032	1749	**1375**
Arnold	*34.5*	*6.6*	*3.9*	*4.1*	*6.1*	*5.7*	*27.8*	*90.9*	*103.9*	*106.6*	*105.0*	*90.7*	***49***
COI Main Canal	*168.4*	*32.8*	*31.9*	*28.6*	*30.2*	*31.3*	*211.7*	*459.7*	*491.7*	*532.9*	*533.5*	*442.8*	***250***
Old Mill Flows to Portland Ave	717.2	569.1	649.8	726.8	765.6	821.8	930.4	1199.9	1390.2	1436.0	1283.6	1105.8	**966**
TID diversion @ 1st St.	*9.8*	*3.5*	*0.6*	*0.0*	*0.0*	*0.1*	*4.8*	*35.8*	*49.0*	*93.3*	*116.6*	*85.8*	***33***
Flows at 1st St Rapids to North Canal Dam	707.4	565.6	649.2	726.7	765.6	821.8	925.6	1164.1	1341.2	1342.7	1167.1	1020.0	**933**
North Unit Main Canal	*257*	*2*	*2*	*0*	*0*	*32*	*293*	*542*	*634*	*649*	*475*	*403*	*274*
North Canal	*174*	*26*	*26*	*23*	*27*	*24*	*216*	*444*	*498*	*522*	*524*	*444*	*246*
Swalley Canal	*57*	*7*	*6*	*6*	*7*	*6*	*50*	*94*	*115*	*110*	*117*	*93*	*56*
Deschutes River below Bend	255.6	577.4	650.3	730.8	761.3	777.4	353.3	80.2	69.5	53.9	58.8	83.5	**371**

Canal diversions in italics Source: Oregon Water Resources Department

Tumalo Creek has an annual average water year flow well below 1000 cfs as seen in following table.

Average Annual Flows in Tumalo Creek 1966 – 1987

	Month (flows shown are cubic feet per second – cfs)												
Location	**Oct**	**Nov**	**Dec**	**Jan**	**Feb**	**Mar**	**April**	**May**	**June**	**July**	**August**	**Sept**	**Yearly**
Tumalo Creek at Shevlin	57	70	75	73	76	74	74	83	114	50	10	24	**65**

Source: Oregon Water Resources Department

The following table has an analysis of the current setbacks compared with the safe harbor setback requirements on the Deschutes River - by location. The current setbacks vary from 30 feet in areas zoned commercial, 100 feet in the Deschutes River Corridor Design Review Combining Zone, and 40 feet for the remaining areas. The 100-foot setback can

be reduced to 40 feet through a variance. The three maps titled "Deschutes River Design Review Corridor" show the city's current setbacks on the Deschutes River.

Using the safe harbor method, the South Canyon Reach upstream of the COID diversion (in areas without steep slopes) requires a 75-foot riparian protection setback from the top of each bank. The remainder of the river downstream of the COID diversion requires a 50-foot setback from the top of each bank. Tumalo Creek requires a 50-foot setback.

Comparison of Current and Safe Harbor Setbacks

Location	Current Setback	Other regulations	Safe Harbor**	Comparison & Comment
South Canyon: From the southern UGB boundary (approximately the north boarder of Deschutes River Woods) to approx. location of proposed Southern Bridge Crossing.	100 feet Deschutes River Design Review required. Variance can reduce setback to 40 feet.	Steep slopes triggers standard Goal 5 inventory. Area upstream of COI diversion is within State Scenic Waterway. ASI #33 runs the entire length of reach on both sides of river. Fill and removal prohibited within 10 feet of top of bank.	75 feet upstream from COI intake; 50 feet in remainder of reach.	The city's 100-foot setback exceeds safe harbor requirements, except for 40 foot allowed variance.* State requires standard inventory methodology in areas of steep slopes. 10 foot fill and removal standard is 40 to 65 feet short of safe harbor.
Pioneer Reach - *Old Mill Unit*: Mixed Use Riverfront zone from Southern Crossing to Colorado Street.	100 feet Design Review required. Variance can reduce setback to 40 feet.	MR zoning has special requirements. ASI #33 runs entire length of eastside of river. Fill & removal prohibited w/in 10 feet of top of bank.	50 feet (based on estimated annual flow of 966 cfs). Safe harbor does not apply in areas of steep slopes.	The city's 100-foot setback exceeds safe harbor require-ments, except for 40 foot allowed variance.* 10 foot fill & removal is 30 feet short of safe harbor.
Pioneer Reach *–Downtown Unit*: From Colorado Street to Newport Bridge (Bend Hydroproject)	40 foot.design review on all but north edge as follows: 100 foot design review with allowed variance to 40 foot from Colorado Bridge to south edge of Miller property on E, N edge of McKay Park.	Fill and removal prohibited within 10 feet of top of bank.	50 feet (based on estimated annual flow of 966 cfs)	Safe harbor represents a 10 foot increase in the 40 foot setback area. Area with 100 foot setback exceeds safe harbor requirements, except for 40 foot allowed variance.* 10 foot fill and removal is 40 ft short of safe harbor. Most of area completely developed. A few undeveloped properties (Miller). Eight major parks.
Pioneer Reach *– First St. Unit*: Newport Bridge to North Canal Dam	A mix of 30, 40 and 100 feet setbacks. 100 foot can be reduced to 40 feet with a variance.	Fill and removal prohibited within 10 feet of top of bank.	50 feet (based on estimated annual flow of 966 cfs).	Safe harbor represents a 20 ft. increase in areas with a 30 ft. setback, 10 ft. in areas with a 40 ft. setback. Area with 100 ft. setback exceeds safe harbor requirements, except for 40 foot allowed variance.* 10

				foot fill and removal is 40 feet short of safe harbor.

Location	Current Setback	Other regulations	Safe Harbor**	Comparison & Comment
Awbrey Reach: North Canal Dam to north UGB (west of ravine on north side of Awbrey Butte.)	100 foot design review with allowed variance to 40 feet on all but: 30 foot setback on east side of river from dam to Sawyer Park; 40 foot on both sides through Rimrock subdivision.	Steep slopes triggers standard Goal 5 inventory. Fill and removal prohibited within 10 feet of top of bank. ASI #29 runs along both sides of river from north edge of Sawyer Park beyond north UGB. State Wild & Scenic designation starts at south edge of Sawyer and runs north beyond UGB.	50 feet (based on annual flow of 371 cfs). Safe harbor does not apply in areas of steep slopes.	Safe harbor represents a 20 foot increase in areas with a 30 foot setback, a 10 foot increase in areas with a 40 foot setback. Area with 100 foot setback exceeds safe harbor requirements, except for 40 foot allowed variance.* 10 foot fill and removal is 30 feet short of safe harbor.

*The city's 100-foot setback exceeds the safe harbor, however, the 40-foot setback allowed by variance, does not meet safe harbor standards.
** Setback measured from upland edge of significant riparian wetland units.

Location	Current Setback	Other Regulations	Safe Harbor	Comparison and Comment
Tumalo Creek: North (downstream) from Aspen Hall pond	The Deschutes River Corridor structure setback standards do not apply to Tumalo Creek	City's 10 foot Fill and Removal conditional use permit standard applies to Tumalo Creek.	In general, the Goal 5 safe harbor 50 foot inventory setback could apply based on average annual flow of 65 cubic feet per second. However, steep slope exception may apply in parts	Fill and Removal review standard is 40 feet less than safe harbor setback.

Regulatory Analysis

This section summarizes the state requirements, reviews the city's current policies and regulations and then compares the two. The purpose of this section is to provide decision-makers and the community with a comparison of what the state requires with what the city already has on the books. The next section, Options for Protection, offers alternatives on how the city might proceed.

What the State Requires

Once a section the river or stream is designated significant, the state requires the following for the safe harbor method:

- a riparian boundary prescribed by the state (75 feet or 50 feet depending on flow)
- an ordinance preventing permanent alteration of the riparian area by:
  - grading
  - placement of permanent structures or impervious surfaces
- an ordinance to control the removal of riparian vegetation within the riparian boundary

All of the above requirements have some exceptions and a hardship variance process is required. Please see the complete text in OAR 660-023-0090 in the separately bound Goal 5 Reference Material. If the city chooses not to use the safe harbor and follow the standard inventory process, an ESEE analysis (a review of the positive and negative economic, social, environmental and energy consequences that could result from a decision to allow, limit, or prohibit a conflicting use) must be completed.

Safe Harbor Setbacks for Bend

Using the safe harbor guidelines, the South Canyon Reach upstream of the COID diversion (in areas without steep slopes) requires a riparian corridor boundary with a 75-foot setback for structures and vegetation removal from the top of each bank. The remainder of the river downstream of the COID diversion requires a 50-foot setback from the top of each bank because the average river flow is less than 1000 cfs. Tumalo Creek requires a 50-foot setback. A standard inventory is required in areas of steep slopes or cliffs. Areas of steep slopes were defined for the purposes of this report in the Inventory Methodology for Riparian Areas. Steep slopes are located in nearly all of South Canyon and Awbrey Reach and a short section in Pioneer Reach in the Old Mill Unit. Within these canyons are intermingled some flatter and broader areas adjacent to the river. Where these areas exist, the safe harbor guidelines of Goal 5 may be appropriate.

Existing City of Bend Policies

Policies from the Bend General Plan that are specific to riparian areas include the following from the Natural Features and Open Space chapter. Note: there are two large Areas of Special Interest on the river.

3. Beginning no later than 1999 and every three years thereafter, the Bend City Council or its designee shall hold public hearings to receive information identifying Areas of Special Interest and natural features. The city and county shall use this information to update and clarify the designation of Areas of Special Interest and natural features on the Plan Map. [There are two large Areas of Special Interest on the Deschutes River.]

4. The city and county shall review proposed developments that include Areas of Special Interest and natural features identified on the Plan Map to ensure they follow the policies of this Plan.

14. The Bend Metro Park and Recreation District shall acquire strategic areas along the rivers, streams, and canals to protect and conserve scenic, recreational, and natural values, and make such areas accessible to the community.

17. The city and county shall seek opportunities to retain the banks and canyon of the Deschutes River as public or private open space throughout its entire length within the planning area.

18. Within the Areas of Special Interest designated on the Plan Map, the city and county may allow developments that carry out the intent of the Plan to enhance the variety and livability of the Bend Urban Area, and provided that such developments:
    - are not subject to natural hazards;
    - would not inflict irreversible harm to the riparian zone;
    - would enhance public open space, parks and access;
    - are designed to be compatible with natural features; and
    - provide access to the river or a trail along the river corridor to the extent allowed by law.

19. The city and county shall prepare development regulations to further reduce visual and ecological impacts of development along Tumalo Creek and the Deschutes River.

20. The city shall request that the ODFW develop a list of trees and vegetation appropriate for planting along the Deschutes River. The list shall be used during design review of proposed riverfront development when landscaping or screening issues are considered.

Existing City of Bend Regulations

In addition to the policies in the General Plan, the city has adopted numerous regulations and zoning conditions in the Bend City Code. The important regulations providing protection to the Deschutes are:

Deschutes River Corridor Design Review Combining Zone 10.10.22A

Applies to: 100 feet on both sides of river within UGB

- Setbacks varying from 30 to 100 feet
- Building Height
- Design Review
- Building Design standards

Fill and removal standards 10.10.25(26)

Applies to: 10 feet on both sides of river within UGB

- Restricts removal of vegetation and material from riverbank or wetlands

Floodplain Combining Zone (10.22)

Applies to areas identified on the Flood Insurance Rate Map (FIRM), as 100-year flood areas.

- Requires structures in the floodplain to be flood proofed.

Mixed Use Riverfront zoning (10.10.21A)

Applies to: Primarily Old Mill District area

- Special riverfront standards for redevelopment of industrial area

Areas of Special Interest

Applies to: Specific areas identified on General Plan map (ASI 33 & 29 on river)

- Upland Areas of Special Interest were identified and are protected by zoning ordinance amendments on September 19, 2001 (NS-1803). Regulations covering River Corridor Areas of Special Interest have been proposed as part of the Goal 5 program which is based on this inventory.

The following section contains pertinent edited excerpts from the codes outlined above.

Deschutes River Combining Zone

The Deschutes River Combining Zone (10-10.22A) includes the following conditions for the Deschutes River. Please note that the following is edited to capture the essence of the code. For a complete version of 10-10.22A refer to the separately bound Goal 5 Reference Material.

It is the purpose of the Deschutes River Corridor Design Review Zone to:

a) Recognize and respect the unusual natural beauty and character of the river.
b) Conserve and enhance the existing riparian zone along the Deschutes River.
c) Allow the community flexibility in reviewing development proposals within the Areas of Special Interest that are designated on the Bend Area General Plan.
d) Maintain the scenic quality of the canyon and rimrock areas of the Deschutes River.
e) Conserve and enhance property values.
f) Preserve, protect and enhance water quality.
g) Encourage development, preservation and enhancement of reasonable public access to the river for recreational use and visual enjoyment.

All new development, structures, additions and exterior alterations to structures within the Deschutes River Corridor are subject to a design review process by the Bend Urban Area Planning Commission (BUAPC).

Within the Deschutes River Corridor the following minimum standards shall apply:

A. Building and Parking Setbacks. 100 foot setback area. For the areas described below, the setback for all new buildings, parking lots and loading areas shall be a minimum of 100 feet from the ordinary high water mark unless a lesser setback is approved. In no case shall the setback be less than 40 feet from the ordinary high water mark of the Deschutes River.

- The east and west bank from the Arizona/Commerce Street line to the southern boundary of the Bend Area General Plan map;
- The east bank from the southern property line of Magill's Landing Subdivision to the northern property line of the Bend Riverside Motel;
- The east bank from the southern property line of Sawyer Park to the southern boundary of the Rimrock West Subdivision;

- The east and west banks from the northern boundary of the Rimrock West subdivision to the northern boundary of the Bend Area General Plan map and
- The west bank north of the Park District property known as "Flume Park" to the southern boundary of the Rimrock West Subdivision.

After the applicant has demonstrated through design review that the project provides at least the following, the BUAPC may approve a lesser setback:

- Protection of water quality, and fish and wildlife habitat;
- The improvement or restoration of riverfront riparian areas by the creation of new riparian vegetation areas or by improvements to existing riverfront riparian areas through appropriate plantings, and;
- The provision of open space along the riverfront:

B. Commercial Property. For all existing commercially zoned property within the Deschutes River Corridor in existence upon the adoption of this ordinance, the setback for all buildings, parking lots, and loading areas shall be 30 feet from the ordinary high water mark of the Deschutes River.

C. Other Areas. For the areas not described above, all buildings, parking lots, and loading areas shall be 40 feet from the ordinary high water mark of the Deschutes River. In no case shall the setback be less than 40 feet from the ordinary high water mark of the Deschutes River.

The BUAPC may approve features to enhance or support public use such as sidewalk, streets, plazas, bridges.

Maximum building height shall be limited to 30 feet at the minimum setback line. The BUAPC may allow increases in building heights as allowed by code.

In addition to the minimum standards above, the BUAPC shall review the development using the following design criteria and may require the following as consistent with purpose of the ordinance:

a) Conservation of natural features
b) Compatibility with existing area
c) Colors and material compatibility with surrounding area
d) Increased setbacks, limitations of building heights
e) Public access along the riverfront
f) Enhanced site landscaping

Fill and Removal 10.10.25(26)

No person shall fill or remove any material or remove any vegetation within the bed and banks of any stream, river or wetland (defined as 10 feet on either side of the top of bank) unless approved by a Hearings Body. To apply to fill or remove vegetation from within 10 feet of the river, stream or wetlands a plan must be filed. The Hearings officer must consider the effects on the following:

- Hydrology, water supply and water quality

- aquatic life and wildlife habitat
- recreation, aesthetics, and economics
- character of area

Floodplain Combining Zone

The Floodplain Combining Zone (FP Zone Section 10.22). Applies to the areas identified on the Flood Insurance Rate Map (FIRM), as special flood hazard areas inundated by 100-year flood and floodway areas. The purpose of this section is to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions. The code:

- Regulates residential buildings in the floodplain to be elevated 1 foot above base flood elevation
- Requires non-residential structures to be floodproofed
- Regulates construction materials and methods
- Specifies land development standards to be designed to minimize flood damage
- Provides regulations for alteration of watercourses so that the flood carrying capacity is not diminished

A Hearings Body may grant a variance if it finds the variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense.

Mixed-use Riverfront Zone

The Mixed-use Riverfront Zone or MR Zone (Section 21A). All land within 100 feet of the river is subject to the River Corridor Design Review (10.10.22A above). The MR zone also includes the following conditions for the Deschutes River:

The purpose of this zone is to implement the General Plan policies for the creative redevelopment of mill site properties adjacent to the Deschutes River. It is intended to allow for a mix of uses that:

- Provide a variety of employment opportunities and housing types;
- Foster pedestrian and other non-motor vehicle activity;
- Ensure functionally coordinated, aesthetically pleasing and cohesive site planning and design;
- Ensure compatibility of mixed-use developments with the surrounding area and minimize off-site impacts associated with the development; and
- Encourage access to, and enjoyment of, the Deschutes River.

Areas of Special Interest

Although "Areas of Special Interest" are called out in the General Plan, there are currently no regulations protecting them. See policies number 3, 4, and 18 in the section called "Existing Policy" or refer to the General Plan Chapter 2 in the Goal 5 Reference Material document for the complete text of the policies.

Comparison of the State Goal with the City of Bend's Existing Regulations

Setbacks

The 100-foot setback currently required on much of the river exceeds those required by the state as a safe harbor guidelines (75 or 50 feet). However, the planning commission may approve a lesser setback of no less than 40-feet from the ordinary high water mark. This allowance is consistently less than required by safe harbor. The setbacks of 30 and 40 feet on the remainder of the river are less than the state requirements for safe harbor. See Table 5 for locations of setbacks. The state allows alteration of the 75 or 50-foot safe harbor setback in certain cases (see below) but does not allow a reduction of the setback like the city currently does.

Alteration of the Riparian Area

The state's safe harbor requires the city to have an ordinance to prevent permanent alteration of the riparian area caused by grading, placement of structures or impervious surfaces (with exceptions.) The city's Fill and Removal regulation (10.10.26) appears to fulfill this safe harbor requirement *except that the area protected by the city is only 10 feet from the top of the bank.* To fulfill safe harbor requirements, the protected area would need to be expanded to 75 or 50 feet as appropriate according to flow. The city's regulation allows for applicants to apply for a conditional use permit through a hearing body. The regulation provides specific criteria to the hearing body for consideration when evaluating a request for a conditional use. Most of the criteria deal with mitigating impacts. The state safe harbor requires that the city's ordinance allow hardship variances in the case of map error or if the lot is rendered unbuildable by the regulation.

The state safe harbor specifies exceptions for streets, roads, paths; drainage facilities, utilities, and irrigation pumps; water-related and water-dependant uses; and replacement of existing structures if they are designed and constructed to minimize intrusion into the riparian area. The city's regulation appears to be consistent with this.

Removal of Riparian Vegetation

The city's Fill and Removal rule (10.10.26) regulates the removal of vegetation within 10 feet of either side of the riverbank. The Deschutes River Combining Zone (10.10.22A(6)(a)) promotes the conservation of natural features including those in riparian areas. The Mixed-Use Riverfront Zone ((10.10.21A(6)(e)(A)) states that the design and development of landscaping shall "retain and conserve riparian vegetation within the bed and banks of the Deschutes River and adjacent to the river to the maximum extent practicable." The intent of these regulations appears to be consistent with the state goal except that the area protected by the city varies from a minimum of 10 feet from the top of the bank up to 100 feet based on the findings of the BUAPC or a hearing body. As with the Alteration of the Riparian Area section above, the state rules appear to be strict on the required variances (see above). The state also requires the city to provide the following exceptions in the regulation: removal of non-native vegetation is allowed and should be replaced with native plant species; removal of vegetation necessary for the development of water-related or water-dependant uses is allowed; and the regulation shall include a provision for hardship variances.

One of the largest concerns for Bend with regard to vegetation removal is private and public areas of lawn along the river. The state suggests in an example ordinance, that existing lawn in the riparian area may be maintained but not expanded and riparian vegetation should never be replaced by lawn. If codified by Bend, this may present

design challenges for areas such as the new 22-acre riverfront park and the Old Mill District. Both areas are currently devoid of any native vegetation 10-20 feet from the top of the river bank.

Options for Protection

The city must determine if there are significant riparian Goal 5 resources within the UGB. If any portion of the Deschutes River or Tumalo Creek within the UGB is designated significant, the resource must be protected. Important factors in determining significance were analyzed in the Inventory Results section to aid in this process.

Information provided in the Regulatory Analysis section demonstrated that the Bend Code provides varied setback protection to the Deschutes riparian corridor. If riparian areas are determined to be significant the city must show that current riparian protections meet state goals or make appropriate changes. The following range of options has been developed as a starting point for discussion. An ESEE analysis (a review of the positive and negative economic, social, environmental and energy consequences that could result from a decision to allow, limit, or prohibit a conflicting use) must be conducted for the chosen option other than the safe harbor. The Goal 5 administrative rule (OAR 660-23) provides direction on conducting the ESEE analysis.

Range of Options for Setbacks

A. No change for Deschutes, new setbacks for Tumalo: Retain the existing setbacks and regulations protecting the Deschutes. Add similar setbacks for Tumalo Creek. Retain the current variance requirements.

The current setback regulations of 30, 40 and 100-feet on the Deschutes vary depending on the area and primarily reflect zoning and existing land use. They were developed from information in the River Study conducted in the 1980's. Property owners on the river are aware of the setbacks and seem to understand their importance. They are tailored to the existing uses in the area. The setbacks can be confusing and are sometimes difficult to administer because they vary. The 100-foot setbacks are greater than those recommended by the state (75 and 50 feet). However, the planning commission may reduce the city setbacks to 40-feet, which is less than required by safe harbor. The state safe harbor does not allow a reduction of the setback. An ESEE analysis is required to explore these differences. Add a safe-harbor (50-foot setback) or other protection for Tumalo Creek.

B. Current Setbacks Retained – Variance Language Modified to Safe Harbor for Deschutes, Add setback regulations for Tumalo: Retain the existing setbacks of 30, 40 and 100 feet on the Deschutes. Modify the allowed setback reduction to 50 to meet the safe harbor setback. Add safe harbor setback (50-foot setback) or other protection for Tumalo Creek. A majority of the areas along the river currently has 100-foot setbacks including:

- All of South Canyon Reach

- All of the Old Mill Unit in the Pioneer Reach
- Portions of 1st Street Unit of Pioneer Reach
- Most of Awbrey Reach

In many cases the city has reduced the setback to 40-feet as allowed with a variance. Current regulations state that a setback reduction from 100 feet to 40 can be considered after the applicant has demonstrated that the project provides at least the following: protection of water quality and fish and wildlife habitat; the improvement or restoration of riparian areas and; the provision of open space along the riverfront. The safe harbor setback requires a procedure for a hardship variance in the case of a map error or if a lot is rendered unbuildable. Under the safe harbor, an applicant may also receive authorization to alter up to 50 percent of the riparian setback area upon a demonstration that equal or better protection will be ensured through restoration or enhancement – but the setback is not reduced. This option would affect landowners that were anticipating receiving a reduction in their setback through current code.

The areas with 30 and 40-foot setbacks with very few exceptions are already built out. These areas are a bit confusing to administer (a good map will be helpful) and they afford less protection than safe harbor standards. An ESEE analysis would likely only be necessary for the 30 and 40-foot setbacks.

C. Safe Harbor: Except in areas of steep slopes, use the safe harbor method and which requires a consistent 75-foot setback on the upstream portion of South Canyon Reach (above the COID diversion) and a 50-foot setback on remainder of the river (except in areas of steep slopes.) Retain the 100 foot setback (or reduce to 75-feet) on areas of steep slopes in South Canyon and Awbrey Reaches. Add language to the regulations regarding setbacks for significant riparian wetland units. Modify the current variance requirements to match the safe harbor hardship procedures. ESEE analysis is not required for the safe harbor option. Note: In areas of steep slopes, the actual setback distance must be based on inventory findings, rather than automatic use of the safe harbor option.

Setback widths vary from 30 to 100 feet now, so this option will affect property owners in different ways. See the table on Current Setbacks for more information. Some will be able to use more of their property (primarily those in the unsloped areas of the South Canyon and Awbrey Reaches) and some will have more constraints (those with property in the Pioneer Reach). The property owners in the South Canyon and Awbrey Reaches with steep slopes would have a reduced setback.

The primary impact of this option is on the Pioneer Reach. Much of this area is already built out at approximately a 40-foot setback. This setback would increase by 10 feet. The regulation would need to address existing development. There are some large undeveloped properties in the Pioneer Reach, scattered throughout, primarily in the Old Mill Unit. All of the large undeveloped parcels are zoned commercial or Mixed Use Riverfront.

A consistent 75-foot setback on both South Canyon and Awbrey would be easier to regulate than the current regulations, which vary from 30 to 40 to 100 feet

along the river. Although 75-feet is less than the current setback for all of South Canyon and most of the 100-foot setback is often reduced to 40-feet, the minimum allowed. A 40-foot setback in the Pioneer Reach reflects today's reality, but is less than the safe harbor of 50 or 75 feet and an ESEE analysis would have to weigh this option.

The city would need to develop safe harbor setback requirements for the protection of significant riparian wetlands. This requires measuring the riparian setback from the upland edge of the wetland. The city currently has only the 10 foot Fill and Removal restrictions on wetlands.

The safe harbor setback contains a procedure for a hardship variance in the case of a map error or a lot is rendered unbuildable. An applicant may also receive authorization to alter up to 50 percent of the riparian setback area upon a demonstration that equal or better protection will be ensured through restoration or enhancement. This is a different from the current city regulation that allows a reduction of the 100-foot setback to 40-feet after the applicant has demonstrated that the project provides at least the following: protection of water quality and fish and wildlife habitat; the improvement or restoration of riparian areas and; the provision of open space along the riverfront.

Range of Options for the Alteration of the Riparian Area

A. *Retain Existing Fill and Removal Regulation*: The city may decide it does not wish to change the regulation. An ESEE analysis is necessary for this option.

B. *Modify Fill and Removal Regulation to Match Safe Harbor*: Modify the language in the Fill and Removal regulation to meet safe harbor protections. This means an increase in the fill and removal setback from 10 feet to 75 feet in the upper South Canyon and 50 feet on the remainder of the river and Tumalo Creek in addition to changes to the conditional use allowance.

Range of Options for Removal of Riparian Vegetation

A. *Retain Existing Vegetation Removal Regulations*: No change to existing to regulations. An ESEE analysis is necessary.

The city would argue that a 10-foot minimum fill and removal area on each river or creek bank is adequate in conjunction with other safeguards in the Combining Zone and MR zone that require BUAPC review. The city would have to address the situation of vegetation clearing in the absence of a building permit. In other words, if a person just wants to clear land (riparian vegetation) more than 10 feet from the river they currently do not need a permit – therefore sidestepping BUAPC review.

B. *Modify Vegetation Removal Regulation to Match Safe Harbor:* Increase the fill and removal area to match safe harbor. Add language to the city's regulations to more closely match the state's administrative rule, primarily regarding exceptions to the

regulation. Add language to retain and conserve riparian vegetation on Tumalo Creek. An ESEE analysis would not be required under this option.

This represents an increase in riparian protection, especially in areas with significant riparian vegetation. This regulation may include limitations or suggestions on what can be planted within the riparian area. There are several areas, primarily in the Old Mill unit that currently have limited riparian or native vegetation due to historic disturbances, alterations in the topography by added fill to the area, and on-going construction. Noxious weeds are prevalent in the riparian area in some places. An ordinance could address areas with little or no existing riparian vegetation. The reestablishment of riparian areas (which may include grading and planting) goes beyond that required by Goal 5. However, if this issue is not addressed, some of the riverfront may remain unsightly and/or knapweed infested seed banks. Incentives could be developed for restoration and enhancement.

Wetlands

Summary

Local governments are required to use criteria and procedures established by the Land Conservation and Development Commission to identify significant wetlands under Statewide Planning Goal 5. To comply, a Local Wetlands Inventory (LWI) for the City of Bend was conducted. When approved by the state the LWI will replace the National Wetland Inventory map for the study area. The inventory revealed that there are no known significant Goal 5 wetland resources outside of the riparian corridor of the Deschutes River. The entirety of the Deschutes River within the UGB was evaluated as a single wetland system at the recommendation of the Department of State Lands wetland biologist. Within this system, ten specific wetland units have been inventoried that meet the state criteria for significance, meaning that the city must meet the state goals for protecting it. This may be accomplished through a new wetland protection ordinance or by modifying existing river corridor regulations. A summary of the LWI methodology and findings are located in this document. The complete City of Bend Local Wetlands Inventory is separately bound.

Goal 5 Wetlands Defined

Wetlands are areas that are inundated or saturated with water long enough to support plants that are adapted to life in saturated soils. Wetlands share three common characteristics:

- **Water** in abundance over a period of time. The prolonged seasonally or permanently saturated area creates the wetland (developing hydric soil that support wetland plants)
- **Hydric soils** are distinctive soils formed by saturated conditions
- **Wetland plants**, or "hydrophytes" are water loving plants with special adaptations for living in hydric soils.

Local governments are required conduct an inventory to identify, classify, and protect significant wetland areas. The standard Goal 5 inventory methodology does not apply for wetlands. Instead, local governments are required to conduct a systematic survey called a Local Wetlands Inventory (LWI). Wetland functions to be evaluated in the LWI include wildlife and fish habitat, water quality and floodwater retention.

At the conclusion of the LWI process, the city is required to develop programs to protect significant Goal 5 wetland resources if such programs do not already exist. The city must coordinate with appropriate state and federal agencies when adopting programs intended to protect wetland resources. Wetlands are the only Goal 5 resource with a state-mandated set of criteria to determine if the resource is significant. The criteria are outlined in the next section.

Locally Significant Wetland Criteria

Wetlands are the only Goal 5 resource with a specific methodology to determine whether or not the resource is significant. A summary of the methodology follows. For the

complete administrative rule for identifying significant wetlands refer to OAR 141-86-300 in the separately bound Goal 5 Reference Material.

Exclusions

Wetlands can not be designated as locally significant if they fall within any one of the following categories (list edited for the City of Bend).

Wetlands artificially created entirely from upland that are:

- Created for the purpose of controlling, storing, or maintaining stormwater
- Ditches without a free and open connection to natural waters of the state and which do not contain food or game fish
- Less than one acre in size and created unintentionally as the result of:
    - Irrigation water overflow or leakage; or
    - Construction activity not related to compensatory mitigation for permitted wetland impacts; or
- Of any size and created for the purpose of wastewater treatment, farm or stock watering, settling of sediment, or as a golf course hazard.

Significant Criteria

A local government must identify a wetland as locally significant if it meets one or more of the following criteria:

1. The wetland performs any one of the following functions at the levels indicated below using the Oregon Freshwater Wetland Assessment Methodology (OWFAM):
    - "Diverse" wildlife habitat; or
    - "Intact" fish habitat; or
    - "Intact" water quality function; or
    - "Intact" hydrologic control function.

2. The wetland is less than one-fourth mile from a water body listed by the Department of Environmental Quality as water quality limited (303 (d) list), and the wetland's water quality function is described as "intact" or "impacted or degraded" using OFWAM. A local government may determine that a wetland is not significant under this subsection if the wetland does not provide water quality improvements.

3. The wetland contains one or more rare plant communities as defined by OFWAM.

4. The wetland is inhabited by a federal threatened or endangered, or a state sensitive, threatened or endangered species, unless the appropriate state or federal agency indicates that the wetland is not important for the maintenance of the species.

5. The wetland has a direct surface water connection to a stream segment mapped by the Oregon Department of Fish and Wildlife as habitat for indigenous anadromous salmonids, and the wetland is determined to have "intact" or "impacted or degraded" fish habitat function using OFWAM.

Safe Harbor Method

Once a wetland has been determined to be significant the city must either conduct an ESEE analysis or use the safe harbor method to protect the wetlands. Under the safe harbor the city is required to adopt an ordinance to protect significant wetlands. It must

include restrictions on grading, excavation, placement of fill, and vegetation removal other than perimeter mowing and other cutting necessary for hazard prevention; and includes a variance procedure to consider hardship variances and claims of map error. See Goal 5 Reference Material (660-023-0100(4)) for the complete text.

Inventory Methodology

A Local Wetlands Inventory (LWI) was conducted for the City of Bend in accordance with the standards and procedures in the Oregon Administrative Rules (141-086-0110). The LWI is a separately bound document titled City of Bend Local Wetland Inventory.

The inventory and mapping process was fully documented in order to ensure accuracy and consistency throughout the process. Documentation includes:

- Wetland determination procedures used
- Dates and scales of source maps and air photos used
- Technical staff members and qualifications
- Field data sheets for each wetland field-verified, including wetland code, and for all sites sampled that failed to meet wetland criteria
- Field maps, sample plot, notes, any measurements taken and topographical maps with wetland determinations

Maps and resources consulted for the City of Bend LWI include:

- US Soil Conservation Service county soil survey
- National Wetlands Inventory map
- FEMA floodplain maps
- USGS topographic map 7.5 minute series, Bend Quadrangle
- Color aerial photos dated June 2000. 1 inch = 1680 feet
- Color aerial photos dated August 1998
- Topographic maps 1 inch = 100 feet prepared by City of Bend
- Existing Conditions Report in the Bend Riverway, A Community Vision
- Other resources located in the Reference section of this document

Agencies and local knowledge consulted include:

- Oregon Department of Fish and Wildlife
- Deschutes County
- Local Knowledge individuals – at early public involvement meeting
- Local Knowledge Groups:
  1. ARLU-DeCo, Bob Bates
  2. Central Oregon Audubon Society, Chris Carey
  3. Deschutes Basin Land Trust, Brad Chalfant
  4. Deschutes Soil and Water Conservation District, Jeff Rola
  5. Friends of Bend, John Neilson, Liz Rewick
  6. High Desert Ecological Research Institute, David Dobkin
  7. Morrow Planning, Catherine Morrow
  8. Natural Areas Association, Reid Schuller
  9. Oregon Native Plant Society, Stu Garrett
  10. Oregon Natural Desert Association, Tim Lillebo
  11. Sisters Forest Planning Association, Paul Dewey

12. Upper Deschutes Watershed Council, Barbara Lee

To begin the inventory process, information on wetlands within the City of Bend Urban Growth Boundary was compiled onto one working map. The information included:

- Wetlands identified from the National Wetlands Inventory map greater than ½ acre
- Riparian wetlands identified in the Bend Riverway Existing Conditions Report;
- Hydric soil information from the US Soil Conservation Service county soil survey ;
- Floodplain location information from FEMA;
- Wetlands or possible wetlands identified from air photos
- Golf course locations
- Irrigation canal locations
- Sites to check based on local knowledge

Each potential wetland was assigned a unique number. All wetlands and possible wetlands were then field verified by Riverway staff (see the LWI for staff qualifications.) All wetlands were classified by type according to the U.S. Fish and Wildlife Service's Classification of Wetlands and Deepwater Habitats of the United States (Cowardin classification). The OFWAM manual questions were completed in the field for all riparian wetlands. Each site was photographed.

All of the identified non-riparian wetlands and golf hazards were field checked and those that were less than one acre and artificially created met the exclusion criteria. For these sites a modified short form was filled out for each site that documented use and hydrologic source. The modified form includes information on the function of the wetland.

Upon completion of the fieldwork, a staff wetland biologist (Dana Field) from the Department of State Lands (DSL) field checked the work. Three field analyses were conducted by DSL, confirming wetland sites.

The LWI consists of a summary report with referenced data sheets, maps and photos. It is organized by the following categories:

- Riparian wetlands
- Non-riparian wetlands greater than 1 acre
- Non-riparian wetlands less than 1 acre
- Golf hazards less than one acre

A summary sheet was prepared for each wetland for inclusion in the LWI. The summary sheet includes:

- Individual wetland code
- Street address or equivalent sufficient to locate site
- Public Land Survey identifier (Township, Range, Section, Quarter Section)
- Approximate wetland size (in acres)
- Wetland Classifications (Cowardian system)
- Soil type(s)
- Hydrologic basin
- Description of wetland, including dominant plant community or communities
- Affected tax lots
- Hydrology source and use of artificially create wetland
- Field verification date(s)

All identified wetlands greater than 0.5 acres were located generally on a map included in the LWI. Mapping for non-excluded wetlands (riparian wetlands and non-riparian wetlands greater than 1 acre) was done on topographical maps (1 inch = 100 feet) at an accuracy of approximately 25 feet. The approximate acreage for each wetland was calculated.

The OFWAM manual questions were completed for all riparian wetland units. Each site was photographed. Each riparian wetland unit boundary was determined and mapped on topographical maps scaled 1 inch equals 100 feet. The wetland determination was conducted by city and Riverway staff by analyzing the vegetation and topographical breaks. A check of this work was conducted by DSL staff.

Inventory Results

After careful analysis of aerial photos, the National Wetlands Inventory and soils map, discussions with those with local knowledge, and extensive fieldwork it was concluded that there are no known Goal 5 wetland resources within the City of Bend's UGB other than those within the riparian corridor of the Deschutes River. There appear to be no significant wetlands in the upland areas of the UGB.

As for the wetlands along the Deschutes River, DSL staff determined that the entire river corridor is a hydrologically connected wetland system that should be treated as a whole. This corridor supports ten specific wetland units that meet the definition of significant as defined by the state. These significant wetlands are shown on the map on p. 48. According to Goal 5, wetlands that meet the definition of significant must be protected.

A quick summary of the inventory results is as follows:

- The Deschutes River corridor is treated as one wetland system
    - The wetland system fit the criteria of a significant wetland
    - The wetland system was divided into three wetland areas (A, B, and C) and inventoried
    - 10 wetland units were inventoried in the riparian area
- 8 non-riparian wetlands greater than 1 acre were inventoried
- 39 non-riparian wetlands meeting the exclusion criteria were inventoried
    - 20 non-riparian wetlands less than 1 acre
    - 19 golf hazards less than 1 acre
- All non-riparian wetlands met the exclusion criteria (due to size or hydrologic source)
- No riparian wetlands were found on Tumalo Creek (only about ¼ mile of the creek is within the UGB. There are many wetlands on the creek outside the UGB.)

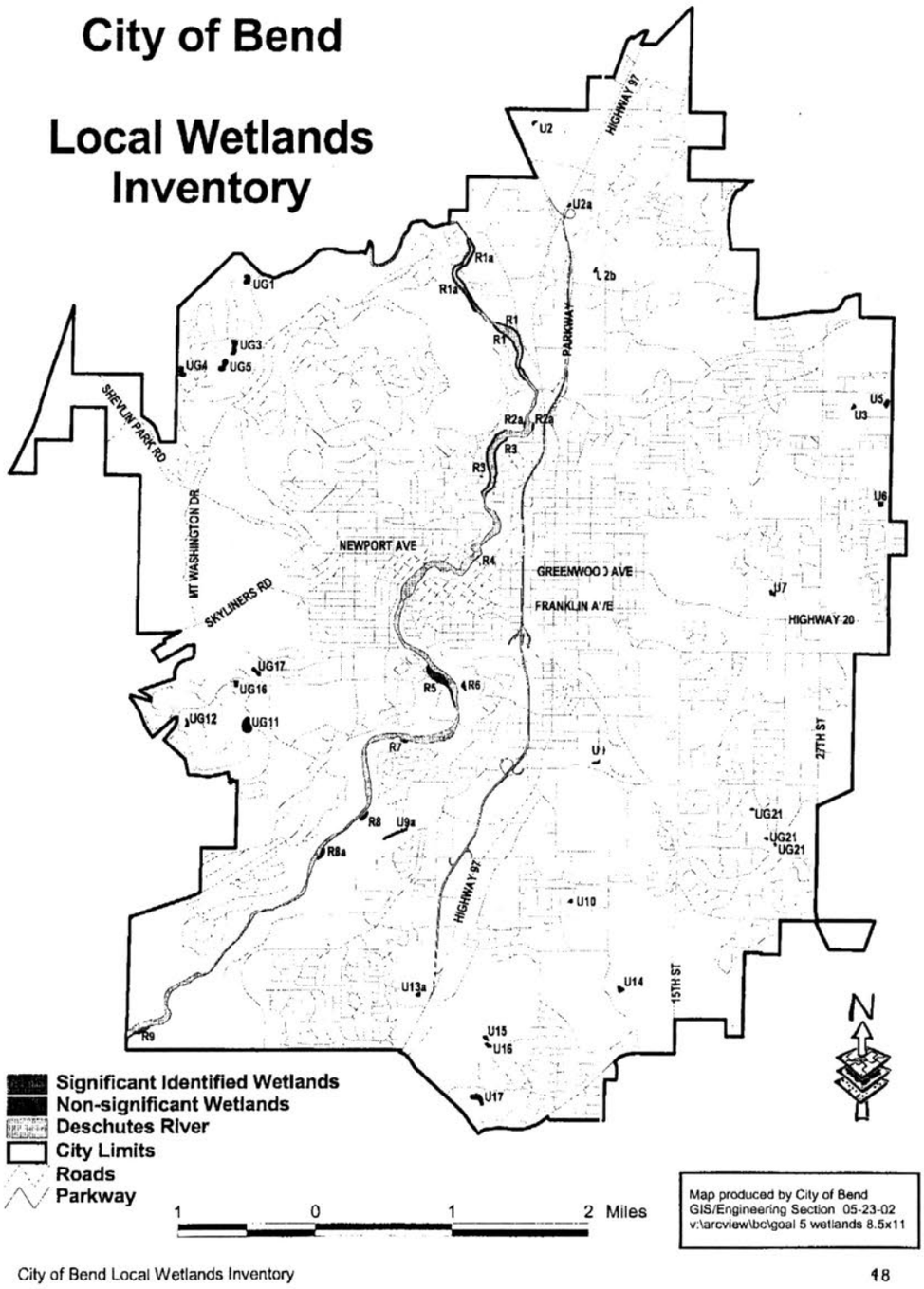
All identified non-riparian wetlands greater than ½ acre were inventoried including irrigation ponds, golf hazards, wastewater treatment facilities, ornamental ponds, and areas where irrigation conduits have leaked. All appeared to be artificially created entirely from upland and fed by irrigation water based on pipes and ditches nearby. Bend's non-riparian wetlands fall into the following categories, which are excluded, from being significant Goal 5 resources:

Wetlands artificially created entirely from upland that are:

- Created for the purpose of controlling, storing, or maintaining stormwater
- Less than one acre in size and created unintentionally as the result of:
  -Irrigation water overflow or leakage; or
- Of any size and created for the purpose of wastewater treatment, farm or stock watering, settling of sediment, or as a golf course hazard.

Some of these ponds have well developed wetland vegetation. They may be very old as irrigation began in about 1904. Some have been prevented from establishing wetland vegetation through maintenance practices. It is possible that some may be have been wetlands, wet meadows or low spots in the topography prior to the routing of irrigation water. If the hydrology is altered (leaky conduits fixed, water diverted away from the site, etc.) and a wetland remains over time (without an artificial source of water), it may be a significant Goal 5 resource. It is possible, but not likely that any of these artificially created areas will persist without irrigation water based on the soils map which does not indicate any wetland soils away from the river.

The map titled "Identified Wetlands" shows all the wetlands that were inventoried or investigated for inventory. (Those determined by the GIS analyst at Deschutes County to be under 1/2 acre are shown on the map, but were not inventoried.) Refer to the LWI for detailed inventory information on the non-riparian wetlands that did not meet the criteria for significant wetlands. The remainder of this section will focus on those wetlands that meet the criteria for significant wetlands in Bend.



City of Bend Local Wetlands Inventory

Wetland Functions
Wetlands provide many benefits to people and their environment. They can function to help control floods, enhance water supplies, improve water quality and provide diverse wildlife habitat. Using the OFWAM methodology, wetlands in Bend were evaluated based on the following functions:

- Wildlife Habitat
- Fish Habitat
- Water Quality
- Hydrologic control
- Sensitivity to impact
- Enhancement potential
- Education value
- Recreation value
- Aesthetic quality

Deschutes River Riparian Wetlands
The only wetlands meeting the definition of significance as Goal 5 resources are found within the Deschutes River riparian corridor. In fact the entire riparian corridor is considered a single wetland system for the purpose of the Local Wetland Inventory. The corridor includes ten significant wetland units within the riparian area boundary. The corridor is measured from and includes the upland edge of these wetlands.

