ORDINANCE NO. NS-1936

AN ORDINANCE AMENDING THE BEND AREA GENERAL PLAN AND MAP TO EXPAND THE URBAN GROWTH BOUNDARY TO INCLUDE THE JUNIPER RIDGE SITE AND MAKE RELATED AMENDMENTS.

WHEREAS, the Oregon Department of Land Conservation and Development requires the City through Periodic Review Task 2 to update the inventory of vacant commercial and industrial land and adopt General Plan amendments as needed to meet requirements of Statewide Planning Goal 9; and

WHEREAS, the Economic Lands Study prepared by the City in response to Periodic Review Task 2 finds a need to expand the Urban Growth Boundary to include additional land for future industrial use; and

WHEREAS, the Economic Lands Study recommends expanding the Urban Growth Boundary into Juniper Ridge to achieve needed additional industrial land; and

WHEREAS, the Bend Planning Commission has recommended amendment of the Urban Growth Boundary to include the Juniper Ridge site and related amendments to the General Plan, following a public hearing held on January 26, 2004 and February 9, 2004; and

WHEREAS, the City Council held a public hearing to consider these proposed amendments on May 5, 2004.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Adopt findings as contained in the attached memo to City Council dated June 16, 2004, re Additional Findings: Responses to Issues Raised During May 5, 2004 Public Hearing – Juniper Ridge (City File No. PZ-03-565).

Section 2. Adopt findings contained in the attached Exhibit A, Burden of Proof document (City File No. PZ-03-565), dated April 21, 2004.

Section 3. Amend the Urban Growth Boundary of the Bend Urban Area General Plan Map to include the Juniper Ridge site, as shown in Exhibit A.

Section 4. Amend the Bend Urban Area General Plan Map to apply a designation of "Industrial Light" to the Juniper Ridge site, as shown in Exhibit A.

Section 5. Adopt the Economic Lands Study, attached as Exhibit B, as an appendix to the Bend Area General Plan.

Section 6. Repeal pages 6-1 through 6-13 of the Bend Area General Plan and adopt new Chapter 6, attached as Exhibit C.

Section 7. Amend policies of Chapter 6 of the Bend Area General Plan as shown in Exhibit D, attached.

Read for the first time the 7th day of July, 2004.

Read for the second time the 21st day of July, 2004.

Placed upon its passage the 21st day of July, 2004.

YES: 7 NO: 0

Authenticated by the Mayor the 21st day of July, 2004.

Oran Teater, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

M E M O R A N D U M

TO: **BEND CITY COUNCIL**

FROM: **BRIAN SHETTERLY, PLANNING MANAGER**

PETER SCHANNAUER, ASST. CITY ATTORNEY

SUBJECT: **ADDITIONAL FINDINGS: RESPONSES TO ISSUES RAISED DURING MAY 5, 2004 PUBLIC HEARING – JUNIPER RIDGE (CITY FILE NO. PZ-03-565)**

DATE: **JUNE 16, 2004**

The purpose of this memo is to provide additional findings supporting the proposed Urban Growth Boundary expansion relating to Juniper Ridge (referenced above). These findings take the form of responses to new issues raised in testimony provided during the City Council public hearing of May 5, 2004 and in written materials submitted within the 7-day period following that date, during which the record remained open.

1. Letter from Carol E. Macbeth, 1,000 Friends of Oregon, dated May 11, 2004. This letter objects to the proposed UGB expansion into Juniper Ridge. It asserts that the needs analysis relied on to support the expansion is flawed, and that a need to expand Bend's UGB to provide an adequate supply of industrial land has not been demonstrated.

Response: The Economic Lands Study (ELS) contains a detailed analysis of the amount of buildable land considered to be available as of the year 2000 for industrial uses, and an estimate of the amount of buildable acres needed to provide an adequate supply of industrial land to the year 2020. The burden of proof for this proposal and draft amendments to Chapter 6 of the General Plan provide updated estimates of land needed. The conclusion of both the ELS and the burden of proof is that expansion of the UGB is needed and justified to satisfy Statewide Planning Goal 9 and to ensure an adequate, long-term supply of buildable industrial land for Bend. Both the ELS and the burden of proof supporting this proposal also find a special need for an increased

supply of large-lot industrial sites. Expansion of the UGB is needed to make adequate provision for these large-lot sites.

Staff acknowledges that there are many different ways to carry out the kind of analysis called for by Goal 9. Ms. Macbeth suggests, for example, that the forecast absorption rate for industrial lands used in the ELS (32.2 acres per year) is too high, and should be reduced to only 10.6 acres per year. This is based on an assumed annual absorption rate for the 1997-2003 period. The ELS forecast annual absorption rate is based on rates calculated over a longer period (1985-1998). The time period used to determine historical rates of absorption is only one of many variables that go into this type of analysis.

We believe the methodology and assumptions used in preparing the Economic Lands Study are valid, and that they support the Juniper Ridge UGB expansion. Ms. Macbeth's letter demonstrates that it may be possible to adjust variables and assumptions to suggest that Bend's 20-year industrial land needs can be met entirely within the existing UGB. We do not believe this is the case. In direct contrast to the assertions in Ms. Macbeth's letter, a letter from Roger Lee of Economic Development for Central Oregon supports the findings of the ELS, and states that average industrial land prices have increased by 65% in the past four years due to a shortage of supply. That same letter notes that "Bend has a looming crisis both in terms of supply of industrial land and in terms of price."[1]

The Economic Lands Study has been available for public review and comment since 2001. Its findings and recommendations have been presented and discussed in public meetings before both the City Council and the Planning Commission. Earlier this year, the ELS was the subject of formal public hearings before both the Bend Planning Commission and the Deschutes County Planning Commission. In none of these forums were the conclusions of the ELS regarding the need for UGB expansion called into question. During the February 9, 2004 public hearing before the County Planning Commission, DLCD field staff also acknowledged the need for more industrial land in Bend and testified in support of the Juniper Ridge UGB expansion on behalf of that agency.

2. Letters from Bruce White, dated April 30, 2004, May 5, 2004, and May 12, 2004. These letters contend that the Hunnell Rd. property is superior to Juniper Ridge as a site for future industrial development, and that state law prevents inclusion of Juniper Ridge in the UGB without also bringing the Hunnell Rd. site into the UGB.

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[1] Letter from Roger Lee, Director of Economic Development for Central Oregon, to Brian Shetterly, dated February 4, 2004.

Response: Staff disagrees with the contention that state law requires both Hunnell Rd. and Juniper Ridge to be brought into the UGB, or that Juniper Ridge cannot be brought into the UGB unless the Hunnell Rd. site is also brought in. It is true that the Economic Lands Study contains findings justifying inclusion of both sites in the UGB. However, the ELS concludes with a recommendation that a total of 245 acres be added to the UGB to provide for an estimated 20-year supply of industrial land. That acreage need will be more than met with the proposed inclusion of some 513 gross acres (approximately 338 buildable acres) of Juniper Ridge in the UGB. The 35 gross acres of the Hunnell Rd. site are not needed to achieve a 20-year supply of industrial land, as required by Goal 9.

Although both sites were included in a single, unified analysis of future industrial land needs, state law does not prohibit expansion of the UGB into a lower-priority site, such as Juniper Ridge, provided the necessary findings are made to justify such an expansion (see ORS 197.298[3]). These findings are made for Juniper Ridge both in the ELS and in the burden of proof supporting inclusion of Juniper Ridge in the UGB.

The ELS and the City's burden of proof demonstrate that there is a special need in Bend for large industrial parcels, i.e. sites over 10 acres in size. Although it may be possible to create one or two of these large parcels on the Hunnell Rd. site, the potential for large-lot industrial sites is much greater on the larger Juniper Ridge site, in a manner which makes more efficient use of land.

The Juniper Ridge site is in public ownership, assuring more control over impacts on neighboring properties. It is subject to a covenant with the prior owner (Deschutes County) that a public process be implemented involving neighbors in the planning and development of a site plan for the property. The larger size of the Juniper Ridge site permits much greater buffering from adjacent uses than can be accomplished on the Hunnell Rd. site. Finally, both sites are adjacent to residential properties, although the properties abutting Juniper Ridge to the west have a more urban character, as these residential lots are significantly smaller.

3. Letters from Paul Dewey, dated May 3, 2004, May 5, 2004, and May 12, 2004. These letters support bringing Juniper Ridge into the UGB, as a more suitable site for future industrial uses than the Hunnell Rd. site. Among other points, Mr. Dewey suggests that the scoring for the Hunnell Rd. site contained in the ELS is incorrect, and that when needed corrections are made Juniper Ridge becomes the highest-ranking site of those evaluated for meeting future industrial land needs.

Response: Staff agrees that the alternative sites ranking contained in Part 2 of the ELS is in error in finding the Hunnell Rd. site to be higher ranked than Juniper Ridge (63 pts. for Hunnell Rd., and 61 pts. for

Juniper Ridge). The Hunnell Rd. site is directly served by a major collector street (Hunnell Rd.) rather than by an arterial street (Cooley Rd.). Under the scoring system of the ELS, this correction would reduce the points total for Hunnell Rd. by 2 points to 61, the same total as for Juniper Ridge. It may also be reasonable to reduce the point total for Hunnell Rd. somewhat further as a result of strong neighborhood opposition to proposed inclusion of the Hunnell Rd. site in the UGB for industrial development. This type of known opposition was accounted for as a "mitigating factor" in the scoring for several other candidate sites evaluated in Part 2 of the ELS. Making a similar adjustment to scoring for the Hunnell Rd. site would leave Juniper Ridge as the highest ranking (most suitable) of the 14 alternative sites evaluated in the ELS for meeting the identified future industrial lands need.

CITY OF BEND

PROPOSAL FOR URBAN GROWTH BOUNDARY EXPANSION AND GENERAL PLAN AMENDMENTS – JUNIPER RIDGE

DATE: April 21, 2004

CITY FILE NO.: PZ 03-565

COUNTY FILE NO.: PA 04-02

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SUBJECT PROPERTY:	That portion of Section 10, Township 17S, Range 12E lying westerly of Pilot Butte Canal, operated by Central Oregon Irrigation District. Tax Assessor's Map 17-12, Tax Lot 200 (see attached map).
REQUEST:	Request for Approval of amendment to the Bend Area General Plan to include approximately 513 acres of the above-referenced subject property within the City of Bend Urban Growth Boundary; designating this acreage as Industrial Light on the Bend Urban Area General Plan Map; amending Chapter 6 of the Bend Area General Plan; and adopting the Economic Lands Study as an appendix to the Bend Area General Plan.
ATTACHMENTS:	Exhibit A – Map: Juniper Ridge UGB Expansion Area Exhibit B – Economic Lands Study (Parts 1-3) Exhibit C – Draft Revised Chapter 6, Bend Area General Plan Exhibit D – Draft Amendments to Policies, General Plan Chapter 6

The Applicant provides the following information, in the form of proposed findings of fact and conclusions of law, in support of the above land use application.