The river was divided into three areas for inventory purposes. The inventory areas match the riparian reaches (South Canyon, Pioneer, and Awbrey) are mapped and described in detail in the Inventory Results for Riparian Area section of this report. Each reach contains important wetland units that are described below. Much more detail, including the complete OFWAM information, is available in the separately bound Local Wetland Inventory.

South Canyon Reach - Wetland A
Location: From south UGB to the approximate location of the proposed Southern Crossing bridge.

There are three wetland units that are particularly well developed. They are described below. See the map titled "South Canyon Reach Riparian and Wetland Area" and the description of the South Canyon reach in the Inventory Results section of Riparian Areas. Please refer to the LWI for complete information.

South Canyon Reach Wetland Units

Legend: W: west; E: east; B: both sides of river

Name	Map Code	Location	Description	Approx. Size in Acres
South UGB	R9	At south UGB, primarily on E side of river	Includes a pond created by dredging. Osprey nest on W side of river. Extends beyond UGB. Area on both sides of river currently undeveloped.	Land 2.5 Water 5
North COID	R8a	Across from south end of Mt. Bachelor Village, primarily on E side of river	Evidence of flooding, dense scrub-shrub. Knapweed infestation in adjacent upland. No development nearby.	Land 1.5 Water 2
COID Hydro Plant	R8	Adjacent to COID hydro plant on E side of river, across from Mt. Bachelor Village – primarily on E side	Well-developed wetland located at point water is returned to river from hydro- plant. Evidence of flooding. Only development is hydro- plant.	Land 1 Water 2.5

Pioneer Reach – Wetland B

Location: From approximately location of the proposed Southern Crossing bridge to the North Canal Dam

There are five wetland units that are particularly well developed. They are described below. See also the description of this Reach in the Inventory Results section of Riparian Areas. Please refer to the LWI for complete information.

Pioneer Reach Wetland Units

Legend: W: west; E: east; B: both sides of river

Name	Map Code	Location	Description	Approx. Size in Acres
Log Deck	R7	At (old) Log Deck footbridge, primarily on E side of river downstream from bridge	Very small wetland area. Wildlife (otter, muskrat, mink) seen often. Much enhancement potential. Will be part of new park.	Land <1 Water 8.5
Colorado Street	R5	Upstream from Colorado St. bridge, primarily on W side of river	Created by Colorado St. dam built in 1916 for log storage. One of two large, high quality wetlands in study area. Very natural, but quite hidden although next to busy road. Birding & education opportunities.	Land 6.5 Water 11
Bend Hydro-plant	R4	Downstream from Newport bridge, adjacent to Elks building, primarily on E side of river	Small wetland area created by Bend Hydroproject, built in 1910. Parking lot adjacent to riparian edge.	Land 1 Water 1.1
1st Street	R3	From 1st Street on W and Revere on E, continuing on both sides of river to River's Edge Golf Course	One of two large, high quality wetlands. Formed by the backup of North Canal Dam. Significant diversity, high quality wildlife habitat. Protected from development by rock cliffs on E, river trail on W. Dominated by scrub-shrub with well forested upland adjacent. Serious invasion of yellow iris.	Land 5 Water 10
Riverview Park	R2a	Upstream of North Canal Dam, primarily on E side of river	Smaller wetland caused by North Unit dam built in 1920. Wildlife (otter, osprey) seen frequently. Undeveloped on W, busy road on E – but at higher elevation.	Land 2.5 Water 3

Awbrey Reach Wetland C

Location: From the North Canal Dam to the north UGB (located on the river just west of the Mt. Washington ravine)

There are two wetland units that are particularly well developed. They are described below. See also the description of this reach in the Inventory Results section of Riparian Areas. Please refer to the LWI for complete information.

Awbrey Reach Wetland Units

Legend: W: west; E: east; B: both sides of river

Name	Map Code	Location	Description	Approx. Size in Acres
Sawyer Park South	R1	Both sides of river from Riverhouse footbridge to Sawyer Park footbridge	Very important natural wetland. Dominated by scrub-shrub but high interspersion with emergents. High quality wildlife habitat. Most protected as park.	Land 5 Water 4.5
Sawyer Park North	R1a	From north end of Sawyer Park to private footbridge in RimRock Subdivision.	Series of smaller wetlands along river. Mostly scrub-shrub. Provides important habitat for wildlife on riparian corridor. Bordered by residential development, but protected by being in canyon.	Land 3 Water 5

OFWAM Summary of Functions and Values

Important Riparian Wetlands adjacent to the Deschutes River and Tumalo Creek

Name	Unit	Wildlife Habitat	Fish Habitat	Water Quality	Hydrologic Control	Sensitivity to Future Impacts	Enhance-ment Potential	Education	Recreation	Aesthetic Quality
South UGB	R9	**Diverse**	Impacted	Impacted	Impacted	Potentially Sensitive	NA	Not appropriate	Not appropriate	Pleasing
North COID	R8a	**Diverse**	Impacted	**Intact**	Impacted	Potentially sensitive	NA	Potential	Potential	Pleasing
COID Hydroplant	R8	**Diverse**	**Intact**	Impacted	Impacted	Potential	NA	Educational	Potential	Pleasing
Log Deck	R7	Some	Impacted	**Intact**	**Intact**	Sensitive	High	Educational	Potential	Pleasing
Colorado St.	R5	Some	Impacted	**Intact**	**Intact**	Potentially	High	Potential	Recreation	Pleasing
Bend Hydroplant	R4	Some	Impacted	Impacted	**Intact**	Potential	High	Potential	Recreation	Moderate
1st Street	R3	Some	Impacted	**Intact**	**Intact**	Potential	NA	Educational	Potential	Pleasing
Riverview Park	R2a	**Diverse**	Impacted	Impacted	**Intact**	Potential	NA	Potential	Recreation	Pleasing
Sawyer Park South	R1	Some	Impacted	Impacted	**Intact**	Potential	NA	Educational	Recreation	Moderate
Sawyer Park North	R1a	**Diverse**	Impacted	Impacted	**Intact**	Potential	NA	Educational	Recreation	Moderate

Bold type indicates the function level meets the criteria for a locally significant wetland. Only one **bolded** function is needed to meet the state requirements for a locally significant wetland.

All of the riparian wetland units meet the criteria for a locally significant wetland.

Regulatory Analysis

This section summarizes the state requirements for wetland protection, reviews the city's current policies and regulations and then compares the two. The purpose of this section is to provide decision-makers and the community with a comparison of what the state requires with what the city already has on the books. The next section, Options for Protection, offers alternatives on how the city might proceed.

What the State Requires

Local governments are required to use criteria and procedures established by the Land Conservation and Development Commission to identify significant wetlands under Statewide Planning Goal 5. The City of Bend must protect significant wetlands as defined by the state. See "Goal 5 Wetlands Defined" in this chapter for more information or refer to OAR 141-86-300.

There are three distinct categories of wetland in Bend. Excluded wetlands, requiring no further protection under Goal 5, wetlands greater than one acre that are not significant, and significant wetlands that require protection.

Excluded Wetlands

All of the non-riparian wetlands under one acre fit the exclusion criteria. All are created unintentionally as the result of irrigation water overflow or leakage; or were created for the purpose of wastewater treatment, farm or stock watering, settling of sediment, or as a golf course hazard.

Wetlands Greater Than One Acre that are Not Significant

There are eight wetlands that are greater than one acre but do not meet the requirements for a significant wetland.

Significant Wetlands

Only the ten wetland units within the Deschutes River corridor met the criteria for significant wetlands. The entire riparian corridor was considered a single wetland system after field review by DSL staff.

Additional Comments on State Requirements

Once approved by the Division of State Lands, the LWI will be used in place of the National Wetlands Inventory (NWI) and will be incorporated into the Statewide Wetlands Inventory (SWI). A LWI fulfills the location and quantity information required for Goal 5 analysis, but not quality. In order to meet the quality information required for Goal 5 analysis, a wetland quality assessment must be conducted. The quality assessment may be conducted in conjunction with the inventory or at a later date.

A LWI provides good information for planning purposes and on location of potentially regulated wetlands, but is not of sufficient detail for regulatory certainty under the state Removal-Fill Law. It is important to note that state and federal regulations apply to wetlands regardless of whether or not they are mapped in the LWI.

When the LWI is approved by the Division, the local jurisdiction shall notify by mail within 120 days all landowners of record whose parcel contains a wetland that: (1) Their parcel(s) was included in the wetlands study area; and (2) There is a wetland mapped on their parcel.

Existing City of Bend Policies
There are no policies specific to wetland protection in Bend's general plan.

Existing City of Bend Regulations
The City has the following regulations specific to wetlands:

Fill and Removal 10.10.25(26)

> ... no person shall fill or remove any material or remove any vegetation, regardless of the amount, within the bed and banks of any stream or river, or in any wetland, unless such fill or removal is approved as a conditional use by the Hearings Body.

Subdivision Code:

> Section 6.015 (3) Street Layout and Cul-de-sacs. ... Cul-de-sacs and dead end streets shall only be permitted when the following conditions are met:
>
> - presence of a wetland or water body which cannot be crossed; or
>
> Section 6.020 (2) Size of Blocks. No block shall be longer than 1,200 feet ... except where street location is restricted by natural topography, wetlands, or other bodies of water.

MR Zone 10.10.21A

> (6)Building and Site Development Standards. (e)(A) Retain and conserve riparian vegetation within the bed and banks of the Deschutes River and adjacent to the river to the maximum extent practicable. There shall be no net loss of natural wetlands adjacent to the river.
>
> Note: Land use decisions are primarily made by local governments, but wetlands are also regulated by both the Oregon Division of State Lands and the U.S Army Corps of Engineers.

Comparison of the State Goal with the City of Bend's Existing Regulations
Excluded Wetlands: Bend's current Fill and Removal regulation may apply to excluded wetlands. There is no criteria excluding them in the code. No further protection is required under Goal 5 unless these areas prove to be natural wetlands when/if the hydrology supporting them is altered or removed.

Wetlands Greater Than One Acre that are Not Significant: Bend's current Fill and Removal regulation may apply to these areas. There is no criteria excluding them in the code. No further protection is required under Goal 5 unless these areas prove to be natural wetlands when/if the hydrology supporting them is altered or removed.

Significant Wetlands: Under the safe harbor the city is required to adopt an ordinance to protect significant wetlands. It must include restrictions on grading, excavation, placement of fill, and vegetation removal other than perimeter mowing and other cutting necessary for hazard prevention; and includes a variance procedure to consider hardship variances and claims of map error. Currently the city has a Fill and Removal ordinance (10.10.25(26)) that applies to wetlands. The setback for Fill and Removal is 10 feet from either side of the wetland edge. There are a couple mentions of wetlands in the Subdivision Code and a no net loss regulation in the MR Zone.

Options for Protection

Because all of the significant wetlands are within the Deschutes River Corridor, the city has the option of using the riparian setback regulations along with other existing regulations to protect wetlands. Depending on changes in the riparian ordinance, wetlands on the river would receive additional protection in the form of building setbacks, buffer area for fill and removal and vegetation removal.

The city also has the option to separate wetland resources from riparian resources and adopt a wetland ordinance. In either case, language should be considered to protect significant non-riparian wetlands in the event one is discovered or an excluded wetland is determined to be a natural wetland.

Wildlife Habitat

Summary

For the purpose of Goal 5, wildlife habitat is defined as a documented area that wildlife depends on for food, water, shelter, and reproduction. Examples include wildlife migration corridors, big game winter range, and nesting and roosting sites. The wildlife inventory for Bend relies upon information provided by Oregon Fish and Wildlife, local experts' previous reports and field visits. If significant wildlife habitat is located, the city is required to develop programs to protect significant wildlife habitat if none exist. ODFW concluded there are no Goal 5 wildlife habitat resources requiring protection in the UGB. ODFW did make number of specific land use and regulatory recommendations to the city for consideration. In addition, local citizens and a wildlife biologist expressed a strong interest in protecting elk and deer winter range within the UGB.

Goal 5 Wildlife Habitat Defined

For the purpose of Goal 5, wildlife habitat is defined as a documented area that wildlife depends on for food, water, shelter, and reproduction. Examples include wildlife migration corridors, big game winter range, and nesting and roosting sites. An area is documented when it is identified on a map published or issued by a state or federal agency or by a professional with demonstrated expertise in habitat identification.

Local governments are required to conduct an inventory of wildlife habitat and then determine if it is significant by following either the safe harbor or standard Goal 5 methodology. See the separately bound Goal 5 Reference Material for the complete rule.

At the conclusion of the inventory process, the city is required to develop programs to protect wildlife habitat if they do not already exist. The city must coordinate with appropriate state and federal agencies when adopting programs intended to protect threatened, endangered, or sensitive species habitat areas.

Inventory Methodology

The wildlife inventory relies upon information provided by Oregon Fish and Wildlife, local experts, and the following local written reports:

- Bend Riverway Existing Conditions Report (an appendix within the Bend Riverway Community Vision.) This report was written in 1999 and provides extensive information about wildlife and habitat along the Deschutes River corridor. The report was the work of a non-profit group guided by a 38 member technical advisory committee that included seven biologists from ODFW, US Fish and Wildlife Service, non-profit agencies and the private sector.
- Bend Urban Land Survey. This report was completed in 1999 and is an inventory and ranking treatment of 33 Areas of Special Interest, the Deschutes River Corridor and Tumalo Creek. Volunteers completed field assessments over a

period of two years. Local and state agencies were involved in designing the methodology employed in the report. Wildlife, vegetation and habitat were identified for all the sites.

Numerous other resources were used and are compiled in the Reference section of this report. As required by the state, the inventory includes a review of current information on:

- Threatened, endangered, and sensitive wildlife species habitat information;
- Sensitive bird site inventories;
- Wildlife species of concern and/or habitats of concern identified and mapped by ODFW (e.g., big game winter range and migration corridors, golden eagle and prairie falcon nest sites, and pigeon springs).

In addition the following work was completed:

- Reviewed current aerial photos for wildlife corridors
- Contacted local wildlife experts:
  - Steven George, ODFW biologist
  - Ted Wise, ODFW fish biologist
  - Bob Davison, Wildlife Management Institute
  - Chris Carey, President, Central Oregon Audubon (and ODFW wildlife biologist)
- Solicited local knowledge from community at public meetings
- Conducted field visits to areas with reported local knowledge on elk habitat, a heron rookery, osprey nests, and quality wildlife habitat in Areas of Special Interest and Deschutes River corridor.

Inventory Results

The Oregon Department of Fish and Wildlife (ODFW) has identified a number of Goal 5 resources in the City of Bend in a recent report requested for this inventory. The report includes five big game species, ten birds, generic non-game species and a variety of habitats as Goal 5 resources. No threatened or endangered species were singled out for protection. The complete ODFW report can be found in Appendix C.

Threatened and Endangered Species

The ODFW inventory for threatened or endangered wildlife or fish species does not include any sites within the City of Bend UGB. Red-band trout is a state listed sensitive species that is found in the Deschutes River. Spotted frog is being considered for listing in the area by the federal government but there is no identified habitat for them within the UGB.

Big Game

Six species of big game that are considered sensitive in the State and are Goal 5 resources were identified by ODFW in Deschutes County. Antelope are listed for the county, but are not found in the UGB.

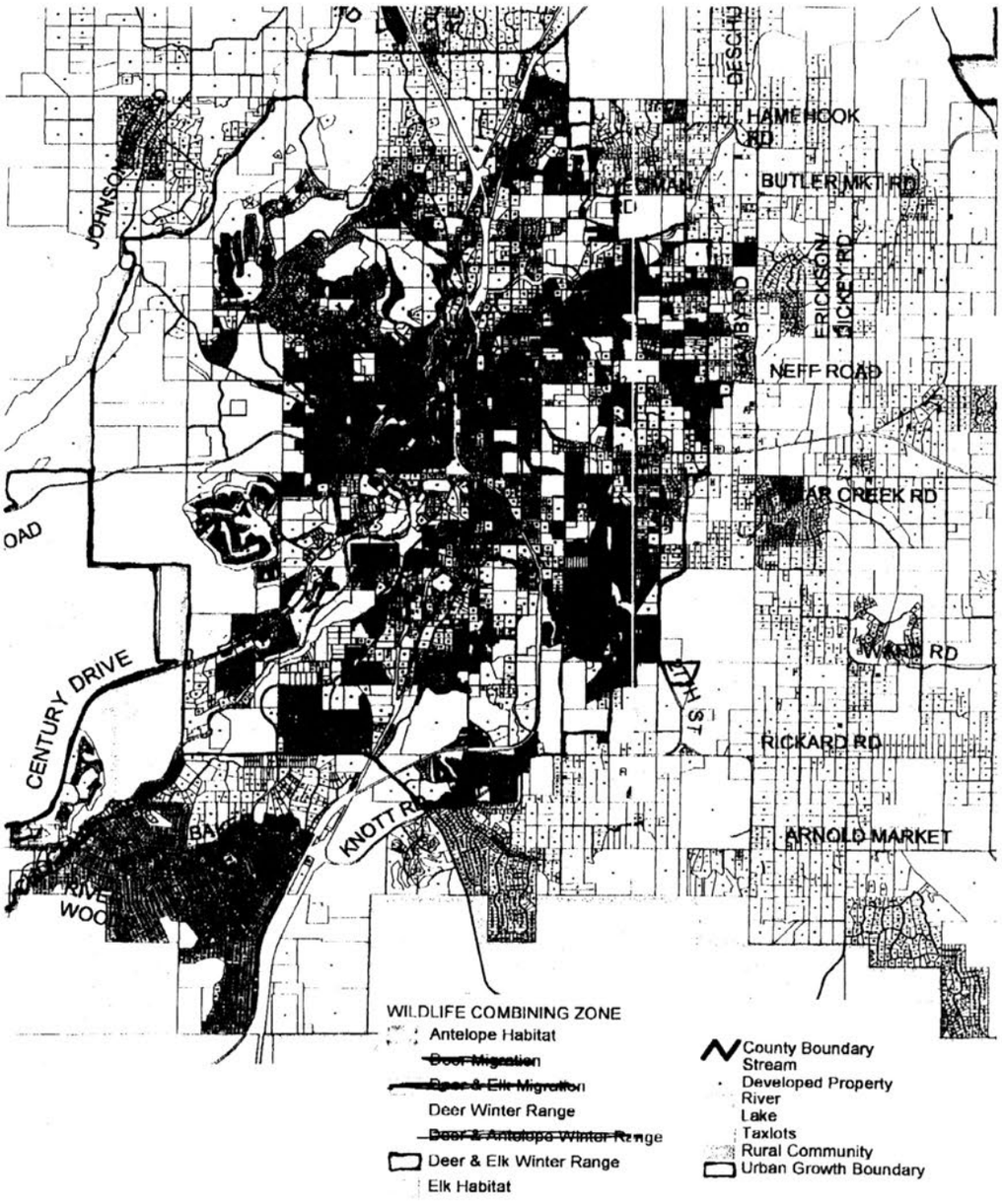
Big Game Resources

Resource	Resident w/in UGB	Occasional w/in UGB	Population Estimate in County*	Comment
Antelope	No	No	600	Population declining
Black bear	No	Yes, rarely	100	
Cougar	No	Yes, rarely	50	Populations increasing
Elk	No	Yes, primarily in southern & western fringes in winter (December to May)	1,000	Populations increasing
Mule deer	Yes	Yes	25,000	
Silver grey squirrel	Yes, common	Yes	500	

*Estimate for Deschutes County, 2000. Source ODFW

The ODFW report states that there are no Goal 5 big game habitats that need protection within the city limits of Bend. Deschutes County has adopted ordinances with the aim of protecting big game habitats directly adjacent to the city limits. The ODFW reports states "these habitats are extremely important to the overall health of these big game herds and are extremely critical to our ability to manage these herd at the levels the public desires." The report further states that the county ordinances are adequate but are not practical for the city to adopt.

ODFW Wildlife Habitat Map



Bob Davison, a local wildlife biologist and Northwest Field Representative of the Wildlife Management Institute wrote with comments on big game habitat. For the purposes of this inventory, Mr. Davison is recognized as a professional with demonstrated expertise in habitat identification under OAR 660-023-0110.

Mr. Davison states that the area locally known as "Elk Meadow" in the southwest corner of the UGB should be evaluated and included in the Goal 5 inventory. He notes that Elk Meadow encompasses roughly 320 acres, of which approximately 200 acres are valuable as big game winter range. The following is an excerpt from Mr. Davison's letter. The entire letter is located in Appendix C.

"About 200 elk utilize this site and the surrounding general area in the winter. The site also is heavily utilised by mule deer as winter range. Big game winter range, particularly elk winter range, within Bend's Urban Growth Boundary (UGB) is very limited and becoming increasingly rare and degraded. While elk occasionally utilize other areas along the western and southern fringes of the City, no other location within the City of Bend regularly provides anywhere close to as much winter range for as many elk as the 200 acres in the vicinity of Elk Meadows.

"The big game winter range in the vicinity of Elk Meadows is significant wildlife habitat within the City of Bend's UGB. No other comparable site for these Goal 5 resources exists within the UGB. Under OAR 660-023-0110, wildlife habitat inventory information shall include habitats of concern, such as big game winter range, identified and mapped by the Oregon Department of Fish and Wildlife (ODFW.)"

"*According to the ODFW, the loss of the 200 acres of big game winter range in the vicinity of Elk Meadows "will reduce the capacity of this area to winter elk and reduces the number of elk that could winter in this area." The effect of any loss of this big game winter range is that "the population may have to be reduced" to keep its numbers in balance with what the remaining habitat can support. Such consequences would be significant to the continued existence of these Goal 5 resources within the City of Bend.*

"The cumulative effects on big game winter range and other Goal 5 resources also are significant and increasing. Throughout the West and in the Bend area, the big game habitat in greatest jeopardy is that which is at relatively low elevation and at the wildland/urban interface, such as the big game winter range in the vicinity of Elk Meadows. Evidence is increasing that the greatest effects to these habitats result not from the direct effects of a particular action, but from the combination of individually minor effects of multiple actions over time. The ODFW has stated that there already "has been tremendous impact to fish and wildlife resources in this area from human disturbance."

Local citizens also identified elk and deer winter range in the southern and western edges of the UGB. Riverfront property owners in the south end of the UGB have consistently reported viewing between 10 and 70 members of the Benham Falls elk herd feeding in the winter months in an area known locally as "Elk Meadow." The elk are present on and off on both sides of the river from late December to late April or early May, presumably depending on the snow pack in the higher elevations. In fact, as this report is being written (the second week in December, 2000) there have been several sightings of about a dozen elk moving into the UGB and an elk was killed by a vehicle on Century Drive near Widgi Creek.

Local residents report that the elk follow specific routes on both sides of river. The area was burned in 1990 during the Awbrey Hall fire and the habitat changed significantly from a forested area to an open meadow. The area on the eastside of the river has been recognized as a wildlife refuge in the past and the owner has received special tax credit for many years for protecting the area. Both sides of the river are within a city designated Area of Special Interest (#33) and is within the State Scenic Waterway. The area was recently annexed into the city and a large development has been proposed for the area on the east side of the river. The ODFW report states that "Human activities have been documented to have a negative effect on these big game habitats."

Birds

The following is a list of birds that use habitat in Deschutes County. The list was compiled by ODFW and represents birds that are especially sensitive to human activity.

- Coopers hawk
- golden Eagle
- goshawks
- great blue heron
- northern Bald Eagle
- osprey
- peregrine falcon
- prairie falcon
- sharp-shinned hawks
- spotted owl

The ODFW states that there are currently no bird habitat sites within the City of Bend UGB that need protection from conflicting uses.

In addition to the sensitive bird species identified by ODFW, there are many birds frequenting the Bend area. There are at least three active osprey nests in the river corridor in the UGB. Osprey are a Goal 5 resource. Two nests are human-built platforms and one appears to be a natural nest. Our area provides important migratory bird habitat in the winter. The following list was compiled by Chris Carey, President of the Central Oregon Audubon Society for the Bend Riverway in 1999.

Birds of the Deschutes River in Bend, Oregon

Abundance Symbols:

C: Common, certain to be seen in suitable habitat
U: Uncommon, may be present only during appropriate season and habitat
R: Rare, a few seen most years in appropriate season and habitat
A: Accidental, seen fewer than ten times since records have been kept

Seasonal Use Symbols:

R: Resident, occurs all year, nests nearby
M: Migrant, seen mostly in migration or nests away from river corridor
B: Breeds and nests in general vicinity of river

Bird Inventory

Type	Species	Abundance	Seasonal Use
Loons & Grebes	Pied-bill Grebe	O	M
Pelicans, Herons	American white pelican	A	M
	Double-crested Cormorant	C	M
	Great blue heron	C	R
Waterfowl	Tundra swan	R	M
	Mute swan	C	R
	Trumpeter swan	C	R
	Canada goose	C	R
	Wood duck	U	M
	Green-wing teal	U	M
	Mallard	C	R
	Northern pintail	U	M
	American wigeon	C	R
	Ring-neck duck	U	M
	Common goldeneye	U	M
	Barrow's goldeneye	R	M
	Bufflehead	U	M
	Hooded merganser	U	M
	Common merganser	U	M
Raptors	Turkey vulture	U	M
	Osprey	C	B
	Bald eagle	U	M
	Northern harrier	R	M
	Sharp-shinned hawk	U	R
	Cooper's hawk	U	R
	Red-tailed hawk	U	R
	American kestrel	U	R
	Merlin	R	M
	Peregrine falcon	A	M
	Prairie falcon	R	M
Gallinaceous birds	California quail	C	R
Rails, Cranes	American coot	U	M
Shorebirds	Killdeer	C	R
	Spotted sandpiper	U	B
	Common snipe	U	B

Type	Species	Abundance	Seasonal Use
Gulls, Terns	Ring-billed gull	U	M
	California gull	U	M
	Caspian tern	R	M
Doves	Rock dove	C	R
	Mourning dove	C	R
Cuckoos	Yellow-billed cuckoo	A	B
Owls	Great horned owl	C	R
	Northern Saw-whet owl	R	R
	Pygmy owl	R	B
Nighthawks, Swifts	Common Nighthawk	C	B
	Vaux's Swift	U	M
Hummingbirds	Anna's hummingbird	U	B
	Rufous hummingbird	C	B
	Costa's hummingbird	A	B
Kingfisher	Belted kingfisher	U	R
Woodpeckers	Red-naped sapsucker	U	R
	Downy woodpecker	U	R
	Hairy woodpecker	U	R
	Northern flicker	C	R
Flycatchers	Olive-sided flycatcher	U	M
	Western wood-pewee	C	B
	Hammond's flycatcher	U	M
	Dusky flycatcher	U	M
Swallows	Tree swallow	C	B
	Violet-green swallow	U	M
	N. rough-winged swallow	U	M
	Bank swallow	U	M
	Cliff swallow	C	B
	Barn swallow	U	B
Jays, Magpies, Crows	Steller's jay	C	R
	Scrub jay	R	R
	Pinyon jay	U	R
	Clark's nutcracker	U	R
	Black-billed magpie	C	R
	American crow	U	M
	Common raven	C	R
Chickadees, Bushtit	Mountain chickadee	C	R
	Bushtit	U	R
Nuthatches, Creepers	Red-breasted nuthatch	C	R
	White-breasted nuthatch	U	R
	Pygmy nuthatch	C	R
	Brown Creeper	U	R
Wrens, Dipper	Rock wren	U	B
	House wren	C	B
	American dipper	U	R
Kinglets	Golden-crowned kinglet	C	R
	Ruby-crowned kinglet	C	R
Bluebirds, Thrushes	Western bluebird	U	M
	Mountain bluebird	U	M
	Townsend's solitare	U	R
	Hermit thrush	U	B
	American Robin	C	R
	Varied thrush	U	M

Type	Species	Abundance	Seasonal Use
Waxwings	Bohemian waxwing	U	M
	Cedar waxwing	U	R
Starling	European starling	U	R
Vireos, Warbler	(Solitary) vireo		
	(Warbling) vireo		
	Orange-crowned warbler	C	M
	Yellow warbler	C	B
	Yellow-rumped warbler	C	R
	Black-throated gray warbler	U	M
	Townsend's warbler	U	M
	MacGillivray's warbler	U	B
	Wilson's warbler	C	M
Tanager, Grosbeak	Western tanager	U	B
	Black-headed grosbeak	U	B
	Lazuli bunting	U	M
Towhee, sparrows	Green-tailed towhee	U	B
	Spotted towhee	C	R
	Fox sparrow	U	B
	Song sparrow	C	R
	Lincoln sparrow	U	M
	Golden-crowned sparrow	U	M
	White-crowned sparrow	C	M
	Dark-eyed sparrow	C	R
Blackbirds, Orioles	Red-winged blackbird	C	B
	Western Meadowlark	U	B
	Yellow-headed blackbird	U	B
	Brewer's blackbird	C	B
	Brown-headed blackbird	C	B
Finches	Cassin's finch	C	R
	House finch	C	R
	Red Crossbill	C	R
	Pine siskin	C	R
	Evening grosbeak	U	R
Weaver Finch	House sparrow	C	R

Source: Chris Carey, 1999

Habitat

Habitats that are identified by ODFW as providing a tremendous amount of habitat for a diverse range of wildlife species are:

- Wetlands
- River corridors
- Areas of Special Interest
- Open spaces

The ODFW report notes that these areas have extremely high value for wildlife and measures should be established to protect these areas from human development. Wetland and river corridors have been identified and inventoried for this report. Areas of Special Interest have been inventoried in the Bend Urban Land Survey.

Wildlife habitat describes what wildlife needs to live: food, water, and shelter or cover. Habitat varies for each kind of wildlife species, but in general good habitat includes water; vegetative cover in all kinds of types and sizes like grasses, shrubs, trees or rocks,

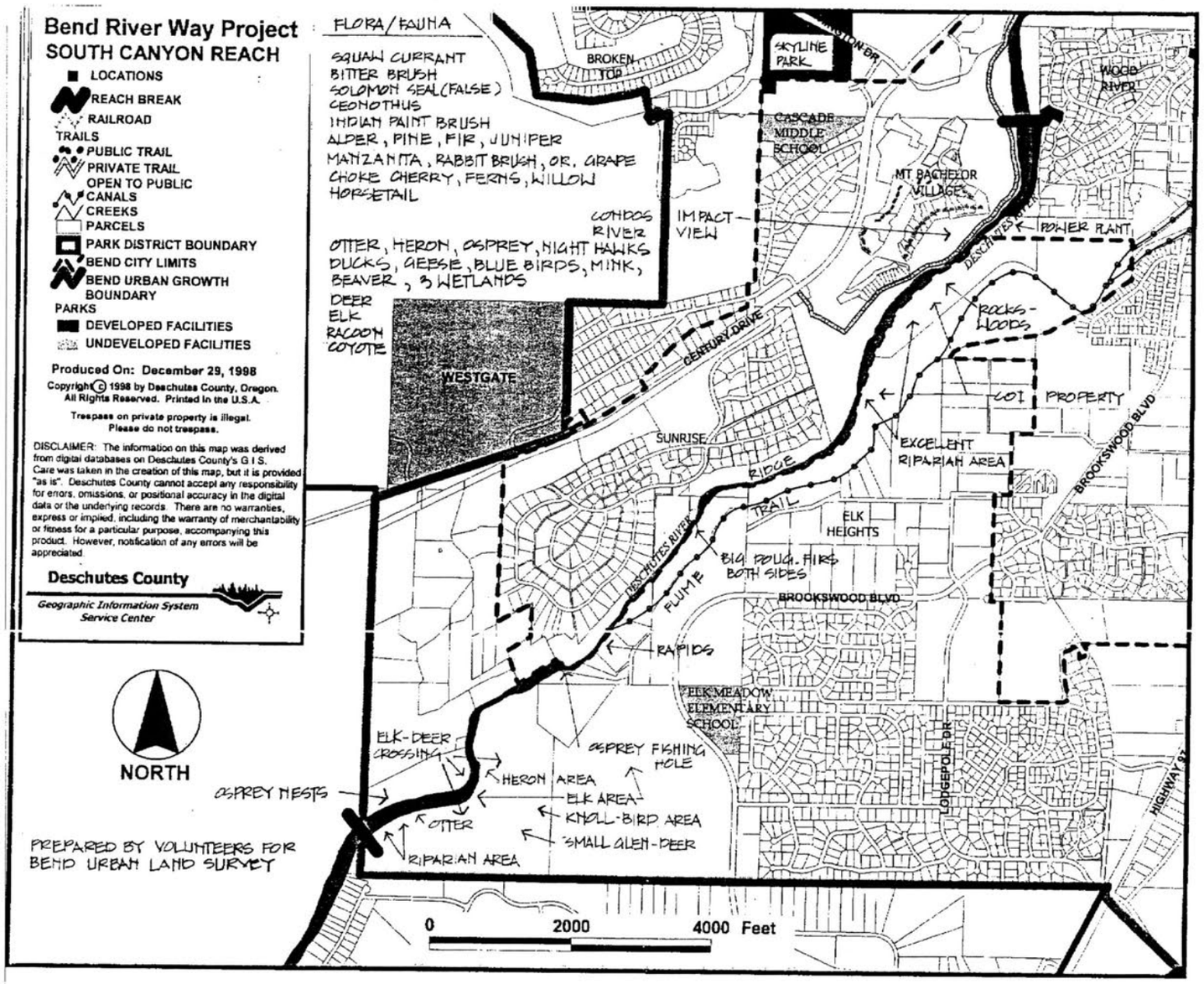
cliffs, snags or other good hiding places; and food. Food can either be the plants themselves or, in the case of predators, prey that is available in and around the habitat area. Poor quality wildlife habitat would be an area with no water, lacking vegetation or having only a few kinds of plants.

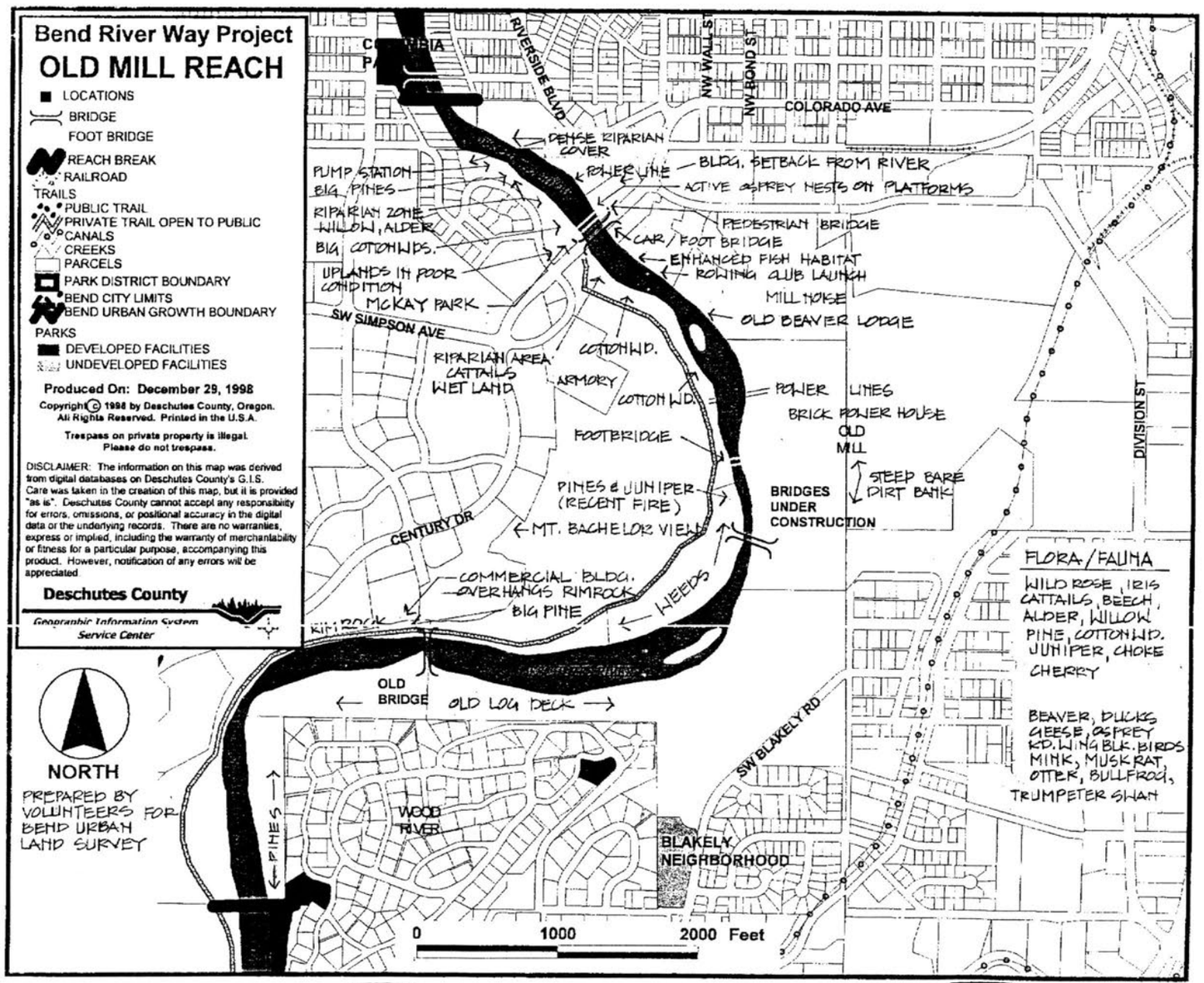
There is some very good quality wildlife habitat along the river. In particular the three large riparian wetland units identified and mapped in the Local Wetland Inventory as Colorado, 1st Street and Sawyer South (Map codes R5, R3, & R1) provide diverse, high quality habitat. The connecting riparian and wetland vegetation make the entire river area a good corridor for wildlife to move up and down.

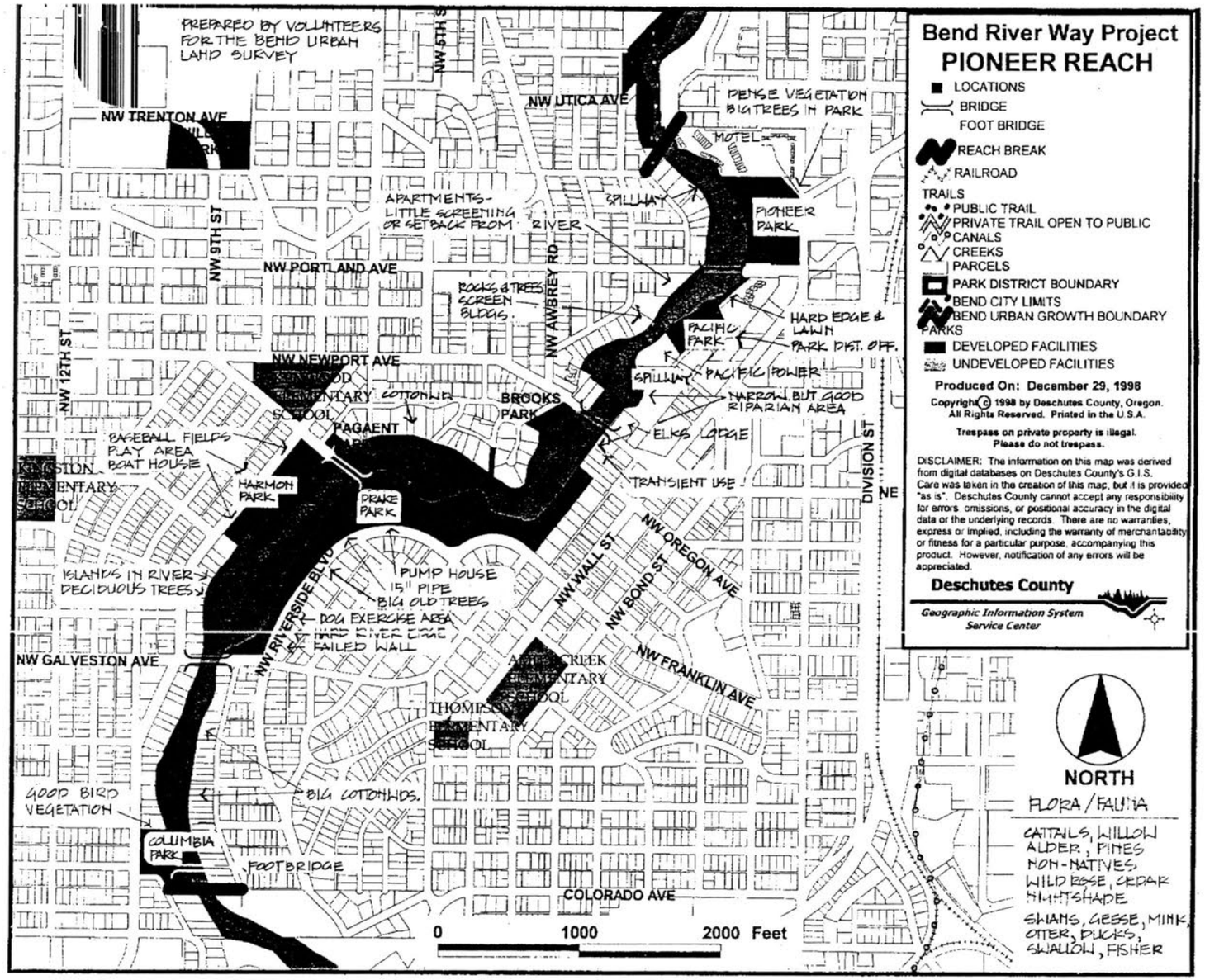
Areas of low quality habitat include those with concrete walls along the river and large lawns. Large mature trees and snags are a missing component along much of the river (with the exception of some of the parks.) Snags and mature trees can provide necessary perches and nesting habitat including cavity nests. Overhead wires are of concern for the safety of birds. Birds use the river corridor like a highway and on rare occasion birds contact the overhead wires and become injured or die.

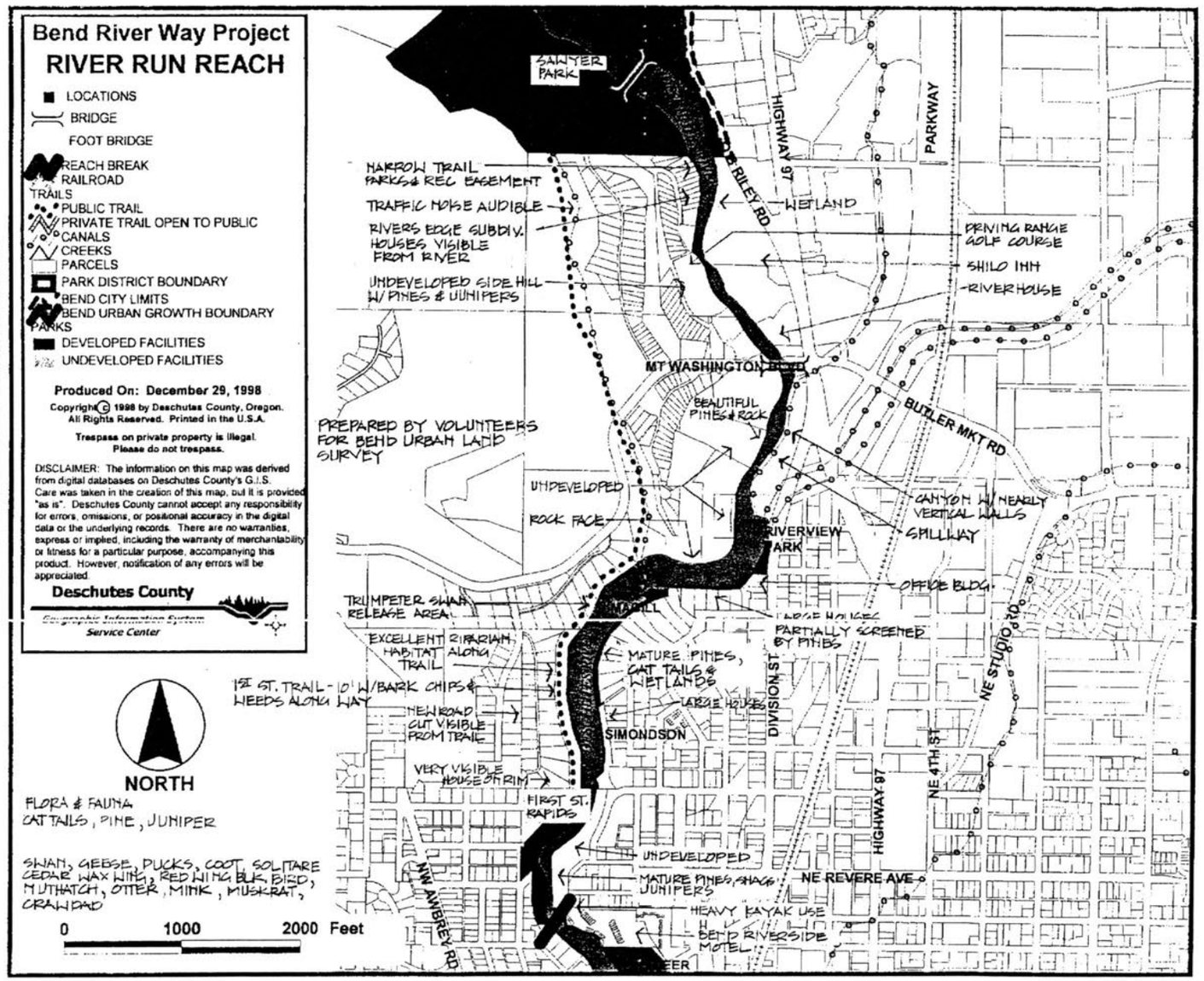
Please refer to the Inventory Results in the riparian chapter for descriptions of areas and features in the river.

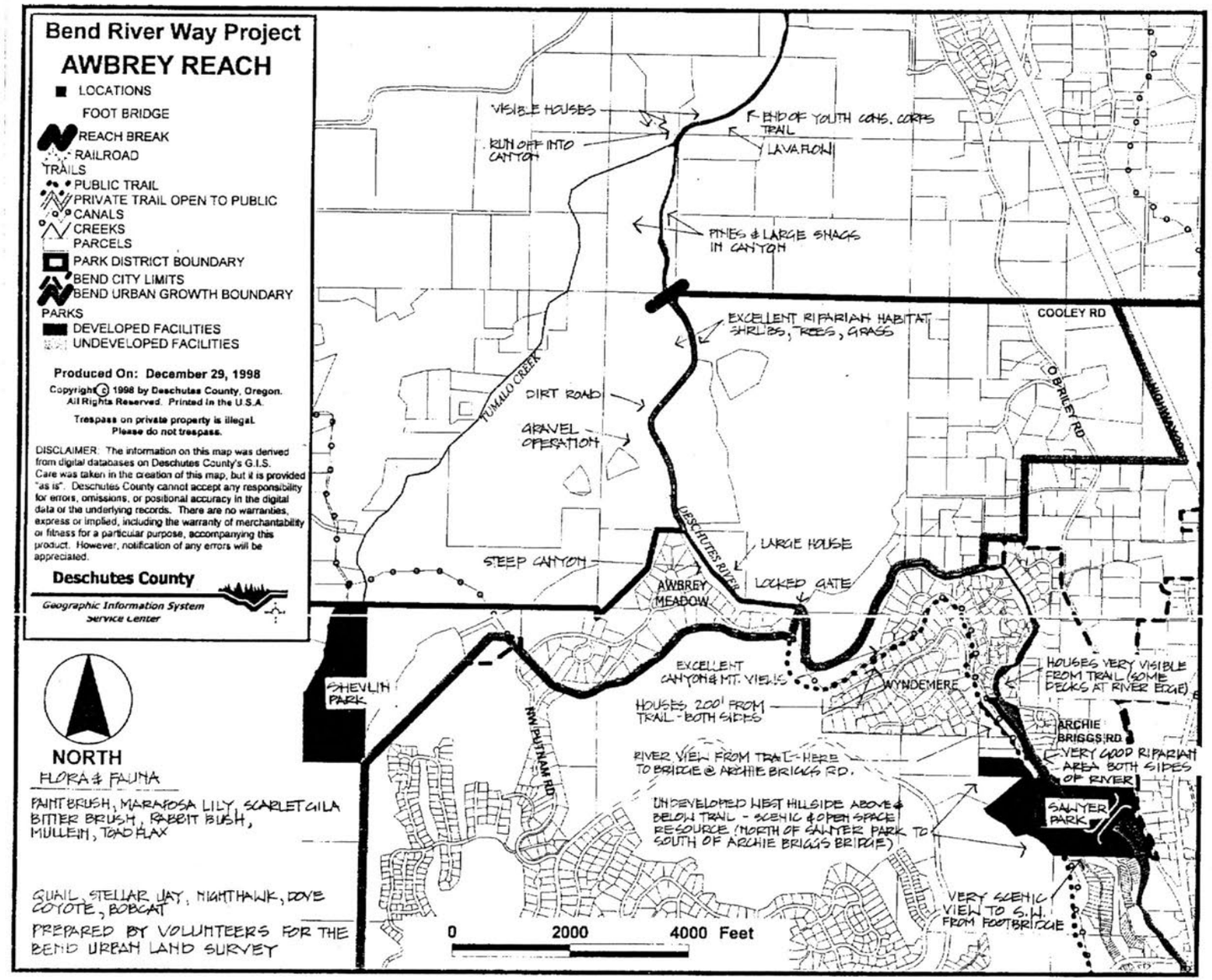
The following maps were prepared by volunteers for the Bend Urban Land Survey and show habitat, known wildlife areas, and vegetation in the river corridor. These maps do not have a complete list of plants or wildlife in the area but focus on what each reach is known for and unique species that are seen regularly in the area. The Reach breaks on these maps are slightly different than in the remainder of this report. There are five Reaches instead of three.


Bend River Way Project
SOUTH CANYON REACH
LOCATIONS
REACH BREAK
RAILROAD
TRAILS
PUBLIC TRAIL
PRIVATE TRAIL
OPEN TO PUBLIC
CANALS
CREEKS
PARCELS
PARK DISTRICT BOUNDARY
BEND CITY LIMITS
BEND URBAN GROWTH BOUNDARY
PARKS
DEVELOPED FACILITIES
UNDEVELOPED FACILITIES
Produced On: December 29, 1998
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Deschutes County
Geographic Information System Service Center
FLORA/FAUNA
SQUAW CURRANT
BITTER BRUSH
SOLOMON SEAL(FALSE)
CEONOTHUS
INDIAN PAINT BRUSH
ALDER, PINE, FIR, JUNIPER
MANZANITA, RABBIT BRUSH, OR. GRAPE
CHOKE CHERRY, FERNS, WILLOW
HORSETAIL
OTTER, HERON, OSPREY, NIGHT HAWKS
DUCKS, GEESE, BLUE BIRDS, MINK,
BEAVER, 3 WETLANDS
DEER
ELK
RACOON
COYOTE
NORTH
PREPARED BY VOLUNTEERS FOR
BEND URBAN LAND SURVEY
BROKEN TOP
SKYLINE PARK
WOOD RIVER
CASCADE MIDDLE SCHOOL
MT BACHELOR VILLAGE
CONDOS
RIVER
IMPACT VIEW
POWER PLANT
DESCHUTES RIVER
ROCKS-WOODS
WESTGATE
CENTURY DRIVE
COI PROPERTY
SUNRISE
RIDGE
TRAIL
EXCELLENT RIPARIAN AREA
BROOKSWOOD BLVD
ELK HEIGHTS
BIG DOUG. FIRS BOTH SIDES
DESCHUTES RIVER
FLUME
RAPIDS
ELK MEADOW ELEMENTARY SCHOOL
ELK-DEER CROSSING
OSPREY FISHING HOLE
OSPREY NESTS
HERON AREA
ELK AREA
KNOLL-BIRD AREA
SMALL GLEN-DEER
OTTER
RIPARIAN AREA
LONGPOLE DR
HIGHWAY 97
0
2000
4000 Feet


Bend River Way Project
OLD MILL REACH
LOCATIONS
BRIDGE
FOOT BRIDGE
REACH BREAK
RAILROAD
TRAILS
PUBLIC TRAIL
PRIVATE TRAIL OPEN TO PUBLIC
CANALS
CREEKS
PARCELS
PARK DISTRICT BOUNDARY
BEND CITY LIMITS
BEND URBAN GROWTH BOUNDARY
PARKS
DEVELOPED FACILITIES
UNDEVELOPED FACILITIES
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Deschutes County
Geographic Information System Service Center
RIVERSIDE BLVD
NW WALL ST
NW BOND ST
COLORADO AVE
DENSE RIPARIAN COVER
POWER LINE
BLDG. SETBACK FROM RIVER
ACTIVE OSPREY NESTS ON PLATFORMS
PUMP STATION
BIG PINES
RIPARIAN ZONE WILLOW, ALDER
BIG COTTONWDS.
UPLANDS IN POOR CONDITION
MCKAY PARK
PEDESTRIAN BRIDGE
CAR / FOOT BRIDGE
ENHANCED FISH HABITAT
ROWING CLUB LAUNCH
MILL HOUSE
OLD BEAVER LODGE
SW SIMPSON AVE
RIPARIAN AREA CATTAILS WET LAND
COTTONWD.
ARMORY
COTTONWD.
POWER LINES
BRICK POWER HOUSE
OLD MILL
DIVISION ST
FOOTBRIDGE
STEEP BARE DIRT BANK
PINES & JUNIPER (RECENT FIRE)
BRIDGES UNDER CONSTRUCTION
CENTURY DR
MT. BACHELOR VIEW
COMMERCIAL BLDG. OVERHANGS RIMROCK
BIG PINE
WEEDS
FLORA / FAUNA
WILD ROSE, IRIS CATTAILS, BEECH, ALDER, WILLOW PINE, COTTONWD. JUNIPER, CHOKE CHERRY
BEAVER, DUCKS GEESE, OSPREY RD. WING BLK. BIRDS MINK, MUSKRAT OTTER, BULLFROG, TRUMPETER SWAN
OLD BRIDGE
OLD LOG DECK
SW BLAKELY RD
PINES
WOOD RIVER
BLAKELY NEIGHBORHOOD
NORTH
PREPARED BY VOLUNTEERS FOR BEND URBAN LAND SURVEY
0
1000
2000 Feet


PREPARED BY VOLUNTEERS FOR THE BEND URBAN LAND SURVEY
NW TRENTON AVE
NW 5TH ST
NW UTICA AVE
DENSE VEGETATION BIG TREES IN PARK
MOTEL
APARTMENTS - LITTLE SCREENING OR SETBACK FROM RIVER
SPILLWAY
PIONEER PARK
NW 9TH ST
NW PORTLAND AVE
NW AWBREY RD
ROCKS & TREES SCREEN BLDGS.
HARD EDGE & LAWN
PACIFIC PARK
PARK DIST. OFF.
NW 12TH ST
NW NEWPORT AVE
SPILLWAY
PACIFIC POWER
NARROW BUT GOOD RIPARIAN AREA
COTTONWD
BROOKS PARK
PAGEANT
ELKS LODGE
BASEBALL FIELDS PLAY AREA BOAT HOUSE
TRANSIENT USE
DIVISION ST
HARMON PARK
DRAKE PARK
NW WALL ST
NW OREGON AVE
NW BOND ST
ISLANDS IN RIVER DECIDUOUS TREES
PUMP HOUSE 15" PIPE
BIG OLD TREES
DOG EXERCISE AREA
NW RIVERSIDE BLVD
FAILED WALL
NW GALVESTON AVE
NW FRANKLIN AVE
THOMPSON ELEMENTARY SCHOOL
GOOD BIRD VEGETATION
BIG COTTONWDS.
COLUMBIA PARK
FOOTBRIDGE
COLORADO AVE
0
1000
2000 Feet
Bend River Way Project
PIONEER REACH
LOCATIONS
BRIDGE
FOOT BRIDGE
REACH BREAK
RAILROAD
TRAILS
PUBLIC TRAIL
PRIVATE TRAIL OPEN TO PUBLIC
CANALS
CREEKS
PARCELS
PARK DISTRICT BOUNDARY
BEND CITY LIMITS
BEND URBAN GROWTH BOUNDARY
PARKS
DEVELOPED FACILITIES
UNDEVELOPED FACILITIES
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Deschutes County
Geographic Information System Service Center
NORTH
FLORA / FAUNA
CATTAILS, WILLOW ALDER, PINES NON-NATIVES WILD ROSE, CEDAR NIGHTSHADE
SWANS, GEESE, MINK, OTTER, DUCKS, SWALLOW, FISHER


Bend River Way Project
RIVER RUN REACH
LOCATIONS
BRIDGE
FOOT BRIDGE
REACH BREAK
RAILROAD
TRAILS
PUBLIC TRAIL
PRIVATE TRAIL OPEN TO PUBLIC
CANALS
CREEKS
PARCELS
PARK DISTRICT BOUNDARY
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Deschutes County
Geographic Information System
Service Center
NORTH
FLORA & FAUNA
CATTAILS, PINE, JUNIPER
SWAN, GEESE, DUCKS, COOT, SOLITARE CEDAR WAX WING, RED WING BLK. BIRD, NUTHATCH, OTTER, MINK, MUSKRAT, CRAWDAD
0 1000 2000 Feet
SAWYER PARK
HIGHWAY 97
RILEY RD
PARKWAY
WETLAND
NARROW TRAIL PARKS & REC EASEMENT
TRAFFIC NOISE AUDIBLE
RIVERS EDGE SUBDIV. HOUSES VISIBLE FROM RIVER
UNDEVELOPED SIDE HILL W/ PINES & JUNIPERS
DRIVING RANGE GOLF COURSE
SHILO INN
RIVER HOUSE
MT WASHINGTON BLVD
BUTLER MKT RD
BEAUTIFUL PINES & ROCK
PREPARED BY VOLUNTEERS FOR BEND URBAN LAND SURVEY
UNDEVELOPED
ROCK FACE
CANYON W/ NEARLY VERTICAL WALLS
SPILLWAY
RIVERVIEW PARK
OFFICE BLDG
TRUMPETER SWAN RELEASE AREA
PARTIALLY SCREENED BY PINES
EXCELLENT RIPARIAN HABITAT TRAIL
MATURE PINES, CAT TAILS & WETLANDS
1ST ST. TRAIL - 10' W/BARK CHIPS & WEEDS ALONG WAY
LARGE HOUSES
NEW ROAD CUT VISIBLE FROM TRAIL
SIMONDSON
DIVISION ST
NE STUDIO RD
VERY VISIBLE HOUSE ON RIM
NE 4TH ST
HIGHWAY 97
FIRST ST. RAPIDS
UNDEVELOPED
MATURE PINES, SNAGS JUNIPERS
NE REVERE AVE
HEAVY KAYAK USE
BEND RIVERSIDE MOTEL
NW AWBREY RD


Bend River Way Project
AWBREY REACH
LOCATIONS
FOOT BRIDGE
REACH BREAK
RAILROAD
TRAILS
PUBLIC TRAIL
PRIVATE TRAIL OPEN TO PUBLIC
CANALS
CREEKS
PARCELS
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Deschutes County
Geographic Information System Service Center
NORTH
FLORA & FAUNA
PAINT BRUSH, MARAPOSA LILY, SCARLET GILA BITTER BRUSH, RABBIT BUSH, MULLEIN, TOAD FLAX
QUAIL, STELLAR JAY, NIGHTHAWK, DOVE COYOTE, BOBCAT
PREPARED BY VOLUNTEERS FOR THE BEND URBAN LAND SURVEY
VISIBLE HOUSES
RUN OFF INTO CANYON
END OF YOUTH CONS. CORPS TRAIL
LAVA FLOW
PINES & LARGE SNAGS IN CANYON
EXCELLENT RIPARIAN HABITAT SHRUBS, TREES, GRASS
COOLEY RD
TUMALO CREEK
DIRT ROAD
GRAVEL OPERATION
O'BRILEY RD
HIGHWAY 20
DESCHUTES RIVER
LARGE HOUSE
LOCKED GATE
STEEP CANYON
AWBREY MEADOW
SHEVLIN PARK
EXCELLENT CANYON & MT. VIEWS
WYNDEMERE
HOUSES VERY VISIBLE FROM TRAIL (SOME DECKS AT RIVER EDGE)
HOUSES 200' FROM TRAIL - BOTH SIDES
NW PUTNAM RD
ARCHIE BRIGGS RD
VERY GOOD RIPARIAN AREA BOTH SIDES OF RIVER
RIVER VIEW FROM TRAIL - HERE TO BRIDGE @ ARCHIE BRIGGS RD.
SAWYER PARK
UNDEVELOPED WEST HILLSIDE ABOVE & BELOW TRAIL - SCENIC & OPEN SPACE RESOURCE (NORTH OF SAWYER PARK TO SOUTH OF ARCHIE BRIGGS BRIDGE)
VERY SCENIC VIEW TO S.H. FROM FOOTBRIDGE
0
2000
4000 Feet

Non Game/Diversity

The most comprehensive wildlife study in urban Bend occurred in 1990. It focused on the area between the Old Mill District and the Bend Hydroproject (Newport Avenue). Fifty-six total wildlife species were observed during the survey that took place in June including 47 birds, eight mammals, and one reptile. The following table combines the information from that survey with additional information gathered in recent years.

Riparian Corridor Wildlife Inventory for the Deschutes River in Bend

Wildlife Type	Common Name
Amphibians	Pacific chorus frog long toed salamander Western toad
Reptiles	garter snake rubber boa Western fence lizard gopher snake
Non-game mammals	bats beaver coyote desert cottontail golden mantle gray squirrel least chipmunk mink porcupine raccoon river otter skunk

Source: PacificCorp 1990; Chris Carey, Wildlife Biologist, ODFW for the Bend Riverway 1999.

Non-Native Invasive Species

There has not been a non-native invasive plant or wildlife survey in Bend. Known problem species within the UGB include wildlife such as cowbirds, bullfrogs, and starlings, and plants like Dalmatian toadflax, yellow iris, and knapweed.

Knapweed and toadflax are currently the most problematic species in Bend. Infestations have appeared in the area in just the past 10 years. Knapweed in particular now lines portions of the river corridor on the Deschutes and Tumalo Creek, the canals, trails and are rapidly filling disturbed areas on vacant lots. Yellow iris starts below the Colorado Bridge on the Deschutes and continues downstream. It appears to be outcompeting the cattails. Toadflax is found in small and large patches throughout the city.

A confirmed sighting of bullfrog tadpoles was recorded at the Colorado Street wetland in the summer of 1999. Bullfrogs are known to inhabit areas upstream where they are outcompeting and preying on the spotted frog. Starlings are problematic especially at the landfill where control measures have been undertaken.

Fish

There are two species of native fish left in the Deschutes in the Bend area – the red band trout and the mountain whitefish. Red band trout is a state listed sensitive species. They are affected by low water in the spring and summer when water is drawn from the rivers for irrigation, as well as habitat loss. Bull trout, a native fish that grows to great size has not been seen in the Bend area since the 1950's. There are several non-native fish that were legally introduced. Brown trout were introduced in the early 1900's and kokanee were introduced in the 1950's. Large mouthed bass and tui chub have been planted illegally. Other fish in the river include the brown bull catfish, bluegill, and black crappy. These fish have been planted far upstream and move through the city on their way downstream.

ODFW does not stock fish within the Bend Urban Growth Boundary. Hatchery-raised rainbow trout are stocked above Benham Falls upstream of Bend. These fish can, and do, move downstream to Bend. The Deschutes supports resident populations of red band trout, mountain whitefish and brown trout.

Several factors affect fish: flow fluctuation, water temperature, and habitat. The flow fluctuations on the Deschutes are great due to the retention of water in upstream reservoirs and the diversion of water within Bend for irrigation. The lowest flows coming into Bend are during the winter months when much of the precipitation falls as snow. Temperatures need to be cold for reproduction and rearing. Shallow, slow moving waters with no vegetative cover heat up more rapidly and to higher temperatures than faster moving or deeper waters with trees and shrubs overhanging.

Probably the single most important component missing from the Deschutes River in the Bend area for fish is in-stream structure. The Oregon Freshwater Wetland Assessment Methodology (OFWAM) assessment and function results for fish habitat pointed this out clearly. There is a lack of woody debris, large organic debris, and rocks in the river. ODFW is assisting a developer in placing whole trees and rocks in the river in the Old Mill District for fish habitat.

Fish need clean gravel bars for spawning. Silt will cover up their eggs, suffocating them. Quality spawning grounds are essential for a healthy fishery. There are high quality spawning areas in the south part of the UGB and there is a potential for high quality areas below the North Canal Dam.

Another factor affecting fish is their ability to move up and down the river safely. There are four dams within the UGB. Only two dams have fish ladders that allow fish to pass upstream. See the following table.

Dams within Bend's UGB

Name	Location / Pond Name	Built	Operator	Fish Ladder
Colorado Dam	Colorado Street Bridge / creates unnamed 6.5 acre wetland.	1916	River Bend Limited Partnership	Yes. Installed in 1998.
Bend Hydroelectric Project	Just north of Newport Bridge / creates Mirror Pond.	1910	Pacific Power and Light	No. Historically there was a wooden fish ladder.
Steidl Dam	Above 1st Street rapids / creates unnamed pond adjacent to Pioneer Park.	1922	Tumalo Irrigation Dist.	Yes.
North Canal Dam	South of Mt. Washington Blvd. / creates "Swan Pond" in front of Riverview Park.	1914	Jointly managed by COID & Swalley Irrigation Dist.	No.

Source: Kyle Gorman, Watermaster, District 11, 1999

There are five diversions in Bend - four have fish screens. Three of the screens will be replaced in the near future. Fish screens on diversions are critical to fish health. They are essential in order to move fish safely around a canal diversion. A well-designed screen is important so fish are not injured. There are two types of screens used in Bend. A drum screen provides a physical barrier to the fish preventing it from entering the canal. A louvered screen deters the fish by altering the fish's behavior. They approach the screen, don't like the looks of it and shy away. The louvered screens are less harmful to fish because they don't physically contact the screen.

Diversions for Irrigation in Bend's UGB

Diversion Name	Diversion Location	Fish Screen	Typical Summer Max. Flows
Central Oregon Canal	East side of river below Elk Meadow Elementary school	Yes. Perforated plate screen. Fixed panel with self-cleaning brush. Black paint has camouflaged this screen.	550 cfs
TID Bend Feed Canal or DCMID Canal	West side of river at 1st Street Rapids	There is a louvered fish screen at present. A new screen is being designed. (DCMID is the Deschutes Co. Municipal Improvement Dist.)	140 cfs
Swalley Irrigation Canal	East side of river at North Canal dam	Yes. Louvered. Improved screen proposed by ODFW.	115 cfs
North Canal or Pilot Butte Canal	East side of river at North Canal dam	No. Proposed by ODFW.	550 cfs
North Unit Main Canal	East side of river at North Canal dam	Yes. Has a drum screen. Will be upgraded.	800 cfs

COID = Central Oregon Irrigation Dist. TID = Tumalo Irrigation Dist.,
ODFW = Oregon Dept. of Fish and Wildlife; cfs = cubic feet per second.
Sources: Kyle Gorman, Watermaster, District 11; Ted Wise, Fish Biologist, ODFW, 1999.

Hydroprojects, Dams, Impoundments and Diversions

Name	Location	Description and Comments
Central Oregon Canal	East side of river across from Sunrise Village.	This is the second diversion on the Deschutes River. It serves east Bend, Alfalfa and Powell Butte. Upstream from the diversion is designated a State Wild and Scenic Waterway. The diversion has a fish screen that was painted black to blend with the environment. The water is carried via a flume that was originally wooden and installed in 1901. Trees were planted in front of the flume to screen it from the Sunrise Village subdivision across the river. The canal road runs north for about 1.5 miles to a hydroelectric plant. The road is not open to the public, but many use it for hiking and biking.
COID Hydroelectric Plant	Off Brookswood Blvd. On east side of river. Mt. Bachelor Village trail is across river	Completed in 1989, this hydrofacility supplies 6 megawatts of electricity to the main power grid (equal to about 2,200 homes.) During high flow years the excess water from the Central Oregon Canal is diverted to the hydroplant to generate electricity. After running through the plant, the water is returned to the river. The plant is visible from the south end of the Mt. Bachelor Village trail.
Colorado Street Dam	On Colorado Street	This dam was built by the lumber mill operators to create log storage and to provide water for fire protection. The last mill closed in 1993 and these functions are no longer important. However, over the years, a 5-acre wetland with importance to wildlife has been created due to backup from the dam.
Bend Hydroelectric Project & Mirror Pond	Dam is just north of Newport Bridge	Mirror Pond has been described by many as the heart and soul of Bend. Surrounded by lovely old homes and well-kept public parks, this 40-acre impoundment is created by the Bend Hydroelectric Project. The powerhouse was built in 1910, bringing hydroelectric power to Central Oregon. Operated by Pacific Power, the project produces 1,100 kilowatts of electricity or enough for 400 homes. The dam was issued a Federal Energy Relicensing Commission (FERC) license in 1970 as project 2643. The license expired in 1993. A relicensing study was undertaken in 1990 in anticipation of renewal. However, FERC decided a license was not necessary because the river is not designated a navigable waterway. Mirror Pond acts as a settling pond for nutrient-enriched sediment from upstream sources, primarily bank erosion due to fluctuating water flows. In the late 1970's, silt filled in the pond resulting in shallow water depths. A Mirror Pond Citizens Committee was formed in 1975 to study the siltation problem. A report recommending dredging as a solution was published in 1981 (Winzler, et. al. 1981). As a result, the pond was dredged in 1982 at a cost of $275,000. The dredged material was pumped from the pond upstream and used as fill in a low area on the west bank of the river in the Old Mill district. According to the report done prior to dredging, the silt is expected to build up again 20 years from the dredging date.
Steidl Dam & TID Bend Feeder Canal	In front of the Riverside Motel near Pioneer Park.	This dam was built in 1922 to raise the height of the water in order to divert it into the Bend Feed Canal. The Deschutes River trail begins on the west side of the river at 1st Street Rapids on top of the buried Bend Feed Canal. The canal was buried in the 1970's. Historians disagree with the name Steidl dam because that was that original name of the North Canal Dam, but Steidl is the name in common use today.

Name	Location	Description and Comments
North Canal Dam & North Canal, Swalley Irrigation Canal and North Unit Main Canal	Just north of Riverview Park.	This impressive 33 foot tall dam was built to raise the height of the water for three diversions – North Canal (Pilot Butte Canal), Swalley Canal, and North Unit Main Canal. The dam is adjacent to Division Street, but not visible to passers by. The area surrounding the dam on the westside was recently rezoned to commercial. There is a Park District easement for a fisherman trail on the west side of the river from Mt. Washington Boulevard to the dam. Today, otter play on and around the dam. An osprey fishes in the pond where the trumpeter swans were released in 1998. The North Canal, also known at the Pilot Butte Canal, is managed by COID and goes to Redmond and Terrebonne. The Swalley Irrigation Canal goes to the north part of Bend. The North Unit Main Canal, managed by the North Unit Irrigation District, goes to Madras with no water deliveries until north of the Crooked River. It is currently being lined with concrete to reduce water loss.

COI = Central Oregon Irrigation District; TID = Tumalo Irrigation District
Sources: Kyle Gorman, Watermaster, District 11; Clark Satre, Manager, Pacific Power & Electric, 1999.

Regulatory Analysis

This section summarizes the state requirements for wildlife habitat protection, reviews the city's current policies and regulations and then compares the two. The purpose of this section is to provide decision-makers and the community with a comparison of what the state requires for wildlife habitat protection with what the city already has on the books. The next section, Options for Protection, offers alternatives on how the city might proceed.

What the State Requires

At the conclusion of the inventory process, the city is required to develop programs to protect significant wildlife habitat if they do not already exist. The city must coordinate with appropriate state and federal agencies when adopting programs intended to protect threatened, endangered, or sensitive species habitat areas.

Under the "safe harbor" rules in the Goal 5 administrative rules, local governments may determine that "wildlife" does not include fish, and that significant wildlife habitat is only those sites where one or more of the following conditions exist. The habitat has been documented:

- as critical to the life of a federal threatened or endangered wildlife species or an Oregon threatened, endangered, or sensitive species;
- to have occurrences of more than incidental use by a threatened or endanger species as described above;
- as a sensitive bird nesting, roosting, or watering resource site for osprey or great blue herons;
- to be essential to achieving policies or population objectives specified in a wildlife species management plan adopted by the Oregon Fish and Wildlife Commission;
- by ODFW as habitat for a wildlife species of concern and/or as a habitat of concern (e.g., big game winter range and migration corridors, golden eagle and prairie falcon nest sites, or pigeon springs).

Safe Harbor for Wildlife Habitat in Bend
Under the safe harbor guidelines, Bend has no significant wildlife habitat according to ODFW. ODFW recommends that the city adopts protection language in the event significant wildlife sites are located. Although ODFW has determined that there is no significant wildlife habitat in Bend, there are at least three active osprey nests and nesting platforms within the UGB. Ospreys are a significant wildlife resource under the safe harbor. The ODFW report states that no sites require protection in Bend but that if sites are identified they should be protected.

In addition, there is documented big game habitat and elk and deer winter range in portions of the south and west UGB. This habitat was identified by Bob Davison, a professional with demonstrated expertise in habitat identification. Mr. Davison states in a letter, "The 200 acres in the vicinity of Elk Meadows clearly has been identified by the ODFW as providing winter range for big game, and it has been mapped previously by the ODFW as such. Consequently, the 200 acres of big game winter range in the vicinity of Elk Meadows may be considered significant by the City of Bend under the safe harbor criteria set forth in OAR 660-023-0040(e)." See Appendix C for the complete letter. Under the safe harbor this big game habitat is considered a significant resource. ODFW has noted that these winter range designations do not apply to the City of Bend.

Recommendations from ODFW
While ODFW did not identify any significant wildlife habitat, the agency had the following recommendations and suggestions for the City of Bend. Each of these recommendations can be read in their entirety in Appendix C.

<u>Big Game</u>
- Recognize the mapped sensitive big game habitat that is recognized by Deschutes County.
- Develop housing density standards that are lower (RL) and maintain these levels on lands within one mile of the County adopted habitats. This would allow a "buffering" effect to minimize human disturbance in these areas. This is similar to the existing language within the plan dealing with the Urban Reserve Area zoning. However, this language falls short of specific language that would adequately protect these resources. In addition, ordinances that require "cluster" development in these areas could preserve valuable open space which would increase the effectiveness of protecting these important Goal 5 habitats.

<u>Riparian and Wetland Habitats</u>
- Utilize the U.S. Fish and Wildlife Service maps to identify wetlands greater than five acres.
- Incorporate the many important wetlands and riparian areas identified by the Bend Riverway into the Bend Area General Plan.
- When considering development near wetlands less than five acres, consult with the ODFW on a case by case basis.
- Establish measures to protect these areas (riparian and wetland habitats) from human development. Appropriate uses would be parks and open spaces.

<u>Wildlife Diversity</u>

- Utilize the ODFW Wildlife Diversity Plan as a guide and reference for the maintenance and enhancement of Oregon's vertebrate nongame wildlife resource.
- Include the numerous values associated with non-game wildlife and the data and recommendations identified by the Bend Riverway in the Bend Area General Plan.
- Continue protection of open spaces, wetlands, riparian areas, and Areas of Special Interest
- Construct ordinance language that minimizes or prevents housing developments within open spaces, wetlands, riparian areas, and Areas of Special Interest.

Critical Bird Sites

- Protect bird sites through the development of site specific management plans. Management plans assure that the proposed use and activities will not destroy or result in abandonment of the sensitive species form a nest site.
- Provide language within the plan that if bird sites are located, protection measures can be established.

Wildlife Interactions

- Encourage programs such as the Waterfowl Advisory Committee to continue.
- Amend the city code, which allows only peace officers to discharge weapons in the city (5.025) to include ODFW employees. This would allow ODFW employees respond to calls for injured or problem wildlife.
- Strongly discourage artificial feeding of deer
- Continue to encourage adequate garbage control to reduce black bear interactions.

Existing City of Bend Policies Regarding Wildlife Habitat

Two goals of the Bend Area General Plan are preserving wildlife habitat and establishing a system of wildlife corridors that are interconnected with trails and greenways. The river corridor is recognized in the plan as "the most important, and most diverse, wildlife area." There are two large areas in the Deschutes River corridor identified as "Areas of Special Interest." The areas (located at the north and south ends of the UGB) were recently inventoried in the Bend Urban Land Survey. As part of the city's Periodic Review "Areas of Special Interest" will be reviewed.

Bend Area General Plan Goals:

The follow goals are from the Bend General Plan:

To help ensure Bend's livability, the following additional goals should be implemented to provide long-term protection of open space and natural features:

- preserve interesting and distinct geologic formations and areas of natural vegetation;
- preserve water resources, riparian areas, and wildlife habitats;
- establish a system of trails, greenways and wildlife corridors that are interconnected;
- encourage environmental awareness so that citizens will become stewards of our natural areas;
- support the coordinated efforts of public agencies, private organizations and individuals to preserve and enhance the area's natural features and open space.

The following policies are from Chapter 2 of Bend's General Plan and area specific to wildlife habitat protection. See also the Regulatory Analysis Section for Riparian Areas

of this report for additional policies protecting the river corridor that also provide habitat protection.

5. Major rock outcrops, stands of trees, or other prominent natural features identified in the General Plan shall be preserved as a means of retaining the visual character and quality of the community.
6. Natural tree cover should be retained along streets in new developments to retain the natural character of Central Oregon within the urban area as the community grows.
7. All residential development should respect the natural ground cover of the area, and the city and county shall work with developers to preserve mature trees within the subdivision.
8. The city shall develop standards to conserve mature native trees and standards that describe the types of trees for commercial and industrial developments that are compatible with Central Oregon's climate.
9. The city and county shall participate with other governments, special districts, non-profit organizations, land trusts, interested businesses, and citizens in protecting open space.
10. The city shall develop flexible subdivision and development standards that make it easier for developers to provide open space within a neighborhood.

16. The city and county will consider how best to protect important native fauna and flora within the Bend urban area, as identified by the open space and natural features inventory.
21. The city and county shall ensure through conditions of approval that development in the Urban Reserve Area adjacent to or within one mile of lands designated by the County's wildlife overlay zone incorporate setbacks or buffers to protect designated wildlife areas.
22. All trout spawning areas shall be considered significant habitat and shall be protected.
23. The city and county shall promote and support educational programs on riparian natural history, river maintenance and courtesies, impacts of habitat alteration, and habitat disturbance by domestic animals and human activities.
24. The city and county shall request that the USFS and ODFW adopt a winter elk management plan for the Benham Falls elk herd. Emphasis should be given to identification of their sensitive habitat in order to minimize potential conflict with development and recreational activities.

Existing City of Bend Regulations Regarding Wildlife Habitat

The Deschutes River Combining Zone (10.10.22A) has a number of regulations pertaining to habitat. Please refer to the Regulatory Analysis section in the Riparian chapter for more information.

The Fill and Removal regulation 10.10.25(26) prohibits activities within 10 feet of the river, which affords some protection to the riparian corridor where some of the most important wildlife habitat exists. In addition the subdivision code and the Mixed Use Riverfront (MR) zone have the following provisions for preserving natural features and habitat.

Subdivision Code (10.13)

Section 1.010 Purpose [of subdivison code] is to:

2. Encourage development in harmony with the natural environment and within resource carrying capacities.

Section 3.060. The Hearings Body shall not approve a tentative plan for a proposed subdivision unless the Hearings Body finds:

1. The subdivision 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.

Section 6.020 (3) regarding connecting access corridors:
...The Hearing Body may determine that construction of a separate access corridor [for a subdivision] is inappropriate or impracticable. Such evidence may include but is not limited to:

B. When the access corridor would cross a natural area with significant natural habitat and construction would be incompatible with protection of natural values.

MR Zone (10.10.21A):
Landscaping and Open Space. The design and development of landscaping and open space shall:

- Retain and conserve riparian vegetation within the bed and banks of the Deschutes River and adjacent to the river to the maximum extent practicable. There shall be no net loss of natural wetlands adjacent to the river.
- Emphasize the use of native trees, shrubs, or other plants adapted for survival and growth in the high desert life zone.

Comparison of the State Goal with the City of Bend's Existing Regulations
The state agency protecting wildlife, ODFW, has not identified any Goal 5 resources for wildlife habitat in the City of Bend UGB. Therefore, the city, which has policies and some regulations for protecting natural features and habitat, especially along the river corridor, is likely in compliance with the Goal 5. The city lacks procedures to deal with Goal 5 resources in the event any (state) significant wildlife habitat is located.

Options for Protection

The following range of options has been developed as a starting point for discussion. An ESEE analysis (a review of the positive and negative economic, social, environmental and energy consequences that could result from a decision to allow, limit, or prohibit a conflicting use) must be conducted for the chosen option other than the safe harbor. The Goal 5 administrative rule (OAR 660-23) provides direction on conducting the ESEE analysis. When working to protect threatened endangered or sensitive habitat the city must coordinate with appropriate state and federal agency.

A. *Safe Harbor:* City follows the safe harbor guidelines. This requires no new regulations. An ESEE analysis is not required.

Regulations could be developed that provide direction in the event a Goal 5 wildlife resource is located.

B. *Adopt regulations to protect key species and/or habitat identified in the inventory.* This could be accomplished by new wildlife habitat regulations or by additions to existing regulations such as the Deschutes River Combining zone, Subdivision code, Fill and Removal codes.

   Regulations could be developed to recognize species or habitats noted in the Goal 5 rule such as: red-band trout (state sensitive), osprey, heron, and elk (big game winter range/migration corridor). An ESEE analysis may be required, but it could be argued that these are all species or habitats that fall under the safe harbor guidelines. The only difference is that ODFW does not require protection for these species and habitats in Bend.

C. *Beyond Safe Harbor:* Implement ODFW recommendations and adopt regulations to implement existing city policy.

   The city could review and consider for adoption, the recommendations suggested by ODFW. In addition, the city could direct staff to review existing city policy and suggest regulations to ensure the city's policies for wildlife habitat are implemented. It should be noted that some of the city's policies are similar in intent to those suggested by ODFW. This would require an ESEE analysis if accomplished under Goal 5.

State Scenic Waterways

Summary

There are two sections of State Scenic Waterway within the City of Bend's UGB. They are located at the extreme north and south ends of the river within the UGB. City regulations do not protect portions of the State Scenic Waterway due to the recent annexation of these areas into the city. The city must address these sections of the State Scenic Waterway in the city code.

Goal 5 Scenic Resources Defined

Any designated Oregon State Waterway (OSW) is defined as a significant Goal 5 resource, requiring protection. The State Scenic Waterways program was established in 1970 to protect free-flowing rivers. The designation covers rivers, lakes and adjacent lands that have outstanding scenic, fish, wildlife, geological, botanical, historic, archeological, and outdoor recreation values of present and future benefit to the public. The Governor, Legislature, or a vote of the people can establish Oregon State Waterways. A scenic waterway includes the river and all land within a quarter mile of its banks. Oregon Parks and Recreation Department administers the program and each scenic waterway has specific management rules.

During periodic review, local governments are required to amend plans and land use regulations to address any designated Oregon Scenic Waterway and associated corridor not addressed by the plan. An inventory is not necessary. The city must declare all OSW's a significant Goal 5 resource. The city must coordinate with appropriate state agencies when adopting programs intended to protect OSW's. Refer to Goal 5 Reference Material for more information.

Inventory Methodology

According to Goal 5 rules, no inventory is required or necessary because the areas are already designated by the state.

Inventory Results

An inventory was not necessary for Oregon Scenic Waterways because they have been identified and designated by the State of Oregon. The OSW's within the Bend UGB were identified, mapped and described for this report. (See map in binder pocket.)

In 1988, a statewide voter initiative added two areas of the Deschutes River at the north and south ends of the Bend UGB to the State Scenic Waterways program. Both areas have adopted management plans. The plans are administered by the Oregon State Parks and Recreation Department. In the management plans both of Bend's OSW's are classified as River Community Areas based on the density of structures or other developments, already existing or provided for in zoning. Scenic river segments

considered "Community Areas" are managed to allow development that and blends into the natural character of the surrounding landscape This also means protecting riparian vegetation, and encouraging activities to the enhance the landscape.

Segments of these two River Community Areas are within the Bend UGB, and, as of the 1999 annexation, portions are now within the city limits. A portion of (east bank of the river) of the North Bend River Community Area in the Bend Urban Reserve Area, is outside the city but within Deschutes County. Deschutes County has provided regulation to protect this area in its Zoning Codes, primarily in Chapters 18.84 and: Landscape Management Combining Zone, with specific reference to the area within the boundaries of State Scenic Waterways.

The inland boundary of an OSW is one-quarter mile on either side of the river. The following is a description of Oregon Scenic Waterways located within Bend's UGB.

Oregon Scenic Waterways in Bend

Area Name	Location	Description of Management
Upper Deschutes: South Bend River Community Area	The southernmost 1.5 miles of the river in the UGB. From the southern UGB to the COI diversion across from Sunrise Village. River mile 172-171.	The Upper Deschutes River Scenic Waterway Management Plan adopted in 1996 contains rules that govern this area. Specific rules address setbacks, building color, vegetation retention, river crossings, screening and timber harvest within a ¼ mile of the river.
Middle Deschutes: North Bend River Community Area	From the southern boundary of Sawyer Park to the north UGB. Approx. river mile 164-161.*	Middle Deschutes management plan adopted in 1993 governs this area. More general rules address the same issues listed above.

*the east bank (river right) of a portion of this segment is outside the city limits because the Urban Growth Boundary is defined by the river. This section is still an OSW protected by Deschutes County.

Regulatory Analysis

This section summarizes the state requirements, reviews the city's current policies and regulations for Oregon Scenic Waterway protection and then compares the two. The purpose of this section is to provide decision-makers and the community with a comparison of what the state requires with what the city already has on the books. The next section, Options for Protection, offers alternatives on how the city might proceed in protecting OSW's.

What the State Requires
Local governments are required to designate OSW's as significant Goal 5 resources. At the first periodic review following adoption of a management plan for an established OSW, the local government must adopt a Goal 5 program for OSW's and associated corridors.

Local governments have a choice to follow either ESEE standards and procedures or the safe harbor provisions. As a safe harbor, a local government may adopt only those provisions necessary to carry out the State's management plan. If the city wishes to consider an option other than safe harbor, an ESEE analysis (a review of the positive and negative economic, social, environmental and energy consequences that could result from a decision to allow, limit, or prohibit a conflicting use) must be conducted.

In either case, the local program for the OSW's must be consistent with the management plans already adopted by Oregon Parks and Recreation Commission. Regulation applicable to development and use for the OSW segments in Bend are defined in the US Forest Service's Comprehensive Management Plan for the Upper Deschutes Wild and Scenic River and State Scenic Waterway and the US Forest Service, BLM Oregon Parks and Recreation's Middle Deschutes/Lower Crooked Wild and Scenic River's Management Plan.

Oregon Parks and Recreation must be notified of activities and uses proposed within an OSW, to determine if the project will be in compliance with the scenic waterway regulations. Such activities include cutting of trees, mining, and construction of roads, railroads, utilities, buildings or other structures.

Existing City of Bend Policies and Regulations
Bend policies and regulations do not recognize the two segments of Oregon Scenic Waterway within the UGB. The City of Bend General Plan stresses the importance of the Deschutes River and has established policies for the protection of the river and adjacent lands. The City of Bend has provided regulations in its Zoning Codes for protection of the character along the Deschutes River, and for development and use on adjacent lands, but neither the General Plan nor the Zoning Codes address specifically the State Scenic Waterway River Community Areas.

It should be noted that the river is bordered by the city on one side and Deschutes County on the other in the North Bend Community Area. The county has already adopted language to comply with State Scenic Waterways.

Comparison of the State Goal with the City of Bend's Existing Regulations
The state requires that the City of Bend recognize the segments of Oregon Scenic Waterways within the UGB in the General Plan and in the Bend City Code. Currently the city does not have any language in the General Plan or the City Code addressing OSW's.

Options for Protection

In order to comply with state law, the City of Bend needs to recognize and protect the segments of Oregon Scenic Waterway within the Urban Growth Boundary. The city has several options for protecting OSW's. In all cases, the Oregon State Parks and Recreation Department (OPRD) still must review each and every permit application within the OSW boundary (1/4 mile on each side of the river in OSW designated areas.) The city can refer the permit applications to OPRD before, during, or after the city's review of the permit. The ORPD would prefer a concurrent review, that way they are not holding up the permit process for the applicant at one end or the other. If the city chooses to adopt all or part of the review requirements for State Scenic Waterways it should reduce State Park's review time.

Because of a shared boundary with Deschutes County in the North Bend Community Area of the OSW, a policy and code consistent with that already adopted by the county may be helpful in administering State Scenic Waterways. In addition, a consistent approach on both sides of the river may be less confusing for property owners on both sides of the river.