I. APPLICABLE CRITERIA

The following provide relevant approval criteria for this application:

1. Bend Area General Plan
   A. *Future Plan Updates* (p. P-6)
   B. Plan Management and Citizen Involvement, Urban Planning Coordination Policy 1
   C. The Economy and Lands for Economic Growth, General Policy 1 and Industrial Development Policy 3
2. Oregon Statewide Planning Goal 1

3. Oregon Statewide Planning Goal 3

4. Oregon Statewide Planning Goal 9

5. Oregon Statewide Planning Goal 12 (OAR 660-012-0060)

6. Oregon Statewide Planning Goal 14 (OAR 660-015-0000[14])

7. ORS 197.298

8. Exceptions Under Oregon Statewide Planning Goal 2 (OAR 660-0040-0010)

9. Other Applicable Statewide Planning Goals

II. PROCEDURE

Legislative land use actions in and adjacent to the Bend urban area are governed by a joint management agreement adopted by the City of Bend and Deschutes County in 1998. They are also governed by the City of Bend's Land Use Procedures Ordinance and by the Deschutes County Procedures Ordinance. These documents call for public hearings on the proposal by both the City and County Planning Commissions. The Planning Commissions then make a recommendation to the two governing bodies, the Bend City Council and the Deschutes County Board of Commissioners. The governing bodies must hold public hearings to consider the Planning Commissions' recommendation and then take final action to adopt, modify, or reject the proposal. If adopted, the General Plan amendments must be transmitted to the Oregon Department of Land Conservation and Development for acknowledgment as being in compliance with applicable state land use laws.

III. BACKGROUND

In 2000 City of Bend staff completed an inventory and analysis of buildable commercial and industrial land within the Bend Urban Growth Boundary. At the same time, staff also forecasted the commercial and industrial land needs to determine the adequacy of the land supply for the 20 year planning period ending in 2020. This work is documented in a three-part study, the Economic Lands Study (ELS), attached as Exhibit B, that found there is not enough buildable industrial land within the urban growth boundary to meet the forecast need. Preparation of the ELS was required by Policy 1 of Chapter 6 of the Bend Area General Plan. It was also mandated as part of Task 2 of Bend's Periodic Review Work Program. That task requires the city to:

> Update the Inventory of Vacant Industrial and Commercial Land which meets the requirements of Statewide Planning Goal 9 and OAR 660, Division 9. Conduct additional analysis of land needed for economic development.

> Products: (A) Inventory of buildable land for commercial and industrial development within the urban area. (B) Study that analyzes the amount of land needed for future economic growth. (C) If needed, based on products A and B above, an evaluation of land outside the UGB that may be needed and suitable for economic growth which may result in a proposal to include land within the UGB for economic development.

The General Plan amendments proposed in this application are intended to carry out the recommendations of the ELS and fulfill General Plan Policy 1 (Chapter 6), and Periodic Review Task 2.

The ELS considered various measures to provide for the forecast industrial lands need, including re-zonings and potential redevelopment opportunities for properties already within the UGB. For the needed industrial lands, these various planning and zoning measures would only provide for a small portion of the additional required acreage. In order to meet the forecast need, the ELS recommended expanding the UGB by 245 acres.[1] Since completion of the 2000 study, additional industrial acreage has been consumed by on-going development activity. The need for this additional industrial land, as discussed in the ELS, is for:

1. Land that is suitable for light industrial development to provide for choice in the normal industrial land market place; and

2. Land that will provide sites for large tracts and that meets the need for large site uses. Larger sites will allow local firms to expand and provide suitable sites for new manufacturing or high-technology firms to locate in Bend.[2]

After identifying a need for more industrial land, a total of 14 candidate sites were evaluated in Part 2 of the ELS for suitability as future industrial development sites.[3] Nine of these 14 candidate sites were located outside the UGB. All the potential sites were evaluated using criteria appropriate to industrial development and rated using a scoring system. The two sites outside the UGB that were found to have the greatest potential and overall suitability for industrial development were the Juniper Ridge site, and a 35-acre parcel known as the Hunnell Rd. site, located to the west of Juniper Ridge, across U.S. Hwy. 97. The Economic Lands Study recommended that both of these sites be brought into the UGB to ensure an adequate supply of land for the long-term economic viability of the community. These actions are also needed to bring the city into conformance with the requirement of Statewide Planning Goal 9 (OAR 660-009-0025) that the city designate *at least* a projected 20-year supply of buildable lands for future industrial development. It is important to note, as discussed further below, that Goal 9 and its administrative rule do not prohibit the inclusion of somewhat more than the estimated 20-year buildable lands need, especially where there

1 City of Bend, *Economic Lands Study, Part 3*, p. 3, December 2000.
2 Ibid.
3 City of Bend, *Economic Lands Study, Part 2*, December 2000, p. 14-20.

is a demonstrated need for certain types of industrial sites, i.e. large-lot sites.

IV. PROPOSED GENERAL PLAN AMENDMENTS

The purpose of these proposed General Plan amendments is to fulfill the requirements of Periodic Review Task 2; carry out in part the recommendation of the Economic Lands Study to achieve a greater supply of industrial land; achieve conformance with Statewide Planning Goal 9 by expanding the Urban Growth Boundary to take in approximately 513 gross acres of the Juniper Ridge site; and to designate that area on the General Plan Map for Light Industrial Use. A separate follow-up action will be needed to apply an urban ndustrial zoning designation to this site. A separate application has also been prepared to simultaneously expand the Urban Growth Boundary to include the Hunnell Rd. site (35 acres), thereby adding a total of approximately 548 acres of land to Bend's urban area. As discussed below, it is expected that topographic constraints and the need to provide for streets and other urban services will yield approximately 364 net buildable acres from this amount. It is also the purpose of this proposal to amend the General Plan by revising Chapter 6 of the Bend Area General Plan to include updated economic data, acknowledge the findings of the Economic Lands Study, and adopt policies relating to development of the Juniper Ridge site.

Juniper Ridge Site Description

This site is one-half mile east of Highway 97 N adjacent to the Bend UGB on two sides. It is an area that is designated as Agriculture in the Deschutes County Comprehensive Plan, and is zoned Exclusive Farm Use – Alfalfa (EFU-AL). The southwest edge of this site is adjacent to Cooley Road, a designated urban arterial. Cooley Road will provide direct access from the site to Hwy. 97. NE 18th Street, also an urban minor arterial, "Tees" into Cooley Road opposite the Juniper Ridge site.

At the Juniper Ridge site the city proposes to add approximately 513 gross acres to the UGB, consisting of that portion of Section 10, T17S, R12E lying west of the C.O.I.D. irrigation canal. As discussed more fully below, up to 175 acres of this site is expected to be unbuildable due to topographic constraints and the need for open space buffers, streets, and utilities.

The City and County first started the process to designate this site for industrial uses in the late 1970's after an industrial lands study identified it as a desirable location for industrial development. The 513-acre area proposed to be included in the UGB is part of a larger, 1,500-acre area (fourteen tax parcels) currently owned by the City of Bend. This area had previously been owned by Deschutes County. The County transferred title to the property to the City in 1990 after the County had traded lands with the U.S. Bureau of Land Management. The City and County identified this area for industrial development in the Bend Area General Plan that was acknowledged

in 1981. Among the reasons this site was, and still is, considered desirable for industrial development are the following:

- It is adjacent to the Urban Growth Boundary.
- The BNSF freight rail line runs through the northwest corner of the site.
- It is adjacent to two urban arterial roads, and close to Highway 97.
- It is a large, vacant site under public ownership.
- It is buffered from agricultural uses and large lot rural residential development and by additional land under the same (city) ownership.
- The site has shallow, rocky soil with many rock outcroppings that make it unsuitable for agriculture.
- The site has never been farmed or used for grazing, and is not suitable for those purposes.

The City has determined through the EIS that suitable industrial land is a relatively scarce resource in the Bend area. Large-lot industrial sites are even more rare. Piece-meal development of the Juniper Ridge site can be prevented through the adoption of policies that commit the City, as owner, to prepare a development plan and to reserve a substantial portion of the site for large-lot development. These draft policies are attached as Exhibit D.

VII. PROPOSED FINDINGS OF FACT

The City proposes that the Bend City Council and the Deschutes County Board of Commissioners adopt the following findings of fact and approve the proposed General Plan amendments, based on the following findings:

Bend Area General Plan

Future Plan Updates (p. P-6): The General Plan is a document that changes over time to reflect new information and new directions for the future. Amendments or additions to the General Plan text, exhibits, and policies go through a public hearing and review process before being adopted by the governing bodies. Changes and updates can be generated in at least six ways:

...Evaluation of land use topics required to be reviewed under the Oregon Land Conservation and Development Commission's "periodic review" of the General Plan. The state requires all local plans to be updated periodically to comply with applicable new state laws, administrative rules, or to incorporate new data available to the state.

FINDING: In 1999 the Oregon Department of Land Conservation and Development approved the City of Bend's Periodic Review Work Program. Task 2 of this work program requires the City to update its inventory of buildable lands for commercial and industrial use, and to consider adding

land to the inventory if the update analysis finds a deficiency in the 20-year land supply requirement of Goal 9. In compliance with Periodic Review Task 2, Bend City staff prepared the three-part Economic Lands Study. This analysis, supplemented by additional findings below, supports expansion of the UGB on this site to achieve some 338 net acres to help meet the city's estimated 20-year industrial land supply requirement. The City has also identified a need to have available several large, vacant industrial parcels to accommodate potential demand for large industrial users. By adding the 513-acre Juniper Ridge site to the UGB and designating it for future industrial use, approximately 338 net acres will be available for both large-lot and smaller scale development. The net acreage of the Juniper Ridge UGB expansion area is sufficient to allow for creation of a number of large parcels (over 10 acres in size, and perhaps up to 50-75 acres) to meet the needs of large industrial users. The 35 acres of the Hunnell Rd. site, also proposed to be added to the UGB, will help to ensure that a variety of industrial parcels will be available to at least meet the projected need for industrial development to the year 2025.