The following is a suggested starting point for discussion about compliance with the Oregon Scenic Waterways Act:

> Add language to the General Plan and Bend City Code recognizing the two segments of Oregon Scenic Waterway within the UGB. Identify and map the areas on the General Plan Map and develop an overlay for the zoning map.
>
> Adopt language consistent with the state and with Deschutes County for the protection of these areas **or** language referring permit applications to the Oregon State Parks and Recreation Department for review and compliance as required by law.

APPENDIX A: GLOSSARY

General Definitions

Definitions from OAR 660-023-0010

(1) "Conflicting use" is a land use, or other activity reasonably and customarily subject to land use regulations, that could adversely affect a significant Goal 5 resource (except as provided in OAR 660-023-0180(1)(b)). Local governments are not required to regard agricultural practices as conflicting uses.

(2) "ESEE consequences" are the positive and negative economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use.

(3) "Impact area" is a geographic area within which conflicting uses could adversely affect a significant Goal 5 resource.

(4) "Inventory" is a survey, map, or description of one or more resource sites that is prepared by a local government, state or federal agency, private citizen, or other organization and that includes information about the resource values and features associated with such sites. As a verb, "inventory" means to collect, prepare, compile, or refine information about one or more resource sites. (See resource list.)

(5) "PAPA" is a "post-acknowledgment plan amendment." The term encompasses actions taken in accordance with ORS 197.610 through 197.625, including amendments to an acknowledged comprehensive plan or land use regulation and the adoption of any new plan or land use regulation. The term does not include periodic review actions taken in accordance with ORS 197.628 through 197.650.

(6) "Program" or "program to achieve the goal" is a plan or course of proceedings and action either to prohibit, limit, or allow uses that conflict with significant Goal 5 resources, adopted as part of the comprehensive plan and land use regulations (e.g., zoning standards, easements, cluster developments, preferential assessments, or acquisition of land or development rights).

(7) "Protect," when applied to an individual resource site, means to limit or prohibit uses that conflict with a significant resource site (except as provided in OAR 660-023-0140, 660-023-0180, and 660-023-0190). When applied to a resource category, "protect" means to develop a program consistent with this division.

(8) "Resource category" is any one of the cultural or natural resource groups listed in Goal 5.

(9) "Resource list" includes the description, maps, and other information about significant Goal 5 resource sites within a jurisdiction, adopted by a local government as a part of the comprehensive plan or as a land use regulation. A "plan inventory" adopted under OAR 660-016-0000(5)(c) shall be considered to be a resource list.

(10) "Resource site" or "site" is a particular area where resources are located. A site may consist of a parcel or lot or portion thereof or may include an area consisting of two or more contiguous lots or parcels.

(11) "Safe harbor" has the meaning given to it in OAR 660-023-0020(2).

Safe Harbor Definition

Definitions from 660-023-0020

(2) A "safe harbor" consists of an optional course of action that satisfies certain requirements under the standard process. Local governments may follow safe harbor requirements rather than addressing certain requirements in the standard Goal 5 process. For example, a jurisdiction may choose to identify "significant" riparian corridors using the safe harbor criteria under OAR 660-023-0090(5) rather than follow the general requirements for determining "significance" in the standard Goal 5 process under OAR 660-023-0030(4).

Riparian Corridor Definitions

Definitions from OAR 660-023-0090

(1) For the purposes of this rule, the following definitions apply:

(a) "Fish habitat" means those areas upon which fish depend in order to meet their requirements for spawning, rearing, food supply, and migration.

(b) "Riparian area" is the area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.

(c) "Riparian corridor" is a Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary.

(d) "Riparian corridor boundary" is an imaginary line that is a certain distance upland from the top bank, for example, as specified in section (5) of this rule.

(e) "Stream" is a channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels.

(f) "Structure" is a building or other major improvement that is built, constructed, or installed, not including minor improvements, such as fences, utility poles, flagpoles, or irrigation system components, that are not customarily regulated through zoning ordinances.

(g) "Top of bank" shall have the same meaning as "bankfull stage" defined in OAR 141-085-0010(2).

(h) "Water area" is the area between the banks of a lake, pond, river, perennial or fish-bearing intermittent stream, excluding man-made farm ponds.

Wetland Definitions

Definitions from OAR 660-023-0100

Wetland: State Reg. Definition: An area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions

Definitions from OAR 141-086-0200

(1) "Delineation" means identifying and marking the wetland/non-wetland boundary of each wetland identified.

(2) "Determination" means identifying an area as wetland or non-wetland.

(3) "Division" means the Oregon Division of State Lands and/or its Director or designate.

(4) "Inventory" means a systematic survey of an area to identify, classify and map the approximate boundaries of wetlands, and includes the supporting documentation required by these rules.
(5) "Mapping" means transferring the identified and delineated wetlands to a base map.

Definitions from OAR 141-086-0330
(1) "Director" means the Director of the Division of State Lands or the Director's designee.
(2) "Division" means the Division of State Lands.
(3) "Indigenous Anadromous Salmonids" are chum, sockeye, Chinook and Coho salmon, and steelhead and cutthroat trout, that are members of the family Salmonidae and are listed as sensitive, threatened or endangered by a state or federal authority.
(4) "Inhabited by" means that a plant or animal species uses the site for rearing, feeding, or breeding or as a migration or dispersal corridor. This does not include incidental use of the site by an animal species.
(5) "Locally Significant Wetlands" or "LSW" are those wetland sites that provide functions or exhibit characteristics that are pertinent to community planning decisions made at a local scale, for example within a UGB. These wetland sites shall be identified by local governments according to the criteria and procedures in sections 141-086-0340 and 141-086-0350.
(6) "Native Plant Community" is used here to indicate a recognized assemblage of plant species indigenous to Oregon. All such wetland plant communities are listed in the most recent version of Classification and Catalog of Native Wetland Plant Communities in Oregon (Oregon Natural Heritage Program).
(7) "Rare Plant Community" is defined as relictual, uncommon or unique in Oregon, determined by number of occurrences and threats following national heritage program criteria (i.e., rarity ranking of G1-G3 or S1-S3). The most concise listing of wetland plant communities in Oregon that meet this standard for rarity is found in Appendix G of the Oregon Freshwater Wetland Assessment Methodology (Oregon Division of State Lands, 1996). The rarity rank of all wetland plant communities is also listed in the most recent version of Classification and Catalog of Native Wetland Plant Communities in Oregon (Oregon Natural Heritage Program).
(8) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Bed or Banks of Stream or River. The physical container of the waters of a stream or river lying below bank-full stage, and the land 10 feet on either side of the container.

APPENDIX B: REFERENCES

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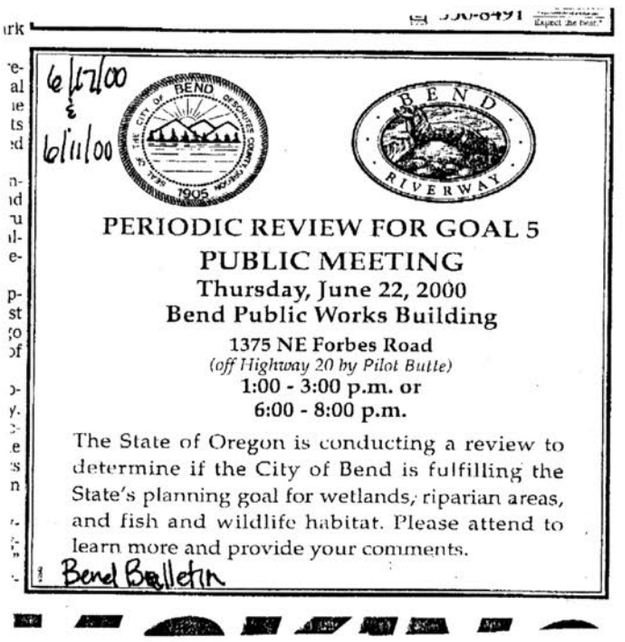
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APPENDIX C: CITIZEN AND AGENCY INVOLVEMENT



6/7/00 & 6/11/00

PERIODIC REVIEW FOR GOAL 5
PUBLIC MEETING
Thursday, June 22, 2000
Bend Public Works Building
1375 NE Forbes Road
(off Highway 20 by Pilot Butte)
1:00 - 3:00 p.m. or
6:00 - 8:00 p.m.

The State of Oregon is conducting a review to determine if the City of Bend is fulfilling the State's planning goal for wetlands, riparian areas, and fish and wildlife habitat. Please attend to learn more and provide your comments.

Bend Bulletin

6/19/00 Bend Bulletin

cal traffic only to Riverside Avenue.

Contact: Roger Prowell, Bend's assistant water supervisor, 317-3017.

Bend assembling wetlands inventory

The city of Bend is conducting an inventory of wetlands, streams, sensitive fish and wildlife habitat areas and state scenic waterways.

Public comment to aid in compiling the inventory of resources within the Bend urban growth boundary will be accepted Thursday at the Bend Public Works Building, 1375 NE Forbes Road (off Highway 20 near Pilot Butte).

Meetings are scheduled from 1 to 3 p.m. and 6 to 8 p.m.

The inventory was spurred by the state of Oregon's periodic review to determine whether the city of Bend is fulfilling the state's planning goals for natural resources.

At both meetings, there will be a short presentation on the state's goals followed by a public opportunity to meet with city staff, view maps and provide comments, according to a city release.

The inventory work will continue through the summer and information will be presented to the Bend Planning Commission in the fall.

Bend Riverway is helping the city with the inventory project.

Comments can also be mailed to Bend Riverway, 200 NW Pacific Park Lane, Bend, OR 97701. Comments are due by July 1.

Civic Calendar

Today

Redmond Planning Commission: 7 p.m., council chambers, Redmond Police Department, 777 SW Deschutes Ave. Contact: 923-7725.

Bend assembling wetlands inventory 6/8/00

The city of Bend is conducting an inventory of wetlands, streams, sensitive fish and wildlife habitat areas and state scenic waterways.

Public comment to aid in compiling the inventory of resources within the Bend urban growth boundary will be accepted June 22 at the Bend Public Works Building, 1375 NE Forbes Road (off Highway 20 near Pilot Butte). Meetings are scheduled from 1 to 3 p.m. and 6 to 8 p.m.

The inventory was spurred by the state of Oregon's periodic review to determine whether the city of Bend is fulfilling the state's planning goals for natural resources.

At the afternoon and evening meetings, there will be a short presentation on the state's goals followed by a public opportunity to meet with city staff, view maps and provide comments, according to a city release.

The inventory work will continue through the summer and information will be presented to the Bend Planning Commission in the fall.

Bend Riverway is helping the city with the inventory project.

Comments can also be mailed to Bend Riverway, 200 NW Pacific Park Lane, Bend 97701.

Comments are due by July 1.

Agency letter: ODFW

September 22, 2000

City of Bend
Planning Division
City Hall Annex
745 NW Bond
PO Box 431
Bend, OR 97709

Attn: Darcy McNamara

Re: City of Bend Periodic Review

Attached is the Oregon Department of Fish and Wildlife response to the City of Bend's Periodic Review (PR). Included in the Department's assessments are narratives on: big game, wetlands, nongame, threatened and endangered program, critical bird sites, riparian protection, and an update on wildlife inventories.

The attached map is courtesy of Deschutes County. It should be used for general reference only. Precise locations of Deschutes County approved combining zones should be available from Deschutes County. The Deer Migration, Deer and Elk Migration, Deer and Antelope Winter Range designations do not apply to the City of Bend.

Thank you for the opportunity to comment on the City of Bend's plan review. If you have any questions regarding our comments, please contact me.

Sincerely,
Steven George
Deschutes District Wildlife Biologist
Deschutes Watershed

ODFW Report. For Big Game habitat map see Wildlife Chapter

The City of Bend in the 1998 Bend Area General Plan has identified the value of wildlife to the city. The plan, in part, states "Bend is a community that values the area's natural features and wildlife." Furthermore the plan has a specific goal "to preserve water resources, riparian areas, and wildlife habitats." The plan's policies cover wildlife habitat and offer some broad concepts to protect these.

Big Game

Big Game that are considered sensitive in the State and are a Goal 5 resource are mule deer, antelope, elk, cougar, black bear, and silver grey squirrels. Deer, silver grey squirrels, and black bear are currently maintaining stable populations levels. The numbers of elk, and cougar have been increasing over the last several years. Antelope populations have been declining over the last several years. See Table 1 for updated population estimates for Deschutes County. The City of Bend currently has resident and seasonal populations of mule deer. Elk are occasional visitors during the winter, primarily in the southern and western fringes of the city. Black bear and cougar are only occasionally seen within the Bend City limits while silver grey squirrels are commonly observed.

Table 1. Big Game Population Estimates, Deschutes County, 2000.

Species	Number
Mule Deer	25,000
Elk	1,000
Antelope	600
Cougar	50
Bear	100
Silver Grey Squirrel	500

Within the Bend Urban Growth Boundary there are no Goal 5 big game habitats that need protection. However, ODFW recommends that the City of Bend recognize the mapped sensitive big game habitats that is recognized by Deschutes County. Please reference the attached map for these locations. These habitats are extremely important to the overall health of these big game herds and are extremely critical to our ability to manage these herds at levels the public desires. Human activities have been documented to have a negative effect on these big game habitats. Deschutes County has adopted ordinances that attempt to protect these resources. These ordinances are adequate to protect these resources within the County but are not practical for the City to adopt. Our recommendation is that the City adopt ordinances that help in protecting these neighboring resources.

One suggestion would be to develop housing density standards that are lower (RL) and maintain these levels on lands within one mile of the County adopted habitats. This would allow a "buffering" effect to minimize human disturbance in these areas. This is similar to the existing language within the plan dealing with the Urban Reserve Area zoning. However, this language falls short of specific language that would adequately protect these resources. In addition, ordinances that require "cluster" development in these areas could preserve valuable open space which would increase the effectiveness of protecting these important Goal 5 habitats.

Riparian and Wetland Habitats

The U.S. Fish and Wildlife Service conducted a high altitude photographic wetland inventory in 1985. One deficiency in the mapping program was that wetlands smaller than five acres in size were not identified as significant. The Department recommends that the City of Bend utilize the U.S. Fish and Wildlife Service maps to identify wetlands greater than five acres. Additionally, the Bend Riverway project identifies many important wetlands and riparian areas that should be incorporated into the Bend Area General Plan. Also, when considering development near wetlands less than five acres, we recommend consulting with the ODFW on a case by case basis.

The Bend Area General Plan has identified the river corridors as "the most important, and most diverse, wildlife area." Furthermore the plan identifies "Areas of Special Interest" within the City of Bend. These areas have extremely high value for wildlife. Measures should be established to protect these areas from human development. Appropriate uses would be parks and open spaces.

Wildlife Diversity

The Department suggests that Deschutes County utilize the ODFW Wildlife Diversity Plan as a guide and reference for the maintenance and enhancement of Oregon's vertebrate nongame wildlife resource. The Bend Riverway project identified numerous values associated with non-game wildlife. The Bend Area General Plan should include this data and recommendations within the plan. Open spaces, wetlands, riparian areas, and Areas of Special Interest provide a tremendous amount of habitat for a diverse range of wildlife species. Continued protection of these areas is essential to provide the diverse wildlife that is treasured within the Bend area. The largest threat to these habitats is from housing developments. The City of Bend should construct ordinance language that minimizes or prevents housing developments within these areas.

Threatened and Endangered Program

In 1985 the Oregon Legislature adopted SB-533 outlining a process where the Department of Fish and Wildlife (ODFW) could develop a list of threatened or endangered wildlife or fish species. At the writing of this document, the ODFW Commission has adopted Administrative Rules (OAR 635-100-100 to 130) that deal with this program. Currently the ODFW inventory for these species does not include any sites within the City of Bend.

Critical Bird Sites

ODFW has identified a list of bird species that are especially sensitive to human activity: Northern Bald and Golden Eagles, Spotted Owl, Osprey, Goshawks, Coopers and Sharp-shinned Hawks, Peregrine and Prairie Falcons, Great Blue Herons, and Band-tailed Pigeons. Only one of these species (Band-tailed Pigeon) does not utilize habitat in Deschutes County. The purpose of providing special protection for sensitive birds is to assure that their habitat areas are protected from the effects of conflicting uses or activities. Protection of bird sites can be achieved through the development of site specific management plans. Management plans assure that the proposed use and activities will not destroy or result in abandonment of the sensitive species form a nest site. Currently there are no sites within the City of Bend that merit this protection. However, we recommend that provisions be provided within the plan that if sites are located, protection measures could be established at that time for those sites.

Wildlife Interactions

Wherever there is wildlife the potential exists for undesirable wildlife interactions. The City of Bend is not unique in that these interactions have occurred and will occur in the future. Programs such as the Waterfowl Advisory Committee is excellent avenues to deal with some of these situations and should be encouraged to continue. Trapping as authorized by the City Commission and the State of Oregon has controlled other situations such as damaging or nuisance waterfowl and furbearing wildlife.

Other wildlife species can also cause problems within the city. Law enforcement personnel and ODFW employees on numerous occasions are called in to remedy injured or problem wildlife. Currently the Bend City Code (5.025) only allows peace officers to discharge weapons. ODFW employees are no longer peace officers and therefore cannot legally discharge a weapon within the City of Bend. It would be our recommendation that this code be amended to include ODFW employees while acting in their official capacity. Without this inclusion ODFW employees will no longer be able to respond to these situations.

Because of the growth of the City of Bend in recent years more and more people are interacting with wildlife. Some of this interaction is with large carnivores (cougar) and black bears. Cougar tend to be attracted to the City of Bend by following their prey source, which is deer. When residents feed deer they artificially increase the natural population that would exist in that location. This not only increases damage to ornamental shrubs and flowers by deer but also increases the chance that people will come in contact with cougar. It would be our recommendation that artificial feeding of deer be strongly discouraged within the City of Bend. Continuing to encourage adequate garbage control can reduce black bear interactions.

Wildlife Biologist Letter

Letter submitted by Bob Davison, Northwest Field Representative, Wildlife Management Institute

November 16, 2000

City of Bend
745 NW Bond Street
P.O. Box 431
Bend, OR 97700

Attn: Ms. Darcy McNamara

I am writing as a wildlife biologist and Northwest Field Representative of the Wildlife Management Institute to provide information relevant to the City of Bend's inventory of Goal 5 resources. The Wildlife Management Institute, founded in 1911, is a private, nonprofit, scientific and educational organization staffed by experienced natural resource professionals dedicated to improving the management of wildlife and wildlife habitat in North America by working closely with local governments, state wildlife management agencies, federal natural resource agencies, and conservation groups

The area commonly known as "Elk Meadows" and the adjacent lands on either side of the Deschutes River in the southwest corner of the City of Bend is a Goal 5 resource site and should be included in the inventory of wildlife habitat. This area encompasses roughly 320 acres, of which approximately 200 acres are valuable as big game winter range. About 200 elk utilize this site and the surrounding general area in the winter. The site also is heavily utilized by mule deer as winter range. Big game winter range, particularly elk winter range, within Bend's Urban Growth Boundary (UGB) is very limited and becoming increasingly rare and degraded. While elk occasionally utilize other areas along the western and southern fringes of the City, no other location within the City of Bend regularly provides anywhere close to as much winter range for as many elk as the 200 acres in the vicinity of Elk Meadows.

The big game winter range in the vicinity of Elk Meadows is significant wildlife habitat within the City of Bend's UGB. No other comparable site for these Goal 5 resources exists within the UGB. Under OAR 660-023-0110, wildlife habitat inventory information shall include habitats of concern, such as big game winter range, identified and mapped by the Oregon Department of Fish and Wildlife (ODFW). The 200 acres in the vicinity of Elk Meadows clearly has been identified by the ODFW as providing winter range for big game, and it has been mapped previously by the ODFW as such. Consequently, the 200 acres of big game winter range in the vicinity of Elk Meadows may be considered significant by the City of Bend under the safe harbor criteria set forth in OAR 660-023-0040(e).

According to the ODFW, the loss of the 200 acres of big game winter range in the vicinity of Elk Meadows "will reduce the capacity of this area to winter elk and reduces the number of elk that could winter in this area."[1] The effect of any loss of this big game winter range is that "the population may have to be reduced" to keep its numbers in balance with what the remaining habitat can support.[2] Such consequences would be significant to the continued existence of these Goal 5 resources within the City of Bend.

The cumulative effects on big game winter range and other Goal 5 resources also are significant and increasing. Throughout the West and in the Bend area, the big game habitat in greatest jeopardy is that which is at relatively low elevation and at the wildland/urban interface, such as the big game winter range in the vicinity of Elk Meadows. Evidence is increasing that the greatest effects to these habitats result not from the direct effects of a particular action, but from the combination of individually minor effects of

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[1] August 9, 2000, letter from Steven George, ODFW, to City of Bend
[2] *Ibid.*

multiple actions over time. The ODFW has stated that there already "has been tremendous impact to fish and wildlife resources in this area from human disturbance."[3]

Thank you for your consideration of our comments.

Sincerely,

/s/

Robert P. Davison, Ph.D.
Northwest Field Representative

[3] July 12, 2000, letter from Steven George, ODFW, to City of Bend.



Exhibit "B"

Conflicting Uses, ESEE Analysis, and Goal 5 Program

Adopted by City Council November 20, 2002
Effective December 20, 2002

Community Development Department

November 2002

City of Bend

CONFLICTING USES, ESEE ANALYSIS, AND GOAL 5 PROGRAM

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Conflicting Uses, ESEE Analysis and Goal 5 Program

Introduction

This document serves as the basis for General Plan policies and implementing measures adopted to provide appropriate levels of protection to Bend's inventoried Goal 5 natural and scenic resources. The intent of Statewide Land Use Goal 5 is "To protect natural resources and conserve scenic and historic areas and open spaces." Goal 5 resources covered in this document are those found to be significant in the *City of Bend Periodic Review Goal 5 Inventory and Analysis* (December 2000). That inventory identified significant riparian and wetland resources along the Deschutes River and Tumalo Creek waterways. This document also identifies two River Corridor Areas of Special Interest (ASI) along the Deschutes River as significant scenic views and sites. These ASI's, comprising the South Canyon (generally upstream of the southern bridge crossing alignment) and a second canyon area downstream from Sawyer Park, were originally designated on Bend's General Plan map in the mid-1970's.

Where significant resources are identified under Statewide Land Use Goal 5, state law requires that local jurisdictions develop and adopt a program to conserve and protect those resources. Depending on the type of resource and its characteristics, it may be necessary to identify conflicting uses and activities that could adversely affect the resource. Where conflicting uses are identified, state law requires an analysis of the potential environmental, social, energy and economic (ESEE) consequences of prohibiting, limiting, or permitting the conflicting use. The results of the conflicting uses/ESEE analysis (or "safe harbor" provisions, as applicable)form the basis for a program to provide appropriate levels of protection to the resources.

This document deals with significant Goal 5 resources along the Deschutes River and Tumalo Creek in two sections. Section 1 discusses riparian and wetland resources as identified in the *City of Bend Periodic Review Goal 5 Inventory and Analysis.* Section 2 covers the River Corridor Areas of Special Interest along the Deschutes River as designated in the City's 1978 General Plan. Within each section, conflicting uses are first identified based on the

designated impact area. State law (OAR 660-23-010(1)) defines "conflicting use" as follows: "A land use, or other activity reasonably and customarily subject to land use regulations, that could adversely affect a significant Goal 5 resource..." In considering conflicting uses, state law also requires that an examination of conflicting uses include those uses allowed outright or conditionally within zoning districts affecting property where significant resources are found. The identification of conflicting uses is followed in each section by an ESEE consequences analysis. The ESEE analysis is presented in the form of tables in which likely or potential economic, social, environmental, and energy consequences of allowing, limiting, or prohibiting conflicting uses are summarized.

Goal 5 also requires a determination of the "impact area" to be considered for ESEE analysis. The impact area is the area within which allowed conflicting uses could adversely affect the resource. For purposes of this analysis, the impact areas for the Deschutes River and Tumalo Creek are considered to be the boundary of the Waterway Overlay Zone (WOZ). In the case of the Deschutes River, the WOZ boundary is the outermost of the four sub-zones that make up the WOZ: the Riparian Corridor, the Flood Plain Combining Zone, the Deschutes River Design Review Combining Zone, and the River Corridor Areas of Special Interest. The WOZ boundaries are therefore defined as the impact area for the Deschutes River riparian, wetland, and scenic (ASI) resources. In the case of Tumalo Creek, the only WOZ sub-zone which is applied is the Riparian Corridor, extending a distance of 50 ft. from the ordinary high water mark along both sides of the creek. Therefore, for purposes of ESEE analysis, the Tumalo Creek impact area is considered to be land within 50 ft. of the ordinary high water mark on both sides.

The final element of each section outlines the Goal 5 program for each resource type. The Goal 5 program presents the City's approach to providing appropriate levels of protection to the resources, based on inventory data, identification of conflicting uses, the ESEE analysis, or safe harbor provisions, in the case of riparian and wetland resources. This program serves as the basis for General Plan policies regarding these important resources and for specific implementing measures contained in the City Code.

Adequacy of Information

The Goal 5 Inventory and Analysis documents the information relied on in making determinations that significant riparian, wetland, and scenic resources exist in Bend. That inventory includes by reference a number of sources containing very detailed information about Goal 5 resource sites. Though not physically incorporated in the Goal 5 Inventory and Analysis, these referenced sources are public documents and are available for review at Bend City Hall. These sources include those specified in state law (OAR 660-023-0090[4]) as well as numerous additional sources (see Appendix B of the Goal 5 Inventory

and Analysis).

The City of Bend finds the information contained and referenced in the Goal 5 Inventory and Analysis to be adequate for determining the location, quality, and quantity of riparian, wetland, and scenic resources for each of the designated sites.

The Goal 5 Inventory and Analysis finds that there are only two riparian corridors (Deschutes River and Tumalo Creek) within the 32.2 square miles of the City of Bend. It also finds that the only significant wetlands are those lying within the Deschutes River corridor. Riparian and wetland resources are relatively scarce in the Bend area due to the dry, high desert climate and lava plains physiographic conditions. The scarcity of these resources in the region contributes to their significance in Bend.

Section 1

Riparian and Wetland Resources

The *City of Bend Periodic Review Goal 5 Inventory and Analysis* (December 2000) finds that the Deschutes River and Tumalo Creek riparian corridors are significant within Bend. The Deschutes River riparian corridor also includes significant wetlands. While irrigation canals and other minor waterways are found elsewhere in the city, only the Deschutes River and Tumalo Creek corridors have been found to contain significant riparian or wetland resources.

For riparian and wetland resources, the Goal 5 Inventory and Analysis divides the Deschutes River in Bend into three reaches: South Canyon, Pioneer, and Awbrey. Each of these reaches is considered a resource site, as described in OAR 660-023-0090(3). For each reach, the Goal 5 Inventory and Analysis summarizes findings concerning the location, quality, and quantity of riparian and wetland resources. These summaries are based on more detailed data contained in documents referenced in the inventory. Principal reference sources for riparian and wetland resources include the City of Bend Local Wetlands Inventory Report, the *Bend Riverway, a Community Vision*, and *The Bend Urban Lands Survey.* These sources in particular contain detailed information concerning the natural features, trees and vegetation, wildlife, land use, habitat value, existing/anticipated conflicts with adjacent land uses, wildlife linkages, scenic resources, and other characteristics of the three reaches.

For significant riparian resources, there are two options under state law for designating areas of the waterway corridor within which measures to protect the resources will be applied. The first option is to adopt riparian corridor designations that meet minimum width standards as specified in administrative rules adopted for Goal 5 (known as the "safe harbor" option). Under the second option, the City may choose to specify and protect riparian corridors that deviate from safe harbor widths. Where this is done the City is required to justify different corridor widths by identifying conflicting uses and by conducting an ESEE analysis. Having considered conflicting uses and the related ESEE consequences, the City must then develop and adopt a program to provide appropriate levels of protection for the resource. Bend's Goal 5 program for the Deschutes River uses a combination of safe harbor riparian corridor designation and corridor widths that are based on conflicting use/ESEE analysis. Generally, where the corridor is less disturbed and there are fewer conflicting uses, safe harbor corridors are designated. Along the more urbanized segments of the river, varying corridor widths are designated in response to a detailed conflicting uses/ESEE analysis. River segments where

the safe harbor option or the conflicting uses/ESEE option is applied are described below, based on the three corridor "reaches" identified in the Goal 5 inventory.

Conflicting Uses:

Deschutes River - South Canyon Reach

The South Canyon Reach runs from the south UGB to the alignment of the southern bridge crossing (Reed Market Rd. extension). The Goal 5 Inventory and Analysis Report finds that much of the South Canyon reach is characterized by steep canyon walls. In some areas these canyon walls are nearly vertical and rise almost directly from the edge of the river, leaving little room for riparian conditions. In other segments of the South Canyon, the canyon walls are less steep or are located back some distance form the river's edge. Where this is the case, slopes abutting the river are much gentler, and the riparian corridor is broader. Contour maps consulted for the inventory indicate that some of these relatively flat areas in the South Canyon extend landward from the river's edge for distances of more than 100 ft. before steep cliffs begin to rise abruptly.

Conflicting uses for the South Canyon reach are summarized below, based on zoning designations.

Residential Urban Standard Density (RS) The RS zone is applied to property abutting nearly all of the west side of the South Canyon reach, and on the east side of the reach for about a distance of one mile upstream of the future southern bridge crossing site. As stated in the Zoning Code, the RS zone is intended to "provide for the most common urban residential densities in places where community sewer services are or will be available and to encourage, accommodate, maintain and protect a suitable environment for family living," (Sec. 10-10.10). The primary permitted use type is single-family dwellings, developed at density ranges of 2.0-7.3 units per gross acre. Conditional uses permitted in this zone include schools, churches, parks, and a variety of public utility and other supporting uses. Any of these uses could conflict with significant riparian or wetland resources. Typical yard landscaping and maintenance activities associated with residential uses can also be considered conflicting uses. As discussed in the *Goal 5 Inventory and Analysis Report,* these activities may include removal of native vegetation, the planting of lawns and ornamental shrubs and trees, and on-going application of fertilizers and pesticides.

Much of the west side of the river in the South Canyon reach is already developed with single-family residential subdivisions, recreational facilities,

condominiums, and time-share units. Most of these developments are located on top of the canyon rimrock. Some dwellings in these areas are placed at the edge of the rimrock. There are limited opportunities for new development immediately adjacent to the river because of the presence of steep canyon walls. Where such opportunities exist, there is the potential for new development to encroach into the riparian corridor, removing native vegetation and replacing it with structures, lawns, ornamental plants, driveways, and other features that could adversely affect riparian and wetland resources.

Residential Urban Low Density (RL) Within the South Canyon reach, this zone applies to both sides of the river for a distance of about one-half mile downstream from the UGB. It also applies to about 1.25 miles of property fronting the east side of the river in the middle portion of the reach. The RL zone permits primarily residential uses at densities ranging from 1.1 to 2.2 units per gross acre. Conditional uses permitted in this zone include churches, schools, parks, and a variety of public utility and other supporting uses. Any of these uses could conflict with significant riparian or wetland resources. Typical yard landscaping and maintenance activities can also be considered conflicting uses. As discussed in the Goal 5 Inventory and Analysis Report, these activities may include removal of native vegetation, the planting of lawns and ornamental shrubs and trees, and on-going application of fertilizers and pesticides.

While much of the RL zoned property in the South Canyon reach is currently vacant, several large subdivisions have been approved and are under development on the east side of the river. These subdivisions are located on top of the canyon wall. Dwellings built on these lots will generally pose little threat to the riparian corridor lying at the foot of the canyon, provided dwellings do not encroach to the edge of the rimrock or remove native vegetation growing on the canyon wall.

Deschutes River – Pioneer Reach

The Pioneer Reach runs from the southern bridge crossing alignment to the North Canal Dam. As described in the *Goal 5 Inventory and Analysis Report,* much of this reach is highly urbanized and otherwise altered by landscaping and non-native vegetation. Conflicting uses for the Pioneer Reach are summarized below, based on zoning designations.

Industrial General (IG) This zoning district applies to property flanking the east side of the river, for a distance of approximately 2,500 ft. downstream from Wood River Village. The IG zone permits a wide variety of manufacturing, processing, assembly, storage, and warehousing uses. It also permits some limited commercial development as conditional uses, and certain types of public uses and facilities, as well as parking and utilities needed to support

permitted uses. Any of these uses could conflict with riparian and wetland resources. This property is currently owned by the Bend Metro Park and Recreation District, and is proposed for development as a park. It is currently vacant. This is also the site of the new southern bridge crossing, and an extension of Reed Market Rd., to be built during FY 2002-03. Over the last 90 years the riparian character of this site has been seriously degraded through use as an industrial log storage and loading area. Native soils and all riparian vegetation were long ago removed. The long history of heavy industrial use on this site has left about 15 ft. of densely compacted sawdust and other organic debris.

Industrial Light (IL) IL zoning applies to property along the west side of the river for a distance of roughly 1,500 ft. downstream from the north boundary of Wood River Village. This zone permits a wide variety of light manufacturing, processing, storage, and warehousing uses. It also permits some limited commercial development as conditional uses, certain types of public uses and facilities, as well as parking and utilities needed to support permitted uses. Any of these uses could conflict with riparian and wetland resources. The riparian corridor in this zone is narrow, and opportunities for substantial new industrial development are limited due to the presence of rimrock. A dirt trail runs adjacent to this stretch of the river.

Mixed-Use Riverfront (MR) This zone has been designated along both sides of the river for a distance of nearly a mile, to the north boundary of McKay Park. The MR zone was adopted in 1995 to stimulate and facilitate the redevelopment of key sites previously in use for many decades as lumber mills. Adoption of the MR zone followed a lengthy process during which public input concerning the most appropriate and desirable types of development for the former mill properties was solicited and considered. These properties occupy a key position in Bend; the MR zoning process acknowledged this importance, and formalized a commitment on the part of the community. The effect of this commitment was to encourage and support private redevelopment in a manner that revitalizes this area economically, brings people to shops, housing, employment, and the river, and restores natural resource values.

The stated purpose of the MR zone is to "implement the General Plan policies for the creative redevelopment of mill site properties adjacent to the Deschutes River. It is intended to allow for a mix of uses that: (a) Provide a variety of employment opportunities and housing types; (b) Foster pedestrian and other non-motor vehicle activity; (c) Ensure functionally coordinated, aesthetically pleasing and cohesive site planning and design; (d) Ensure compatibility of mixed-use developments with the surrounding area and minimize off-site impacts associated with the development; and (e) Encourage access to, and enjoyment of, the Deschutes River," (Bend Code Sec. 10-10.21A). Accordingly, the MR zone permits a wide variety of light industrial, commercial, residential

and supporting uses, provided they are designed to achieve the general purposes of the MR zone, as outlined above.

Master development plans for the Old Mill District project have been approved for all of the MR acreage adjacent to the Deschutes River. These master plans are under development and have brought about a large-scale mix of retail uses, office buildings, a cinema, and an outdoor amphitheater. About 20 acres of MR land on the west side of the river, south of Columbia St., and 5 acres on the east side of the river, abutting the Reed Market Rd. extension, remain undeveloped at this time.

The natural riparian character of the MR zone was basically eliminated some 90 years ago due to its long use for transporting and storing logs and producing lumber. Native soils and all riparian vegetation were long ago removed and replaced by some 15 ft. of densely compacted sawdust and other organic debris. The banks of the river in much of the MR zone were re-contoured as part of the Old Mill District master development plan, and a narrow strip of vegetation was restored between the water and a paved pedestrian trail. A significant exception to this altered condition is the 6.5-acre wetland created by the Colorado bridge and dam, adjacent to the west side of the river.

Existing uses and future development activity in the MR zone must be considered conflicting uses under Goal 5. However, future development in this zone can also serve as the means for restoration of this badly degraded riparian corridor. Standards for new development in the MR zone include the following (Sec. 10-10.21A[6]):

> Retain and conserve riparian vegetation within the bed and banks of the Deschutes River and adjacent to the river to the maximum extent practicable. There shall be no net loss of wetlands adjacent to the river.
>
> Emphasize the use of native trees, shrubs, or other plants adapted for survival and growth in the high desert life zone.

The goal to encourage access to, and enjoyment of, the Deschutes River also creates the potential for conflicting uses. In the MR zone in particular, the river can serve as both an educational and an aesthetic resource. Pedestrian trails, viewpoints, and other interpretive features will be needed to provide public access and enjoyment of the river. Although conflicting uses, such improvements need not have significant adverse impacts on riparian resources if they are limited in terms of scale and placement.

Residential Urban Medium Density (RM) Within the Pioneer Reach, this zone applies to a mostly built-out area abutting the east side of the river,

between the MR zone and the Galveston Ave. bridge. It also applies to land on both sides of the river between the Newport Bridge and Steidl Dam. The RM zone permits primarily residential uses at densities ranging from 7.3 to 21.7units per gross acre. Conditional uses permitted in this zone include schools, churches, parks, and a variety of public utility and other supporting uses. Any of these uses could conflict with significant riparian or wetland resources. Typical yard landscaping and maintenance activities associated with residential uses can also be considered conflicting uses. As discussed in the *Goal 5 Inventory and Analysis Report,* these activities may include removal of native vegetation, the planting of lawns and ornamental shrubs and trees, and on-going application of fertilizers and pesticides.

There is little vacant land in RM zoned areas within the Pioneer Reach. Most of the properties are small lots developed with single-family dwellings or small multiple-unit buildings. A typical development pattern has the dwelling facing the street, with a landscaped yard lying between the back of the building and the river. This yard often consists mainly of lawn, with occasional shrubs and trees which may be non-native ornamentals. A program to protect significant riparian and wetland resources will need to acknowledge these conditions and their on-going maintenance as potentially conflicting uses.

Residential Urban Standard Density (RS) The RS zone is applied generally to property abutting the river along the middle and northern sections of Pioneer Reach. As stated in the Zoning Code, the RS zone is intended to "provide for the most common urban residential densities in places where community sewer services are or will be available and to encourage, accommodate, maintain and protect a suitable environment for family living," (Sec. 10-10.10). The primary permitted use type is single-family dwellings, developed at density ranges of 2.0-7.3 units per gross acre. Conditional uses permitted in this zone include schools, churches, parks, and a variety of public utility and other supporting uses. Any of these uses could conflict with significant riparian or wetland resources. Typical yard landscaping and maintenance activities associated with residential uses can also be considered conflicting uses. As discussed in the *Goal 5 Inventory and Analysis Report,* these activities may include removal of native vegetation, the planting of lawns and ornamental shrubs and trees, and on-going application of fertilizers and pesticides.

As with the RM zone, there is relatively little vacant land in RS zoned areas within the Pioneer Reach. Most properties are small lots developed with single-family dwellings. A typical development pattern has the dwelling facing the street, with a landscaped yard lying between the back of the building and the river. This yard often consists mainly of lawn, with occasional shrubs and trees which may be non-native ornamentals. The RS zone also includes several of Bend's major parks, including Drake Park. These parks include large lawns, hard-surface trails, and retaining walls at the river's edge and within the riparian corridor. Because of the high level of existing development, small-lot

pattern, and previous disturbance of the riparian corridor in the RS zone, there is relatively little opportunity for large-scale restoration of natural riparian conditions. A program to protect significant riparian and wetland resources will need to acknowledge these existing uses and conditions, and their on-going maintenance, as potentially conflicting uses.

Central Business District (CB) The CB zone flanks a short segment of the middle portion of the Pioneer Reach, making up part of Bend's downtown core. Uses permitted in the CB zone include traditional downtown uses, such as retail stores, offices, restaurants, banks, and dwelling units, as a secondary use. Conditional uses include food stores, parking lots, and buildings over 45 ft. in height. Any of these uses could conflict with significant riparian or wetland resources.

This part of the CB zone is made up of a mix of business properties and publicly owned parcels that provide access to the river, and serve as a continuation of Drake Park. Most of these properties have lawns and landscaped areas lying between the river and adjacent buildings, as well as intermittent walls at the shoreline that make up a hard riparian edge. All of these existing conditions can be considered potentially conflicting uses. Because of the high level of existing development, small-lot pattern, and previous disturbance of the riparian corridor in the CB zone, there is relatively little opportunity for large-scale restoration of natural riparian conditions. A program to protect significant riparian and wetland resources will need to acknowledge these existing uses and conditions, and their on-going maintenance.

Commercial Limited (CL) Within the Pioneer Reach the CL zone is applied to a small area on the east side of the river at the Newport Bridge, at the Bend Riverside Motel Condominiums, and to a larger area along both sides of the river behind the North Canal Dam. The CL zone permits a wide variety of conventional commercial uses, including retail stores, auto sales, restaurants, banks, offices, motels, service stations, and dwelling units that are secondary to a primary commercial use. Conditional uses permitted include new dwelling units, car washes, department stores, theaters, and a variety of institutional and public uses. Any of these uses could conflict with significant riparian or wetland resources.

Most of the parcels in these areas are built-out, except for the properties lying adjacent to the North Canal Dam. The dam itself can be considered a conflicting use. In addition, existing development and landscaping on developed parcels south of the dam can be considered conflicting uses, as well as on-going building and landscape maintenance activities. Future development activities on those CL parcels adjacent to the North Canal Dam could also conflict with protection of significant riparian and wetland resources inventoried in this area.

Deschutes River – Awbrey Reach

The Awbrey Reach of the Deschutes River runs from the North Canal Dam to the north boundary of the Bend urban growth boundary. The Goal 5 Inventory and Analysis Report finds that much of the Awbrey Reach is characterized by steep canyon walls. In some areas these canyon walls are nearly vertical and rise almost directly from the edge of the river, leaving little room for riparian conditions. In other segments of the South Canyon, the canyon walls are less steep or are located back some distance from the river's edge. Where this is the case, slopes abutting the river are much gentler, and the riparian corridor is broader. Contour maps consulted for the inventory indicate that some of these relatively flat areas in the Awbrey reach extend landward from the river's edge for distances of more than 100 ft. before steep cliffs begin to rise abruptly.

Conflicting uses in the Awbrey reach are summarized below, based on zoning designations.

Commercial Limited (CL) The CL zoning designation adjacent to the North Canal Dam, discussed above in the summary of Pioneer Reach conflicting uses, continues into the Awbrey Reach along both sides of the river from the dam to the Mt. Washington Bridge. From that point CL zoning extends farther downstream along the east bank of the river for an additional distance of approximately 1,500 ft. to the south boundary of Sawyer Park. The same permitted uses in the CL zone described above are permissible along this segment of the river, and could be considered conflicting uses.

Downstream from the Mt. Washington Bridge two large motels front the river. A covered footbridge connects motel units on both sides of the river. This encroachment of buildings and landscaping has narrowed the river corridor and virtually eliminated natural riparian conditions. On-going maintenance of these buildings and other site improvements will continue. As a result, there is relatively little opportunity for large-scale restoration of natural riparian conditions in this area. A program to protect significant riparian and wetland resources will need to acknowledge these existing uses and conditions, and their on-going maintenance.

Residential Urban Standard Density (RS) The RS zone is applied to property abutting nearly all of both sides of the Awbrey reach. As stated in the Zoning Code, the RS zone is intended to "provide for the most common urban residential densities in places where community sewer services are or will be available and to encourage, accommodate, maintain and protect a suitable environment for family living," (Sec. 10-10.10). The primary permitted use type

is single-family dwellings, developed at density ranges of 2.0-7.3 units per gross acre. Conditional uses permitted in this zone include schools, churches, parks, and a variety of public utility and other supporting uses. Any of these uses could conflict with significant riparian or wetland resources. Typical yard landscaping and maintenance activities associated with residential uses can also be considered conflicting uses. As discussed in the Goal 5 Inventory and Analysis Report, these activities may include removal of native vegetation, the planting of lawns and ornamental shrubs and trees, and on-going application of fertilizers and pesticides.

Much of the property zoned RS adjacent to the river in the Awbrey reach is already developed with single-family residential subdivisions and recreational facilities. Most of these subdivisions are located on canyon rimrock. Some dwellings in these areas are placed near the edge of the rimrock. Sawyer Park occupies about one-third of a mile of river frontage on both the east and west banks in the RS zone. There are limited opportunities for new development immediately adjacent to the river because of the presence of canyon walls and steep rocky slopes. Where such opportunities exist, there is the potential for new development to encroach into the riparian corridor, removing native vegetation and replacing it with structures, lawns, ornamental plants, driveways, and other features that could adversely affect riparian and wetland resources.

Residential Urban Low Density (RL) Within the Awbrey reach, this zone applies to property along the river for a distance of about one-half mile, in the vicinity of Archie Briggs Rd. The RL zone permits primarily residential uses at densities ranging from 1.1 to 2.2 units per gross acre. Conditional uses permitted in this zone include churches, schools, parks, and a variety of public utility and other supporting uses. Any of these uses could conflict with significant riparian or wetland resources. Typical yard landscaping and maintenance activities can also be considered conflicting uses. As discussed in the Goal 5 Inventory and Analysis Report, these activities may include removal of native vegetation, the planting of lawns and ornamental shrubs and trees, and on-going application of fertilizers and pesticides.

Tumalo Creek

Approximately 1,100 ft. of Tumalo Creek flows through the northwestern edge of the city limits. The creek bed here is 20-40 ft. wide, with seasonal fluctuations in flow levels. This section of the creek and adjacent land are relatively undisturbed, and exist in essentially a natural condition. The Bend Metro Park and Recreation District is the landowner on both sides of the creek. No significant wetlands were found along this section of the creek.

As noted in the *Goal 5 Inventory and Analysis Report* average annual flows of Tumalo Creek are less than 1,000 c.f.s. Under Goal 5, the "safe harbor" riparian corridor width for streams with flow volumes less than 1,000 c.f.s. is 50 ft. That 50 ft. corridor is applied to land along both sides of Tumalo Creek. Due to this safe harbor designation, identification of conflicting uses and ESEE analysis are not required. Although 50 ft. corresponds to the specified Goal 5 safe harbor width, state administrative rules provide that where steep slopes or cliffs are present, the actual designated corridor width must be based on the findings of the inventory process (OAR 660-23-090[5][d]). The *Goal 5 Inventory and Analysis Report* finds that land along both sides of this segment of Tumalo Creek is characterized by steep slopes. In these areas, actual riparian conditions are found in narrow strips on either side, generally not exceeding 10 ft. While this finding might suggest a riparian corridor designation that is narrower than safe harbor, a safe harbor corridor of 50 ft. will easily encompass all identified riparian conditions and allow for protection of additional resources where they exist.

Impacts to Buildable Lands

For the Deschutes River, the Waterway Overlay Zone applies to property abutting approximately ten linear miles of river frontage in the City of Bend. For approximately half of this river frontage, the WOZ boundary is delineated by the boundary of the River Corridor Areas of Special Interest sub-zone. This sub-zone encompasses rock walls and rimrock in the South Canyon and Awbrey Reaches of the river. Although these reaches are zoned residential, lands within the River Corridor ASI boundaries are effectively unbuildable for housing due to topography and access limitations. Development standards of the River Corridor ASI sub-zone also require new structures adjacent to the ASI boundary to be set back at least 30 ft.. This standard could increase somewhat the amount of undeveloped land on parcels affected by this standard. However, the River Corridor ASI sub-zone also includes a provision allowing a development credit, to permit a density transfer from regulated portions of a site to non-regulated portions of the property. This same provision also allows for reduced yard setbacks in order to compensate for the 30 ft. setback. Finally, the River Corridor ASI sub-zone provides that where a parcel is located entirely within that sub-zone, it may be developed with a permitted use despite the ASI designation. These measures will work to ensure that where there may be buildable lands within or adjacent to the River Corridor ASI, those lands may be developed in accordance with the underlying zone.

Of the roughly five miles of river frontage not affected by the River Corridor ASI sub-zone, approximately 80% is already developed. The largest single portion of the undeveloped frontage is found in the MR zone. Virtually all of the

undeveloped frontage in the MR zone is subject to approved master plans that have preceded adoption of the WOZ. Development of these parcels will proceed in accordance with those master plans. The remaining portions of undeveloped, buildable river frontage lying between the South Canyon and Awbrey Reaches are zoned for commercial uses, and amount to approximately 1,600 lineal feet of property. With Riparian Corridor sub-zone widths of 30'-50' in these areas, it is estimated that a total of roughly two acres of vacant, buildable property could be restricted from full commercial development. The General Plan estimates that the city contains some 621 acres of vacant, buildable commercial land. This figure has been more recently updated to approximately 594 acres. The amount of vacant, buildable commercial land that could be affected by the Riparian Corridor sub-zone is negligible when compared to the city-wide inventory. It should also be noted that provisions of the Riparian Corridor sub-zone permit development of parcels that are completely within that sub-zone's boundaries in accordance with the underlying zone. The WOZ also permits encroachment of structures and impervious surfaces into the Riparian Corridor by up to 50% under certain circumstances. These measures are designed to ensure a reasonable level of development on parcels that are affected by development limitations imposed by the WOZ.

ESEE Consequences Analysis

As discussed above, for all of the South Canyon Reach, and much of Awbrey Reach of the Deschutes River, the program to conserve and protect Bend's significant Goal 5 riparian and wetland resources applies "safe harbor" corridor widths. A safe harbor corridor width is also designated for the entire stretch of Tumalo Creek that flows through Bend. Existing conditions and conflicting uses identified above and in the *Goal 5 Inventory and Analysis Report* suggest that narrower corridors (i.e. less than 50 ft.) are appropriate for other segments of the Deschutes River, particularly within the Pioneer Reach and part of the Awbrey Reach. Where this is the case, these narrower widths are justified by analyzing the environmental, social, energy, and economic (ESEE) consequences of allowing, limiting, or prohibiting the identified conflicting uses. Following is a series of tables summarizing likely ESEE consequences of allowing, limiting, or prohibiting conflicting uses as identified above for those river segments where designated riparian corridor widths deviate from safe harbor widths.

Table 1

South Canyon Reach – ESEE Analysis
Deschutes River West Side

Reach Segment	Consequences of Allowing or Prohibiting Conflicting Uses			
	Economic	Social	Environmental	Energy
South UGB to Alignment of Future Southern Bridge Crossing	New housing could be developed; existing housing could be expanded, providing construction employment opportunities. Existing resort developments could be enlarged, providing increased employment opportunities.	Residential and resort landscaping and construction of docks, walls, and other improvements in the water could have adverse impacts on recreation and visual quality of the river corridor.	Impervious surfaces (roofs, patios, decks, etc.) and use of fertilizers and pesticides in landscaped areas could adversely affect water quality; non-native vegetation reduces habitat quality. Protection of existing riparian conditions could lead to a healthier, expanded riparian corridor.	An existing pedestrian trail provides recreation opportunities for residents of nearby neighborhoods, reducing energy consumption. Housing adjacent to the river enables residents to enjoy water-related amenities and activities without need to travel elsewhere by car.

Table 2

South Canyon Reach – ESEE Analysis
Deschutes River East Side

Reach Segment	Consequences of Allowing or Prohibiting Conflicting Uses			
	Economic	Social	Environmental	Energy
South UGB to Alignment of Future Southern Bridge Crossing	New housing could be developed; existing housing near the river could be expanded, providing construction employment opportunities. Existing irrigation and hydro power facilities could be replaced or enlarged to support local economy.	Residential landscaping and construction of docks, walls, and other improvements in the water could have adverse impacts on recreation and the visual quality of the river corridor.	Impervious surfaces (roofs, patios, decks, etc.) and use of fertilizers and pesticides in landscaped areas could adversely affect water quality; non-native vegetation reduces habitat quality. Alterations to existing irrigation facilities could have impacts on riparian and wetland resources. Protection of existing riparian conditions could lead to a healthier, expanded riparian corridor.	Existing informal trails and irrigation maintenance road provide recreation opportunities for residents of nearby neighborhoods, reducing energy consumption. Housing adjacent to the river enables residents to enjoy water-related amenities and activities without need to travel elsewhere by car. Existing hydro power plant provides electrical power. On-going maintenance will be needed to maintain power production.

Table 3

Pioneer Reach – ESEE Analysis
Deschutes River West Side

Reach Segment	Consequences of Allowing or Prohibiting Conflicting Uses			
	Economic	Social	Environmental	Energy
S. boundary of Pioneer Reach to the north boundary of McKay Park	Industrial zoning could provide limited opportunities for new development, with potential increases in employment. Mixed-use zoning could permit new housing, commercial, and office uses; outdoor amphitheater and riverside trails are under development; public park contributes to land values.	New industrial or mixed-use developments could limit or enhance public access to the river. New amphitheatre and trails will enhance public access to the river; continued park maintenance provides public recreational opportunities.	Future industrial or mixed-use developments could encroach on wetlands and narrow riparian zone; impervious surfaces could adversely affect water quality. Noise from industrial or recreational activities could affect wildlife; non-native vegetation reduces habitat quality.	Mixed-use developments encourage energy-efficiency through proximity of housing, employment, shopping, and recreation. Existing park provides recreation opportunities to residents of nearby neighborhoods, reducing energy consumption.
From the north boundary of McKay Park to the Tumalo Irrigation District intake (south boundary of Block 15, Awbrey Heights Subdivision)	New housing could be developed; existing dwellings could be expanded.	Residential landscaping and construction of docks, walls and other improvements in the water could have adverse impacts on visual quality of the river corridor.	Impervious surfaces (roofs, patios, decks, etc.) and use of fertilizers and pesticides in back yards could adversely affect water quality; non-native vegetation reduces habitat quality.	A hydro plant operated by Pacific Power provides electricity; on-going maintenance and future modifications could be affected by riparian regulations. Housing abutting the river enables residents to enjoy water-related amenities and activities without need to travel elsewhere by car.

Reach Segment	**Consequences of Allowing or Prohibiting Conflicting Uses**			
	Economic	Social	Environmental	Energy
From the Tumalo Irrigation intake (south boundary of Block 15, Awbrey Heights Subdivision) to the North Unit Dam	New housing could be developed; existing dwellings could be expanded; CL zoning near North Unit Dam could permit new commercial development.	Residential landscaping and construction of docks, walls and other improvements in the water could have adverse impacts on visual quality of the river corridor; permitted commercial uses provide greater potential for noise and visual impacts.	Impervious surfaces (roofs, patios, decks, etc.) and use of fertilizers and pesticides could adversely affect water quality; non-native vegetation reduces habitat quality.	Housing and businesses abutting the river enables residents, employees, and customers to enjoy water-related amenities and activities without need to travel elsewhere by car.

Table 4

Pioneer Reach – ESEE Analysis
Deschutes River East Side

Reach Segment	Consequences of Allowing or Prohibiting Conflicting Uses			
	Economic	Social	Environmental	Energy
S. boundary of Pioneer Reach to the south boundary of the Mill Addition subdivision.	Industrial zoning could provide opportunities for new development, with potential increases in employment. Mixed-use zoning could permit additional housing, commercial, and office uses; future development of log deck park could enhance surrounding property values. Existing retail and office developments could stimulate additional economic development; future mixed-use and residential development could occur on vacant land north of Colorado.	New industrial or mixed-use developments could limit or enhance public access to the river; future log deck park would enhance public access to, and enjoyment of, the river.	Future park, mixed-use, and industrial developments could encroach on wetlands and narrow riparian zone; impervious surfaces could adversely affect water quality.	Mixed-use developments encourage energy-efficiency through proximity of housing, employment, shopping, and recreation; development of log deck park will provide recreation opportunities within walking distance of nearby neighborhoods.
From the south boundary of the Mill Addition subdivision to the north boundary of the Bend Riverside Motel Condominiums	Existing dwellings could be expanded, enhancing economic value; existing commercial, office, and public uses in downtown core could stimulate additional economic development; existing parks enhance nearby property values.	Parks, public uses, and commercial uses adjacent to the river enable safe, attractive and convenient access to the river corridor.	Impervious surfaces (sidewalks, parking lots, decks, etc.) and use of fertilizers and pesticides in back yards and parks could adversely affect water quality; non-native vegetation reduces habitat quality.	A hydro plant operated by Pacific Power provides electricity; on-going maintenance and future modifications could be affected by riparian regulations. Housing and businesses abutting the river enable residents, employees,

Reach Segment	**Consequences of Allowing or Prohibiting Conflicting Uses**			
	Economic	Social	Environmental	Energy
				and customers to enjoy water-related amenities and activities without need to travel elsewhere by car; pedestrian paths in parks encourage non-auto transportation.
From the north boundary of the Bend Riverside Motel Condominiums to the North Unit Dam	Existing dwellings could be expanded; CL zoning near North Unit Dam could permit some new or expanded commercial uses.	Residential landscaping and construction of docks, walls and other improvements in the water could have adverse impacts on visual quality of the river corridor; permitted commercial uses provide greater potential for noise and visual impacts.	Impervious surfaces (roofs, parking lots, decks, etc.) and use of fertilizers and pesticides could adversely affect water quality; non-native vegetation reduces habitat quality.	Housing and businesses abutting the river enable residents, employees, and customers to enjoy water-related amenities and activities without need to travel elsewhere by car.

Table 5

Awbrey Reach – ESEE Analysis
Deschutes River West Side

Reach Segment	Consequences of Allowing or Prohibiting Conflicting Uses			
	Economic	Social	Environmental	Energy
From the North Canal Dam to the Mt. Washington bridge	CL zoning could permit a wide variety of new commercial uses; proximity to the river enhances property values.	Future commercial development could limit or enhance public access to the river, and could affect the visual quality of the river corridor.	Future commercial developments could encroach on the narrow riparian zone; impervious surfaces could adversely affect water quality.	None.
From the Mt. Washington bridge to the south boundary of Sawyer Park	CL and RS zoning could permit additional housing and commercial uses, as well as expansion of existing uses; proximity to the river enhances property values.	Future commercial or residential development could limit or enhance public access to the river, and could affect the visual quality of the river corridor.	Future commercial or residential developments could further encroach on the narrow riparian zone; impervious surfaces could adversely affect water quality.	None.
From the south boundary of Sawyer Park to the North UGB	RS and RL zoning could permit additional housing, as well as expansion of existing dwellings; proximity to the river enhances property values.	Residential landscaping and construction of docks, walls and other improvements in the water could have adverse impacts on visual quality of the river corridor.	Impervious surfaces (roofs, patios, decks, etc.) and use of fertilizers and pesticides in back yards could adversely affect water quality; non-native vegetation reduces habitat quality. Public ownership of	Housing adjacent to the river enables residents to enjoy water-related amenities and activities without need to travel elsewhere by car.

			Sawyer Park contributes to environmental quality and supports healthy riparian and wetland conditions.	

Table 6

Awbrey Reach – ESEE Analysis
Deschutes River East Side

Reach Segment	Consequences of Allowing or Prohibiting Conflicting Uses			
	Economic	Social	Environmental	Energy
From the North Canal Dam to the Mt. Washington bridge	CL zoning could permit a wide variety of commercial and office uses, as well as utility structures; proximity to the river enhances property values.	New commercial or utility developments could limit or enhance public access to the river, and could affect the visual quality of the river corridor.	Future developments could encroach on wetlands and the narrow riparian zone; impervious surfaces could adversely affect water quality.	None.
From the Mt. Washington bridge to the south boundary of Sawyer Park	Existing motel and related commercial uses could stimulate additional economic development; future expansion of existing uses could enhance property values.	Existing motel uses limit public access to the river; future alterations could further affect the visual quality of the river corridor; enjoyment of the river is enhanced for customers of existing businesses.	Future alterations of existing uses could encroach further into the narrow riparian zone; additional impervious surface areas could adversely affect water quality.	None.
From the south boundary of Sawyer Park to the North UGB	RS and RL zoning could permit additional housing, as well as expansion of existing dwellings; proximity to the river enhances property values.	Residential landscaping and construction of docks, walls and other improvements in the water could have adverse impacts on visual quality of the river corridor.	Impervious surfaces (roofs, patios, decks, etc.) and use of fertilizers and pesticides in back yards could adversely affect water quality; non-native vegetation reduces habitat	Housing adjacent to the river enables residents to enjoy water-related amenities and activities without need to travel elsewhere by car.

			quality. Public ownership of Sawyer Park contributes to environmental quality and supports healthy riparian and wetland conditions.	

Goal 5 Program – Riparian and Wetland Resources

The conflicting uses and ESEE analysis above indicate that the city's significant riparian and wetland resources warrant protection, and that conflicting uses should be limited, or in some cases prohibited, in order to provide appropriate levels of protection. A program to protect these resources must designate those land areas where conflicting uses should be limited or prohibited.

Bend's Goal 5 program designates riparian corridors adjacent to all segments of the Deschutes River and Tumalo Creek as they flow through the city. The widths of these riparian corridors are measured landward horizontally from the line of ordinary high water (OHW), except that where a designated wetland is present, the width of the riparian corridor is measured from the upland edge of the wetland. The width of the corridor varies from segment to segment along the Deschutes River.

South Canyon Reach

For riparian resources, under OAR 660-023-0090(5) local governments may designate a safe harbor riparian corridor of 75 ft. measured from the top of bank, or line or ordinary high water (OHW),where stream flows are 1,000 cfs or greater. Where flows are less than 1,000 cfs, the safe harbor corridor width is 50 ft. Within the South Canyon reach, flows upstream of the COID intake exceed 1,000 cfs, dropping to slightly less than that volume downstream of the intake. Given these flows, provisions of OAR 660-023-0090(5) would allow for safe harbor riparian corridor designations of 75 ft. upstream of the COID intake, and 50 ft. downstream. However, OAR 660-023-009(5) also states that these safe harbor riparian corridor designations are not applicable where the predominant terrain consists of steep cliffs. As noted above, there are cliffs in the vicinity of the entire South Canyon reach, although there are also segments of the reach where the cliffs are far enough back from the top of bank to allow for a wider band of riparian vegetation and a relatively broad riparian corridor. Designation of safe harbor riparian corridors is appropriate in these locations.

Given these conditions, a combination of safe harbor riparian corridor designations and corridor designations based on the standard inventory process is applied to the South Canyon reach. For purposes of the Goal 5 inventory, steep slope or cliff conditions were considered to be present in an area having:

* 60 per cent or greater slope
* a vertical rise of 20 feet or more

* a continuous horizontal length of 50 ft. or more.

Where these steep slope conditions exist closer than 75 ft. horizontally from OHW upstream of the COID intake, the riparian corridor, as defined in OAR 660-023-0090(1) is considered to have a width of 30 ft. Where these steep slope conditions exist within 50 ft. horizontally of OHW downstream from the COID intake, the riparian corridor is likewise considered to have a width of 30 ft. These widths are based on data contained in the Goal 5 Inventory and Analysis Report, and the foregoing analysis of conflicting uses and ESEE consequences. Where steep slope conditions are not present within 75 ft. horizontally of OHW upstream of the COID intake, or within 50 ft. horizontally from OHW downstream of the COID intake, safe harbor riparian corridor designations are appropriate.

Pioneer Reach

As described in the Goal 5 Inventory and Analysis Report, much of this reach is highly urbanized and otherwise altered by landscaping and non-native vegetation. The Pioneer Reach contains the widest variety of urban conditions of any of the three reaches. These have had significant impacts on both the quality and the quantity of riparian and wetland resources. In and around the former Brooks Scanlon and Shevlin Hixon mill sites, the riparian character of this site has been seriously degraded over the last 90 years through use as an industrial log storage and loading area. Native soils and all riparian vegetation were long ago removed in this area. The long history of heavy industrial use on this site has left about 15 ft. of densely compacted sawdust and other organic debris.

The Pioneer Reach also includes several of Bend's major parks, including Drake Park. These parks include large lawns, hard-surface trails, and retaining walls at the river's edge and within the riparian corridor. The combination of the large parks and well-established residential neighborhoods result in a high level of existing development, a small-lot pattern, and previous disturbance of the riparian corridor in the central part of the Pioneer Reach. In this area there is relatively little opportunity for large-scale restoration of natural riparian conditions. An edge of the downtown business district also approaches the lower portion of the Pioneer Reach, creating further impacts from conflicting uses.

The more urban character of the Pioneer Reach, its greater variety of conflicting uses, and its limited potential for restoration of natural riparian conditions are acknowledged through riparian corridor designations that are narrower than those specified under Goal 5 safe harbor rules. The riparian corridor designation is generally limited to widths of 30-40 ft. A small segment of safe harbor 50 ft. corridor is designated along the west bank, upstream from the

North Canal Dam. However, the safe harbor corridor is not applicable to a portion of this segment, on the River's Edge Golf Course site, where a rock cliff forms a portion of the west bank. Where this steep cliff condition exists, the riparian corridor is reduced to 30 ft.

Awbrey Reach

As discussed above for the South Canyon Reach, local governments may designate a safe harbor riparian corridor of 50 ft. measured from the top of bank, where stream flows are less than 1,000 cfs. Within the Awbrey reach, flows in the Deschutes River are well below 1,000 cfs. As a result, provisions of OAR 660-023-0090(5) would allow for a safe harbor riparian corridor designations of 50 ft.. throughout Awbrey Reach. However, as noted in the Goal 5 Inventory and Analysis Report, the segment between the Mt. Washington Bridge and Sawyer Park is highly disturbed, with existing motel buildings lining both sides of the river and a very narrow, tightly regulated riparian area. In recognition of this conflicting use and its on-going operation, a riparian corridor designation of 30 ft. measured horizontally from top of bank is appropriate in this segment of Awbrey Reach.

OAR 660-023-009(5) also states that safe harbor riparian corridor designations are not applicable where the predominant terrain consists of steep cliffs. As noted in the conflicting uses analysis, there are cliffs in the vicinity of much of the Awbrey reach, although there are also segments of the reach where the cliffs are far enough back from the top of bank to allow for a wider band of riparian vegetation and a relatively broad riparian corridor.

Given these conditions, a combination of safe harbor riparian corridor designations and corridor designations based on the standard inventory process is appropriate for the Awbrey reach, apart from the segment lying between the Mt. Washington Bridge and Sawyer Park.

Where steep slope conditions (as defined above for the South Canyon Reach) exist within 50 ft. horizontally of OHW, the riparian corridor, as defined in OAR 660-023-0090(1), is considered to have a width of 30 ft., measured horizontally from OHW. This width is based on data contained in the Goal 5 Inventory and Analysis Report, and the foregoing analysis of conflicting uses and ESEE consequences. Where steep slope conditions are not present within 50 ft. horizontally from OHW, the safe harbor riparian corridor designation of 50 ft. is appropriate.

Specific corridor width designations for all reaches and segments of the Deschutes River and Tumalo Creek are summarized in the tables below. They are based on the ESEE analysis contained in this section. They also take into account existing inventoried conditions as identified in the *Goal 5 Inventory*

and Analysis Report, and the identification of conflicting uses contained in this section.

For each river segment listed in the following tables, the approximate widths of existing riparian vegetation at the edge of the river are indicated. These widths are based on data contained and referenced in the Goal 5 Inventory and Analysis Report, and as documented in a Goal 5 Summary Report presented to the Bend Planning Commission on June 11, 2001. Widths shown are approximate, based on direct observations. It is also important to note that in many areas there is potential for existing bands of riparian vegetation to become somewhat wider over time, as existing vegetation is protected and as additional native plants, trees, and shrubs are given an opportunity to become established. In some river segments listed below, riparian corridor boundaries exceed the approximate widths of existing vegetation. This recognizes that the width of the riparian area (as defined in OAR 660-023-0090[1]) may be greater than the width of existing vegetation. It also provides opportunities for establishment of additional riparian vegetation. In addition, in some cases the wider riparian corridor boundaries correspond to Goal 5 safe harbor dimensions.

All measurements of the riparian corridor boundary are made from the line of ordinary high water, except where significant wetlands have been identified in the Local Wetlands Inventory. In that case, measurement of the riparian corridor boundary begins at the upland edge of the wetland.

Table 7
Riparian Corridor Boundaries
For Deschutes River (West Side) and Tumalo Creek

DESCHUTES RIVER – WEST SIDE	Approximate Width of Existing Riparian Vegetation	Riparian Corridor Boundary
From the South UGB line to the COID intake	0-30 feet	30/75 feet[1]
From the COID intake to the Southern River Crossing	0-30 feet	30/50 feet[2]
From the Southern River Crossing to the north boundary of McKay Park	5-50 feet	40 feet
From the north boundary of McKay Park to the Tumalo Irrigation District intake (south boundary of Block 15, Awbrey Heights Subdivision)	5-15 feet	30 feet

DESCHUTES RIVER – WEST SIDE	Approximate Width of Existing Riparian Vegetation	Riparian Corridor Boundary
From the Tumalo Irrigation intake (south boundary of Block 15, Awbrey Heights Subdivision) to the Mt. Washington Drive bridge	5-20 feet	30/50 feet[3]
From the Mt. Washington Drive bridge to the south boundary of Sawyer Park	10-20 feet	30 feet
From the south boundary of Sawyer Park to the north UGB line	10-20 feet	30/50 feet[4]
TUMALO CREEK		
Both sides of creek within city limits	5-10 feet	50 feet

[1]Where steep slopes are present within 75 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 75 ft. horizontally of OHW, the Riparian Corridor Boundary is 75 ft. from OHW.

[2]Where steep slopes are present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 50 ft. from OHW.

[3]Between the River's Edge Golf Course and the Mt. Washington Dr. bridge, where steep slopes are present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 50 ft. from OHW.

[4]Where steep slopes are present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 50 ft. from OHW.

Table 8
Riparian Corridor Boundary
For Deschutes River East Side

DESCHUTES RIVER – EAST SIDE	Approximate Width of Existing Riparian Vegetation	Riparian Corridor Boundary
From the South UGB line to the COID intake	5-20 feet	30/75 feet[1]
From the COID intake to the Southern River Crossing alignment	5-20 feet	30/50 feet[2]
From the Southern River Crossing alignment to the south boundary of the Mill Addition subdivision	5-20 feet	40 feet
From the south boundary of the Mill Addition subdivision to the north boundary of the Bend Riverside Motel Condominiums	0-15 feet	30 feet
From the north boundary of the Bend Riverside Motel Condominiums to the Mt. Washington Drive Bridge	0-20 feet	30/40 feet[3]
From the Mt. Washington Drive bridge to the south boundary of Sawyer Park	0-20 feet	30 feet
From the south boundary of Sawyer Park to the north UGB line	0-20 feet	30/50 feet[4]

[1]Where steep slopes are present within 75 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 75 ft. horizontally of OHW, the Riparian Corridor Boundary is 75 ft. from OHW.
[2]Where steep slopes are present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 50 ft. from OHW.
[3]Between the North Unit Dam and the Mt. Washington Dr. bridge, where steep slopes are present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 50 ft. from OHW.
[4]Where steep slopes are present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 50 ft. from OHW.

The conflicting uses and ESEE analysis indicates that there are both negative and positive consequences of allowing or prohibiting conflicting uses within these riparian corridors. Based on this finding, Bend's Goal 5 program must limit or prohibit conflicting uses in order to protect and conserve significant riparian and wetland resources. Consistent with state law, most new land uses and development activities that could adversely affect inventoried riparian or

wetland resources must be excluded from the riparian corridor. New buildings and parking areas in particular have the potential to degrade or damage these resources, and should be prohibited or limited. It is also important to retain and restore native riparian and wetland vegetation where possible. However, water-related and water-dependent uses may be appropriate in some situations, as well as transportation facilities and various utility installations. Goal 5 does not prohibit public access to or within the riparian corridor. In fact, such water-related and water-dependent uses as parks, trails, viewpoints, interpretive features, etc. may be appropriate in these areas. These improvements can also serve the purpose of increasing public awareness and enjoyment of the city's waterways and natural resource values. In any case where such developments are permitted, it is important to have in place standards and procedures that will ensure minimum disturbance of riparian and wetland conditions, and encourage enhancement of the corridor.

Any program to protect significant Goal 5 resources must also include enough flexibility to allow for the on-going use and continued maintenance of existing structures and landscaping. As noted in the conflicting uses section, many developed parcels along the Deschutes River are occupied by homes and businesses that may encroach into designated riparian corridors. Even more common are landscaped yards and parks with lawns, ornamental plants, and other non-riparian vegetation that extend down to the riverbank. Goal 5 does not require that these existing conflicting uses be eliminated or converted to more natural conditions. At the same time, however, the city's Goal 5 program should encourage restoration of altered or degraded riparian areas. Efforts that landowners might undertake to remove existing river walls and riprap, re-grade steep banks, and restore native riparian vegetation should be supported.

The City of Bend's Goal 5 program for riparian and wetland resources is implemented through the Waterway Overlay Zone (WOZ), adopted as part of the zoning ordinance. The WOZ is the tool through which conflicting uses are limited or prohibited within the riparian corridor. It contains specific zoning and development standards not only for the riparian corridor, but also for several other waterway-related overlay zones. As an overlay zone, the WOZ and its sub-zones generally permit uses and development activities that are allowed by the primary underlying zone, e.g. RS, CL, or MR. However, the WOZ also applies special development standards intended to prevent or minimize impacts to Goal 5 resources. In general, these standards prevent alteration of the riparian area by grading or by placement of structures and other impervious surfaces, except under certain circumstances. However, water-related and water-dependent uses may be permitted, as well as a variety of public facilities. The WOZ also permits on-going repair and maintenance of existing uses, and allows development in situations where adherence to WOZ development standards might preclude reasonable use of the property. In all cases, development activity that is permitted within the riparian corridor must take place in a way that minimizes intrusion into the riparian area.

The careful balancing of protection measures for significant riparian and wetland resources against the need to permit reasonable levels of development ensures that these resources will thrive, while contributing to Bend's status as a special place.

Section 2

River Corridor Areas of Special Interest

Areas of Special Interest (ASI's)have been identified on the Bend Area General Plan map since the 1970's as important features in the landscape intended to be preserved as growth occurs. Among the ASI's designated at that time were the South and North Canyons of the Deschutes River corridor. The original designations of these ASI's were approximate. They were intended to take in rimrock and canyon areas along the river from the south UGB to the Old Mill District, and from the north boundary of Sawyer Park downstream to the city's north UGB. In updating the Bend General Plan through the periodic review process (2000-2003) the City was required to review and refine all ASI boundary designations and to adopt new code measures to provide appropriate levels of protection. Revised boundaries for the River Corridor ASI's are shown on the attached maps.

The Deschutes River corridor is a significant economic and recreational amenity within the city. The protection of the scenic quality of these river canyons as scenic resources is important. Such protection will also contribute to the overall health of the river and provide wildlife habitat.

The State does not require local jurisdictions to inventory scenic views and sites. Inclusion of scenic views and sites in the comprehensive plan is optional. However, in refining the boundaries of these previously designated ASI's along the Deschutes River corridor the City finds that the South and North Canyon areas are significant Goal 5 resources.

Since the original designation of these canyons as ASI's, the following forms of inventory data have been accumulated:

- Existing Areas of Special interest mapping
- The Bend Urban Land Survey report (1998-99)
- Field verification of the BULS inventory by staff
- Analysis of aerial photos dated June 2000
- Analysis of topographic maps using 1995 USGS Ortho Digital photos
- Field verification of "line of sight" relationships to building heights
- *City of Bend Periodic Review Goal 5 Inventory and Analysis* (December 2000)

In 1998-99, a local volunteer group named the Bend Urban Land Survey (BULS) team conducted an inventory of the river ASI's. This inventory identifies the habitat value, existing vegetation, scenic values and conflicting uses both existing and anticipated. Since this inventory was conducted, the area has experienced considerable development pressures. New large homes have been constructed along the canyon rim of both the north and south canyons. The visual quality and experience within the canyons is at risk.

Inventory data for the river canyon ASI's also include the Bend General Plan, the Bend Riverway Plan, the Bend Urban Lands Survey, the *City of Bend Periodic Review Goal 5 Inventory and Analysis* (December 2000) and data from Oregon Department of Fish and Wildlife to describe the wildlife habitat, scenic beauty, vegetation, water quality and recreational opportunities within the canyons. Photographs taken within both canyons also confirmed the analysis of the resource quality. Detailed descriptions of the canyons are included in both the Bend Urban Lands Survey and the *City of Bend Periodic Review Goal 5 Inventory and Analysis* (December 2000).

The scenic quality of the north and south canyon ASI's is further confirmed by the State of Oregon's designation of portions of these canyons as State Scenic Waterways. This designation applies to the South Canyon from the UGB to the Central Oregon Irrigation District intake, and to the North Canyon from the south boundary of Sawyer Park to the north UGB.

The north and south canyons are by far the most visually impressive segments of the Deschutes River within the city limits. The steep topography of the canyons make most types of development difficult if not impossible. There are areas below the canyon walls that are level. However, access to these areas is restricted again by topography. Both the north and the south canyons remain relatively undisturbed, although development pressures exist. The development area that most greatly impacts the river corridor is the canyon rim. Existing development along the rim is often highly visible from within the canyons and detracts from the natural beauty and wild experience within the river canyons.

Conflicting Uses

In both the South Canyon and North Canyon ASI's the dominant zoning designations are Residential Standard Density (RS) and Residential Low Density (RL). These are both residential zones intended to accommodate primarily single family dwellings. The north end of the South Canyon also contains some land zoned for industrial uses. Detailed descriptions of potential conflicting uses for these zones are as follows:

Residential Urban Standard Density (RS) The RS zone is applied generally to property abutting both sides of the South Canyon, as well as most of the North Canyon. As stated in the Zoning Code, the RS zone is intended to "provide for the most common urban residential densities in places where community sewer services are or will be available and to encourage, accommodate, maintain and protect a suitable environment for family living," (Sec. 10-10.10). The primary permitted use type is single-family dwellings, developed at density ranges of 2.0-7.3 units per gross acre. Conditional uses permitted in this zone include schools, churches, parks, and a variety of public utility and other supporting uses. Any of these uses could conflict with significant scenic views and sites. Typical yard landscaping and maintenance activities associated with residential uses can also be considered conflicting uses. As discussed in the *Goal 5 Inventory and Analysis Report,* these activities may include removal of native vegetation, the planting of lawns and ornamental shrubs and trees, and other activities that could affect the visual quality of the canyon.

Much of the RS land in both the South and North Canyons is platted into relatively large residential lots. Many of these lots are developed with single-family dwellings approaching the edge of the canyon. A typical development pattern has the dwelling facing the street, with the back of the house and a deck area overlooking the canyon. A program to protect significant scenic views and sites will need to acknowledge these existing uses and conditions, and their on-going maintenance, as potentially conflicting uses.

Residential Urban Low Density (RL) The RL zone is applied generally to properties at the south edge of the UGB in the South Canyon, and at the extreme northerly end of the North Canyon. As stated in the Zoning Code, the RL zone is intended to "provide large urban lots for development with a community water system and DEQ permitted community or municipal sewer systems." (Sec. 10-10.9D). The primary permitted use type is single-family dwellings, developed on lots ranging from 20,000 sq. ft. to 40,000 sq. ft. in size. Conditional uses permitted in this zone include schools, churches, parks, and a variety of public utility and other supporting uses. Any of these uses could conflict with significant scenic views and sites. Typical yard landscaping and maintenance activities associated with residential uses can also be considered conflicting uses. As discussed in the *Goal 5 Inventory and Analysis Report,* these activities may include removal of native vegetation, the planting of lawns and ornamental shrubs and trees, and other activities that could affect the visual quality of the canyon.

The RL land in the North Canyon is platted into relatively large residential lots. RL property in the South Canyon will be developed as single-family subdivisions. Many of the existing, platted lots approach the edge of the canyon. A typical development pattern has the dwelling facing the street, with the back of the house and a deck area overlooking the canyon. A program to

protect significant scenic views and sites will need to acknowledge these existing uses and conditions, and their on-going maintenance, as potentially conflicting uses.

Industrial Light (IL) IL zoning applies to property at the north end of the South Canyon, along the west side of the river. This zone permits a wide variety of light manufacturing, processing, storage, offices, and warehousing uses. It also permits some limited commercial development as conditional uses, certain types of public uses and facilities, as well as parking and utilities needed to support permitted uses. Any of these uses could conflict with the values of scenic views and sites. Most of the IL land in this area is developed with offices and service uses, and there is very little vacant land adjacent to the canyon. Opportunities for new development are further constrained due to the presence of the canyon wall and related rimrock. A dirt trail runs adjacent to this stretch of the river.

ESEE Consequences Analysis

As discussed above, there are a variety of conflicting uses that could have adverse impacts on the scenic and visual qualities of the River Corridor ASI's. This finding indicates that protection of these qualities could involve prohibiting or limiting conflicting uses to some degree. The following tables document the likely economic, social, environmental, and energy (ESEE) consequences of allowing, limiting, or prohibiting conflicting uses. Table 7 illustrates ESEE consequences for the South Canyon River Corridor ASI, and Table 8 covers the North Canyon River Corridor ASI.

South Canyon River Corridor ASI

The South Canyon ASI extends from the south UGB northward to the vicinity of the southern bridge crossing alignment and extension of Reed Market Rd. The Awbrey Hall fire of 1990 came up into the canyon from the south, crossing the river from west to east. Much of this area near the south UGB is devoid of tall trees. Further north the canyon has steep forested slopes and exposed rimrock. At various points along the South Canyon rim there are single-family homes, decks, and landscaped yards overlooking the canyon.

Table 9

ESEE Consequences – South Canyon River Corridor ASI				
Reach Segment	Economic	Social	Environmental	Energy
South Canyon from South UGB to the Southern Bridge Crossing	Potential new subdivision and home development near the south UGB. Potential infill housing along the canyon rim to the north. Limits on siting of houses could affect property values. At the north end industrial and mixed-use zoning could provide limited opportunity for new development with small potential for new jobs.	New development could further limit or enhance the ability for public access along the river. Increased development could have adverse visual impacts on the river canyon, especially as it approaches the canyon rim.	Increased residential densities could cause increased recreational use adversely affecting native vegetation and wildlife. New development increases impervious surfaces and could adversely affect water quality.	COI Irrigation diversion and hydro plant provide irrigation water for farm uses. On-going maintenance and facility modification could have adverse visual impact. Mixed-use zoning encourages energy efficiency through proximity of housing, transit and services.

North Canyon River Corridor ASI

The North Canyon begins at the north boundary of Sawyer Park and extends to the northerly edge of the UGB. The river begins to enter the canyon as it leaves Sawyer Park. The slopes are steep with vegetation. The west side is relatively undeveloped while the east side is scattered with platted lots and small acreage lots. The remaining segment of the canyon is very steep with rimrocks and tall vegetation on both sides of the river. Several homes have been constructed on the east rim.

Table 10

ESEE Consequences – North Canyon River Corridor ASI				
Reach Segment	Economic	Social	Environmental	Energy
North Canyon from Sawyer Park to the north UGB	Potential infill housing along the canyon rim. Limits on siting of houses could affect property values.	New residential development could further limit or enhance the ability for public access along the river. Increased development could have an adverse visual impact on the river corridor. Limits on siting of houses could affect homeowner satisfaction.	Increased residential densities could cause increased recreational use adversely affecting scenic quality, native vegetation and wildlife. New development increases impervious surfaces and could adversely affect water quality.	None.

Goal 5 Program: River Corridor Areas of Special Interest

The conflicting uses and ESEE analysis above indicate that the scenic views and sites associated with the River Corridor ASI's warrant protection, and that conflicting uses should be limited, or in some cases prohibited, in order to provide appropriate levels of protection. A program to protect these resources must designate those land areas where conflicting uses should be limited or prohibited.

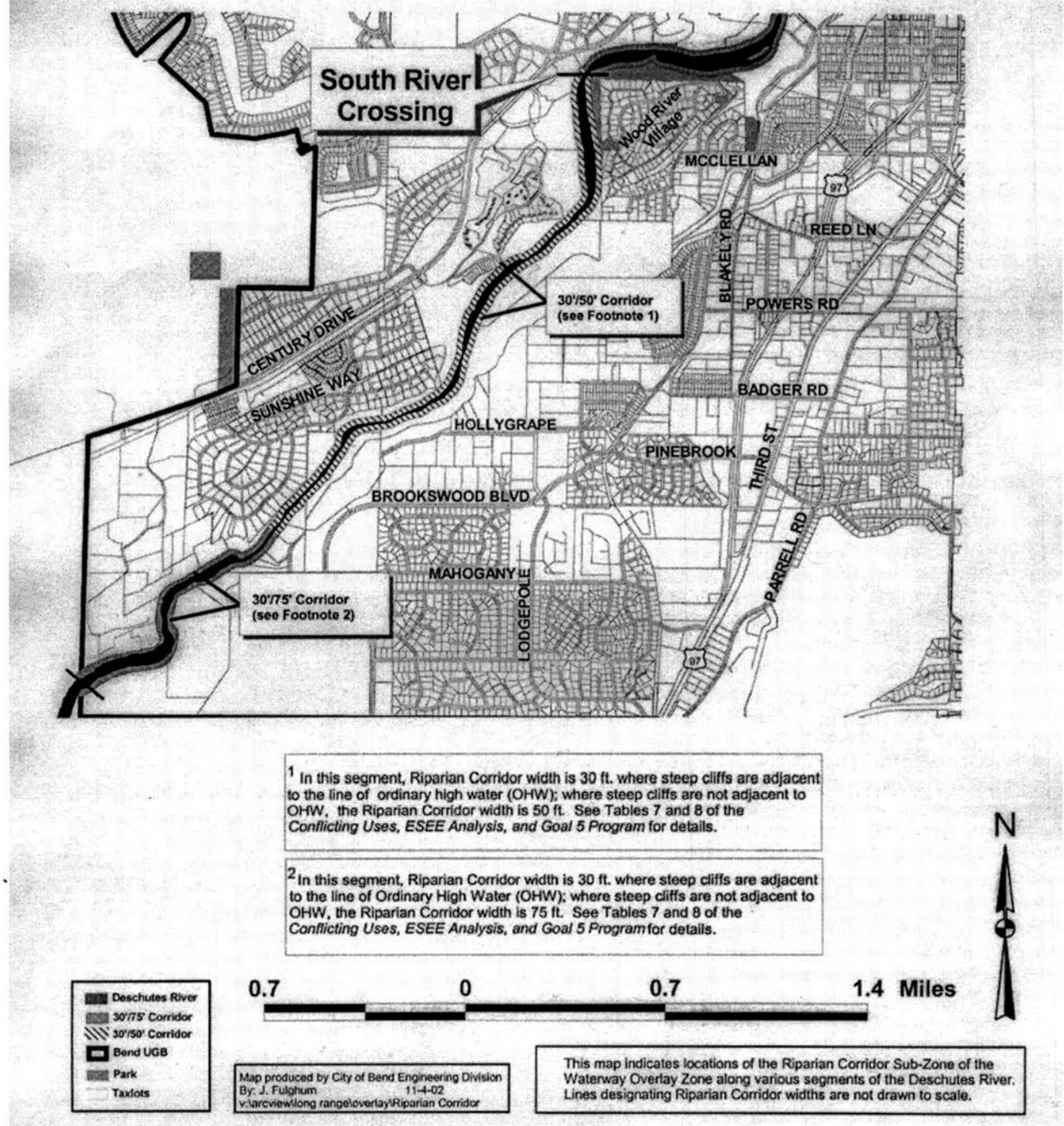
An important program goal for scenic views and sites in both the north and south canyon corridors is to retain the wild natural experience within the canyons. The visual resource area that has been inventoried is defined generally by the line of sight from within the corridor, by looking up from the river's edge up to the canyon rim. Boundaries determined in this way for the River Corridor ASI's have been designated as part of the Waterway Overlay Zone. These boundaries generally follow the tops of the North and South Canyons, taking in the canyon walls and edges. Within and immediately adjacent to these boundaries, conflicting uses should be regulated to ensure that adverse impacts to scenic views and sites are minimized.

The conflicting uses and ESEE analysis indicate that there are both negative and positive consequences of allowing or prohibiting conflicting uses within these River Corridor ASI's. Based on this finding, the City's Goal 5 program must limit or prohibit conflicting uses in order to protect and conserve significant scenic resources. New buildings, decks, other structures, and landscaping in particular have the potential to degrade or damage scenic qualities, and should be prohibited or limited within and adjacent to River Corridor ASI boundaries. It is also important to retain existing trees and other vegetation where possible. However, buildings and other site alterations may be appropriate when designed and carried out in ways that minimize visual impacts. In any case where such developments are permitted, it is important to have in place standards and procedures that will ensure minimum disturbance of scenic values, and encourage enhancement of these values.