Because Periodic Review Task 2 found the City to be out of compliance with Goal 9's requirement for at least a 20-year buildable lands supply for industrial development, it is necessary to amend the Bend Area General Plan to expand the UGB in order to provide for a portion of the land area needed to comply with Goal 9. For the same reason, it is also necessary to apply a designation of Light Industrial to the General Plan Map for this site, and to amend General Plan policies (see Exhibit D, attached) to ensure that this site will be zoned and developed in a manner that enables the city to meet its long-term industrial land needs.

Plan Management and Citizen Involvement, Urban Planning Coordination Policy 1:

1. Growth in the Bend Area shall be managed through the cooperative efforts of the City of Bend and Deschutes County.

FINDING: The 1998 Joint Management Agreement for the Bend urban area, adopted by both the City and the County, authorizes the City to initiate comprehensive plan amendments in Bend's urban area. Such amendments must by considered by both City and County Planning Commissions and by the two governing bodies. In addition, the Joint Management Agreement calls for planning staffs of the two jurisdictions to coordinate staff work connected with plan amendments. The Juniper Ridge site was transferred from County to City ownership in 1990 with the intent of eventually being made available for urbanization as industrial land. In 1998, as the Bend Area General Plan was undergoing a major update, discussions were held between the City and County concerning the need for the Juniper Ridge site to be brought into Bend's UGB as part of its industrial lands inventory. Action was delayed at that time to allow for further detailed analysis in connection with Task 2 of the City's Periodic Review Work Program. Since winter of 2003 City staff have been meeting periodically with County staff, as well as with representatives from a variety of affected state agencies (acting as the Governor's Economic Revitalization Team), to coordinate

the process of amending the UGB to make the Juniper Ridge and Hunnell Rd. sites available for urbanization as industrial land. In accordance with the Joint Management Agreement, formal notice of the City's proposal to amend the Bend Urban Area General Plan as described in this application was provided to County planning staff on January 12, 2004. The City of Bend Planning Commission and the Deschutes County Planning Commission held a joint public hearing on this proposal on January 26, 2004 and February 9, 2004. Both Commissions have recommended to their respective governing bodies that this proposal be approved, although the County Planning Commission recommended limiting the amount of land to be designated for industrial use.

The Economy and Lands for Economic Growth, General Policy 1:

1. After the General Plan update in 1998 the city shall resume its study of industrial and commercial land needs, land supply, and allocation of future lands. The study will include an evaluation of the "industrial reserve" site north of Cooley Rd., and other potential industrial areas inside and adjacent to the UGB, and local/regional commercial centers.

FINDING: The three-part Economic Lands Study was prepared in 2000, and completed in 2001 in direct response to this policy mandate. As discussed above, this study found that Bend has an inadequate supply of industrial lands, given the requirements of Goal 9 and OAR 660-009-0025. The study also evaluated fourteen candidate sites, both within and outside the UGB to meet this deficit.[4] One of these sites was the site north of Cooley Rd., east of Hwy. 97, known as Juniper Ridge. Of the fourteen candidate sites, the two that were found most suitable for industrial use were the Hunnell Rd. site and Juniper Ridge.

Industrial Development Policy 3:

1. The community shall attempt to diversify its industrial base.

FINDING: These proposed General Plan amendments will facilitate a greater diversity of sites available for industrial use. At present, there are only five vacant, industrial-zoned sites within the City of Bend that are over ten acres in size; only one of those sites is larger than thirty acres. There is a need for the industrial lands inventory to include a number of larger sites, in addition to meeting the aggregate forecast need for industrial acreage. Inclusion of the Juniper Ridge site within the UGB would make creation of these larger industrial parcels possible. Draft General Plan policy amendments attached as Exhibit D would require a certain amount of Juniper Ridge to be designated specifically for parcels of at least ten acres.

Oregon Statewide Planning Goal 1

4 City of Bend, Economic Lands Study, 2001, Part 2, p. 15.

Goal 1 is "To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process."

FINDINGS: Conformance with Goal 1 is achieved through Chapter 1 of the Bend Area General Plan and through implementing measures such as the Zoning Ordinance and the Land Use Permit and Review Procedures Ordinance. Chapter 1 of the General Plan identifies the Bend Planning Commission as the official Citizens' Involvement Committee for the urban area.

Policy 16 of Chapter 1 of the General Plan states that "The city will use other mechanisms, such as, but not limited to, meetings with neighborhood groups, planning commission hearings, design workshops, and public forums, to provide an opportunity for all the citizens of the area to participate in the planning process." City staff met with representatives of the Boyd Acres Neighborhood Association on December 4, 2003 to announce this proposal. An open house for residents and property owners to discuss this proposal was held at Sky View Middle School on January 14, 2004. This open house was preceded by a mailed notice to approximately 600 property owners within a half-mile radius of the Juniper Ridge site.

The Land Use Permit and Review Procedures Ordinance (Sec. 10-16.3) requires that the Planning Commission and the City Council both hold public hearings prior to acting on a proposed amendment to the General Plan. The Planning Commission public hearing on this proposal was held on January 26, 2004 and February 9, 2004. It was preceded by a hearing notice published in the Bend Bulletin on January 13, 2004 and by mailed notice to approximately 600 property owners within a half-mile radius of the proposal area. The City Council public hearing on these proposed amendments will be followed by a Deschutes County Board of Commissioners public hearing to consider this proposed UGB expansion, in accordance with an intergovernmental agreement for joint management of the Bend urban area adopted by the City of Bend and Deschutes County in 1998.

Oregon Statewide Planning Goal 3

Goal 3 is "To preserve and maintain agricultural lands."

FINDINGS: Goal 3 identifies agricultural land in eastern Oregon (including Central Oregon) as land of predominantly Class I-VI soils. As indicated in Part 3 of the ELS, approximately 90% of the acreage proposed for inclusion in the UGB is made up of the Gosney-Rock Outcrop-Deskamp soil complex. This soil complex has a SCS Class VIIs and VIIIs capability rating without irrigation. Further documentation attached to the ELS finds that the Juniper Ridge site has no irrigation water rights, and that even if the site had water rights, the rock outcroppings and topographic constraints make irrigation infeasible. The Juniper Ridge site has never been actively farmed, and Bureau of

Land Management records indicate that there is no history even of grazing on the site. Because the Juniper Ridge site does not meet the Goal 3 definition of agricultural lands, the proposed inclusion of the site in Bend's UGB would not be in conflict with Goal 3.

Oregon Statewide Planning Goal 9

Goal 9 is "To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens."

FINDINGS: OAR 660-009 implements Goal 9. This administrative rule requires the City to maintain its comprehensive plan and land use regulations so as to provide adequate opportunities for a variety of economic activities, and to assure that these are based on available information about state and national economic trends. In Bend's case, the purposes of Goal 9 and OAR 660-009 will be achieved through adoption of these proposed General Plan amendments, the UGB expansion, and related actions to make the Juniper Ridge site available for industrial development. The Economic Lands Study of 2001 was prepared as part of Bend's periodic review of its comprehensive plan (Task 2 of the City of Bend Approved Periodic Review Work Program) It contains extensive data and analysis relating to local, state, and national economic trends, and the availability of land to accommodate future economic development. These findings indicate that Bend does not have a long-term supply of land for the industrial lands category, as required by OAR 660-009-0025. The ELS further identifies the Juniper Ridge and Hunnell Rd. sites as the most suitable locations for meeting the city's long-term need for industrial lands. Adoption of these proposed General Plan amendments to expand the UGB and make the Juniper Ridge site available for industrial development will fulfill Periodic Review Task 2, bring the city into conformance with Goal 9, and help to ensure adequate opportunities for a wide variety of economic activities in the Bend area.

Part 3 of the Economic Lands Study recommended adding some 245 acres of industrial land to the UGB, to meet an estimated 20-year demand.[5] That recommendation was based on an estimated need for 205 additional net acres (after adjusting for a pending, 10-acre plan map amendment) for industrial development. The study's analysis was based on a lot-by-lot inventory of commercial and industrial buildable lands to determine the adequacy of Bend's economic land supply. That inventory used land use data that was current through 1999.

Since completion of the Economic Lands Study, the city's buildable lands inventory for industrial use has been reduced by an additional 38 acres as development activity has continued. No new acreage has been added to the inventory during that period. To carry out the recommendation of the ELS, the 245 acres to be added to the inventory through UGB expansion should be increased by the 38 acres absorbed since that recommendation was made, in order to stay well ahead of

5 City of Bend, *Economic Lands Study, Part 3*, p. 4, December 2000.

forecast demand. When this adjustment is made, the estimate of the acreage recommended to be brought into the UGB increases to approximately 283 acres.

This proposal calls for bringing approximately 513 acres of Juniper Ridge into the UGB for industrial use. In 1992 an analysis of the Juniper Ridge site was carried out, and alternative master plans were drafted as part of a study considering the need for more industrial land in Bend.[6] That site analysis estimated that only about 338 acres of the 513 total acres of this site would be developable, taking into account a number of large rock outcroppings, significant native plant communities, and other geographical constraints, as well as the need to construct major streets and provide open space and buffers adjacent to residential neighborhoods. When combined with the proposed Hunnell Rd. UGB expansion (approximately 26 net acres), a total of some 364 net acres would be added to Bend's industrial lands inventory.

Although this is larger than the 245 acres recommended in the ELS, it would not result in an unnecessary surplus of acreage. The statewide economic recession which began in 2001 has spurred increased interest both locally and statewide in making more land market-ready for industrial use as an economic development strategy.[7] To be successful, this strategy must include adding greater amounts of land for new industrial development, as well as large-lot sites, to the community's industrial lands base.

Of the two sites proposed for inclusion within the UGB at this time (Hunnell Rd. and Juniper Ridge), only Juniper Ridge is large enough to allow for creation of a number of very large (i.e. 25-100 acres) industrial parcels. By bringing all of Juniper Ridge west of the COI canal into the UGB, it will be possible to create several large-lot industrial parcels and still have space for an assortment of smaller parcels, while also preserving topographic features, meeting open space needs and providing for future streets and utilities. Exhibit D includes draft policy language to be included in Chapter 6 of the Bend Area General Plan, requiring that at least 30% of the Juniper Ridge site's net buildable area be allocated to creation of industrial sites at least ten acres in size.

Finally, it should be noted that OAR 660-009-0025(2) requires the City's comprehensive plan to designate lands for future industrial development that "shall *at least* equal the projected land needs… during the 20-year planning period," (emphasis added). The findings of the Economic Lands Study (updated with more recent data) plus the need to preserve large areas of topographic features and open space, combined with the urgent regional and statewide need for large-lot industrial sites, all support the inclusion of the proposed 513 acres of Juniper Ridge within the UGB to achieve conformance with Goal 9.

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6 Industrial Land Analysis and Industrial Area Master Plan; Mitchell, Nelson Wellborn Reimann Partnership, Portland Oregon, August 1, 1992.

7 Governor's Executive Order No. 03-02 - Industrial Lands, February 18, 2003; GROW: Governor's Recovery for Oregon Workers – An Action Plan for Jobs, Office of the Governor, *http://governor.oregon.gov/grow.htm*;

Oregon Statewide Planning Goal 12

Goal 12 is "To provide and encourage a safe, convenient and economic transportation system."

FINDINGS: OAR 660-012 implements Goal 12. This administrative rule requires the City to prepare and adopt a Transportation System Plan (TSP) as part of its comprehensive plan. The Bend Urban Area Transportation System Plan was adopted October 11, 2000.

As discussed in Part 3 of the ELS, traffic load modeling conducted as input to the TSP in 2000 anticipated potential development of a portion of the Juniper Ridge site. This modeling indicated that the existing minor arterial streets serving this area (NE Cooley Rd. and NE 18th St.) could accommodate some industrial development on the site. Recent analyses have found, however, that the existing intersection of Cooley Rd./Hwy. 97 is nearing capacity at present, and will need to be upgraded in order to accommodate substantial future development in Juniper Ridge, as discussed below.

OAR 660-012-0060 contains criteria that local comprehensive plans and their TSP's must address whenever a proposed amendment will significantly affect a transportation facility within the system. OAR 660-012-0060 (2) states that a plan or land use regulation amendment significantly affects a transportation facility if it:

a) Changes the functional classification of an existing or planned transportation facility;
b) Changes the standards implementing a functional classification system;
c) Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or
d) Would reduce the performance standards of the facility below the minimum acceptable level identified in the TSP.

This proposed General Plan amendment to include Juniper Ridge within the UGB and designate it for light industrial use will not in itself affect the identified function, capacity, and performance standards of any transportation facilities in the vicinity. However, there is evidence that subsequent industrial development of the Juniper Ridge site will significantly affect the intersection of Cooley Rd. with Hwy. 97, by allowing types and levels of land uses which would result in levels of traffic or access which are inconsistent with the functional classification of this intersection, and which would reduce the performance standards of this facility below the minimum acceptable level identified in the TSP. This evidence is contained in findings prepared in connection with a recently adopted amendment of the Bend Urban Area Transportation System Plan (File No. PZ-03-658). These findings indicate that the current functional capacity of this existing, at-grade intersection will be very near its maximum with construction of several proposed commercial uses which have already been

permitted by the City of Bend. The capacity of this facility would likely be exceeded by additional trips generated by any substantial future industrial uses on the Juniper Ridge site.

Where a proposed plan amendment would significantly affect a transportation facility, such as the Cooley/Hwy. 97 intersection, OAR 660-012-0060 requires that the allowed uses be consistent with the identified function, capacity, and performance standards of the facility. Under the rule, this may be achieved by either:

> (a) Limiting allowed land uses to be consistent with the planned function, capacity, and performance standards of the transportation facility;
>
> (b) Amending the TSP to provide transportation facilities adequate to support the proposed land uses consistent with the requirements of this division;
>
> (c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes; or
>
> (d) Amending the TSP to modify the planned function, capacity and performance standards, as needed, to accept greater motor vehicle congestion to promote mixed use, pedestrian friendly development where multimodal travel choices are provided.

As discussed above, amendment of the General Plan to include this site in the UGB and designate it for light industrial use will not itself affect the function, capacity, or performance standards of any transportation facility. However, it is anticipated that subsequent development on the Juniper Ridge site will result in the capacity of the Cooley /Hwy. 97 intersection being exceeded. To achieve conformance with OAR 660-012-0060 for this proposal, an amendment to the TSP was recently adopted to include design and construction of a grade-separated interchange at Cooley/Hwy. 97 to replace the existing at-grade intersection (City File No. PZ-03-658). This amendment designates this project for construction during the 2004-2009 time period. A specific funding source for this project is not identified in the TSP, however a new policy adopted as part of the TSP amendment commits the City to work with ODOT to develop funding for this and other projects on the state highway system.

There may also be impacts to the function, capacity, or performance of other transportation facilities in the vicinity resulting from development of the site. In order to achieve conformance with OAR 660-012-0060 for purposes of this proposal, land uses on the Juniper Ridge site will be limited to be consistent with the function, capacity, and performance standards of existing transportation facilities in the vicinity. This limitation will be achieved through existing policies of the Bend Area General Plan and implementing ordinances that require substandard transportation and other public facilities to be improved as needed in order to accommodate proposed new development (see TSP Street System General Policies 5 and 6, and Zoning Ordinance Sec. 10.10.23[6] and [8]). When new development is proposed on the Juniper Ridge site (after it has been brought inside the UGB and zoned for light industrial use) these measures and Sec. 10-16.2 of the Bend Land Use Permit

and Review Procedures Ordinance will require that a detailed traffic impacts analysis be prepared, taking into account the type of use being proposed and its likely impacts on transportation facilities in the vicinity. If this analysis finds that improvements to any of these facilities will be needed to achieve consistency with their planned function, capacity, and performance standards, TSP Street System General Policies 5 and 6, and Zoning Ordinance Sec. 10.10.23 (6) and (8) will require completion of these improvements at the time of development.

CONCLUSION: Through existing provisions of the TSP, General Plan policies, and implementing ordinances, Goal 12 is satisfied for purposes of bringing the Juniper Ridge site into the UGB and designating it for light industrial uses. Following this action, land uses and development activity on the site will be limited to be consistent with the planned function, capacity, and performance standards of transportation facilities in this vicinity.

Oregon Statewide Planning Goal 14 (OAR 660-015-0000[14])

The Bend UGB was acknowledged in 1981 according to the requirements of statewide planning Goal 14 - Urbanization. Amending the UGB requires that this goal be applied again. Goal 14 states the factors that must be considered in evaluating a UGB amendment are:

> Urban growth boundaries shall be established to identify and separate urbanizable land from rural land. Establishment and change of the boundaries shall be based upon consideration of the following factors:
>
> 1. Demonstrated need to accommodate long range urban population growth requirements consistent with the goals;
> 2. Need for housing, employment opportunities and livability;
> 3. Orderly and economic provision for public facilities and services;
> 4. Maximum efficiency of land uses within and on the fringe of the existing urban area;
> 5. Environmental, energy, economic and social consequences;
> 6. Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority; and
> 7. Compatibility of the proposed urban uses with nearby agricultural activities.
>
> The results of the above considerations shall be included in the comprehensive plan. In case of a change of a boundary, a governing body proposing such change in the boundary, separating urbanizable land from rural land, shall follow the procedures and requirements as set forth in the Land Use Planning Goal (Goal 2) for goal exceptions

FINDINGS: Oregon's land use Goal 14 (Urbanization) and its implementing administrative rule list seven factors that must be addressed as part of an expansion of an urban growth boundary. The seven factors are listed below with their related findings and justifications for the Juniper Ridge site.

FACTOR #1 – Demonstrated Need To Accommodate Long Range Urban Population Growth Requirements Consistent With The Goals.

Between 1990 and 2000 the Bend urban area population increased by almost 20,000 persons. Based on the Deschutes County coordinated population forecast adopted as part of the General Plan in 1998, the UGB population was forecast to increase by another 18,000 persons by the year 2020. A more recent update of Bend's population forecast (not yet adopted as part of the General Plan), envisions some 112,000 residents of Bend by 2025, an increase of over 50,000 in the next 21 years. Most of this increase is expected to come from individuals and families moving into the urban area. The exurban population of Deschutes County near Bend is also forecast to grow during the next 25 years.

Factor #1of Goal 14 more directly applies to land that is brought into a UGB for additional housing to meet population growth. However, the population growth also drives a corresponding increase in employment that in turn creates the need for more industrial and commercial land to serve the growing community.

From 1990-2001, employment levels in Bend and Deschutes County increased at a faster rate than the population. This pattern is forecast to continue during the next 20-years. By the year 2020, the Economic Lands Study forecast that more than 21,000 jobs would be added to Bend's current employment level.[8] An updated employment forecast estimates a 2025 employment level of 61,374 for the Bend urban area. The expected high rate of job creation is due to a number of factors, including Bend's increasing role as a regional center for Central Oregon, expected statewide and national economic growth, the growing reputation of the Bend area as a highly livable community, the increasing exurban population that works, shops and obtains services in Bend, and increasing disposable household income to spend on goods and services.

Additional background information and findings about population and employment growth are contained in Part 1 of the Economic Lands Study, titled, *Tends, Inventory, and Forecast.*

CONCLUSION. There is a clear need for more land for industrial development as demonstrated by the forecast increase both in the city's employment base, and its population overall.

FACTOR #2 – Need For Housing, Employment Opportunities And Livability.

As noted above, the Economic Lands Study includes a forecast estimate of some 21,000 new jobs in Bend during the period 2000-2020. In draft revisions to Chapter 6 of the General Plan (Exhibit C), that estimate has been updated to project an increase in Bend area employment from 35,828 in

8 City of Bend, *Economic Lands Study, Part 1*, p. 10-11, December 2000.

2000 to 61,374 in 2025. An adequate industrial lands base will be needed to support this increase in employment.

The Juniper Ridge UGB expansion is being proposed for the purpose of making more land available for industrial development. The Juniper Ridge site is not being brought into the UGB in response to a need for additional land for housing. Future employment on this site may lead to an increased demand for housing in the community. Although the Bend Area General Plan is currently in compliance with Statewide Planning Goal 10, an update of the buildable lands inventory for housing is scheduled to be carried out in 2004. That inventory update may find that further adjustment of the General Plan is needed to ensure adequate land areas for long-term housing and overall livability.

The findings of the Economic Lands Study (updated with more recent data) as discussed above under Goal 9 findings, support the inclusion of the proposed 513 acres of Juniper Ridge within the UGB to provide for future industrial employment opportunities. Including this site within the UGB will help to diversify the community's and the state's economy and provide land for future family-wage jobs typically associated with manufacturing, research and development, and the trades.

CONCLUSION. There is a clear and demonstrated need for more land for industrial development within Bend's UGB to ensure long-term employment opportunities and overall community livability. Inclusion of the Juniper Ridge site within the UGB will help meet this need.