Any program to protect significant Goal 5 resources must also include enough flexibility to allow for the on-going use and continued maintenance of existing structures and landscaping. As noted in the conflicting uses section, many developed parcels along the River Corridor ASI's are occupied by homes and other uses that approach or encroach into designated ASI boundaries. Even more common are landscaped yards and areas with lawns, ornamental plants, and other features. Goal 5 does not require that these existing conflicting uses be eliminated or converted to more natural conditions. At the same time, the city's Goal 5 program should encourage restoration of altered or degraded canyon areas.

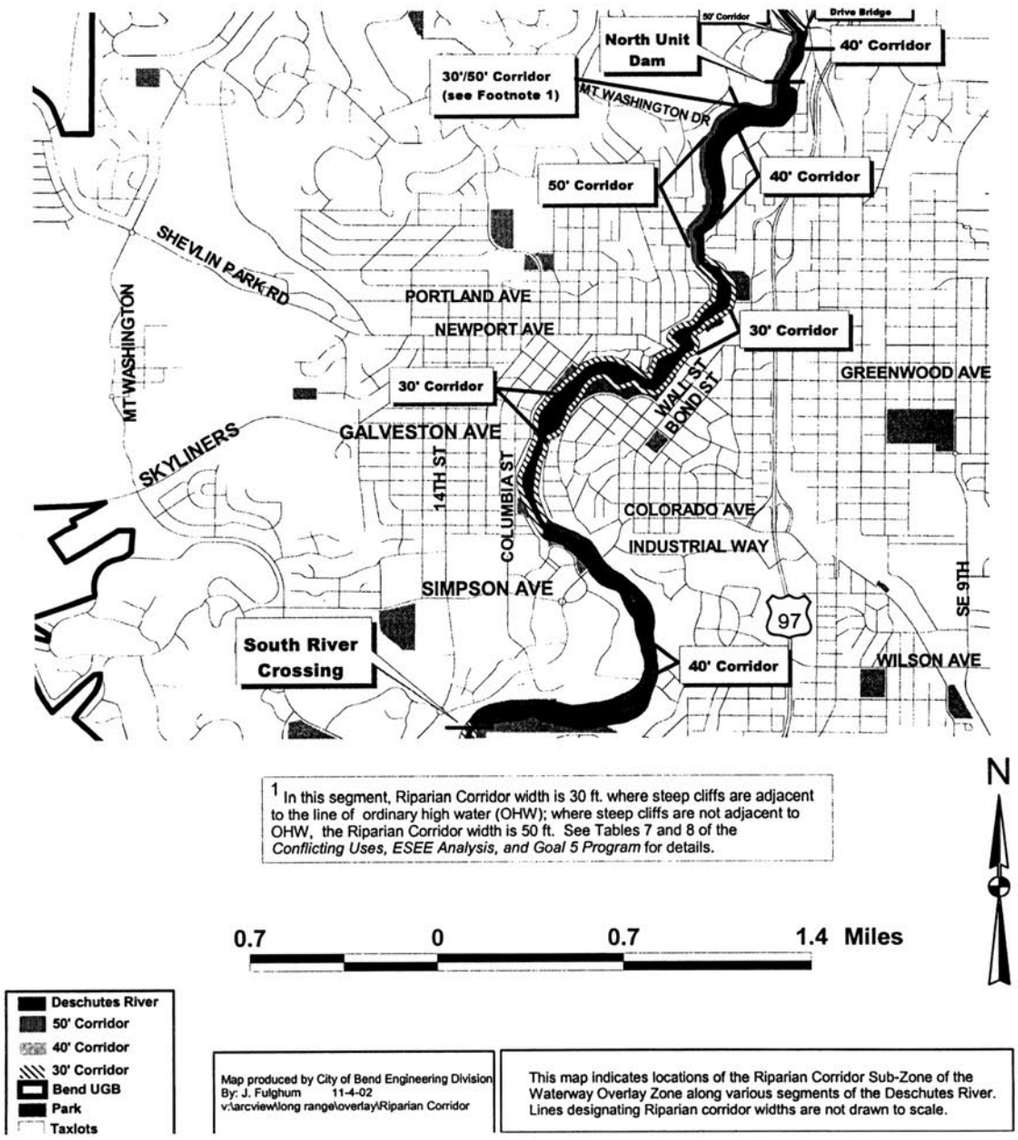
The City of Bend's Goal 5 program for scenic views and sites in the River Corridor ASI's is implemented through the Waterway Overlay Zone (WOZ), adopted as part of the zoning ordinance. The WOZ is the tool through which conflicting uses are limited or prohibited. It contains specific zoning and development standards not only for the River Corridor ASI's, but also for several other river-related overlay zones. As an overlay zone, the WOZ and its sub-zones generally permit uses and development activities that are allowed by the primary underlying zone, e.g. RS, RL, or IL. However, the WOZ also applies special development standards intended to prevent or minimize impacts to scenic resources. In general, these standards are designed to restrict new construction and removal of vegetation within the River Corridor ASI's and adjacent to the edges of the canyons. However, a variety of public facilities may be permitted, as well as tree removal when necessary to prevent hazard. The WOZ also permits on-going repair and maintenance of existing uses, and allows development in situations where adherence to WOZ development standards might preclude reasonable use of the property.

DESCHUTES RIVER RIPARIAN CORRIDOR
SOUTH CANYON REACH
UGB to South River Crossing



DESCHUTES RIVER RIPARIAN CORRIDOR
PIONEER REACH

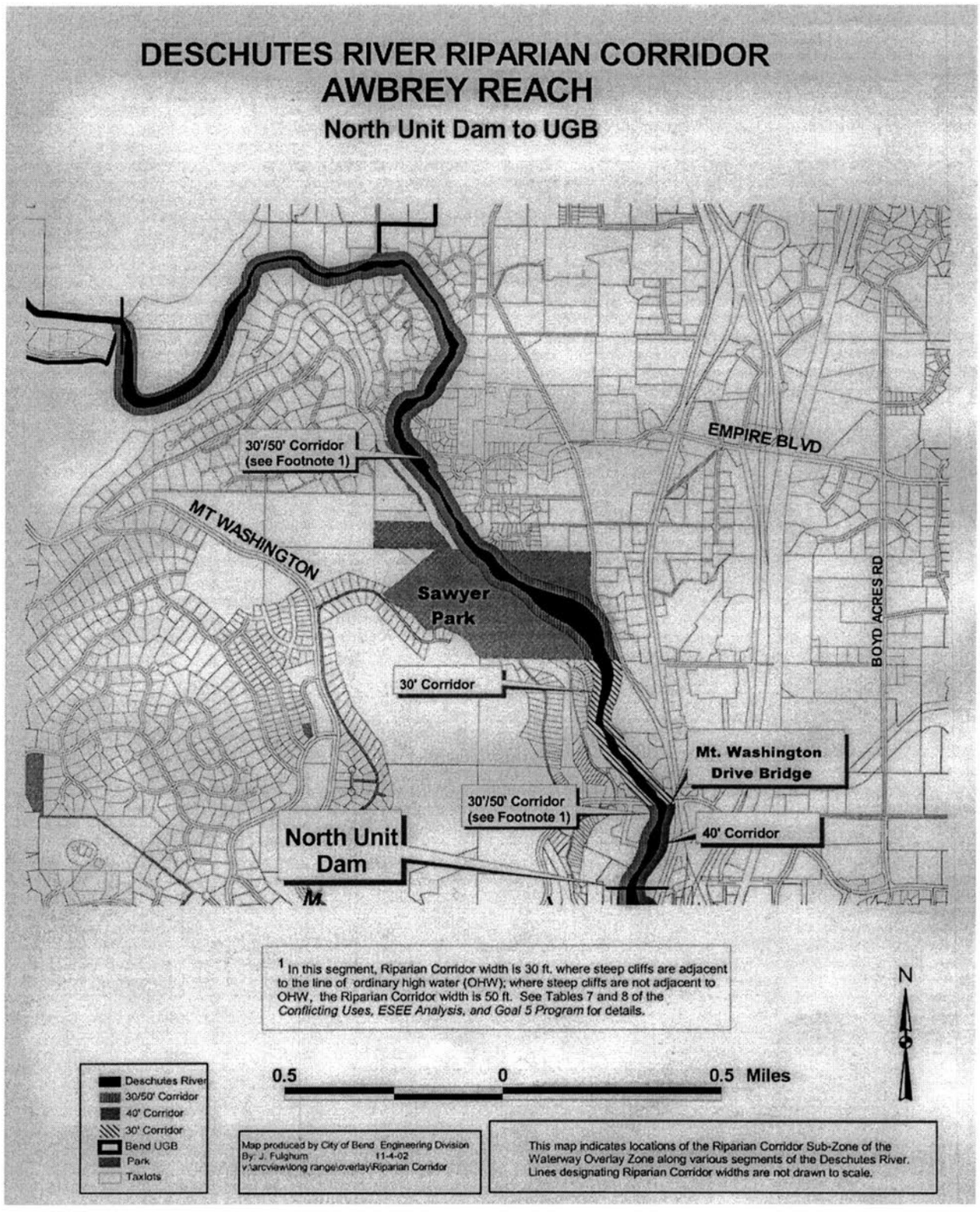
South River Crossing to North Unit Dam



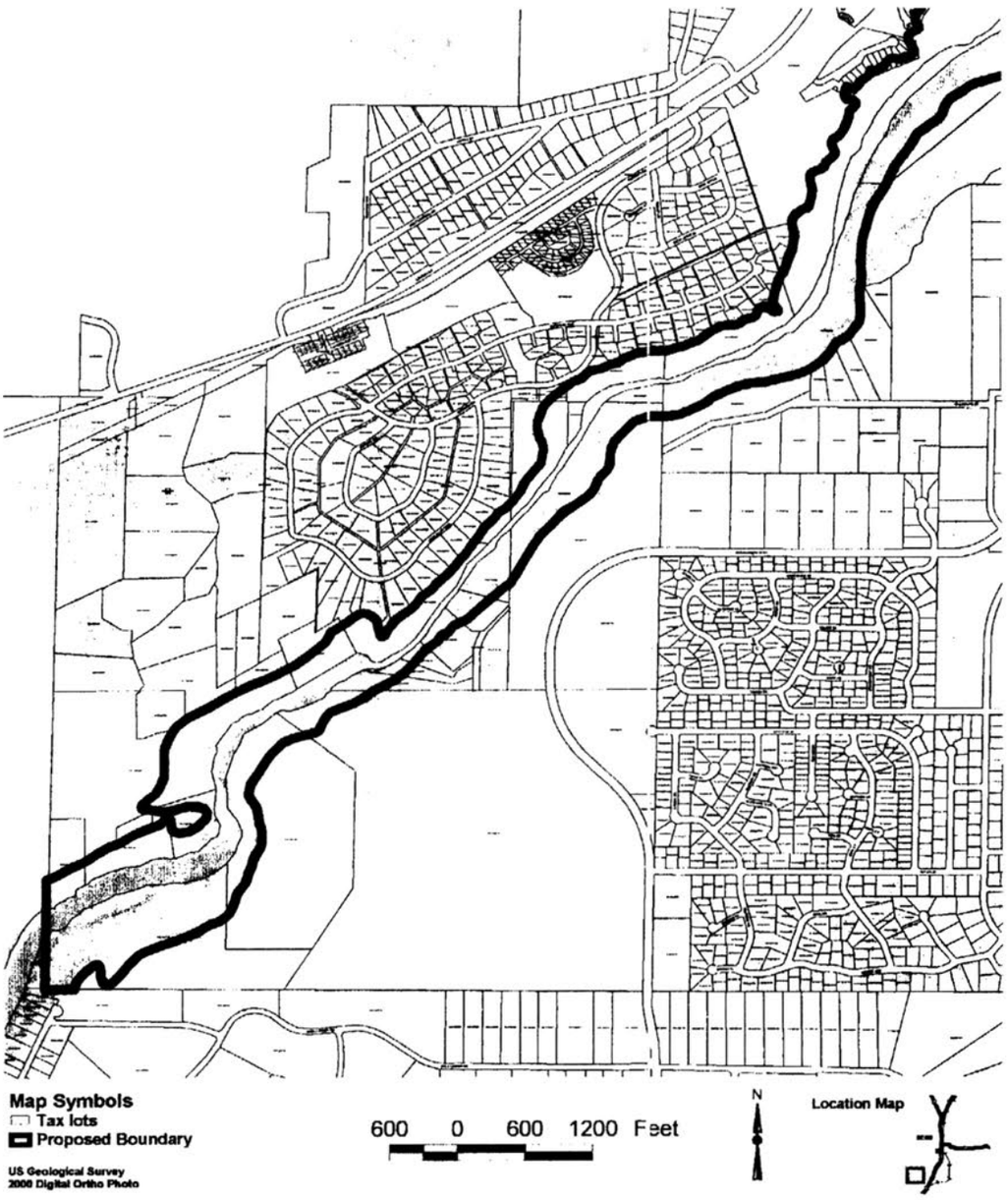
[1] In this segment, Riparian Corridor width is 30 ft. where steep cliffs are adjacent to the line of ordinary high water (OHW); where steep cliffs are not adjacent to OHW, the Riparian Corridor width is 50 ft. See Tables 7 and 8 of the *Conflicting Uses, ESEE Analysis, and Goal 5 Program* for details.

Map produced by City of Bend Engineering Division
By: J. Fulghum 11-4-02
v:\arcview\long range\overlay\Riparian Corridor

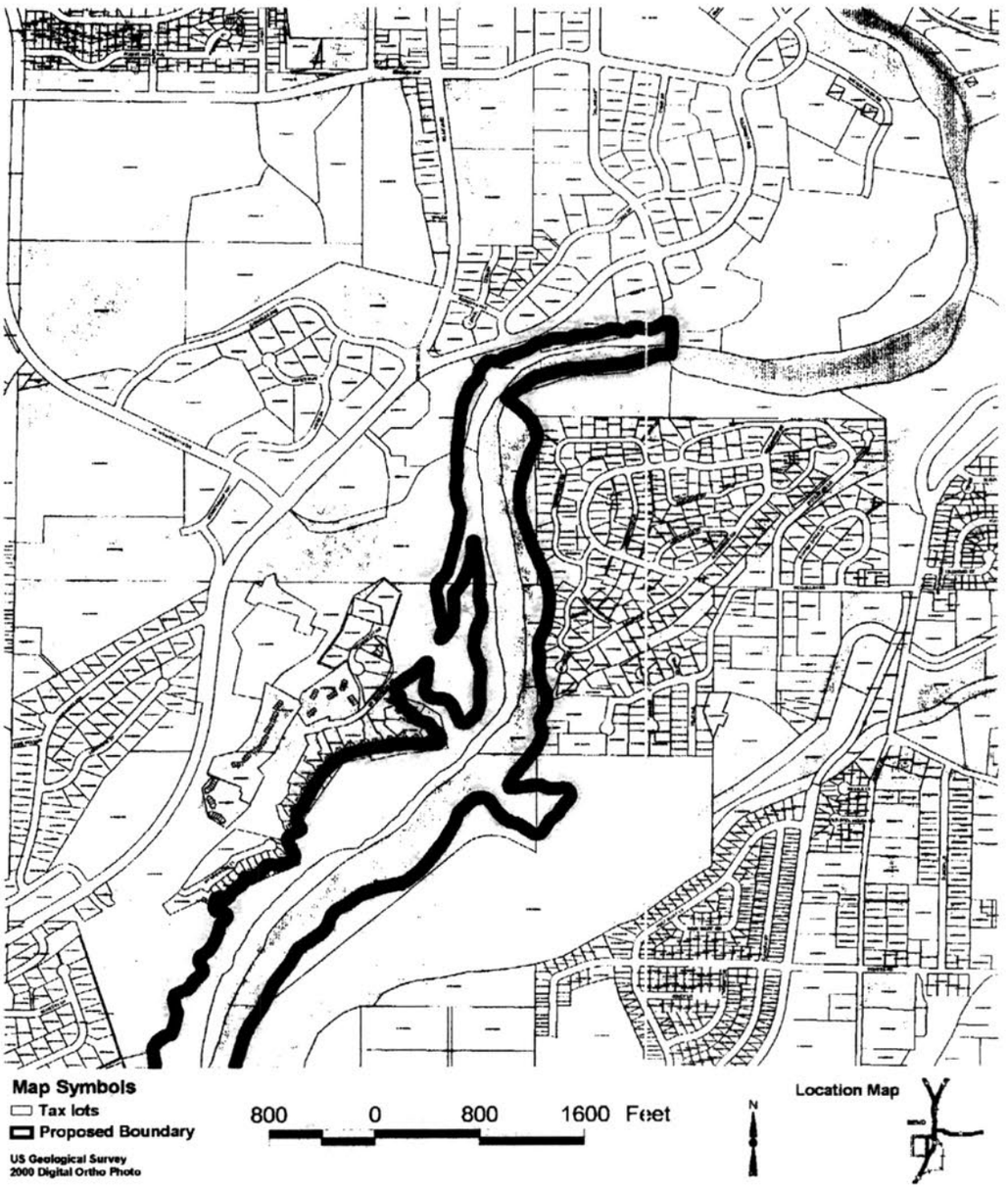
This map indicates locations of the Riparian Corridor Sub-Zone of the Waterway Overlay Zone along various segments of the Deschutes River. Lines designating Riparian corridor widths are not drawn to scale.


DESCHUTES RIVER RIPARIAN CORRIDOR
AWBREY REACH
North Unit Dam to UGB
30'/50' Corridor
(see Footnote 1)
EMPIRE BLVD
MT WASHINGTON
Sawyer
Park
BOYD ACRES RD
30' Corridor
Mt. Washington
Drive Bridge
30'/50' Corridor
(see Footnote 1)
40' Corridor
North Unit
Dam
1 In this segment, Riparian Corridor width is 30 ft. where steep cliffs are adjacent to the line of ordinary high water (OHW); where steep cliffs are not adjacent to OHW, the Riparian Corridor width is 50 ft. See Tables 7 and 8 of the Conflicting Uses, ESEE Analysis, and Goal 5 Program for details.
N
Deschutes River
30/50' Corridor
40' Corridor
30' Corridor
Bend UGB
Park
Taxlots
0.5
0
0.5 Miles
Map produced by City of Bend Engineering Division
By: J. Fulghum 11-4-02
v:\arcview\long range\overlay\Riparian Corridor
This map indicates locations of the Riparian Corridor Sub-Zone of the Waterway Overlay Zone along various segments of the Deschutes River. Lines designating Riparian Corridor widths are not drawn to scale.

River Corridor Areas of Special Interest
South Deschutes River Corridor - Part 1



River Corridor Areas of Special Interest
South Deschutes River Corridor - Part 2



River Corridor Areas of Special Interest
North Deschutes River Corridor
City of Bend Portion

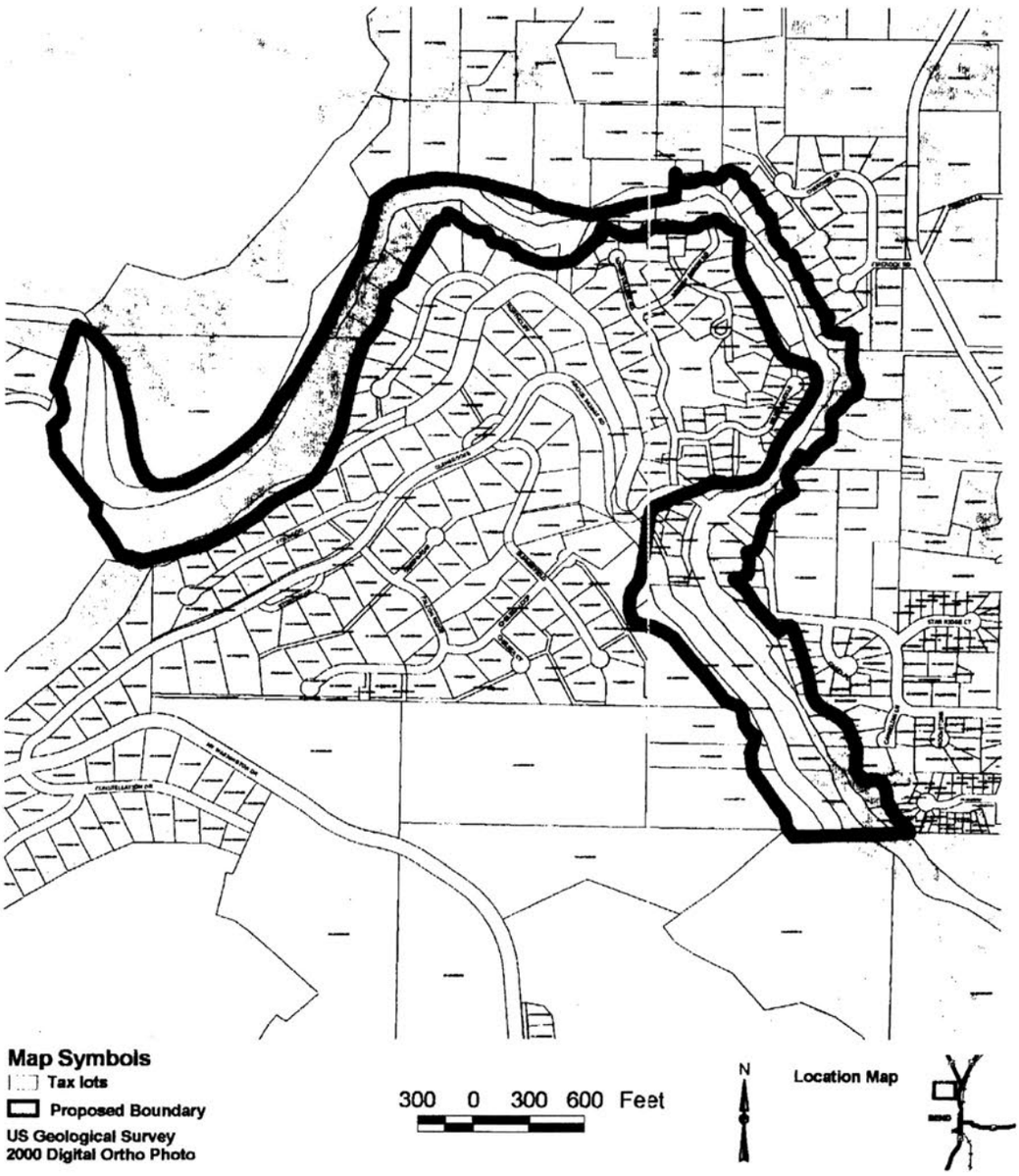




Exhibit "C"

General Plan Text Amendments

Adopted by City Council November 20, 2002
Effective December 20, 2002

PLAN AMENDMENTS

The changes to the General Plan shown below are recommended by city staff in order to comply with Goal 5 and Periodic Review Task # 4. All the changes are in Chapter 2 – *Natural Features and Open Space*. Existing text that is to be deleted is ~~lined through~~ and new text is underlined.

TEXT CHANGES

1. Add new text to the *Deschutes River Corridor* section on page 2-9, starting with 4th paragraph

...

~~In 1986 the city and county added standards for the filling or removing material from the bed and banks of the river.~~ In 1988, a statewide voters initiative added several miles of the Deschutes River to the state's scenic waterway program, including about ~~one~~ two and one-half miles within the urban area. The area from the south urban growth boundary line to the Central Oregon Irrigation district diversion is classified as the *South Bend River Community Area* in the state's scenic waterway program. At the other end of the urban area, the stretch of river from the south edge of Sawyer Park to the north urban growth boundary is classified as the *North Bend River Community Area*. Both scenic waterway areas are considered significant "Goal 5" resources under Oregon's land use planning program. The Oregon Parks and Recreation Department has the authority to review and approve any development along these scenic waterway segments. In addition to the river segments protected by the State, the City recognizes the significance of the north and south river canyons for their beauty and recreational opportunities. Both the north and south river canyons have been included in the City's inventory as a "goal 5" scenic resource. ~~In the early 1990s the city and county adopted special Deschutes River Corridor development standards to recognize and respect the unusual natural beauty and character of the Deschutes River.~~ [*Note – this last sentence is moved to the next paragraph*]

In the early 1990s the city and county adopted special Deschutes River Corridor development standards to recognize and respect the unusual natural beauty and character of the Deschutes River. The city has also adopted a Mixed-use Riverfront zone that allows for the redevelopment....

2. Add a new section titled "*Wetlands and Riparian Areas*" between *Deschutes River Corridor* and *Fish and wildlife*, pages 2-8 and 2-9.

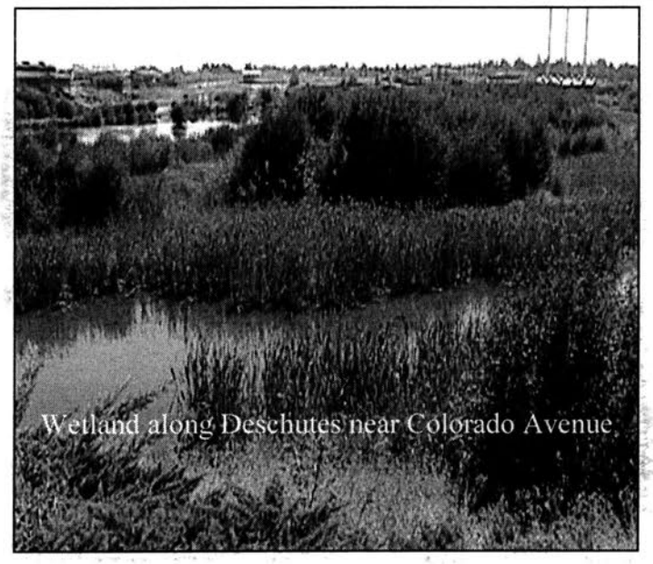
Wetlands and Riparian Areas

Wetlands and riparian areas have a variety of native plant species that are adapted to growing in locations where the soils are wet during all or part of the year. Well established wetlands and riparian areas provide a complex ecosystem that support a diverse combination of plants and animals.

It is important to conserve and improve the wetlands and riparian areas along the Deschutes River and Tumalo Creek in Bend. These areas serve several functions that protect and enhance the quality of both animal and human life within the urban area in many ways. Wetlands and riparian areas:

- Reduce stream velocities that can erode or damage stream banks and property.
- Provide storage for water during peak flows and flooding conditions.
- Trap or filter sediment and runoff water from upland areas and impervious surfaces.
- Provide shade over the river that helps water quality by reducing the warm water temperatures that produce algal blooms.
- Provide shade to help moderate water temperature to support fish and other aquatic animals.
- Provide vegetation and woody debris that serve as habitat and nesting areas for a variety of aquatic animals, birds, and mammals.
- Provide a safe corridor for birds, amphibians, and mammals that live and feed along the river.
- Provide a transition area between aquatic and upland habitat areas during animal migration.

Wetlands within Bend were inventoried and evaluated in the summer of 2000 as part of the preparation of a Local Wetland Inventory, a required Periodic Review update of the General Plan. Figure 3A shows the significant and non-significant wetlands mapped during this Local Wetland Inventory process. Table 1A lists the significant wetlands. All of the significant wetland sites are along the Deschutes River. Bend's Local Wetland Inventory replaces the older National Wetlands Inventory map for the urban area.

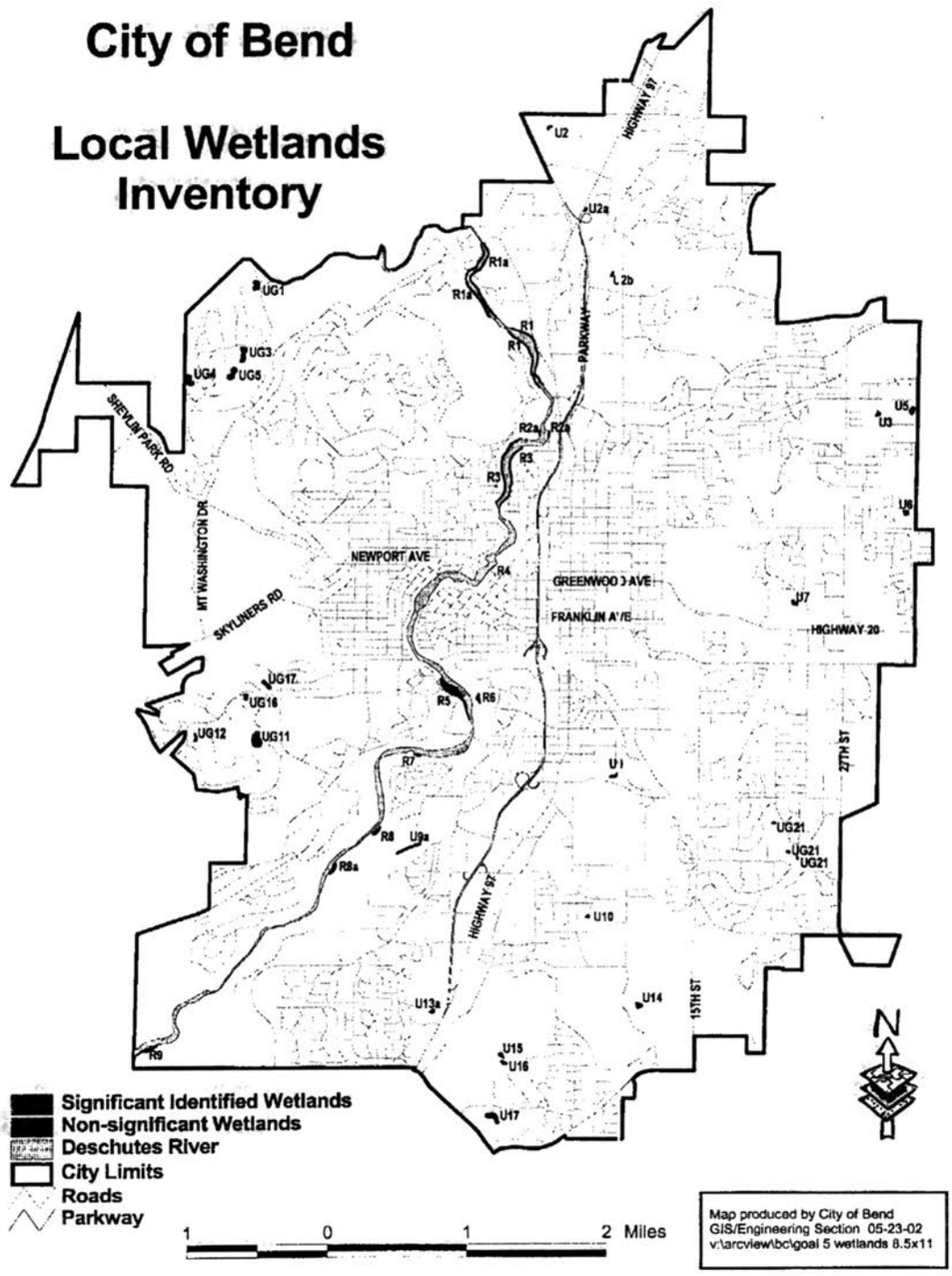


Wetland along Deschutes near Colorado Avenue

In 2000, the riparian areas within Bend were also inventoried and evaluated. The riparian area along the Deschutes River and Tumalo Creek are considered significant resources under Statewide Planning Goal 5. Conflicting uses within the riparian corridor are primarily existing and future residential development, new park development, commercial development and other uses such as roads, trails, and docks.

Any development within the bed of the Deschutes River or Tumalo Creek, or within the riparian corridor, including the removal or enhancement of riparian vegetation, must meet standards in the city's land division and zoning codes. In addition to local code requirements, the Oregon Division of State Lands and Oregon Department of Fish and Wildlife have responsibility to review and approve developments within wetlands and the Deschutes River.

Table 1A Significant Wetlands in Bend	
Inventory Field Code	General Location of Wetland
R9	At south edge of UGB on east side of river. Land area about 2.5 acres
R8a	Upstream from COI hydroelectric plant. Land area about 1.5 acres.
R8	Downstream from COI hydroelectric plant. Land area about 1 acre
R7	Downstream from old log deck footbridge, east side. Land area less than one acre
R5	Upstream from Colorado Ave. bridge on west side. Land area about 6.5 acres.
R4	Downstream below Newport Bridge on east side. Land area about 1 acre.
R3	Both sides of river below 1st Street rapids along the River Run trail and below cliffs. Land area about 5 acres.
R2a	Just upstream from North Unit dam. Land area about 2.5 acres.
R1	Between Riverhouse motel to Sawyer Park. Land area about 5 acres.
R1a	Series of small wetlands from Sawyer Park to RimRock Village footbridge. Land area about 3 acres.



City of Bend Local Wetlands Inventory

18

3. Modify the *Fish and Wildlife* section in Chapter 2 as provided below.

Fish and wildlife

There are several key wildlife areas in Bend. The most important, and most diverse, wildlife area is the riparian corridor and canyon walls along the Deschutes River. ~~Although the river is in the middle of an urban area~~, The combination of still waters, rapids, the many species of shrubs, bushes and trees, and the rock outcroppings provide a variety of important habitats and food sources. Wildlife species that inhabit the Deschutes River corridor include: deer, elk, cougar, otter, beaver, mink, raccoon, osprey, red-tailed hawk, bald eagle, kingfisher, trout, whitefish, and several species of reptiles, amphibians, and waterfowl. Although there are many species that occupy the river corridor, the Oregon Department of Fish and Wildlife has determined that there are no significant wildlife habitat areas or nesting sites within the urban area that require special land use protection. Even though there are no "significant" wildlife resource areas, [~~B~~] because of its value to wildlife and its related benefit to area residents, the river ~~corridor is~~ canyon corridors in the south and north parts of the urban area are identified as an Area of Special Interest in the General Plan and shown on the Plan Land Use Map.

At the west edge of the urban area is Tumalo Creek,....the Tumalo Creek area is a more diverse and complex habitat than the Deschutes River corridor, and supports larger wildlife such as coyote and cougar. The Oregon Department of Fish and Wildlife has not identified any significant habitat areas or nesting sites within the city portion of Tumalo Creek that warrant special protection measures.

West of the urban area in the Urban Reserve....but herds may also move across the river into the southwestern portion of the urban area. The Oregon Department of Fish and Wildlife has designated and mapped elk habitat and deer winter range areas, but these designations do not extend into the urban area. Lands within the UGB are not critical to managing the elk herds and maintaining healthy herd populations.

POLICY CHANGES

A. Add a new policy to the Fish and Wildlife subsection in Chapter 2 of the General Plan.

25. If significant Goal 5 wildlife habitat areas or nesting sites are documented during future Periodic Review inventory work the City will adopt new protection measures if existing codes are not adequate to protect the resource.

B. Add policies under a new Wetlands and Riparian Areas subsection in Chapter 2
Wetlands and Riparian Areas.

26. The city's Local Wetland Inventory map and list in the General Plan replaces the National Wetlands Inventory map for the area within the Urban Growth Boundary.

27. Wetland areas that are significant Goal 5 resources to be protected through the city's riparian corridor standards are those areas listed and mapped in the General Plan.

End of Goal 5 Policy additions

The following changes to the General Plan shown below are recommended by city staff in order to fulfill the requirements of Periodic Review Task #4. All of the necessary text changes are in Chapter 2 – *Natural Features and Open Space*. Existing text that is to be deleted is ~~lined through~~ and new text is double underlined.

TEXT CHANGES

1. Delete old text and add new text to ***Areas of Special Interest and Natural Features*** section on page 2-6.

...

"Areas of Special Interest" and Natural Features

One of the common desires mentioned by residents through more than 20 years of community planning has been to retain and conserve the natural character of Bend as the community grows and changes. Although it is difficult to precisely define what "the natural character" means to people, it can be considered a composite of features typical to Bend: ancient volcanic rock outcroppings, large ponderosa pines and junipers, the Deschutes River, improved public and private open space, and a relative abundance of wildlife and waterfowl.

"Areas of Special Interest" are designated on the Land Use Map because they have features typical of Central Oregon, or represent important wildlife areas. The most significant are the ~~main~~ River Corridor Areas of Special Interest ~~is a corridor~~ along the Deschutes River, which includes the river canyons and rimrocks in the north and south portions of the urban area. At the south edge of the urban area the River Corridor Area of Special Interest includes wildlife habitat areas along the river canyon and a cinder cone. ~~The owner of this property is interested in designing future development on the site that will protect this important wildlife area.~~

The smaller, scattered Areas of Special Interest on the Plan Map are the more prominent rock outcrops and rock ridges in the urban area. They are not specifically inventoried with respect to size, quality, or importance. These high points break the line of sight so that the area retains a feeling of undeveloped open space. Because these Areas of Special Interest are small and the scale of the Plan and Zoning Map is large, the indication on the Map represents the approximate location of the area. More detailed contour maps ~~must be used~~ have been developed and the sites inventoried to determine specific boundaries of the Areas of Special Interest.

Keeping these features relatively intact will help retain the natural character of Central Oregon as the community grows. The Areas of Special Interest and other natural areas can be retained as either public or private open space. Some sites within the urban area are already protected because they are owned and managed by public agencies.

The city ~~and county are planning changes to~~ has changed their codes ~~that~~ to provides incentives or encourage developers to preserve natural features. The county will follow the city's lead and adopt similar changes to their code. Such code changes shall include, but are not limited to, the following:

- more flexible subdivision lot and street standards ~~to allow including natural features into the subdivision design~~ typical of a Planned Unit Development (PUD) ~~to include natural features into the subdivision design~~;

- Planned Unit Development (PUD) standards that are easier to follow and administer;
- A new "cluster housing" subdivision option specifically aimed at preserving natural features; and
- Flexible minimum residential density standards on sensitive lands to protect natural features;
- Provide density credit equivalent to the area being preserved;
- Flexible setbacks, lot coverage, and parking standards for site development;
- Opportunities for tax benefit in accordance with the provisions of the Deschutes County Tax Assessor;

Local governments and special districts can also preserve or conserve natural areas through several non-regulatory measures. They can:

- Seek donations or gifts of land from private parties;
- Request transfer of land from federal agencies or other governmental organizations;
- Purchase land using revenue bonds, system development charges, or other fees;
- Obtain conservation easements along the river or other sensitive areas to protect wildlife habitat;
- Include natural features and open space in the design of reservoirs, pump stations, and other such utility facilities; and
- Locate transportation and utility systems to avoid natural features and Areas of Special Interest.

Natural areas can also be retained in private ownership in a variety of ways without adversely affecting the density or development potential of a site. The city and county encourage the private sector to preserve natural areas within subdivisions and other developments. Many local developers have accommodated the goal of conserving natural features by incorporating rock outcroppings, mature trees and native vegetation and related features into their projects by:

- Including them within common areas in Planned Unit Developments or subdivisions;
- Including them within the undeveloped street right of way;

- Adjusting lot lines and street patterns to leave them in the non-buildable setback areas; and
- Making them part of the required landscape area in commercial, industrial, and multi-family projects.

POLICY CHANGES

2. Revise policy regarding designation of new ASI's. Add new policy under Natural features and open space on pages 2-10 and 2-11.

Natural features and open space (page 2-10 and 2-11)

1. The city and Bend Metro Park and Recreation District will inventory and maintain a list of natural features and open space lands that are important to the community.

2. The city and Bend Metro Park and Recreation District shall share ~~have~~ the ~~primary~~ responsibility to inventory, purchase, and manage public open space, and shall be supported in its efforts by the city and county.

3. 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 the zoning maps. During the same period of time, the City and the county shall review city and county owned properties for potential new ASI designations.

4. Detailed maps of the Areas of Special Interest shall provide guidance to property owners and staff in interpreting the ASI boundary location.

Re-number remaining policy numbers.

End of the recommended General Plan text changes



Exhibit "D"

Implementing Ordinance: Waterway Overlay Zone

Adopted November 20, 2002
Effective December 20, 2002

WATERWAY OVERLAY ZONE

November 20, 2002

Note: The following text contained in this exhibit is adopted as new text in the City of Bend Zoning Ordinance (No. NS-1178). Alterations to existing definitions of Sec. 10-10.4 of the Zoning Ordinance are as shown in this exhibit; this exhibit also provides for deletion of existing Zoning Ordinance text as specified in the "Related City Code Amendments" section.

Section 10.10.22
Waterway Overlay Zone

(1) **Purpose**. The Deschutes River and Tumalo Creek stream corridors within the urban growth boundary of the City of Bend are valuable economic, recreational, scenic and natural resources for the community. The Waterway Overlay Zone (WOZ) is inclusive of all special purpose provisions that pertain to these stream corridors. The WOZ is intended to conserve and enhance the natural resource values of areas along the Deschutes River and Tumalo Creek within the city by:

a) Recognizing and respecting the unusual natural beauty and character of the city's major waterways;
b) Protecting and enhancing water quality for human use and aquatic life;
c) Conserving and restoring habitat for wildlife, fish and other aquatic life;
d) Conserving wetlands;
e) Controlling erosion and reducing the effects of flooding;
f) Improving coordination between the city and agencies regarding development activities near waterways;
g) Promoting development that is compatible with the purposes of the WOZ;
h) Promoting the preservation and restoration of native riparian vegetation;
i) Maintaining the scenic quality of the canyon and rimrock areas along these waterways;
j) Conserving and protecting property values; and
k) Encouraging development, preservation and enhancement of reasonable public access to major waterways for recreational use and visual enjoyment.

(2) **Applicability**. Provisions of this section apply to all property within the boundaries of the WOZ as shown on the Bend Urban Area Zoning Map and consistent with WOZ boundary determination procedures of subsection 3. below. Many parcels within the WOZ are affected by more than one sub-zone. Where this is the case, applicable development standards for each sub-zone shall apply within that sub-zone's boundaries. Standards of this section shall apply in addition to applicable standards of the underlying zone. Where there are conflicts between sub-zone standards, the more restrictive standards shall control. The WOZ includes the following sub-zones:

- Riparian Corridor

- Deschutes River Corridor Design Review
- River Corridor Areas of Special Interest
- Flood Plain

(3) **WOZ Boundary Determination.** The WOZ boundary is inclusive of all WOZ sub-zones, as specified in this section. Except for the River Corridor Areas of Special Interest and the Flood Plain Sub-Zone, the boundary of all sub-zones shall be determined by distance measurement from the designated waterway. The boundary for the River Corridor Areas of Special Interest Sub-Zone is designated on the Bend Urban Area General Plan Map, and shall be considered to be the outer (upland) edge of the mapped boundary line. Unless otherwise provided for specific WOZ sub-zones, boundary measurements shall be made from the ordinary high water mark. Distance measurements shall be made horizontally and at right angles to the edge of the waterway.

(4) **Tree Removal**. Consistent with the purposes of this section, and because trees contribute to the overall health of the riparian corridor, removal of existing trees greater than 4 inches in diameter within the WOZ is prohibited, except as follows:

a. Where necessary to accommodate an approved development activity; or
b. Where the tree is determined by a qualified professional to be diseased or hazardous; or
c. Where necessary to mitigate potential fire hazard in accordance with the Fire Protection Act of 1997.

Tree removal under this subsection may be authorized by the review authority, based on findings demonstrating conformance with criteria a), b), or c). Where tree removal is proposed apart from an approved development activity, the review authority may authorize removal as a development action. If no hazard will be created, a tree or snag requested for removal may be required to be left in place as wildlife habitat.

(5) **Review Process**

a) **State Agency Coordination.** Within the WOZ, the State of Oregon has jurisdiction over certain development activities. In order to ensure coordination between the City of Bend and affected state agencies, notice of proposed activities within the WOZ will be provided to the Division of State Lands, the Oregon Department of Fish and Wildlife, the Oregon Parks and Recreation Department, and the Department of Environmental Quality, in accordance with provisions of Sec. 10-16.2(8) of the Bend Code.

b) **Application Information**. In addition to application information required under Sec. 10-16.2(2), an application for a development or land use action within the WOZ shall include the following:

A. A detailed written explanation of the proposal, including the location, amount, and type (species) of any vegetation to be removed or planted, and any material to be graded, excavated, or filled.

B. An explanation of why any proposed grading, excavation, or fill of material and/or vegetation is necessary.
C. A site plan drawn to scale, accompanied by such drawings, sketches, photos, and descriptions as are necessary to describe and illustrate the proposed activity. The site plan shall, at a minimum, include:

i. Any proposed structures or impervious surfaces on the site;
ii. Location of property lines, easements, existing and proposed structures;
iii. Identification of existing vegetation on the site, indicating areas of native and non-native plant species;
iv. Any proposed modifications to existing vegetation;
v. A grading and drainage plan, showing existing and proposed site contours at two-foot intervals, or less;
vi. All applicable WOZ sub-zone boundaries;
vii. Location of the ordinary high water mark;
viii. Location of designated wetlands on or abutting the site; boundaries of designated wetlands shall be delineated using methods accepted by the Oregon Division of State Lands;

(6) **Enforcement and Penalties**. In addition to the enforcement and penalty provisions of Sec. 10-10.36, the Review Authority may require the replacement of vegetation removed in violation of the Waterway Overlay Zone. The City may require greater than one-to-one replacement. The amount of replacement trees, shrubs and ground cover shall be determined by the area of removed vegetation. The property owner shall enter into a mitigation agreement plan approved by the City. The mitigation plan shall include:

(a) A mitigation plan providing for the planting and maintenance of the replacement vegetation. The plan shall make provisions for the replacement of plants that die within three years of planting.

(b) Failure to enter into a mitigation agreement plan as required by this section or failure to comply with any condition of that plan shall be a Class A civil infraction. Such failure shall be a separate infraction each day the failure to comply continues. In addition, the City may refuse to accept any development permit application for the subject property or stop work on any development approved for the subject property until an acceptable mitigation plan has been executed or complied with.

(c) In addition to monetary penalties, the City may seek injunctive relief to require the property owner or other responsible party to restore the property to the conditions prior to the violation. The injunctive relief may include imposition of a mitigation plan.

Section 10.10.22.10 Riparian Corridor Sub-Zone

(1) Riparian Corridor Boundary. The width of the Riparian Corridor Sub-Zone adjacent to various waterway segments is specified in Tables 1 and 2 below. Boundary distances shall be measured from the ordinary high water mark, or from the upland edge of any

designated wetlands, whichever is more landward. For purposes of riparian corridor boundary determination, steep slopes are considered to exist in an area having:

- 60 per cent or greater slope; and
- a vertical rise of 20 feet or more; and
- a continuous horizontal length of 50 ft. or more.

Table 1
West Side Riparian Corridor Boundary: Deschutes River

DESCHUTES RIVER – WEST SIDE	
From the South UGB line to the COID intake	30/75 feet[1]
From the COID intake to the Southern River Crossing alignment	30/50 feet[2]
From the Southern River Crossing alignment to the north boundary of McKay Park	40 feet
From the north boundary of McKay Park to the Tumalo Irrigation District intake (south boundary of Block 15, Awbrey Heights Subdivision)	30 feet
From the Tumalo Irrigation intake (south boundary of Block 15, Awbrey Heights Subdivision) to the Mt. Washington Drive bridge	30/50 feet[3]
From the Mt. Washington Drive bridge to the south boundary of Sawyer Park	30 feet
From the south boundary of Sawyer Park to the north UGB line	30/50 feet[4]

[1]Where steep slopes are present within 75 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 75 ft. horizontally of OHW, the Riparian Corridor Boundary is 75 ft. from OHW.
[2]Where steep slopes are present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 50 ft. from OHW.
[3]Between the River's Edge Golf Course and the Mt. Washington Dr. bridge, where steep slopes are present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 50 ft. from OHW.
[4]Where steep slopes are present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 50 ft. from OHW.

Table 2
East Side Riparian Corridor Boundary: Deschutes River

DESCHUTES RIVER – EAST SIDE	
From the South UGB line to the COID intake	30/75 feet[1]
From the COID intake to the Southern River Crossing alignment	30/50 feet[2]

From the Southern River Crossing alignment to the south boundary of the Mill Addition subdivision	40 feet
From the south boundary of the Mill Addition subdivision to the north boundary of the Bend Riverside Motel Condominiums	30 feet
From the north boundary of the Bend Riverside Motel Condominiums to the Mt. Washington Drive Bridge	30/40 feet[3]
From the Mt. Washington Drive bridge to the south boundary of Sawyer Park	30 feet
From the south boundary of Sawyer Park to the north UGB line	30/50 feet[4]

[1]Where steep slopes are present within 75 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 75 ft. horizontally of OHW, the Riparian Corridor Boundary is 75 ft. from OHW.
[2]Where steep slopes are present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 50 ft. from OHW.
[3]Between the North Unit Dam and the Mt. Washington Dr. bridge, where steep slopes are present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 50 ft. from OHW.
[4]Where steep slopes are present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 30 ft. from OHW. Where steep slopes are not present within 50 ft. horizontally of OHW, the Riparian Corridor Boundary is 50 ft. from OHW.

Table 3
Riparian Corridor Boundary: Tumalo Creek

TUMALO CREEK: BOTH SIDES	
Entire segment inside city limits	50 feet

(2) Activities Subject to Review and Approval. Within the Riparian Corridor sub-zone, permanent alteration by grading, removal of native vegetation, excavation or fill of soils or rocks, or by placement of structures or impervious surfaces is prohibited, except as provided below in subsections (3), (5), (6) and (7).

(3) Land Use Actions. The following may be approved within the Riparian Corridor by the Review Authority as a land use action:

A. Streets, roads, bridges and driveways.
B. Hard surface pedestrian and bicycle paths, unpaved trails, and boardwalks.
C. Public and private utility transmission and distribution lines, including irrigation pumps and facilities, and drainage facilities.
D. Water-related and water-dependent uses, including parks, interpretive areas, and viewpoints.

E. Maintenance or repair of existing streets, roads, paths, and lawfully existing structures that involves grading, fill, or excavation of more than ten cubic yards of material, including vegetation.
F. Restoration of the riparian corridor, including site grading and re-contouring, when carried out in conformance with an approved restoration plan (see subsection (5), below).

(4) Approval Criteria for Land Use Actions. The Review Authority may approve a land use permit for uses listed in subsection (3), above, based on findings that the following criteria are satisfied:

A. All necessary state and federal permits have been obtained, or will be obtained by the applicant, as a condition of approval.
B. The proposed development or activity is designed and constructed to minimize intrusion into the riparian corridor. This criterion shall not preclude placement of permitted uses in the riparian corridor at intervals and locations for purposes of providing reasonable public access to, and views of, the waterway. The following shall be specifically addressed in demonstrating conformance with this criterion:

i. Removal of riparian vegetation shall be limited to the minimum amount necessary to accommodate the proposed use; any vegetation removed in excess of this standard shall be non-native species. The proposal shall specify replacement of that vegetation with riparian species that are native to the Bend area, and similar to existing plant species in the vicinity (excluding noxious weeds as identified by the Deschutes County Soil and Water Conservation District).
ii. Any proposed construction shall be designed in such a manner as to minimize adverse impacts upon a designated wetland, native riparian vegetation, fish and wildlife habitat and water quality within this sub-zone.
iii. Erosion within the riparian corridor shall be prevented during and after construction by the use of mulch, erosion blankets, debris fencing, or similar preventative practices.
iv. Demonstrate that surface runoff from impervious areas will not flow unfiltered or untreated into the adjacent waterways

(5) Restoration Plan. The review authority may require that a restoration plan be prepared by a qualified professional and submitted with an application for a development or land use action within the Riparian Corridor sub-zone. The review authority may require that the applicant post a performance bond in an amount sufficient to ensure fulfillment of an approved planting plan. A restoration plan shall demonstrate conformance with criteria of Section 10.10.22.10(4), and subsections i – iii below; the plan shall include the following elements, in addition to those items required under Section 10.10.22(5)(b):

A. The location, type, and volume of material to be graded, dredged, filled, or removed.

B. Identification of existing walls, riprap, or previously filled steep slopes to be altered or removed.
C. Location, species, and amounts of existing vegetation to be removed.
D. A detailed planting plan for any site area where vegetation is proposed to be removed or replaced.
E. A plan to maintain new vegetation.

i. The restoration plan shall indicate the minimum grading, dredging, or excavation necessary for any proposed activity. Bio-engineered bank stabilization measures may be required by the review authority.

ii. Species of vegetation to be planted shall be well suited to soil types and slopes. Limited use of non-native species may be approved on an interim basis where necessary to retain soils, prevent noxious weeds, or otherwise facilitate the establishment of native species. The plan shall indicate replacement of all non-native vegetation with native species within a maximum period of five years from the date of approval.

iii. The plan shall indicate maintenance measures for new vegetation sufficient to ensure successful establishment, including irrigation methods, surface water containment, and measures to prevent overspray of herbicides and pesticides.

(6) Exempt Activities. The following activities are exempt from review within the Riparian Corridor sub-zone:

A. Normal maintenance of yards and landscaped areas with existing plantings of lawns, ornamental plants, and other non-native vegetation.
B. Normal maintenance and repair of lawfully existing buildings, structures, streets, roads, bridges, dams, paths, utilities, drainage facilities, and irrigation pumps and facilities.
C. Alterations of lawfully existing buildings or accessory structures that do not increase building coverage within the Riparian Corridor sub-zone.
D. Removal of non-native vegetation and noxious weeds, as identified by the Deschutes County Soil and Water Conservation District, and replacement in equal or greater volume with species that are native to the Bend area and similar to existing plant species in the vicinity.
E. Tree removal in accordance with section 10.10.22(4)

In all instances exempted above, related disturbance inherent to the exempted activity and intrusion into the riparian area shall be kept at a minimum.

(7) Exceptions.

A. The following exceptions to applicable standards of the Riparian Corridor Sub-Zone may be authorized by the Review Authority as a Land Use Action:

i. A legally created lot or parcel which is located entirely within the Riparian Corridor Sub-Zone may be developed with permitted uses, subject to the applicable land use review, in a manner that will have the least impact to inventoried resources of the riparian corridor.

ii. Required yard setback distances may be reduced when such reduction is necessary to enable a proposed structure to be placed outside the Riparian Corridor Sub-Zone.

iii. Structures and impervious surfaces may be placed within the Riparian Corridor Sub-Zone when the Review Authority, in consultation with the Oregon Department of Fish and Wildlife, determines that the proposal will provide equal or better protection of riparian resources than would be achieved by excluding the proposed improvements from the sub-zone. Equal or better protection of riparian resources shall be ensured through restoration of riparian areas, enhanced buffer treatment, or similar measures. In no case shall such alterations occupy more than 50% of the width of the Riparian Corridor Sub-Zone on properties upstream of the COID intake; alterations shall not occupy more than 40% of the width of the Riparian Corridor Sub-Zone downstream of the COID intake.

Section 10.10.22D. River Corridor Areas of Special Interest Sub-Zone

1. Approval Criteria. Proposed development or land use actions on property subject to the River Corridor Areas of Special Interest Review, shall be subject to the following provisions :

A. The proposal shall be designed and constructed so as to maintain the integrity of the existing natural features and biological systems by utilizing exterior building materials that have earth tone colors. Removal of native vegetation shall be limited to the minimum amount necessary to accommodate the proposed development or land use action; any vegetation removed in excess of this standard shall be non-native species.

B. Structures located along the canyon rim of the river shall be set back a minimum of 30 feet from the River Corridor Area of Special Interest boundary for a building 20 feet or less in height. For buildings over 20 feet in height, the building shall set back one additional foot for every additional foot over 20 feet. The maximum building height shall not exceed that of the underlying zone.

C. The permanent alteration of a River Corridor Area of Special Interest by grading, excavation or fill, the placement of structures or impervious surfaces, or by the removal of existing vegetation is only permitted as authorized within the Riparian Corridor sub-zone, or as provided below:

i. Streets and Crossings. Public or private streets and river crossings may be placed within a River Corridor 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 River Corridor Area of Special Interest while also allowing safe passage of vehicles and/or pedestrians;

ii Utilities, Irrigation Facilities, and Drainage Facilities. Public and private utilities, irrigation facilities, or drainage facilities may be placed within a River Corridor 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.
d. Minimal visual impact to the river corridor will result from the construction of the facility.

iii Removal of Vegetation. Removal of existing vegetation from a River Corridor Area of Special Interest is prohibited, except as indicated below:

a. Existing trees may be removed as provided in Section 10.10.22(4).
b. 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.
c. The removal of existing vegetation, other than trees, when the amount of vegetation removed is the minimum necessary to reduce fire fuels as determined by a qualified professional.

iv. Enhancement of a River Corridor Area of Special Interest. Planting of additional vegetation within a River Corridor Area of Special Interest is permitted as indicated below:

a. Plant materials that are or will be visible from the river shall be native to Central Oregon and similar to the existing plant species in the vicinity of the River Corridor Area of Special Interest.

(2) Development Credit. When an applicant preserves a River Corridor 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 a River Corridor 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 a River Corridor 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.

i. Substitute the area of the preserved ASI as the equivalent required on-site landscaping;
ii. Receive up to 10% reduction in the required on-site parking spaces;
iii. Reduce the front yard setback up to 50% of the standards required for the applicable zone;

C. For subdivision development, where the applicant proposes to preserve a River Corridor Area of Special Interest, the property owner may apply the P.U.D. development standards to the subject property without the additional CUP application.

3. Exceptions. An exception to the provisions of the River Corridor Areas of Special Interest sub-zone may be permitted as provided below:

A. For existing legal lots where the location of a River Corridor Area of Special Interest results in a lot depth for a single family dwelling of 50 feet or less or a building envelope of 800 square feet or less, the front and side yard setbacks may be reduced up to 50% of the standard required for the applicable zone.

B. For existing residential 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.

C. For the construction of public trails or paths that provide public access into the preserved River Corridor Areas of Special Interest.

D. For lots or parcels existing prior to the adoption of this ordinance, where there are buildings on both of the abutting lots with canyon rim setbacks less than the required depth, the setback need not exceed the average setback on the abutting buildings. If there is a building on only one abutting lot or parcel with a setback less than the required setback depth, the setback need not exceed the average of the setback of the abutting building and the required setback.

4. River Corridor Areas of Special Interest Mitigation Requirements.

A. Proposed development or land use actions in the River Corridor Areas of Special Interest sub-zone may trigger a requirement for mitigation. The purpose of mitigation is to restore the value of the visual resource lost due to development activity. It is the burden of the applicant to demonstrate how mitigation restores visual significance. When a proposal impacts a River Corridor Area of Special Interest by grading, excavation, or fill, the placement of structures or 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:

i The location of the impact;
ii Existing conditions and size of the resource area prior to impact;

iii Location and size of the proposed mitigation area.

B. The mitigation plan shall be approved by the review authority upon finding conformance with the following criteria:

i. Proposed vegetation to be removed shall be replaced on the site at a ratio of at least 1:1;

ii All proposed vegetation planted within the mitigation area shall be native to the region and similar to the vegetation to be removed;

iii 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

5. Standards for Designating Additional River Corridor Areas of Special Interest: Any individual or organization may apply for designating new River Corridor Areas of Special Interest. Designation of new areas shall be coordinated with the affected property owners. A "River Corridor Area of Special Interest" designation may be applied or modified pursuant to Section 10.10.26C(G) of the Zoning Ordinance. 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.

10.10.4 Definitions

Deschutes River Corridor. All property within 100 feet of the ordinary high water mark of the Deschutes River. ~~The ordinary high water mark shall be defined in Section 4, Yard.~~

Designated Wetland means an area designated as significant wetlands on the Local Wetland Inventory maps adopted by the City of Bend.

Mitigation means measures undertaken within or in close proximity to areas affected by development action that are intended to benefit fish and wildlife habitat and reduce flood impacts. Mitigation measures may include, but are not limited to; rectifying the impact by repairing, rehabilitating or restoring the affected environment; replacing lost riparian vegetation with more native riparian vegetation; or locating facilities outside an affected area.

Oregon Scenic Waterway means the designated areas along the south and north portions of the Deschutes River within Bend that are designated and managed by the Oregon Parks and Recreation Department to protect State Planning Goal 5 scenic resources.

Ordinary High Water Mark (OHWM) means the elevation of bankfull stage.

Qualified Professional or Individual means an individual approved by the City who through related training, or on-the-job experience, or both, possesses knowledge in the following subject areas: 1) Arboriculture, 2) Natural Resources; including water resources and riparian restoration, and 3) Urban Interface Fire Protection.

Riparian Corridor means the area within and adjacent to the Deschutes River and Tumalo Creek that includes water areas, fish and wildlife habitat, wetlands, and riparian vegetation and other State Planning Goal 5 resources to be conserved and protected.

Water-dependent means a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water.

Water-related means uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or water-way use, and which, if not located adjacent to water, would result in public loss of quality in the goods or services offered. Except as necessary for water-dependent or water-related uses or facilities, residences, parking lots, spoils and dump sites, roads and highways, restaurants, businesses, factories, and trailer parks are not generally considered dependent on or related to water location needs.

Yard. Means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this Ordinance. In determining the required yard for properties abutting the Deschutes River, the edge of the river shall be considered the property line. The edge of the river shall be determined by the ordinary high water mark ~~which shall be the mark on the Deschutes River that will be found by examining the banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, and as it may naturally change~~.

Related City Code Amendments:

Delete Existing Fill and Removal Sections:

Delete in their entirety the existing Section 10.10.25(26) Fill and Removal and the existing Section 10.10.27(12) Fill and Removal Exceptions.

Delete Ordinance No. NS-718:

Delete in their entirety existing City Code Sections 10-6.1 through 10-6.6, "Regulating the Use of the Deschutes River Bank" (Ordinance No. NS-718).



Exhibit "E"

Local Wetlands Inventory Report

Adopted by City Council November 20, 2002
Effective December 20, 2002

City of Bend

Local Wetlands Inventory Report

November 2002

Prepared by Darcy McNamara, Bend Riverway
Edited by Mike Byers, Principal Planner

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Note: See City of Bend Goal 5 Inventory and Analysis for floodplain map and for references.

Introduction

Local governments are required to use criteria and procedures established by the Land Conservation and Development Commission to identify significant wetlands under Statewide Planning Goal 5. To comply, a Local Wetlands Inventory (LWI) for the City of Bend was conducted. When approved by the state the LWI will replace the National Wetlands Inventory map for the Bend area. The inventory revealed that there are no significant Goal 5 wetland resources outside of the riparian corridor of the Deschutes River. The entirety of the Deschutes River within the UGB was evaluated as a single aquatic system. Within this aquatic system, a total of ten significant wetland units have been identified, meaning that the City must meet requirements in state law for protecting these wetland units. This may be accomplished through a new wetland protection ordinance or by modifying existing river corridor regulations. A summary of the LWI methodology and findings are located in the City of Bend Periodic Review Goal 5 Inventory and Analysis, which is separately bound.

Goal 5 Wetlands Defined

Wetlands are areas that are inundated or saturated with water long enough to support plants that are adapted to life in saturated soils. Wetlands share three common characteristics:

- **Water** in abundance over a period of time. The prolonged seasonally or permanently saturated area creates the wetland (developing hydric soil that support wetland plants)
- **Hydric soils** are distinctive soils formed by saturated conditions
- **Wetland plants**, or "hydrophytes," are water loving plants with special adaptations for living in hydric soils.

Local governments are required conduct an inventory to identify, classify, and assess the functions and condition of wetland areas. The standard Goal 5 inventory methodology does not apply for wetlands. Instead, local governments are required to conduct a systematic survey called a Local Wetlands Inventory (LWI) following rules adopted by the Division of State Lands (DSL). The LWI maps the approximate location of wetlands and provides information on the characteristics of those wetlands. A wetland function and condition assessment is done as part of the LWI using the *Oregon Freshwater Wetland Assessment Methodology* published by DSL (1996). Wetland functions to be evaluated include wildlife and fish habitat, water quality improvement and floodwater retention.

At the conclusion of the LWI process, the city is required to identify significant wetlands using criteria set by DSL and to develop programs to protect significant Goal 5 wetland resources. The city must coordinate with appropriate state and federal agencies when adopting programs intended to protect wetland resources. The significance criteria are outlined in the next section.

Locally Significant Wetland Criteria

Wetlands are the only Goal 5 resource with a specific methodology to determine whether or not the resource is significant. The significance determination is based upon the results of the wetland function and condition assessment. A summary of the significance criteria

follows. For the complete administrative rule for identifying significant wetlands refer to OAR 141-86-300 in the separately bound Goal 5 Reference Material.

Exclusions
Wetlands cannot be designated as locally significant if they fall within any one of the following categories (list edited for the City of Bend).

Wetlands artificially created entirely from upland that are:

- Created for the purpose of controlling, storing, or maintaining stormwater; or
- Ditches without a free and open connection to natural waters of the state and which do not contain food or game fish; or
- Less than one acre in size and created unintentionally as the result of irrigation water overflow or leakage; or as the result of construction activity not related to compensatory mitigation for permitted wetland impacts; or
- Of any size and created for the purpose of wastewater treatment, farm or stock watering, settling of sediment, or as a golf course hazard.

Significant Criteria
A local government must identify a wetland as locally significant if it meets one or more of the following criteria:

1. The wetland performs any one of the following functions at the levels indicated below using the *Oregon Freshwater Wetland Assessment Methodology* (OWFAM):
   - "Diverse" wildlife habitat; or
   - "Intact" fish habitat; or
   - "Intact" water quality function; or
   - "Intact" hydrologic control function.

2. The wetland is less than one-fourth mile from a water body listed by the Department of Environmental Quality as water quality limited (303 (d) list), and the wetland's water quality function is described as "intact" or "impacted or degraded" using OFWAM. A local government may determine that a wetland is not significant under this subsection if the wetland does not provide water quality improvements.

3. The wetland contains one or more rare plant communities as defined by OFWAM.

4. The wetland is inhabited by a federal threatened or endangered, or a state sensitive, threatened or endangered species, unless the appropriate state or federal agency indicates that the wetland is not important for the maintenance of the species.

5. The wetland has a direct surface water connection to a stream segment mapped by the Oregon Department of Fish and Wildlife as habitat for indigenous anadromous salmonids, and the wetland is determined to have "intact" or "impacted or degraded" fish habitat function using OFWAM.

Wetland Protection Program

Once a wetland has been determined to be significant the city must either conduct an Energy, Social, Environmental and Economic (ESEE) analysis of options to protect, partially protect

or allow full development of the significant wetland, or use the "safe harbor" method to protect the significant wetlands. The safe harbor program must include restrictions on grading, excavation, placement of fill, and vegetation removal other than perimeter mowing and other cutting necessary for hazard prevention; and include a variance procedure to consider hardship variances and claims of map error. See Goal 5 Reference Material (660-023-0100(4)) for the complete text.

Wetlands Inventory Methodology

A Local Wetlands Inventory (LWI) was conducted for the City of Bend in accordance with the standards and procedures in the Oregon Administrative Rules (141-086-0180 to 0240).

The inventory and mapping process was fully documented in order to ensure accuracy and consistency throughout the process. Documentation includes:

- Dates and scales of source maps and air photos used
- Technical staff members and qualifications
- Field data sheets

Maps and resources consulted for the City of Bend LWI include:

- U.S. Soil Conservation Service county soil survey
- National Wetlands Inventory map
- FEMA floodplain maps
- USGS topographic map 7.5 minute series, Bend Quadrangle
- Color aerial photos dated June 2000. 1 inch = 1680 feet
- Color aerial photos dated August 1998
- Topographic maps, 1 inch = 100 feet prepared by City of Bend
- Existing Conditions Report in the Bend Riverway, A Community Vision
- Other resources located in the Reference section of this document

Agencies and local knowledge consulted include:

- Oregon Department of Fish and Wildlife
- Deschutes County
- Local Knowledge individuals – at early public involvement meeting
- Local Knowledge Groups:
  1. ARLU-DeCo, Bob Bates
  2. Central Oregon Audubon Society, Chris Carey
  3. Deschutes Basin Land Trust, Brad Chalfant
  4. Deschutes Soil and Water Conservation District, Jeff Rola
  5. Friends of Bend, John Neilson, Liz Rewick
  6. High Desert Ecological Research Institute, David Dobkin
  7. Morrow Planning, Catherine Morrow
  8. Natural Areas Association, Reid Schuller
  9. Oregon Native Plant Society, Stu Garrett
  10. Oregon Natural Desert Association, Tim Lillebo
  11. Sisters Forest Planning Association, Paul Dewey
  12. Upper Deschutes Watershed Council, Barbara Lee

To begin the inventory process, information on wetlands within the City of Bend UGB was compiled onto one working map. The information included:

- Wetlands identified from the National Wetlands Inventory map
- Riparian wetlands identified in the Bend Riverway Existing Conditions Report;
- Hydric soil information from the U.S. Soil Conservation Service county soil survey;
- Floodplain location information from FEMA;
- Wetlands or possible wetlands identified from air photos
- Golf course locations
- Irrigation canal locations
- Sites to check based on local knowledge

Each potential wetland was assigned a unique number. All wetlands and possible wetlands were then field verified by Riverway staff. All wetlands were classified by type according to the U.S. Fish and Wildlife Service's Classification of Wetlands and Deepwater Habitats of the United States (Cowardin classification) and the Hydrogeomorphic (HGM) classification. The OFWAM manual questions were completed in the field for all riparian wetlands. Each site was photographed.

All of the identified non-riparian wetlands and golf hazards were field checked to determine if they met the "exclusion" criteria for significant wetlands, as described above. All of the non-riparian wetland sites met one or more of the exclusion criteria. For these sites, a modified short form was filled out that documented use and hydrologic source. The modified form includes information on the function of the wetland. Upon completion of the fieldwork, Dana Field (DSL wetlands planner) field checked the work.

The LWI includes the wetlands map showing all of the identified wetland sites, supporting maps used to develop the LWI, field data sheets, and photos.

A summary sheet was prepared for each wetland. The summary sheet includes:

- Individual wetland code
- Street address or equivalent sufficient to locate site
- Public Land Survey identifier (Township, Range, Section) for location of the wetland
- Approximate wetland size (in acres)
- Wetland Classifications (Cowardin and Hydrogeomorphic)
- Soil type(s)
- Hydrologic basin
- Description of wetland
- Hydrology source and use of artificially created wetlands
- Field verification date(s)

All identified wetlands greater than 0.5 acres were located generally on a map included in the LWI. Mapping for non-excluded wetlands (riparian wetlands) was done on topographical maps (1 inch = 100 feet) at an accuracy of approximately 25 feet. The approximate acreage for each wetland was calculated.

The OFWAM manual questions were completed for all riparian wetland units. Each site was photographed. Each riparian wetland unit boundary was determined and mapped on topographical maps scaled 1 inch equals 100 feet. The wetland determination was conducted

by city and Riverway staff by analyzing the vegetation and topographical breaks. A check of this work was conducted by DSL staff. A final LWI map was produced that includes all identified wetlands.

Inventory Results

Overview

Based upon the results of the LWI and a review of the significance criteria, it was determined that none of the non-riparian wetlands would qualify as Locally Significant Wetlands. This means that while they might be regulated wetlands under the Removal-Fill Law (administered by DSL) and/or the Clean Water Act (administered by the Army Corps of Engineers), they require no further analysis or protection as a Goal 5 wetland resource by the City of Bend. As for the wetlands along the Deschutes River, 10 wetland units were identified. OFWAM function and condition assessment information was compiled on each wetland unit in order to determine if they are locally significant wetlands.

A quick summary of the inventory results is as follows:

- Ten (10) wetlands were identified within the Deschutes River corridor
  - The corridor was divided into three reaches (South Canyon, Pioneer, and Awbrey) and inventoried for wetlands
  - All 10 wetland units meet the criteria for locally significant wetlands
- Forty-four (44) non-riparian wetlands were inventoried
  - All non-riparian wetlands met the exclusion criteria and are not locally significant wetlands (due to size and hydrologic source)
- No riparian wetlands were found on Tumalo Creek. (Only about ¼ mile of the creek is within the UGB. There are many wetlands on the creek outside the UGB.)

Wetlands provide important habitat for wildlife, provide flood storage, promote water quality and harbor a large part of the floral diversity in the Bend area. Of the eight mammals observed during a survey in 1990, six depended on wetlands for food or cover. And of the 47 bird species observed, wetlands provided habitat for 29 species. These observations were made along a segment of the river corridor from south portion of the Old Mill district (log deck) to just south of the Newport Street bridge (PacificCorp, 1990). The 10 significant wetland units identified in this LWI comprise a total of approximately 29 acres. By far the most important wetland for wildlife within the area of the survey is a 6.5 acre area just south of the Colorado Street bridge. This area has 2.2 acres of wetland shrubs like willow and alder and had 20 distinctly different vegetation zones. The wetland is dominated by sedges and cattails and had a number of open water areas that provide nesting, foraging and cover for birds. There are only a few other wetlands of this type along the river. One of special note is the area downstream from 1st Street Rapids. This wetland is developing in areas of slow moving water on both sides of the river.

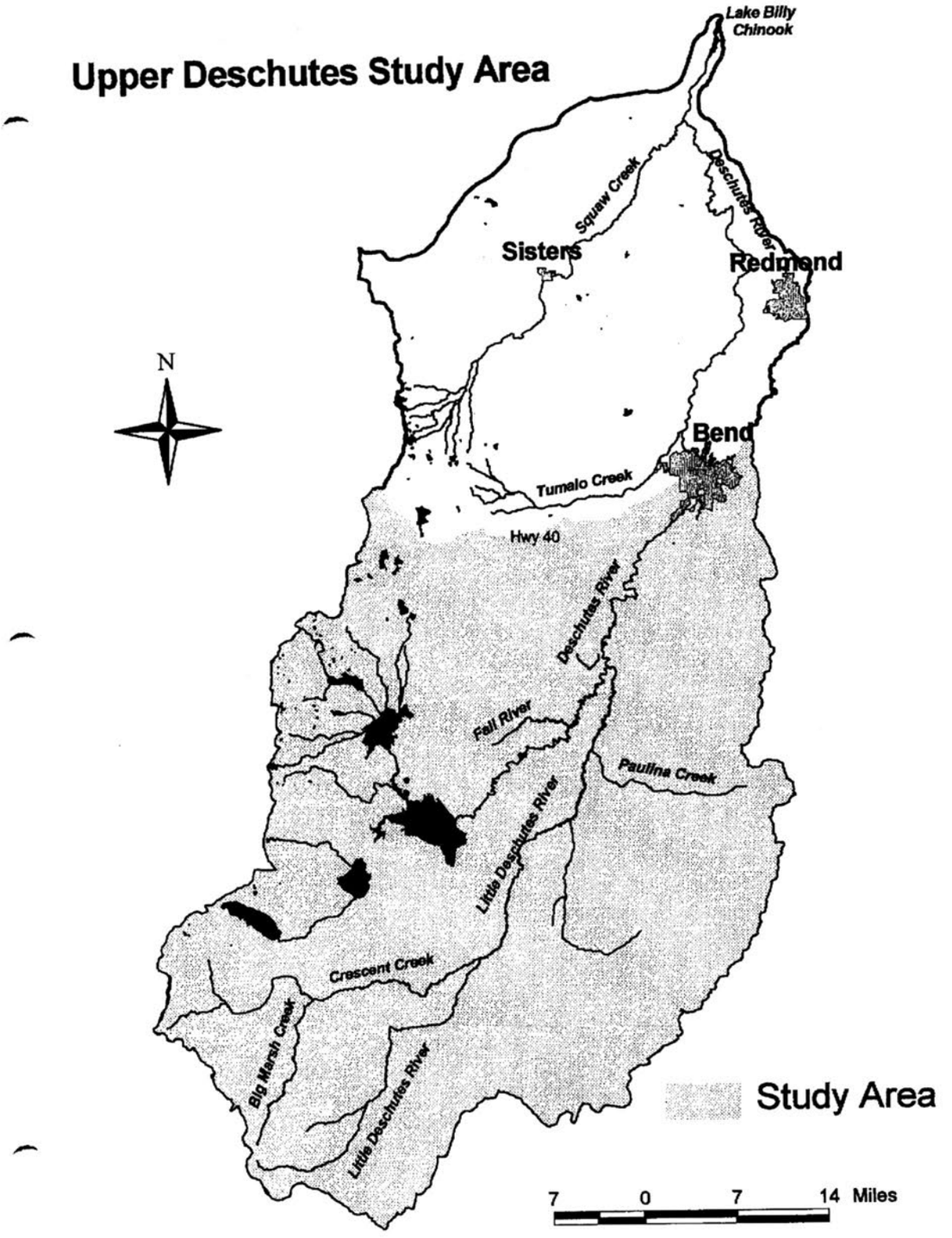
All identified non-riparian wetlands greater than ½ acre were inventoried including irrigation ponds, golf hazards, wastewater treatment facilities, ornamental ponds, and areas where irrigation conduits have leaked. All appeared to be artificially created entirely from upland and fed by irrigation water based on pipes and ditches nearby. Bend's non-riparian wetlands fall into the following categories, which are excluded from being significant Goal 5 wetland resources:

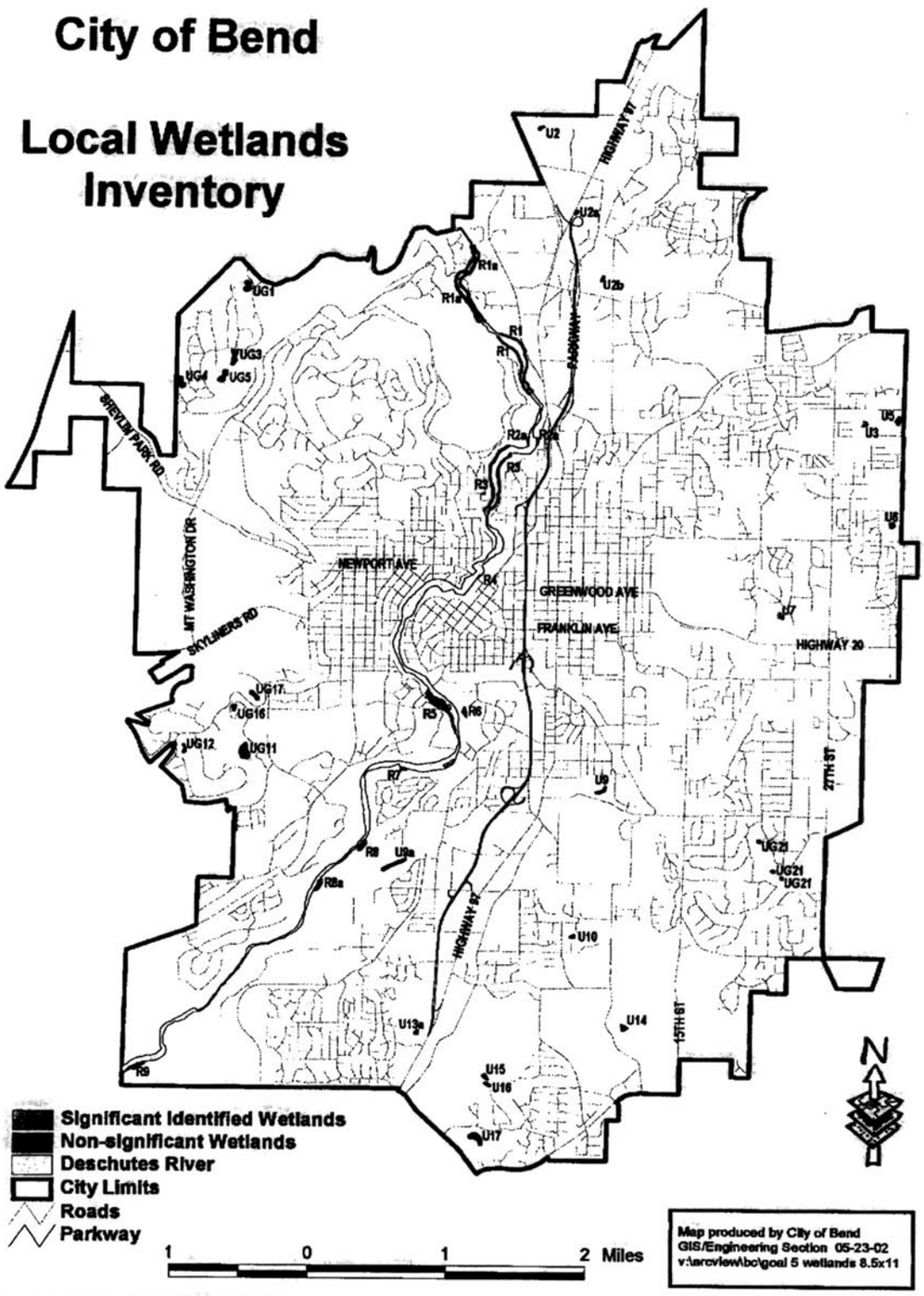
Wetlands artificially created entirely from upland that are:

- Created for the purpose of controlling, storing, or maintaining stormwater;
- Less than one acre in size and created unintentionally as the result of irrigation water overflow or leakage; or
- Of any size and created for the purpose of wastewater treatment, farm or stock watering, settling of sediment, or as a golf course hazard.

Some of these ponds have well developed wetland vegetation. They may be very old as irrigation began in about 1904. Some have been prevented from establishing wetland vegetation through maintenance practices. It is possible that some may have been wetlands, wet meadows or low spots in the topography prior to the routing of irrigation water. If the hydrology is altered (leaky conduits fixed, water diverted away from the site, etc.) and a wetland remains over time (without an artificial source of water), it may later be evaluated to determine if it is a significant Goal 5 wetland resource. It is possible, but not likely, that any of these artificially created areas will persist without irrigation water.

The map titled "City of Bend Local Wetlands Inventory" shows all the wetlands that were inventoried, coded by whether or not they are locally significant wetlands. Refer to the LWI non-riparian wetlands data sheets for detailed inventory information on the non-riparian wetlands that did not meet the criteria for significant wetlands. The remainder of this section will focus on those wetlands that meet the criteria for significant wetlands in Bend.


Upper Deschutes Study Area
Lake Billy Chinook
Squaw Creek
Deschutes River
Sisters
Redmond
N
Bend
Tumalo Creek
Hwy 40
Deschutes River
Fall River
Paulina Creek
Little Deschutes River
Crescent Creek
Big Marsh Creek
Little Deschutes River
Study Area
7 0 7 14 Miles



City of Bend Local Wetlands Inventory

8

SUMMARY OF SOIL TYPES IN BEND WITHIN 500 FEET OF DESCHUTES RIVER								
Map Number	Soil Name	Slope	General Location	Typical Plants	Drainage Class	Soil Permeability	Wetland wildlife habitat	Wetland Plant Suitability
61C	Henkle-Fryrear-Lava flow complex	0-15%	Volcanic uplands	Juniper, pine, sagebrush, fescue	Somewhat excessively drained	Moderately rapid	NR	NR
62D	Henkle-Fryrear-Lava flow complex	15-50%	Volcanic uplands	Juniper, pine, sagebrush, fescue	Somewhat excessively drained	Moderately rapid	NR	NR
72C	Laidlaw Sandy loam	0-15%	Swales in volcanic uplands	Ponderosa pine, juniper, bitterbrush, fescue	Well drained	Moderately rapid	NR	NR
81F	Lickskillet-Rock outcrop complex	45-80%	Canyon sideslopes	ND	Well drained	Rapid	Very poor	Very poor
85A	Lundgren sandy loam	0-3%	Glacial outwash plains	Ponderosa, Idaho fescue, wax currant, bitterbrush,	Well drained	Rapid	Very poor	Very poor
101E	Redcliff-Lickskillet-Rock outcrop complex	30-50%	Canyon sideslopes	Juniper, sagebursh, bitterbrush, wheatgrass	Well drained	Rapid	Very poor	Very poor
155C	Wanoga sandy loam	0-15%	Volcanic uplands	Pine, juniper, Ross sedge, sagebrush, bitterbrush	Well drained	Moderately rapid	NR	NR
155D	Wanoga sandy loam	15-30%	Volcanic uplands	Pine, juniper, Ross sedge, sagebrush, bitterbrush	Well drained	Moderately rapid	NR	NR
156C	Wanoga-Fremkle-Henkle complex	0-15%	Volcanic uplands	Pine, juniper, sagebrush, bitterbrush, Ross sedge on Wanoga	Well drained	Moderately rapid	NR	NR
157C	Wanoga-Fremkle-Henkle complex	0-15%	Volcanic uplands	Pine, juniper, sagebrush, bitterbrush, Ross sedge on Wanoga	Well drained	Moderately rapid	Very poor	Very poor
NR = No suitability rating		ND = No data						

This table is a synopsis of information from the USDA-SCS Soil Interpretations Record for soils mapped in the county ArcView database. Prepared by M. Byers, July 2000.

OFWAM Watershed Characterization

Summary of Watershed Characteristics

The following is a summary of watershed characteristics based on the questions on watershed setting (pgs. 30-33 in OFWAM manual). The actual answers to the questions follow this summary.

Watershed summary sheet for the City of Bend Local Wetlands Inventory

Characteristic	Description
Physical characteristics of the watershed	The watershed area for the LWI is defined as the upper and Little Deschutes basins, an area of approximately 1840 square miles. This area drains a variety of landscapes, including the High Cascades, lava plateaus, and high desert basins and ranges. The Cascades can receive 500 inches of snow annually, while the remaining area may receive only scant precipitation. Other than the main rivers and alpine lakes, water is scarce throughout most of the watershed. The Deschutes River, Little Deschutes, Tumalo Creek and Squaw Creek the main bodies. Numerous high alpine lakes are located in the Cascades and aside from them, very few wetlands are found outside the riparian corridors. Soils and the bedrock in the region are very porous (lava and sand) and precipitation dissipates quickly.
Land uses within the watershed	The majority of the watershed is undeveloped. Urban areas include Bend, Sisters, Redmond and LaPine. Agriculture is limited by topography and altitude. Grazing, ranching and farming occurs more heavily in the north. Timber harvesting occurs throughout watershed. Recreation (skiing, snowmobiling, equestrian, hiking, mountain biking and off road vehicle use) occurs throughout the entire watershed causing various levels of impact to resources.
Water Quality	The Oregon Department of Environmental Quality (ODEQ) maintains a network of ambient monitoring sites in the Deschutes Basin. These sites are monitored every other month and the results are compiled into a Water Quality Index Report (Cude, 1995). Sites on the Deschutes River include Pringle Falls, Harper Bridge (Sunriver), Mirror Pond, Lower Bridge, Hwy 26 at Warm Springs, and the Deschutes River Park at the mouth. Water quality in the Deschutes Basin is influenced by logging operations, recreational uses, residential growth, grazing, water withdrawals, and irrigated and non-irrigated agricultural operations. According to the Water Quality Index Report, water quality in the Deschutes River generally declines from upstream to downstream, and water quality trends show decreasing water quality over time as measured at the Warm Springs monitoring site. There are several segments that are water quality limited (severe or moderate). Impacted benefits include low dissolved oxygen, high nutrients, high sedimentation, low flow and lack of structure.

Characteristic	Description
Biological characteristics of the watershed	The watershed is a transition zone between the ponderosa pine and shrub-steppe vegetation zones in the High Lava Plains Physiographic Province of Oregon. The area is characterized by juniper, ponderosa pine, bunchgrass, bitter brush and sagebrush. Numerous mammals including deer, elk, bear, cougar, beaver, river otter, mink, muskrat and bats are found in the watershed. Bird life is abundant – see chart in Goal 5 report. While there are no anadromous fish, other fish are abundant and the watershed is known as a world class fishing area.

The following are the answers regarding the Watershed Setting (OWFAM pages 29-32) for the Deschutes River and Tumalo Creek. The summary above is based on these answers.

1. Drainage Basin: Deschutes
2. Topography: Watershed area is the Upper Deschutes Watershed and the Little Deschutes Watersheds. Approximately 1840 square miles. Large area was selected because the entire Deschutes River in the assessment area (Bend UGB) was considered a single wetland.
3. Due to the size of the watershed analyzed, this was not calculated.
4. A and B. Flow in the Deschutes is modified by four dams within the assessment area. Main channel of the Deschutes –Tributaries Paulina Creek and Little Deschutes also have diversions.
5. A. Water is taken out of the river and creek for irrigation. Arnold Irrigation diversion is upstream of assessment area. There are five diversions for irrigation in the assessment area.
6. D. Dominant land use upstream from watershed is forested and natural areas.
7. A. Portions of the Deschutes River are water quality limited (303d listed). Severe and moderate 303(d) listings occur upstream of the assessment area within the watershed. Note that data is from 1988. (source: Bonnie Lamb, DEQ)
8. C. Deschutes River has one or more upstream reaches in moderate or severe water quality condition. This determination is based on a review of the 303(d) listings. Tumalo Creek does not have any listings upstream of the study area. (source, Bonnie Lamb, DEQ)
9. A. cold water: white fish; B. warm water: brown bull trout; C. Anadromous: none; D. wild population: red-band trout, mountain white fish (bull trout - extirpated); E. Introduced or hatchery: brook trout, kokanee, brown trout, large mouth bass, blue gill, black croppy. (source: Ted Wise, ODFW)
10. A. State Sensitive species: Redband trout
11. A, B, C. See complete list in the wildlife chapter of the City of Bend Goal 5 Inventory and Analysis.
12. B. No
13. B. Natural areas are fragmented but species movement is still possible except for fish. Fish are blocked by dams without fish ladders. Urban areas inhibit movement of larger species. River corridor through city facilitates movement of smaller mammals.