FACTOR #3 – Orderly And Economic Provision For Public Facilities And Services

Water Service

Domestic and fire-flow water for this site will be provided by either the City of Bend municipal water system, or by the Avion Water Company. Avion is a franchise domestic water provider within the urban area. The city has extended a 12-inch water main to the intersection of Boyd Acres Road and Cooley Road, ¼ mile west of the Juniper Ridge site. In addition to the city water main, Avion Water Company has a 12-inch line in NE 18th about 300 feet from the site. These water lines are large enough to serve the area planned for industrial development and any irrigation needs of the open space areas that would be included as part of any industrial campus designs for this site.

CONCLUSION. The existing large water lines adjacent to this site will allow for the orderly and economic extension of adequate water service to Juniper Ridge. The size of water mains adjacent to the site will provide adequate water needed to support industrial development. Serving these sites with water to support urban level development will not adversely affect the ability of the City of Bend or the Avion Water Company to serve other areas within the UGB.

Sewer Service

A four-inch city pressure sewer line serves Sky View Middle School directly across Cooley Road from this site. In addition, Bend's *Utilities System Master Plan*, adopted in 1992, plans for a 24 to 27-inch "North UGB" gravity sewer line to run through this property. The North UGB sewer line is a major trunk line that will provide service to all of the north UGB area. Routing this line through the Juniper Ridge site is necessary to maintain a gravity flow line into the city's main sewer interceptor line that goes northeast out of town to the wastewater treatment plant. This large sewer trunk line will provide service for this site. The route for the North UGB sewer line has been surveyed through the site.

The City has a separate sewer system fund and constructs sewer system improvements based on the *Utilities System Master Plan* and its 5-year capital improvement program. The large sewer trunk line through the Juniper Ridge site is a major facility identified in the *Utilities System Master Plan* and therefore can be paid for by system development charges. If this site should be developed before the North UGB gravity line is built or if there is a policy change regarding large gravity lines, the Juniper Ridge site can be served by pressure sewer facilities that pump to the Lava Ridge pressure line or to the "Yeoman" sewer interceptor to the east.

CONCLUSION. The City's *Utilities System Master Plan* covers the Juniper Ridge site. It has identified the sewer facilities that are needed to allow this site to develop for industrial uses. The provision of service to this site will not adversely affect the City's ability to serve other areas within the existing UGB. All existing industrial areas already inside the UGB have sewer service.

Storm Sewer

Because there is relatively little precipitation in Central Oregon there is no system of small creeks or streams within Bend in which to discharge storm waters. The only existing storm sewer system in Bend is an old one that serves the area around downtown and drains into the Deschutes River, far from the Juniper Ridge site. There is no public or private off-site storm sewer system to serve the Juniper Ridge area.

Bend's planning and engineering standards require that all storm drainage outside the existing storm sewer system be retained on site through the use of catch basins and dry wells, drainage swales, or retention ponds. These standards will apply to any development of roads and building sites in Juniper Ridge.

CONCLUSION. There is no storm water system to be extended into Juniper Ridge. Development taking place within this site would be required to retain storm water run-off on-site using a city-approved system.

Transportation System

The Juniper Ridge site is located one-half mile east of Highway 97, with direct access to Cooley Road, an urban minor arterial, at the south edge, and NE 18th Street, an urban minor arterial street that currently dead ends at the edge of the Juniper Ridge site. The location of this site at the north end of the urban area will provide good access to serve industrial truck traffic from the Portland metropolitan area and the Willamette Valley. The Juniper Ridge site also has the advantage of potential access to the Burlington Northern – Santa Fe rail line that runs through the corner of the property. Access to a rail line can benefit large site industrial users by providing rail service as an alternative to truck service and as a regional freight distribution center.

In the near term, new industrial uses in Juniper Ridge will make primary use of Cooley Rd. to connect with Hwy. 97 and points north and south. As a minor arterial, Cooley Rd. is intended to accommodate traffic volumes that would be generated by initial phases of development in Juniper Ridge. However, as discussed above under Goal 12 findings, the existing intersection of Cooley Rd./Hwy. 97 is near capacity, and will need to be upgraded to a full access interchange in order to accommodate larger-scale or longer-term development in Juniper Ridge. A recently adopted amendment to Bend's TSP (City File No. PZ 03-658) adds this new interchange project to the TSP's list of intersection improvement priorities, designating the improvement for construction in the next five years.

As discussed above, under findings relating to Goal 12, the Oregon Transportation Planning Rule (OAR 660-012-0060), requires that any comprehensive plan amendment that significantly affects a transportation facility ensure that allowed land uses will be consistent with the function, capacity, and performance standards of those transportation facilities. One way of doing this is by limiting allowed uses in the area affected by the amendment. The city will limit the allowed uses within Juniper Ridge by requiring specific development proposals on the Juniper Ridge site to determine the extent of impacts to transportation facilities in the vicinity and propose measures to preserve the function, capacity, and performance of affected facilities (see Transportation System Plan Policy 6.9.6 [6], and Zoning Ordinance Sec. 10.10.23[8]). Development proposals that cannot provide needed improvements to transportation facilities will not be permitted until the needed improvements can be made.

CONCLUSION. The acts of adding 513 acres of the Juniper Ridge area into the UGB, applying an Industrial Light General Plan designation, and applying an Industrial Light zoning designation to that site will not create levels of travel that would adversely affect the operation or functional classification of the transportation facilities serving this area. New industrial development activity on the Juniper Ridge site will have impacts to transportation facilities. These impacts will be carefully analyzed, and needed improvements will be identified and constructed in connection with new development activity. (See related findings in response to Statewide Planning Goal 12.)

Fire Protection
The Juniper Ridge site is currently within Rural Fire District No. 2. The District contracts with the City for fire protection, so areas outside the UGB that are within the Rural Fire District No. 2 boundaries have essentially the same fire protection as property within the city limits.

The City's new North Fire Station on Highway 20 is about two miles from the Juniper Ridge site, with access via urban arterials or state highways. In addition to the new fire station, there is an existing east-side fire station on Neff Road that is about five miles from the Juniper Ridge site.

Existing water lines in Cooley Road and NE 18th can be easily extended to serve this site. These water lines can provide sufficient flows for fire protection for development in this area. The extension of City of Bend or Avion water system lines and installation of the fire hydrants will provide adequate fire protection for new industrial development in this area.

CONCLUSION. The large water lines adjacent to Juniper Ridge will provide adequate water for domestic use and fire protection. The close proximity of existing water lines to the site allows for an orderly and efficient extension of both water facilities and fire protection services.

Police Protection
The Juniper Ridge site is currently within the jurisdiction of the Deschutes County Sheriff's office. Upon annexation to the UGB police protection will be provided by Bend Police Department. The Bend Police Department currently has a staff of approximately 100 who serve and protect the urban area. The city will be able to provide professional police services to this future industrial area without jeopardizing its current level of service to the city.

CONCLUSION: City police services are adequate for the Juniper Ridge site. Inclusion of this site within the UGB and subsequent industrial development will not have a significant impact on the provision of police services in this area.

Schools
The proposed IL zoning of this site is intended to accommodate primarily new industrial development. The IL zone does not permit new housing, except for a caretaker's residence. Therefore, there will be no direct impact to provision of public school services. In 2000 the Bend La Pine School District initiated a multi-agency *Sites and Facilities 2000* committee to evaluate the need for new schools to serve the district population. The Juniper Ridge site was not identified in that study as an area in which the school district is looking to build new schools.

There are two public schools located across Cooley Rd. from this site, Lava Ridge Elementary School and Sky View Middle School. These schools may be affected by increased traffic volumes

on both Cooley Rd. and 18th St. as development occurs. As discussed above, any future development proposal on the Juniper Ridge site will need to be accompanied by a traffic impact study which will identify potential impacts and propose measures to mitigate those impacts. In addition, the City of Bend is in the process of creating a site development plan for the Juniper Ridge industrial site. This planning project will include consideration of potential impacts to these schools in designing the site plan.

CONCLUSION: Inclusion of the Juniper Ridge site within the UGB and subsequent industrial development will not have an identifiable impact on the provision of public educational services in this area. Potential impacts to Lava Ridge Elementary School and Sky View Middle School will be evaluated prior to development of the Juniper Ridge site.

FACTOR #4 – Maximum Efficiency Of Land Uses Within And On The Fringe Of The Existing Urban Area.

Part Two of the Economic Lands Study, titled *Part 2: Meeting Forecast Needs*, evaluated several planning and zoning tools to be considered for providing efficient land use within and on the fringe of the urban area. In addition to planning and zoning tools to use land more efficiently, a number of alternative sites inside and outside the UGB were considered as possible sites to meet the forecast need for more industrial land. Each site was carefully evaluated against the requirements of the Statewide Planning Goals. Based on this evaluation, the City determined that the Hunnell Road and the Juniper Ridge sites, both just north of the UGB, are needed to meet Bend's long-term economic development objectives. Both sites are adjacent to the UGB, and will provide for logical, efficient, and continuous development of the urban area. Given the characteristics of these sites, and their evaluation for urban industrial uses, as documented in Part Two of the Economic Lands study, annexation and development on either site cannot be considered "urban sprawl" or "leap-frog" development.

Site Configuration and Development Potential

The Juniper Ridge site proposed for inclusion in the UGB is contiguous with the current UGB for a distance of .75 miles on the west, and .25 miles on the south. Pilot Butte canal runs from south to north through this City-owned property, and forms a logical topographic boundary at the east edge of the expansion area. With the north boundary of the expansion area being formed by the north line of Section 10, the overall shape of the Juniper Ridge site is generally rectangular. This configuration, along with the total size of the site, will allow for maximum efficiency of future industrial uses. A number of significant rock outcroppings and other geographical constraints have already been identified within the site, in the 1992 planning work done by the Mitchell Nelson Group[9]. The size and configuration of this site will allow for future streets and utilities to be installed in a manner that minimizes disturbance of these areas, while providing for maximum utilization of flatter portions of the site for industrial and supportive

[9] Industrial Land Analysis and Industrial Area Master Plan; Mitchell, Nelson Wellborn Reimann Partnership, Portland Oregon, August 1, 1992.

uses.

Lack of Large Sites

The inventory of buildable industrial land prepared for the ELS shows that the larger privately-owned industrial parcels already inside the Bend UGB are being subdivided at a rapid rate into smaller parcels to meet near-term market demands.[10] When the inventory was initially conducted in 1999 there were only seven industrial parcels within the UGB that were ten acres or more in area. Since the 1999 inventory was prepared, several more of these sites have been subdivided into small lots. It is now estimated that there are only five parcels inside the UGB, zoned for industrial use, that are ten acres or larger in size.

The Bend Chamber of Commerce, industrial land realtors, and local economic development groups have pressed upon the city the need to have larger parcels available to meet future large site users. With few large sites in the local industrial land inventory the city is extremely limited in its ability to retain local firms that need to expand or to attract new firms that need larger sites. Within the last three years, EDCO (Economic Development for Central Oregon) estimates that its staff has been contacted by an average of 10-12 industrial firms per year expressing interest in locating in the Bend area, but requiring sites larger than 10 acres.[11] The lack of suitable, large-lot industrial parcels has caused these firms to look in other communities for sites that meet their needs. EDCO staff also reports that there is an on-going risk of losing existing Bend-area businesses that may need large-lot industrial sites to accommodate expansions.

The need for larger parcels as a component of a city's industrial lands inventory has also been identified by other Oregon communities. For example, in a 2002 study Metro forecasted demand for industrial parcels of all sizes in the Portland metro area over a 20-year period.[12] During that forecast period, Metro estimates that of the total acreage demand for industrial land, approximately 40% will be for parcels that are from 10 acres to over 100 acres in size.[13] Approximately 20% of the total acreage demand will be for parcels over 25 acres in size.[14] While the scale of Bend's demand for vacant industrial land is obviously smaller than that of the Portland metro area, it is just as much in Bend's interest to have a meaningful portion of its industrial lands inventory in large parcels. Following is a summary statement from the same Metro report on the importance to the local economy of accommodating larger employers needing larger parcels:

> Large lot industrial need plays a unique role in this region as a catalyst or multiplier that produces second- and third- order economic growth. Large employers,

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[10] See Appendix A to the city's *Economic Lands Study, Part 1: Trends, Inventory, and Forecast*, December 2000.
[11] Telephone interview, Roger Lee, Director, Economic Development for Central Oregon, December 10, 2003.
[12] 2002-2022 Urban Growth Report: An Employment Land Need Analysis; Metro, Portland, Oregon; August, 2002.
[13] Ibid., p. 23.
[14] Ibid.

> obviously, hire many workers and also produce enormous direct wealth-effects. In addition, second order effects of large employers attract subsidiary growth known as indirect job creation. This effect attracts suppliers, wholesalers and other related up and downstream manufacturers. The third-order effect, known as induced income effect, are multiplier effects created from employed workers who go about their daily lives of buying and consuming everything from food, clothing, shelter and entertainment. Thus there are significant impacts derived from the multiplier effect of large manufacturers.[15]

Because there are no identified sites within the UGB that meet Bend's siting criteria (as documented in Part 2 of the ELS) for additional industrial land, and due to the need for a large industrial area, UGB expansion is necessary. Efficiency of land use will be well-served by approving this UGB amendment for land that abuts the existing city limits, can connect with existing urban infrastructure, and which will be efficiently developed according to a master plan.

The Juniper Ridge site is an area where large lot sizes can be assured because of its ownership by the City of Bend, and the commitment by the city to hold part of the site for large lot users by applying a large minimum lot size. Draft General Plan policies to be adopted as part of this action (Exhibit D) will require that at least 30% of the Juniper Ridge site's net buildable area be allocated to creation of industrial sites at least ten acres in size. Because of numerous rock outcroppings on the site, the area with the fewest outcroppings and the flattest ground needed for larger lots appears to be in the center and northeast part of the area proposed to be brought into the UGB.

This area provides the most efficient location for new industrial development providing access to rail, not readily available elsewhere; providing close access to the Redmond Regional Airport; and providing good ties to the regional highway system. This is one of two sites that will provide the community the opportunity to assure that large industrial sites are available for the community. Because Juniper Ridge is City-owned, and as directed by the draft policy included in Exhibit D, there is assurance that large industrial parcels created on this site will remain large.

CONCLUSION. The goal of "maximum efficiency of land use" will be well served through this UGB expansion. The Juniper Ridge site capitalizes on major public and private investments that have already been made in water, sewer, roads, and fire protection measures to serve the growing north end of Bend. This site also has attributes that make it well suited for creation of large-lot industrial sites.

FACTOR #5 – Environmental, Energy, Economic And Social Consequences.
The ESEE consequences of converting rural land to urban industrial use are described in the following sections. Some of this evaluation is subjective as there are few clear, measurable

[15] Ibid. p. 25.

standards by which to measure the positive and negative effects of development.

Environmental Consequences

According to information provided to the City by the Oregon Department of Fish and Wildlife[16] as part of the Goal 5 periodic review work task, the Juniper Ridge site is not in a designated deer or elk winter range area, or in a big game habitat area. No known critical habitat or nesting areas for threatened, endangered, or sensitive species has been identified on this site.

The Bend Urban Area is in attainment for state and federal air quality standards. Adding the 513 gross acres of Juniper Ridge into the UGB will not cause the area to exceed existing air quality standards. With the changing national and regional economy, the older resource-based "smokestack" industrial firms that might pose a potential threat to air quality are unlikely to develop on Juniper Ridge, or elsewhere in Bend.[17] More efficient manufacturing businesses and high-technology firms are replacing these types of companies, and these are the types of firms likely to locate in Juniper Ridge. In addition, any firm that has manufacturing by-products that may be considered hazardous or to affect the quality of air would be regulated by the Oregon Department of Environmental Quality.

The City is in compliance with applicable state and federal water quality standards. Use of setback buffers or other means can protect the COI irrigation canal that runs through this site. Similarly, building setbacks and buffers along the canal can be used to control any potential adverse water quality impacts to the irrigation canal during construction and operation of industrial developments. Nothing is expected to develop on the Juniper Ridge site that would adversely affect water quality in the community.

The city's sewerage treatment plan complies with DEQ rules and regulations. The City maintains and enforces an ordinance that requires the pretreatment of industrial wastes before they are discharged into the sanitary sewer system. This addition of some 338 net industrial acres to the UGB will not cause the city to violate its sewage treatment standards and agreements.

The Juniper Ridge site is not listed on any adopted natural resource inventory. An analysis of the Juniper Ridge site by Fishman Environmental Services in 1991[18] did not identify any threatened or endangered species within this site. The Juniper Ridge site is not within areas mapped by ODFW as deer, elk, or antelope winter range. In addition, this site is not listed as a significant resource on

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16 Letter and map from Steven George, ODFW Deschutes District Wildlife Biologist, September 22, 2000

17 For more information on this point see section 3.3 *in Economic Lands Study Part 1 – Trends, Inventory and Forecast.*

18 See *Economic Lands Study, Part 3: Alternative Site Analysis and UGB Expansion*, December 2000, Exhibit D.

any adopted Goal 5 natural resource inventory.[19]

The landscape at the site is varied with many lava pressure ridges, outcroppings, and the Pilot Butte Canal. The Pilot Butte Canal is a seasonal canal that has no associated riparian or wetland habitat areas. The Fishman inventory identifies several native plant communities associated with rock outcroppings on the west side of the Pilot Butte Canal. Although not significant under state or federal law, these plant communities can be more precisely located and incorporated into the master planning that will take place for the Juniper Ridge industrial site.

Social Consequences:
Bringing these 513 gross acres into the UGB will be the first step in converting under-used vacant land to industrial uses and related, supportive uses. By providing land for future industrial uses, the city will encourage the creation of jobs that generally pay more than most retail and service jobs. Higher household wages will have a positive social consequence by maintaining or improving living standards, and by increasing disposable income for goods and services including health care services.

Conversion of these lands to industrial use may also introduce activity, noise and light impacts to an area that has minimal or no existing development. One-half mile west of Juniper Ridge, however, intensive commercial development is already within a short distance of the neighborhoods and rural residential uses to the west and south of this site. These existing commercial uses – motels, gas stations, big box retailers and golf driving range with night-lights – already have generated impacts to the nearby areas.

Although the Juniper Ridge site is in an undeveloped natural condition, it is not fenced and is often used by area residents for dog walking, jogging and similar passive recreation activities. It is anticipated that a future master plan for the Juniper Ridge site will include walking trails and open space that will be open to the public.

One potential social consequence of developing the Juniper Ridge site will be adding new development near existing residential areas and the loss of open space. At the Juniper Ridge site, any future master plan for development will include open space areas to assure compatibility with adjacent urban and suburban residential property. When ownership of Juniper Ridge was conveyed to the City by Deschutes County in 1990, a condition of this conveyance called for reserving undeveloped land on the site. This condition was updated by action of the Deschutes County Board of Commissioners on December 17, 2003 (County Order No. 2003-119). The county's updated order specifies that at least 10% of total site area must be reserved for public park and/or open space uses. By maintaining wide natural buffer areas and placing development away from urban residential areas the city will mitigate the impacts of activity, noise and light on adjacent areas.

---

[19] See *Economic Lands Study, Part 3: Alternative Site Analysis and UGB Expansion*, December 2000, Exhibit C.

In addition to natural buffers, various city codes regulate the placement of lights, parking and maneuvering areas, and site screening as necessary to reduce impacts between different land uses.

As noted above, future development of the Juniper Ridge site will increase traffic on Cooley Road and NE 18th Street, both minor arterial streets. As discussed above, detailed analyses of the extent of impacts to these and other transportation facilities will be carried out prior to permitting industrial development on the Juniper Ridge site. It is anticipated that a variety of improvements will be necessary to ensure safe vehicle and pedestrian traffic in the vicinity as development occurs.

At present, Juniper Ridge is unofficially used as a site for rifle and pistol target practice and speed shooting at the expense of innocent appliances, junipers, and small wildlife. The development of this site will terminate these activities and force people using Juniper Ridge for such uses to find new sites. Persons needing to find new sites for weapon use may face a social consequence of added stress to find a new site, and added energy and economic consequences of driving further out of the urban area. There will be less stress on residents living next to Juniper Ridge with the termination of target practice and other gunplay when Juniper Ridge is developed.

Economic consequences:
By adding Juniper Ridge to the inventory of vacant, urban industrial land, Bend will increase the supply of land to provide needed jobs and economic development opportunities during the planning period. Industrial sector and wholesale trade jobs generally have higher salaries than retail and many service jobs, and these jobs will help maintain income levels.