14. A. Landscape features at both ends of movement corridor include: large natural habitat areas at both ends. North: Redmond, Madras (urban areas); West: Cascade mountains, Sisters; East and South: High Desert

Deschutes River Riparian Wetlands

The only wetlands meeting the definition of significance as Goal 5 resources are found within the Deschutes River riparian corridor. There are 10 distinct, significant wetland units. The riparian corridor is measured from and includes the upland edge of these wetlands.

The river was divided into three areas, or river reaches, for inventory purposes. The inventory areas match the riparian reaches (South Canyon, Pioneer, and Awbrey) described in detail in the Inventory Results for Riparian Areas report. Each reach contains important wetland units that are described below.

South Canyon — Reach A — Wetland Summary Information

Location: From south UGB to the approximate location of the proposed Southern Crossing bridge.

This is the most undeveloped stretch of river in the Bend Riverway. The river is in a steep rocky canyon for most of its length. Water is fast and the canyon is narrow. There is white water with deep pools and waterfalls. Lava rock is a dominant feature with boulder fields and steep slopes. There are areas of impressive rimrock. Upstream from the Reach boundary on the west side of the river is US Forest Service land and the river above the diversion is designated an Oregon Scenic Waterway. Deschutes River Woods, a large low-density sub-division is on the upstream, east side of the river outside of the UGB. The Central Oregon Irrigation District (COID) facilities feature prominently in this Reach. The diversion for the Central Oregon Canal originates in the southern end of the Reach. This is only the second diversion of the Deschutes River. A steel flume and canal road runs north from the diversion for 1.5 miles along the river on the east side. An underground COID hydro facility is located on the east riverbank across the river from Mt. Bachelor Village Resort. Public access is limited in this Reach, as most of the land is privately owned. Other than the resort, there are currently no commercial businesses on this stretch of river (although a retirement home is proposed.) Woodriver Park is a small, unimproved neighborhood park within the Wood River subdivision. It has a 1/4 mile unimproved nature trail along the river. Advanced (non-motorized) boaters occasionally launch from the park. Mt. Bachelor Village has a 1.2-mile nature trail along the east bank of the river. The trail is privately owned but the walking public is currently allowed. COID maintains a third trail that is open to the public and runs east to west down to the river. In addition many people use the flume road for recreation which is in private (COID) ownership. Much of the area is forested with Ponderosa of varying ages. The Awbrey Hall fire came through the southern portion of the Reach in 1990 destroying 22 homes and altering wildlife habitat. Streamside vegetation is well developed along river's edge providing excellent wildlife habitat. There are three important wetland areas, at the south UGB border, along COID's property and at the COID hydro facility. All are primarily on the east side of the river. Wintering elk herds are often seen in the south end of the Reach from late December to early May. They cross the river in a couple of places. The meadow and forested areas are especially important for the elk herd and deer during severe winters. Other wildlife frequently seen include heron, osprey, hawks, kestrel, otter, porcupine, and mink. An osprey nest is used annually and a heron rookery may exist in the area – but is likely outside the UGB. Knapweed and other invasive weeds are gaining at toe-hold throughout the Reach - primarily along the canal and associated road and at the north end of the Reach.

South Canyon Reach "A" Wetland Units *Legend: W: west; E: east; B: both sides of river*

Name	Map Code	Location	Description	Approx. Wetland Size (acres)	Property Owners
South UGB	R9	At south UGB, primarily on E side of river	Includes a pond created by dredging. Osprey nest on W side of river. Extends beyond UGB. Area on both sides of river currently undeveloped.	2.5	Private individual (B)
North COID	R8a	Across from south end of Mt. Bachelor Village, primarily on E side of river	Evidence of flooding, dense scrub-shrub. Knapweed infestation in adjacent upland. No development nearby.	1.5	COID (E), Brooks Resources (W)
COID Hydro Plant	R8	Adjacent to COID hydro plant on E side of river, across from Mt. Bachelor Village – primarily on E side	Well-developed wetland located at point water is returned to river from hydro- plant. Evidence of flooding. Only development is hydro- plant.	1	COID (E), BMPRD (E); Brooks Resources (W)

General Information

Wetland Name:	South Canyon Reach "A: Wetland Units		TRS	**T18S, R11E, S13, and T18S, R12E, S6&7**	
Tax Parcels:					
Wetland Map Codes:	R9, R8a, R8		Approximate acres:	**5**	
Soil Series:			Hydrologic source:	Deschutes River	
Wetland classification(s):	R3UB, PAB, PEM, PFO, PSS (Cowardin) Riverine flow-through (HGM)				
Investigators:	DMc, CV	Date:	July/Aug. 00		

Wetland classification codes:
R3UB = riverine upper perennial PEM = palustrine emergent PSS = palustrine scrub-shrub
PAB = palustrine aquatic bed PFO = palustrine forested
PUS = palustrine unconsolidated shore PUB = palustrine unconsolidated bottom

OFWAM Results

Oregon Freshwater Wetland Assessment (OFWAM) results for South Canyon Reach A Wetlands:

PART A - Wetlands of Special Interest for Protection

This part of the assessment is to determine whether the wetland is in a management plan, is protected by rules or law, or is uncommon in Oregon.	*Yes*	*No*
1. Does the wetland contain threatened, endangered or sensitive species?	x	
2. Is the wetland designated as critical habitat for threatened or endangered species?		x
3. Is the wetland a Registered State Natural Area, Area of Critical Environmental Concern, RNA or TNC Preserve?		x
4. Is the wetland of regional or national significance for migratory birds?		x
5. Is the wetland already protected as a local Goal 5 resource?		x
6. Is the wetland a designated State Outstanding Resource Water?		x
7. Is the wetland a protected area in a federal, state, or local management plan?	partly	
8. Is the wetland a protected mitigation site?		x
9. Is the wetland protected under a USDA conservation program?		x

Part B: Wetland Function and Condition Assessment Summary Results

See table on page 25

Significance Determination

Part A: Mandatory Exclusions

If answer is Yes to any of the following, do not proceed to PART B.

This wetland *cannot* be designated as significant if the answer is "Yes" to any of the criteria listed below. (OAR 141-086-0350)	*Yes*	*No*
1. Is this wetland artificially created entirely from upland *and:*		x
a. created for the purpose of controlling or storing stormwater		x
b. is used for active surface mining or as a log pond		x
c. is a ditch without open and free flowing connection to a river or stream and without fish		x
d. is less than 1 acre in size and created unintentionally from irrigation leak or construction		x
e. created for farm or stock watering or as a golf course hazard		x
2. Is this wetland or portion of the wetland contaminated by hazardous substances, materials or wastes?		x
Exclusion Criteria Satisfied?		x

Part B: Significance Criteria Summary (See table on page 25)

All three wetland units (R8, R8a, R9) in Reach "A" are significant wetlands based upon meeting the following criteria:

R8: Provides "Diverse" wildlife habitat and has "Intact" fish habitat
R8a: Provides "Diverse" wildlife habitat and has "Intact" water quality function
R9: Provides "Diverse" wildlife habitat
All: Provide habitat for state listed sensitive fish species—redband trout

Pioneer Reach — Reach B — Wetland Summary Information

Location: From approximately location of the proposed Southern Crossing bridge to the North Canal Dam

The south part of this wetland area is undergoing tremendous change. Formerly a lumber mill it is now being transformed into mixed use commercial and residential. The river was used to move logs and river access was closed to the public. Two new bridges were recently opened - a footbridge and a vehicular bridge. A third new bridge, and a road and park are in the planning phases (called the Southern River Crossing). There is an extensive, well-developed scrub-shrub wetland created by the Colorado dam (which was built in 1916 to create a millpond.) for this area. Across the river to the east is the site of the old log deck where logs were stored by the mills. Storing logs for over 50 years has resulted in organic debris up to 20 feet deep on the site. At the writing of this report (November 2000) this fill was being removed. Prior to the beginning of the fill removal, the area was rapidly being overtaken by knapweed and will soon be again. The area is mostly in the 100-year floodplain. Due to the amount of fill in the area it does not support riparian vegetation inland for more than 10 or 20 feet in most places. Despite all the construction and lack of vegetative cover throughout most of the Reach, wildlife, from waterfowl to mammals, is frequently seen including otter, mink, osprey and trumpeter swan. The wildlife viewing is good most likely due to the lack of cover.

Of the eight mammals observed during a survey in Pioneer Wetland B in 1990, six depended on wetlands for food or cover. And of the 47 bird species observed, wetlands provided habitat for 29 species. The survey area was in the south portion of the Old Mill district (log deck) to just south of the Newport Street bridge (PacificCorp, 1990). At the time there was a total of 42 acres of wetland encompassing 17 percent of the study area. Seventy percent of the wetlands were aquatic (underwater) and contained one plant species; a non-native plant called *elodea*. By far the most important wetland for wildlife within the area of the surveyed was a 5.38 acre area (now measured at 6.5 acres) just south of the Colorado Street bridge (Colorado Wetland Unit R5). This area has 2.2 acres of wetland shrubs like willow and alder and had 20 distinctly different vegetation zones. The wetland is dominated by sedges and cattails and had a number of open water areas that provide nesting, foraging and cover for birds. There are only a few other wetlands of this type on the river.

Moving north, out of the transforming Old Mill area, the river banks become more urbanized.
This is the most developed river area in the UGB. This area characterized by large riverfront parks, a vibrant downtown and lovely old homes. The river is relatively wide and slow moving throughout most of the reach. Mirror Pond, a beloved feature in the landscape, is created by the Bend Hydroproject dam that has been in place since 1910. There are a few small islands in the rivers that are washing away. Silt is building up in the quieter waters behind the dam, creating very shallow areas. This area was dredged in the early 1980's. Much of the river is edged by concrete or rock wall that has been in place since the 1920's. There are large expanses of lawn adjacent to the river and sporadic areas of healthy riverside vegetation. The parks have large mature trees with

some younger trees and limited understory vegetation. Wildlife species most often seen includes Canada geese, mute swans, ducks and other waterfowl, mink, river otter, and beaver. The river is an important tourist attraction, bringing people to the area for scenic beauty as well as many special events in the parks.

The river flows from the Newport Bridge over the dam associated with the Bend Hydroproject through an area with homes and multifamily units on the west and Pacific Power Hydro plant and sub station on the east. The river runs under Portland Avenue over the Steidl Dam, which creates an area of quiet water in front of Pioneer Park. Tumalo Irrigation District (TID) has a diversion on the westside of the river at this location. A new fish screen is planned. Tumalo Irrigation District placed the irrigation canal underground and this has created the opportunity to develop the Deschutes River trail that runs for ¾ of a mile along this unit and continues on for another 3 miles. The eastside of the river has developed into a large wetland that has some of the highest quality urban wildlife habitat in Bend and the area is home to otter, osprey, owl, and marmot along with other animals. The river is backed up by the North Canal dam and is slow and meandering with lots of cattails and rushes. The dam creates a pond area that is best viewed from Riverview Park which has several parking spots and a developed boardwalk for wildlife viewing and fishing. The following table contains information on the most important, well developed wetland units within the Pioneer (Wetland B) area.

Pioneer Reach "B" Wetland Units

Location: From approximately location of the proposed Southern Crossing bridge to the North Canal Dam

Legend: W: west; E: east; B: both sides of river

Name	Map Code	Location	Description	Approx. Wetland Size (acres)	Property Owners
Log Deck	R7	At (old) Log Deck footbridge, primarily on E side of river downstream from bridge	Very small wetland area. Wildlife (otter, muskrat, mink) seen often. Much enhancement potential. Will be part of new park.	<1	BMPRD (E & W), Brooks Resources
Colorado Street	R5	Upstream from Colorado St. bridge, primarily on W side of river	Created by Colorado St. dam built in 1916 for log storage. One of two large, high quality wetlands in study area. Very natural, but quite hidden although next to busy road. Birding & education opportunities.	6.5	Riverbend Limited Partnership (W); Private Individual(E) Mill "A" Associates (E)
Bend	R4	Downstream	Small wetland area	1	Pacific

Hydro-plant		from Newport bridge, adjacent to Elks building, primarily on E side of river	created by Bend Hydroproject, built in 1910. Parking lot adjacent to riparian edge.		Power
1st Street	R3	From 1st Street on W and Revere on E, continuing on both sides of river to River's Edge Golf Course	One of two large, high quality wetlands. Formed by the backup of North Canal Dam. Significant diversity, high quality wildlife habitat. Protected from development by rock cliffs on E, river trail on W. Dominated by scrub-shrub with well forested upland adjacent. Serious invasion of yellow iris.	5	TID (W), approx. 6 private owners (W); Private individual (E), BMPRD (E), approx. 12 private owners on NE end
Riverview Park	R2a	Upstream of North Canal Dam, primarily on E side of river	Smaller wetland caused by North Unit dam built in 1920. Wildlife (otter, osprey) seen frequently. Undeveloped on W, busy road on E – but at higher elevation.	2.5	Irrigation District(s)(E) BMPRD (E) Purcell(W)

General Information

Wetland Name:	Pioneer Reach B Wetland Units			TRS:		T18S, R12E, S5&6; T17S, R12E, S29,31, 32
Tax Parcels:						
Wetland Map Codes:	R2a, R3, R4, R5, R7		Approximate acres:		17	
Soil Series:			Hydrologic source:		Deschutes River	
Wetland classification(s):	R3UB, PAB, PEM, PFO, PSS (Cowardin) Riverine flow-through (HGM)					
Investigators:	DMc, CV		Date:	July/Aug. 00		

Wetland classification codes:

R3UB = riverine upper perennial PEM = palustrine emergent PSS = palustrine scrub-shrub
PAB = palustrine aquatic bed PFO = palustrine forested
PUS = palustrine unconsolidated shore PUB = palustrine unconsolidated bottom

OFWAM Results

Oregon Freshwater Wetland Assessment (OFWAM) results for South Canyon Reach A wetlands:

PART A - Wetlands of Special Interest for Protection

This part of the assessment is to determine whether the wetland is in a management plan, is protected by rules or law, or is uncommon in Oregon. A "Yes" answer to any of the following questions requires a management plan to protect the site.	*Yes*	*No*
1. Does the wetland contain threatened, endangered or sensitive species?	x	
2. Is the wetland designated as critical habitat for threatened, endangered or sensitive species?		x
3. Is the wetland a Registered State Natural Area, Area of Critical Environmental Concern, RNA or TNC Preserve?		x
4. Is the wetland of regional or national significance for migratory birds?		x
5. Is the wetland already protected as a local Goal 5 resource?	parts	
6. Is the wetland a designated State Outstanding Resource Water?		x
7. Is the wetland a protected area in a federal, state, or local management plan?		x
8. Is the wetland a protected mitigation site?		x
9. Is the wetland protected under a USDA conservation program?		x

Part B: Wetland Function and Condition Assessment Summary Results

See table on page 25

Significance Determination

Part A: Mandatory Exclusions

This wetland *cannot* be designated as significant if the answer is "Yes" to any of the criteria listed below. (OAR 141-086-0350)	*Yes*	*No*
1. Is this wetland artificially created entirely from upland *and:*		x
a. created for the purpose of controlling or storing stormwater		x
b. is used for active surface mining or as a log pond		x
c. is a ditch without open and free flowing connection to a river or stream and without fish		x
d. is less than 1 acre in size and created unintentionally from irrigation leak or construction		x
e. created for farm or stock watering or as a golf course hazard		x
2. Is this wetland or portion of the wetland contaminated by hazardous substances, materials or wastes?		x
Exclusion Criteria Satisfied?		x

Part B: Significance Criteria Summary (See table on page 25)

All five wetland units (R2a, R3, R4, R5, R7) in Reach "B" are significant wetlands based upon meeting the following criteria:

R2a: Provides "Diverse" wildlife habitat and has "Intact" hydrologic control function
R3: Has "Intact" water quality and hydrologic control functions
R4: Has "Intact" hydrologic control function
R5: Has "Intact" water quality and hydrologic control functions
R7: Has "Intact" hydrologic control function
All: Provide habitat for state listed sensitive fish species—redband trout

Awbrey Reach — Reach C — Wetland Summary Information

Location: From the North Canal Dam to the north UGB (located on the river just west of the ravine on the north side of Awbrey Butte)

Below the dramatic North Canal Dam the water is fast and moves swiftly through a scenic canyon. The water level varies a great deal due to three diversions at the dam. In the winter the water is high and flowing fast through the steep canyon. It is a popular white water kayaking run. In the summer when the water is diverted, the river becomes a small creek. All of the water rights in this section of the river have been assigned which can result in very low flows (30 cubic feet per second is the agreed upon lowest flow.) This water fluctuation influences the type, amount and location of the riverside vegetation. Sawyer Park is a 61-acre natural park with a mature forest, well-developed scrub-shrub wetland, and streamside vegetation that provides excellent wildlife habitat for many species including hummingbirds, owls, deer, and mink. The Deschutes River trail runs through Sawyer Park and follows the Tumalo Irrigation District canal along the cliff above the river. After leaving Sawyer Park the trail winds through the Wyndemere subdivision. Land use along the remainder of this Reach is entirely residential with most houses perched on the rimrock cliffs.

Awbrey Reach "C" Wetland Units

Location: From the North Canal Dam to the north UGB (located on the river just west of the Mt. Washington ravine)

Name	Map Code	Location	Description	Approx. Wetland Size (acres)	Property Owners
Sawyer Park South	R1	Both sides of river from Riverhouse footbridge to Sawyer Park footbridge	Very important natural wetland. Dominated by scrub-shrub but high interspersion with emergents. High quality wildlife habitat. Most protected as park.	5	BMPRD (B), Purcell(B), approx. 14 private owners(W) possible other private owners on W side
Sawyer Park North	R1a	From north end of Sawyer Park to private footbridge in Rimrock Subdivision.	Series of smaller wetlands along river. Mostly scrub-shrub. Provides important habitat for wildlife on riparian corridor. Bordered by residential development, but protected by being in canyon.	3	BMPRD(B), TID?(W), approx. 29 private owners (E), approx. 20 private owners (W)

General Information

Wetland Name:	Awbrey Reach Wetland Units			TRS:	T17S, R12E, S17, 18, 19, 20 & 29
Tax Parcels:					
Wetland Map Code:	R1, R1a		Approximate acres:	8	
Soil Series:			Hydrologic source:	Deschutes River	
Wetland classification(s):	R3UB, PAB, PEM, PFO, PSS (Cowardin) Riverine flow-through (HGM)				
Investigators:	DMc, CV	Date:	July/Aug. 00		

Wetland classification codes:
R3UB = riverine upper perennial PEM = palustrine emergent PSS = palustrine scrub-shrub
PAB = palustrine aquatic bed PFO = palustrine forested
PUS = palustrine unconsolidated shore PUB = palustrine unconsolidated bottom

OFWAM Results

Oregon Freshwater Wetland Assessment (OFWAM) results for Awbrey Reach C wetlands:

PART A - Wetlands of Special Interest for Protection

This part of the assessment is to determine whether the wetland is in a management plan, is protected by rules or law, or is uncommon in Oregon. A "Yes" answer to any of the following questions requires a management plan to protect the site.	*Yes*	*No*
1. Does the wetland contain threatened, endangered or sensitive species?	x	
2. Is the wetland designated as critical habitat for threatened, endangered or sensitive species?		x
3. Is the wetland a Registered State Natural Area, Area of Critical Environmental Concern, RNA or TNC Preserve?		x
4. Is the wetland of regional or national significance for migratory birds?		x
5. Is the wetland already protected as a local Goal 5 resource?		x
6. Is the wetland a designated State Outstanding Resource Water?		x
7. Is the wetland a protected area in a federal, state, or local management plan?		x
8. Is the wetland a protected mitigation site?		x
9. Is the wetland protected under a USDA conservation program?		x

Part B: Wetland Function and Condition Assessment Summary Results

See table on page 25

Significance Determination

PART A: Mandatory Exclusions

This wetland *cannot* be designated as significant if the answer is "Yes" to any of the criteria listed below. (OAR 141-086-0350) *Yes* *No*		
1. Is this wetland artificially created entirely from upland *and:*		x
a. created for the purpose of controlling or storing stormwater		x
b. is used for active surface mining or as a log pond		x
c. is a ditch without open and free flowing connection to a river or stream and without fish		x
d. is less than 1 acre in size and created unintentionally from irrigation leak or construction		x
e. created for farm or stock watering or as a golf course hazard		x
2. Is this wetland or portion of the wetland contaminated by hazardous substances, materials or wastes?		x
Exclusion Criteria Satisfied?		x

Part B: Significance Criteria Summary (See table on page 25)

Both wetland units (R1, R1a) in Reach "C" are significant wetlands based upon meeting the following criteria:

R1: Has "Intact" hydrologic control function
R1a: Provides "Diverse" wildlife habitat and has "Intact" hydrologic control function
Both: Provide habitat for state listed sensitive fish species—redband trout

Summary of OFWAM Results and Significance Determination for 10 Riparian Wetlands

Note: To meet the criteria for a locally significant wetland (LSW), at least one of the first 4 functions must be performed at the highest level of functioning (or wetland must meet one of the other significance criteria, like supporting listed species). **Bold font** in table indicates that the level of functioning for that ecological function meets the criteria for designating the wetland a LSW.

Name	Unit	Wildlife Habitat	Fish Habitat	Water Quality	Hydrologic Control	Sensitivity to Future Impacts	Enhancement Potential	Education	Recreation	Aesthetic Quality
South UGB	R9	**Diverse**	Impacted	Impacted	Impacted	Potentially Sensitive	NA	Not appropriate	Not appropriate	Pleasing
North COID	R8a	**Diverse**	Impacted	**Intact**	Impacted	Potentially sensitive	NA	Potential	Potential	Pleasing
COID Hydroplant	R8	**Diverse**	**Intact**	Impacted	Impacted	Potential	NA	Educational	Potential	Pleasing
Log Deck	R7	Some	Impacted	**Intact**	**Intact**	Sensitive	High	Educational	Potential	Pleasing
Colorado St.	R5	Some	Impacted	**Intact**	**Intact**	Potentially	High	Potential	Recreation	Pleasing
Bend Hydroplant	R4	Some	Impacted	Impacted	**Intact**	Potential	High	Potential	Recreation	Moderate
1st Street	R3	Some	Impacted	**Intact**	**Intact**	Potential	NA	Educational	Potential	Pleasing
Riverview Park	R2a	**Diverse**	Impacted	Impacted	**Intact**	Potential	NA	Potential	Recreation	Pleasing
Sawyer Park South	R1	Some	Impacted	Impacted	**Intact**	Potential	NA	Educational	Recreation	Moderate
Sawyer Park North	R1a	**Diverse**	Impacted	Impacted	**Intact**	Potential	NA	Educational	Recreation	Moderate

All of the riparian wetland units meet one or more of the criteria for a locally significant wetland.

Non-Riparian Wetlands

NATIONAL WETLANDS INVENTORY - NON-RIPARIAN MAPPED WETLAND SITES

Map #	Location	Size in Acres	Description	Finding
R6	Old Mill District between Deschutes River and "3 smoke stacks"	0.5	Hydrologic source is Deschutes River diversion. Purpose was to store water for fighting fires at sawmills. Edge has been reshaped and re-vegetated. Surrounded by development.	Not significant. Created for storing water for mill fires.
U1	Highway 20 and Cooley Road.	0.2	Hydrologic source is irrigation. Wet meadow. A pasture inundated with irrigation water. No inlet/outlet. Grasses – no riparian vegetation. 1.5 feet deep.	Excluded. Under ½ acre created unintentionally.
U2a	Across Highway 97 from south end of Mountain View Mall	0.4	Hydrologic source probably irrigation. Pond at residence with mowed grass edge. 15% of edge w/ carex. Less than 20 feet from Highway 97.	Excluded. Probably created for farm stock.
U2b	Off Boyd Acres Rd.	0.25	Hydrologic source is a well. Pond is completely lined by a rock wall. No riparian veg. In a pasture.	Excluded. Under ½ acre in size.
U3	New Leaf Academy	0.5	Hydrologic source is irrigation. Pond has waterfowl, frogs. Some riparian veg. At a school. Canoe used.	Not significant. Artificially maintained for aesthetics.
U4	Eagle & Starling Road in Sunpointe subdivision.	N/a	Site is a developed lot with a house on it. Probably a stock pond or irrigation pond on NWI map.	Excluded from mapping No longer exists.
U5	West side of Eagle Road near Promise lane	0.65	Hydrologic source is irrigation. Pond with some wildlife habitat, natural vegetation. Pond lilies, willow, cattails.	Not significant. Artificially maintained for aesthetics.
U6	Between Curtis & Eagle roads, behind church	0.5	Hydrologic source is irrigation. Pond edge with willow, trees. Yellow iris (non-native). Frogs & fish present.	Not significant. Artificially maintained for aesthetics.
U7	Rock Harbor Villa Mobile Home Park	0.5	Hydrologic source is irrigation. Waterfowl & deer present. Bulrush, cattails. Fenced for safety.	Not significant. Artificially maintained for aesthetics.
U8	9th Street between Zellner & Textron	N/A	Developed lot – building on site. Was on NWI map, but square site and staff believes it was reflection from aluminum can storage area.	Excluded from mapping No longer exists.
U9	North side of Reed Market road, approx. ½ mile east of intersection with Hwy 97	0.5	Hydrologic source is irrigation. Small pipe off COI main line feeds a little stream (1 foot wide). Well developed riparian vegetation along stream. With large willows. Deer bedding areas.	Not significant. Irrigation lateral away from river.
U9a	On COI's Hydro property. Adjacent to east side of entry road just after 2nd gate.	0.8	Hydrologic source is leak from a single delivery off COI mainline. Very diverse and well developed riparian vegetation. Deer use area for cover.	Not significant. Created unintentionally from leaking irrigation ditch.

Map #	Location	Size in Acres	Description	Finding
U10	North end of Niska Court	0.25	Hydrologic source is irrigation. Stocked. Heron, wood duck, geese, and other waterfowl use. Developed riparian vegetation with rushes and large willows.	Not significant. Less than ½ acre in size.
U11	Between Brosterhaus & Rae Roads	N/a	Dry upland infested w/cheat grass and mullein. Was on NWI map.	Excluded. Drained years ago.
U12	Jay Ward treatment plant on Murphy Road.	0.4	Waste water treatment pond for Juniper Utility Company.	Not significant. Less than ½ acre and used for wastewater treatment.
U13	Off Hwy 97, north of Romaine Village	0.25	Hydrologic source Arnold irrigation. Pond was created to test boats – now is ornamental. Has a deck on ¼ of pond. Half of pond is naturally vegetated w/ ponderosa and upland vegetation. No riparian vegetation.	Not significant. Less than ½ acre. Artificially maintained for aesthetics.
U13A	Hwy 97, north of Romaine Village	0.5	Hydrologic source Arnold irrigation. Probably from leaky ditch. There are additional ponds along the canal.	Mapped as non-significant wetland based on size and source as leaking irrigation ditch.
U14	Pines Mobile Home Park	1.3	Hydrologic source is catch basin & irrigation. Lawn edge, no riparian vegetation. Fenced. Stocked. Over 500 waterfowl visit in winter – they are fed.	Not significant. Created for controlling storm water.
U15	Bend Golf & Country – 9th Fairway	0.4	2 foot no mow. Narrow band. Treated. 10-15% of edge is vegetation buffer.	Excluded due to size and golf course water hazard
U15a	Bend Golf & Country – 8th Fairway	0.15	Untreated, fresh water circulation, some small vegetation on edge.	Excluded due to size and golf course water hazard
U16a	Bend Country Club irrigation pond	1.5	Hydrologic source is Arnold irrigation and well. Completely lined with plastic. Waterfowl in fall. Tadpoles and fish in pond.	Mapped as not significant Created for storing storm water
U16	Bend Golf & Country – 3rd Fairway	0.5	50% divers buffer. Treated, stocked.	Excluded due to size and golf course water hazard
U16b	Bend Golf & Country – 14th Fairway	0.5	6 inch grasses on edge. Small area w/cattails, treated.	Excluded due to size and golf course water hazard
U16c	Bend Golf & Country – 13th Fairway	0.5	1 foot vegetative buffer. Treated.	Excluded due to size and golf course water hazard

Map #	Location	Size in Acres	Description	Finding
U16d	Bend Golf & Country—11th Fairway	0.1	10% vegetative buffer. Treated.	Excluded due to size and golf course water hazard
U17	Mountain High Golf Course – large pond near clubhouse	1.0	Hydrologic source is Arnold irrigation and well. "Some" wildlife habitat. Aquatic vegetation. On bottom. Artificial stream 50 ft. long w/well developed riparian vegetation. Little riparian vegetation on pond.	Mapped as not significant due to artificial nature.
U17a	Mountain High Golf Course – small pond between 14th and 15th fairways	0.25	Hydrologic source is Arnold irrigation and well.	Not mapped due to size.
U18	East of Country Club Road.	0.4	Hydrologic source irrigation pipe. Located in a large field. Algae mats on pond. Large willows, some rushes.	Not mapped due to size.
U19	East of Country Club Road	0.25	No hydrologic source. Formerly irrigation pipe feed area. Now a dry basin and being reshaped and dug for top soil.	Excluded due to dry condition and earthwork.
U20	East of Country Club Road	0.8	No hydrologic source. Formerly fed by irrigation pipe. Now dry area.	Excluded. Dry and no longer used as irrigation storage.
U21	Orion Green Golf Course – center pond	.5	Filled by well or irrigation water; fountain in middle. Mowed grass edge with no significant riparian vegetation.	Not mapped due to size and golf course hazard.

INVENTORIED NON-RIPARIAN WETLANDS NOT ON NWI MAP – wetlands created since NWI map was produced

Map #	Location	Size in Acres	Description	Finding
UG1	Awbrey Glen PUD – along Putnam Road	.72	Well vegetated/forested area, treated. Golf Course PUD artificial water feature. Hydrologic source is well water.	Mapped as not significant wetland.
UG2	Awbrey Glen PUD – along Putnam Road	.3	4ft. no mow zone, 6 ft. natural vegetation, treated, buffer not as big as UG1. Golf Course PUD artificial water feature. Hydrologic source is well water.	Excluded due to size and being a golf course hazard.
UG3	Awbrey Glen PUD – Artificial fly fishing lake adjacent to Champion Drive	1.65	Some wildlife habitat. No riparian vegetation. Islands provide habitat. Pond stocked w/fish. Osprey fishing during site visit. Treated w/aquaclear. Golf Course PUD artificial water feature. Hydrologic source is well water.	Mapped as not significant wetland due to artificial source.
UG4	Awbrey Glen PUD Golf Course – between 8th and 7th fairway	1.38	Some wildlife habitat. 4 ft. no-mow zone. 50% edge is natural vegetation. 3 islands w/native vegetation. Treated w/aquaclear. Golf Course PUD artificial water feature. Hydrologic source is well water.	Mapped as not significant wetland.

Map #	Location	Size in Acres	Description	Finding
UG5	Awbrey Glen PUD Golf Course – near clubhouse between 18th & 1st fairways	1.35	Some wildlife habitat. 75% edge is natural vegetation. Lots of cattails. Stocked. Treated w/aquaclear. Golf Course PUD artificial water feature. Hydrologic source is well water.	Mapped as not significant wetland.
UG6	River's Edge golf course near clubhouse	.5	Some native veg. Stand of Pondos. Knapweed problem. Golf Course PUD artificial water feature. Water source is water pumped from Deschutes River.	Excluded due to size and golf course hazard.
UG7	River's Edge golf course – near 17th Fairway	.25	2 small ponds linked. Tadpoles in both. Some vegetative buffer.	Excluded due to size and golf course hazard.
UG8	River's Edge golf course – near 12th Fairway	.25	Some vegetative buffer. Has island.	Excluded due to size and golf course hazard.
UG9	River's Edge golf course – near 11th Fairway	.35	½ edge is mown grass, ½ weeds, knapweed. Tadpoles.	Excluded due to size and golf course hazard.
UG10	River's Edge golf course – near 6th Fairway	.4	75% cliff & tall veg. Buffer. 25% grass.	Excluded due to size and golf course hazard.
UG11	Broken Top PUD Clubhouse Lake	6.28	Hydrologic source is a groundwater well. "Some" wildlife habitat. 4 foot no-mow zone. 15% of edge is natural – remainder is lawn. Treated. Swans, osprey in area. Spawning pond above lake. Created for aesthetics.	Mapped as not significant wetland.
UG12	Broken Top PUD Golf Course – lake next to 4th Fairway	1.16	Hydrologic source is groundwater well. "Some" wildlife habitat. 40% of edge is natural w/willows, cattail. Stocked. Ducks & swans present. Fish structures (stumps). Planning native plantings.	Mapped as not significant wetland.
UG13	Broken Top PUD Golf Course – lake next to 5th Fairway	.8	Hydrologic source is groundwater well. No edge vegetation.	Excluded due to being outside UGB.
UG14	Broken Top PUD – creek and pond around Fall Creek Homes section	.35	Hydrologic source is groundwater well. Artificial creek with artificial pond constrained by road bridge with riparian plantings.	Excluded due to size and artificial feature.
UG15	Broken Top PUD – lake next to 13th Fairway	.9	Hydrologic source is groundwater well. 35% of edge is cattail	Excluded due to being outside UGB.
UG16	Broken Top PUD – artificial creek and lake in Painted Ridge section	.7	Hydrologic source is groundwater well. Horticultural landscaping, some rushes, stocked.	Mapped as not significant wetland.
UG17	Broken Top PUD – lake next to 17th Fairway	.78	Hydrologic source is groundwater well. Grass edge, no riparian.	Mapped as not significant wetland.

Planning and Regulatory Requirements and Analysis

This section summarizes the state requirements for wetland protection, reviews the city's current policies and regulations and then compares the two. The purpose of this section is to provide decision-makers and the community with a comparison of what the state requires with what the city already has on the books. The next section, Options for Protection, presents alternatives on how the city might proceed.

What the State Requires

Local governments are required to use criteria and procedures established by the Land Conservation and Development Commission and developed by the Division of State Lands to identify significant wetlands under Statewide Planning Goal 5. The City of Bend must protect significant wetlands as defined by the state. See "Goal 5 Wetlands Defined" in this report for more information or refer to OAR 141-86-300.

There are two distinct categories of wetlands in Bend. Excluded wetlands, requiring no further protection under Goal 5 (though they may be subject to state and federal regulation), and significant wetlands that require local protection.

Excluded Wetlands

All of the non-riparian wetlands identified in the study area fit the significant wetland exclusion criteria. All are created unintentionally as the result of irrigation water overflow or leakage, or were created for the purpose of wastewater treatment, farm or stock watering, settling of sediment, or as a golf course hazard.

Significant Wetlands

All of the 10 identified wetland units within the Deschutes River corridor met the criteria for significant wetlands.

Additional Comments on State Requirements

Once approved by the Division of State Lands (DSL), the LWI will be used in place of the National Wetlands Inventory (NWI) and will be incorporated into the Statewide Wetlands Inventory (SWI) maintained by DSL. A LWI provides good information for planning purposes and on location of potentially regulated wetlands, but is not of sufficient detail for regulatory certainty under the state Removal-Fill Law. Therefore, a wetland delineation of precise wetland boundaries is generally needed prior to site development near a mapped wetland. It is important to note that state and federal regulations may apply to wetlands regardless of whether or not they are mapped in the LWI.

When the LWI is approved by the Division, the local jurisdiction must notify by mail within 120 days all landowners of record whose parcel contains a wetland that: (1) Their parcel(s) was included in the wetlands study area; and (2) There is a wetland mapped on their parcel.

The city is also required to notify DSL of certain land use applications that appear to affect a wetland mapped on the LWI. DSL then responds to the city and the applicant regarding any state permit requirements.

Existing City of Bend Policies
There are no policies specific to wetland protection in Bend's general plan.

Existing City of Bend Regulations
The City has the following regulations specific to wetlands:

Fill and Removal 10.10.25(26)

> ... no person shall fill or remove any material or remove any vegetation, regardless of the amount, within the bed and banks of any stream or river, or in any wetland, unless such fill or removal is approved as a conditional use by the Hearings Body.

Subdivision Code:

> Section 6.015 (3) Street Layout and Cul-de-sacs. ... Cul-de-sacs and dead end streets shall only be permitted when the following conditions are met:
>
> - presence of a wetland or water body which cannot be crossed; or
>
> Section 6.020 (2) Size of Blocks. No block shall be longer than 1,200 feet ... except where street location is restricted by natural topography, wetlands, or other bodies of water.

MR Zone 10.10.21A

> (6)Building and Site Development Standards. (e)(A) Retain and conserve riparian vegetation within the bed and banks of the Deschutes River and adjacent to the river to the maximum extent practicable. There shall be no net loss of natural wetlands adjacent to the river.
>
> Note: Land use decisions are primarily made by local governments, but wetlands are also regulated by both the Oregon Division of State Lands and the U.S Army Corps of Engineers.

Comparison of the State Goal with the City of Bend's Existing Regulations

Excluded Wetlands: Bend's current Fill and Removal regulation may apply to excluded wetlands. There is no criteria excluding them in the code. No further protection is required under Goal 5 unless these areas prove to be natural wetlands when/if the hydrology supporting them is altered or removed.

Significant Wetlands: Goal 5 requires the city to adopt an ordinance to protect significant wetlands. Under the "safe harbor" option, the protection program must include restrictions on grading, excavation, placement of fill, and vegetation removal other than perimeter mowing and other cutting necessary for hazard prevention; and include a variance procedure to consider hardship variances. Currently, the city has a Fill and Removal ordinance (10.10.25(26)) that applies to wetlands. The setback for Fill and Removal is 10 feet from either side of the wetland edge. There are a couple mentions of wetlands in the Subdivision Code and a no net loss regulation in the MR Zone.

Options for Protection

Because all of the significant wetlands are located within the Deschutes River Corridor, the city has the option of using the riparian setback regulations along with other existing regulations to protect wetlands. Depending on changes in the riparian ordinance, wetlands on the river would receive additional protection in the form of building setbacks, buffer area for fill and removal and vegetation removal. The Goal 5 riparian safe harbor option requires that the riparian corridor include all adjacent significant wetlands (using the safe harbor setback, for example, the riparian corridor would extend 50 feet back from the upland edge of the significant wetland).

The city must also address the wetland requirements in Goal 5, through either a safe harbor protection program or a "standard" program that includes an Environmental, Social, Energy, and Economic analysis of decisions to fully protect, partially protect, or not protect a significant wetland. Because all of the significant wetlands in Bend are also riparian wetlands that will be addressed through the riparian regulations, both the riparian and the wetland protection requirements pertain to all significant wetlands, and the more stringent requirements of either ordinance would apply.

Appendices

Staff qualifications

Darcy McNamara is the author of the City of Bend Local Wetland Inventory, conducted the fieldwork for the riparian wetlands and coordinated the public involvement for the inventory. She has an undergraduate degree in botany and a masters in urban ecology from the College of Foresty at the University of Washington. She was director of the Bend Riverway, a community project of the non-profit Bend Park and Recreation Foundation. She was formerly manager of over 15,000 acres of natural areas in Washington State.

Christina Veverka was lead on the fieldwork for the golf hazards and non-riparian wetlands. She assisted on the riparian wetlands and the public involvement. She has masters in botany.

Pamela Bodie was lead on obtaining pertinent city, county and state codes, map design and preparing materials for the public meeting. Ms. Bodie has a degree in landscape architecture.

Plant Inventory

Riverside Plant Inventory of Downtown & Old Mill District Source: PacificCorp 1990; *Reid Schuller 1999.*

Scientific Name	Common Name	Riparian Species
Achillea millefolium	common yarrow	
Alnus sinuata	Sitka alder	x
Alyssum alyssoides	pale alyssum	
Artemisia spp.	sagebrush	
Carex aquatilis v. aquatilis	water sedge	x
Carex canescens	gray sedge	x
Carex vesicaria	inflated sedge	x
Chamaesaracha nana	dwarf chamaesaracha	
Chrysanthemum leucanthemum	ox-eye daisy	
Chrysothamnus nauseosus	common rabbit-brush	
Cirsium vulgare	common thistle	
Collinsia parviflora	small-flowered blue-eyed Mary	
Descurainia sophia	flixweed	
Elodea canadensis	Canada waterweed	x
Eriophyllum lanatum v. integ.	common eriophyllum	
Erysimum asperum	rough wallflower	
Galium spp.	bedstraw	
Geum macrophyllum v. perincisum	Oregon avens	
Holosteum umbellatum	jagged chickweed	
Juncus spp.	rush	x
Juniperus occidentalis	western juniper	
Lemna spp.	duckweed	x
Linaria dalmatica	dalmatian toadflax	
Linum perenne	blue garden flax	
Lonicera utahensis	Utah honeysuckle	
Malva sylvestris	common mallow	
Mentzelia albicaulis	small-flowered mentzelia	
Microsteris gracilis v. humilior	pink microsteris	
Montia perfoliata	miner's lettuce	
Myosotis lax	small-flowered forget-me-not	
Nama spp.	nama	
Phacelia linearis	threadleaf phacelia	
Pinus ponderosa	ponderosa pine	
Poa nemoralis	woods bluegrass	
Potentilla anserina	common silverweed	x
Prunus virginiana v. demissa	common chokecherry	x
Purshia tridentata	bitter-brush	
Ribes cereum v. cereum	squaw currant	
Ribes inerme	whitestem gooseberry	
Rosa woodsii v. ultramontana	pearhip rose	
Rumex spp.	dock	x
Salix geyeriana	geyer willow	x
Salix lasiandra v. caudata	peach-leaf willow	x
Scirpus microcarpus	small-fruited bulrush	x
Senecio vulgaris	common groundsel	
Solanum dulcamara	felonwort	
Solidago spp.	goldenrod	
Spiraea douglasii v. douglasii	hardhack	x
Taraxacum officinale	common dandelion	
Typha latifolia	common cattail	x
Verbascum thapsus	flannel mullein	
Veronica americana	American brooklime	x
Viola arvensis	wild pansy	

Water Quality Information

Water Quality Parameters of Concern in Bend Riverway (ODEQ, 1998)

Stream Segment	River miles	Riverway Reach	Water Quality Parameter	Beneficial Use/ Standard	Season	Listing Status
Steelhead Falls to North Unit Main Canal	128-165	Awbrey River Run	Bacteria	Water Contact Recreation (fecal coliform<406)	Year-round	OK
			Dissolved Oxygen (DO)	Cold-water aquatic life (DO>8 mg/L)	Aug 1-Oct 31	OK
			Dissolved Oxygen	Salmonid spawning (DO>11 mg/L)	Nov 1-July 31	OK
			Flow Modification			**303(d) List**
			pH	**6.5-8.5**	**May 1-Sept 30**	**303(d) List**
			pH	6.5-8.5	Oct 1-Apr 30	OK
			Sedimentation			Need data
			Temperature	**Salmonid rearing (<64°F)**	**Summer**	**303(d) List**
North Unit Main Canal to Central Oregon Canal	165-171	River Run Pioneer Old Mill South Canyon	Bacteria	Water Contact Recreation (fecal coliform<406)	Year-round	OK
			Dissolved Oxygen	Cold-water aquatic life (DO>8 mg/L)	Aug 1-Oct 31	OK
			Dissolved Oxygen	Salmonid spawning (DO>11 mg/L)	Nov 1-July 31	OK
			Flow Modification			Need data
			Habitat Modification			Need data
			Nutrients			Need data
			pH	6.5-8.5	Fall-winter-spring	OK
			pH	**6.5-8.5**	**Summer**	**303(d) List**
			Sedimentation			Need data
			Temperature			Need data
Central OR Canal to Little Deschutes	171-192.5	South Canyon	Bacteria	Water Contact Recreation (fecal coliform<406)	Year-round	OK
			Dissolved Oxygen (DO)	Cold-water aquatic life (DO>8 mg/L)	Aug 1-Oct 31	OK
			Dissolved Oxygen	Salmonid spawning (DO>11 mg/L)	Oct 1-July 31	303(d) List
			Flow Modification			**303(d) List**
			Habitat Modification			**303(d) List**
			pH	6.5-8.5	Year-round	OK

			Sedimentation			**303(d) List**
			Temperature	Salmonid rearing (<64°F)	Summer	OK
			Turbidity		**Spr/Summer**	**303(d) List**

DO = dissolved oxygen
Source: Bonnie Lamb, Oregon Dept. of Environmental Quality

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