The act of amending the UGB to include more land for industrial development will result in positive economic consequences for Bend as it meets the need for industrial sites in the changing industrial development market. Based on an average of 12 industrial employees per acre, this site has the potential to accommodate more than 4,000 industrial sector jobs. Equally important, the size of the Juniper Ridge UGB expansion presents the opportunity for creation of desperately needed large and very large industrial development sites (i.e. over 25 acres).

The Juniper Ridge site has never been farmed nor used for grazing. It has no water rights. There is no economic loss of agricultural products or revenue from the use of this site for industrial development.

Energy Consequences:
The Juniper Ridge site is located near two major state highways, Highway 97 and Highway 20. The proximity of these highways and the Bend Parkway will allow more direct and energy efficient access to this site. Juniper Ridge and the Hunnell Rd. site, west of Hwy. 97, offer the most direct access to regional transportation facilities of any of the alternative sites evaluated for meeting Bend's need for at least a 20-year supply of industrial land.

In addition, these sites at the north end of town provide more direct and energy efficient access for truck traffic to and from the Willamette Valley, Redmond and the Portland area. Trucks serving firms in these two areas and will not have to drive into the middle of the urban area where there is more traffic congestion that could lower truck speeds and increased idling time.

Future industrial development in the Juniper Ridge site can also benefit from close proximity to supportive commercial services along Highway 97 and Highway 20. This site is well connected to the local arterial street system that provides energy efficient travel for employees and other service providers.

CONCLUSION. Inclusion of the Juniper Ridge site within the Bend UGB will have insignificant environmental impacts that can be mitigated through appropriate site planning and/or compliance with DEQ regulations. Any development in the area to be annexed will have no significant adverse energy consequences. By adding land for manufacturing, research and development, and other industrial businesses the community will be able to add jobs to keep pace with expected population growth. New industrial jobs in this area will provide a positive economic impact and positive social consequences by providing better paying jobs. Impacts to adjacent areas can be mitigated through setback buffers and city development codes.

FACTOR #6 – Retention Of Agricultural Land As Defined, With Class I Being The Highest Priority For Retention And Class VI The Lowest Priority.

The Juniper Ridge site was transferred from BLM ownership to Deschutes County in 1983. The county transferred title to the land to the City of Bend in 1990.

The Juniper Ridge site is undeveloped land without any dwellings or improvements such as fencing or irrigation ponds. The predominant vegetation types are junipers, bitterbrush, sagebrush and bunchgrass. The terrain is broken with many lava outcropping and pressure ridges of five to twenty feet in height.

There are two soil types at the Juniper Ridge site. The Gosney-Rock Outcrop-Deskamp soil complex covers about 90 percent of the area to be brought into the UGB. The Deskamp-Gosney complex covers about 5 percent of the site in the southwest corner of the site.

The Gosney-Rock Outcrop-Deskamp soil group (SCS #58C) is characterized by shallow, very stony loam sand soils over basalt bedrock with slopes of 0 – 12 percent. Within the soil group, the Gosney component makes up about 50 percent of the land, the Rock Outcrop component covers 25 percent of the area, and the Deskamp part makes up about 20 percent.

Because of the shallow well-drained soil and rock outcroppings, the major agricultural use for the Gosney-Outcrop-Deskamp soil is grazing. The Juniper Ridge site has never been actively farmed, and BLM records indicate that there has never been any grazing in the area to be added to the UGB.

The Gosney-Rock Outcrop-Deskamp soil complex has a SCS Class VIIs and VIIIs capability rating without irrigation.[20] These agricultural capability ratings are the least productive agricultural soils and do not meet the definition of "Agricultural Land" in Goal 3. If irrigated, the SCS classification becomes IVs, which meets the definition of agricultural land. However, the site does not have irrigation water rights. Even if water rights were to be secured for this site, the rock outcroppings and topography do not make it feasible to set up and move irrigation pipes for pasture. The high cost of clearing the rocky terrain makes hay production infeasible. Given these topographic and geologic constraints, the site cannot be productively farmed as a unit or in conjunction with another farming operation. The fact that the site has never been farmed supports this conclusion.[21]

The other soil type at Juniper Ridge is the Deskamp-Gosney soil complex (SCS #38B). This soil type is similar to the Gosney-Rock Outcrop-Deskamp soil, but has fewer rock outcrops and is less steep. Major agricultural uses are livestock grazing and irrigated cropland. This soil complex has a Class VIe rating without irrigation, and a Class IIIe with irrigation. Management limitations with this soil are shallow soil depth, rapid permeability, and loss of unprotected soil due to wind erosion. The small number of acres of this slightly better but still poor soil (approximately 20 acres), and the fact that it is completely surrounded either by urbanized land or the remainder of the site with the Gosney-Rock Outcrop-Deskamp soil group makes it impracticable to farm as a unit, or in conjunction with another farming unit. Again, the lack of any farming history on the site supports this conclusion.

Although Juniper Ridge has never been used for agricultural purposes, the conversion of 513 acres to urban use requires an exception to Goal 3, the agricultural lands goal. Additional material on the Goal 3 exception is provided below.

CONCLUSION. The portion of Juniper Ridge to be brought into the UGB and annexed into the city for future industrial development does not have prime or high priority soil types that support significant agricultural production. The soils in this area do not meet the definition of agricultural soils or are poor quality agricultural resource lands. Conversion of these lands from vacant rural land to industrial land will not affect the agricultural activities or revenues in Deschutes County.

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[20] See General Soil Map with Soil Interpretations for Land Use Planning, Deschutes County, Oregon, Soil Conservation Service - US Department of Agriculture, 1973 (m7-L-22770). Gosney-Rock Outcrop-Deskamp (58C) is the predominant soil type on the site.

21 See letter from Michael Bauer, Deschutes County extension service agent, May 11, 1992, attached as Exhibit B to Part 3 of the Economic Lands Study.

FACTOR #7 – Compatibility Of The Proposed Urban Uses With Nearby Agricultural Activities.

To the west of the Juniper Ridge site is the Bend UGB with existing or planned urban residential uses. There are no agricultural activities or uses to the west of the site. On the south side of the site there are two public schools inside the city limits and rural residential development with 2 ½ acre minimum lot sizes. There are no nearby agricultural activities to the south of this site.

The Pilot Butte Canal defines the eastern boundary of the Juniper Ridge annexation site. On the other side, further east of the canal, is another ¼ to ½ mile of city-owned land that was transferred to the city from the county. This land is unimproved and not used for any agricultural purposes. This City-owned land has the same Gosney-Rock Outcrop-Deskamp soil type that is not suitable for grazing or farming, so it is unlikely that agricultural uses would develop in this area in the future. This additional city land east of the canal provides an effective 1,300 to 2,600 foot wide buffer between the future urban industrial uses anticipated for Juniper Ridge and the smaller properties along Deschutes Market Road.

The northern boundary of the site abuts property that is also under city ownership, and composed of Class VIIs soils that are not irrigated or farmed. Since there is little prospect that future farming or grazing will occur on the site in the absence of irrigation, there would be no adverse impacts resulting from conversion of the site from rural to urban industrial use.

CONCLUSION. The conversion of the Juniper Ridge site to urban use will not have an adverse impact on any actively farmed agricultural land. There are no "nearby" agricultural activities, and the combination of urban level development, rural residential uses or adjacent open space around each site will ensure compatibility with even distant agricultural activities. There is no evidence to suggest that there will be any adverse impact on agricultural operations from including this land within the UGB. The County's EFUAL zone will remain in effect on the remainder of the City-owned acreage to the north of the Juniper Ridge site.

ORS 197.298

ORS 197.298 establishes a priority ranking for land that is to be brought into an urban growth boundary. Under section (1) of the law, the first priority is land that is designated as an urban reserve area. The next priority is for areas in which the county has already taken an exception to the resource land goals, or for resource land that is completely surrounded by exception areas. The third priority is for land that has marginal resource value, and the last priority for land to be brought into the UGB is for land designated for agriculture or forestry.

The law also explains how land of a lower priority (i.e. land of second, third, or fourth priority) can be considered over higher priority land. ORS 197.298(3) states:

> *Land of lower priority under subsection (1) of this section may be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land estimated in subsection (1) of this section for one or more of the following reasons:*
>
> *(a) Specific types of identified land needs cannot be reasonably accommodated in higher priority lands,*
>
> *(b) Future urban services could not reasonably be provided to the higher priority due to topographical or other physical constraints, or*
>
> *(c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion of lower priority lands in order to include or to provide services to high priority lands.*

FINDINGS: The Juniper Ridge site is designated as agricultural resource land in the Deschutes County Comprehensive Plan. By simple application of the statutory priorities, this area is classified as "fourth" priority land to be considered for bringing into the urban area. However, for reasons described below, the Juniper Ridge site has many of the attributes of higher priority land.

First, this site is not, by definition in Goal 3, agricultural resource land because the soils have a Class VII and VIII agricultural capability ratings. Further, as discussed above under Goal 3 and Factor #6 findings, this site has no irrigation rights, has never been farmed or even used as grazing land, and is impracticable as a farming unit or in combination with another farming operation.

Second, this site is part of a larger contiguous area owned by the city, an area of more than 1,500 acres that runs north from Cooley Road almost to Deschutes Junction. In essence, the Juniper Ridge UGB expansion site is surrounded by non-agricultural uses. The Bend urban area abuts this site on the west, and the urban area or urban reserve lands abut the site on the south. To the north and east of the UGB expansion site is adjoining city-owned land with the same Class VII and VIII Gosney-Rock Outcrop-Deskamp soils. The city-owned land is unimproved and not part of a larger agricultural unit.

Third, as discussed in Part Two of the Economic Lands Study, other alternative sites evaluated in the urban reserve area (first priority land) did not meet one or more of the specific requirements for additional industrial land. Other higher priority land sites cannot provide the large lot industrial user sites that are planned for part of the Juniper Ridge site due to combinations of parcel size, access to public facilities, impacts to adjacent uses, or other deficiencies.

Fourth, except for the Hunnell Rd. site, no other higher priority site in an urban reserve or exception area can meet all of the industrial land needs identified in the ELS. Except for the Hunnell Rd. site, no other site has the combination of large size, direct access to urban arterial roads, proximity to major highways, and fewer potential compatibility issues with adjacent uses.

Following are findings in direct response to the priority rankings of ORS 197.298(1):

a) The Juniper Ridge site is not designated as urban reserve land.

b) The Juniper Ridge site is not designated in the Deschutes County comprehensive plan as an exception area or non-resource land. The site is also not completely surrounded by exception areas. However, the west and south boundaries of the site abut either the Bend urban growth boundary or lands that are designated urban reserve on the Bend Area General Plan map. To the east of the Juniper Ridge site, and north of the adjoining City-owned property are parcels designated on the Deschutes County Comprehensive Plan map as Rural Residential Exception Areas.

c) Despite the documented unsuitability of the Juniper Ridge site for farming, it is not designated as marginal land pursuant to ORS 197.247.

d) Despite the documented unsuitability of the Juniper Ridge site for farming, it is designated on the Deschutes County comprehensive plan map as Agriculture.

As noted, ORS 197.298(3) contains provisions that allow lower-priority lands to be included in an urban growth boundary under one of three circumstances. One of these allows for inclusion within the UGB when "specific types of identified land needs cannot be reasonably accommodated on higher priority lands." The specific land need which is the basis of this proposed UGB expansion is Bend's need for future industrial acreage, including large-lot sites, in order to support a healthy local economy and meet requirements of Goal 9. Part 1 of the Economic Lands Study documents the need for additional land for future industrial development. The ELS also identifies a specific need for large-lot industrial sites; supplemental findings contained in this burden of proof further support that need.

Part 2 of the ELS contains an analysis demonstrating that only two sites will meet this specific land need: the Juniper Ridge site and the Hunnell Rd. site. That analysis identified 14 sites within and around the perimeter of the UGB as potentially meeting the specific need for additional industrial acreage and large-lot industrial sites. The industrial site evaluation criteria applied to these sites were as follows:

- Direct access to a local arterial or collector street;
- Proximity to state highway system;

- Proximity to adequate municipal or private water;
- Proximity to adequate municipal or private sewer;
- Vacant or under-developed land with one or more owners, and minimum parcel sizes of 10 acres;
- Proximity to Urban Growth Boundary;
- Proximity to existing or planned industrial or commercial areas;
- Public or private ownership;
- Other mitigating factors, or qualitative conditions.

Five of the 14 candidate sites were located within the UGB. Zone changes would be required to make any of them available for industrial use. One of these sites (Site E) is owned by Deschutes County and designated "Public Special District" on the General Plan map. As documented in the evaluation, it is a former landfill site, unsuitable for industrial development. The other four sites inside the UGB are currently zoned for residential use. Re-zoning any of these for industrial use would remove them from the City's buildable lands inventory for housing. Since Bend's current comprehensive plan was adopted in 1998, the city's population growth has been much faster than was forecast. (The July 1, 2003 population estimate of 62,900 is only slightly less than the 63,591 that was forecast for the year 2015.) With this rapid population growth, there has been a corresponding acceleration in the rate at which buildable lands for housing have been developed to meet that growth. Although the city's inventory of buildable lands for housing has not been updated since 1998, there is serious doubt that the 20-year land supply for housing required under Goal 10 exists inside the UGB at present. Re-zoning any residential lands for industrial use would only exacerbate this problem and likely result in non-compliance with Goal 10.

Of the nine candidate sites lying outside the UGB, only the Juniper Ridge and Hunnell Rd. sites have the combination of attributes required to meet Bend's specific need for land that is not only suitable for industrial use, but that can also be preserved in large-lot sites[22]. While many of the other candidate sites have one or more of these attributes, no other sites have the combination of direct access to major streets, a major state highway, access to public facilities, ownership patterns, sufficient land area, and physical characteristics to buffer new uses from potentially incompatible adjacent uses.

CONCLUSION. Although the Juniper Ridge site must be technically considered as a fourth priority site under ORS 197.298, Bend's specific need for additional, suitable industrial land where larger lots can also be created and preserved can only be met by two sites. One of these is the Juniper Ridge site.

Exceptions Under Oregon Statewide Planning Goal 2 (OAR 660-0040-0010)

[22] Economic Lands Study, Part 2, Appendix A.

A governing body proposing to change the Urban Growth Boundary must address the requirements as set forth in the Land Use Planning Goal 2 for goal exceptions. Goal 2 is implemented by OAR 660-0040-0010 for boundary changes. OAR 660-004-0010(1)(c)(B) provides:

When a local government changes an established urban growth boundary it shall follow the procedures and requirements set forth in Goal 2 'Land Use Planning', Part II, exceptions....Revised findings and reasons in support of an amendment to an established urban growth boundary shall demonstrate compliance with the seven factors of Goal 14 and demonstrate that the following standards are met:

(i) Reasons justify why the state policy embodied in the applicable goals should not apply (this factor can be satisfied by compliance with the seven factors of Goal 14);

(ii) Areas which do not require a new exception cannot reasonably accommodate the use;

(iii) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(iv) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

These four criteria are repeated and expanded upon in 660-004-0020, Exception Requirements. The following findings address the four standards in Goal 2 and explain how the standards are met by the proposed UGB expansion and annexation of the Juniper Ridge site.

FINDINGS:

Justification why the state policy embodied in the applicable goals should not apply.
The Goal 2 administrative rule at 660-04-0010(1)(c)(B)(i) states that this requirement "...can be satisfied by complying with the seven factors of Goal 14." Findings cited above demonstrate compliance with the seven factors of Goal 14.

CONCLUSION: The city has satisfied this part of the administrative rule by addressing the seven factors of Goal 14.

Areas which do not require a new exception cannot reasonably accommodate the use.
OAR 660-04-0010 specifically requires examination of alternative areas that could potentially accommodate the proposed use. Although site-specific comparisons are not necessarily required, it

must be demonstrated that resource lands are not unnecessarily being converted to urban uses. In other words, this section of Goal 2 requires an explanation of why: (1) the industrial need cannot be met on land that now exists inside the UGB; and (2) industrial need cannot be met in an area that is already committed to non-resource use (i.e. an "exceptions area").

Part Two of the Economic Lands Study considered several zoning techniques that could lead to more efficient industrial land use within the existing UGB and also included an "alternative lands" analysis.[23] In this study the city evaluated 14 sites inside and outside the UGB as possible alternative sites for industrial use. Five of the sites were inside the UGB and nine sites were outside the UGB. Of the nine sites that were outside the UGB, six were within Bend's urban reserve area. These sites are mapped and described in the ELS *Part 2: Meeting Forecast Needs*.

As discussed above, under findings relating to ORS 197.298, all 14 sites were evaluated and scored using nine relevant factors or criteria pertinent to industrial development and the need to provide for large-lot industrial sites. The siting criteria included access to state highways and arterials, parcel size, ownership patterns, adjacent uses and other factors. The two sites that had the highest scores, meaning the only sites having the combination of attributes needed to meet the city's specific need for this type of land, were the Hunnell Road site and the Juniper Ridge site.

Of the five candidate sites located inside the current UGB, four are zoned for residential use. Re-zoning any of these for industrial use would remove them from the City's buildable lands inventory for housing. As discussed above, under findings relating to ORS 197.298, any reduction in the city's existing housing lands inventory would almost certainly lead to conflicts with requirements of Goal 10 to maintain an adequate supply of land to meet the city's current and forecast housing needs. The fifth candidate site located inside the UGB (Site E) is designated "Public Special District" on the General Plan Map, and zoned for "Surface Mining." As discussed above, this site is a former landfill and is unsuitable for industrial use due to likely contamination and the potential for settling and below-ground fires.

CONCLUSION: An analysis of alternative sites inside and outside the urban growth boundary was prepared in Part Two of the Economic Lands Study. Other sites that do not require a Goal 2 exception cannot reasonably accommodate Bend's specific need for more industrial land, based on the analysis and findings contained in that document and cited above.

The long term environmental, economic, social and energy consequences.
The following findings demonstrate why inclusion of the Juniper Ridge site within the UGB, with General Plan and zoning designations of Light Industrial, and with measures designed to reduce adverse impacts, would not have significantly more adverse impacts than having the uses located in other exception areas. (See also the findings on ESEE consequences in response to Goal 14, Factor 5, above.)

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23 See *Economic Lands Study Part 2 – Meeting Forecast Needs*, Section 3.

There will be minimal environmental impacts from developing industrial uses at the Juniper Ridge. This site does not have any Goal 5 significant resources. The wildlife species in this area are typical of those within and on the fringe of the urban area. At the Juniper Ridge site, open space buffer areas and basalt rock outcroppings will be integrated into a master plan for industrial development, and will allow for preservation of native plant species and small animal habitat that could not be assured at other alternative sites.

The *Part 2: Meeting Forecast Needs* portion of the Economic Lands Study evaluated fourteen alternative sites for meeting future industrial land needs, nine of which are in areas that would require an exception. All the sites were evaluated using the same factors such as distance to highways and arterial roads (energy consumption), compatibility with adjacent uses (economic and social impacts), availability and location of public facilities (economic costs), and existing use patterns (social impacts). The Hunnell Road and Juniper Ridge sites scored the highest of the fourteen sites in this evaluation. Although these two sites did not score the highest in all categories, there were no identified measures that would create impacts that were significantly more adverse than would result from development at other exception areas.

Compatibility with other adjacent uses.

Under this criterion the city must describe how the proposed uses are compatible with other adjacent uses, or will be so rendered through measures designed to reduce adverse impacts. The administrative rule explains that "compatible" is not an absolute term meaning no interference or adverse impacts of any kind with adjacent uses.

Potential impacts to nearby agricultural activities resulting from converting the Juniper Ridge site to urban industrial uses are minimized by the site's being at least a quarter mile from the nearest farm or agricultural operations. In addition, the land between the existing agricultural areas and the Juniper Ridge site is undeveloped land owned by the city. In any case, industrial uses and facilities are typically not incompatible with nearby agricultural activities.

Abutting the Juniper Ridge site there are residential uses to the west and south. By incorporating open space buffers around these two sides of the site, future industrial developers can reduce the impacts of development on existing residential areas. In calculating the estimated net, buildable acreage of the total 513-acre UGB expansion, it was expected that at least 50 acres of the total site area would be un-buildable due to the need to provide for this perimeter open space buffering. As noted above, in findings relating to Factor 5 of Goal 14, a Deschutes County order relating to the Juniper Ridge site specifies that at least 10% of total site area must be reserved for public park and/or open space uses. By maintaining wide natural buffer areas and placing development away from urban residential areas the city will mitigate the impacts of activity, noise and light on adjacent areas. In addition to natural buffers, various city codes regulate the placement of lights, parking and maneuvering areas, and site screening as necessary to reduce impacts between different land uses.

One of the common impacts to residential areas from adjacent commercial or industrial development is additional vehicle traffic through the residential area, especially truck traffic, resulting from new development. As discussed above, in findings relating to Goal 12, the main access route to and from the site for industrial traffic over the near term will be Cooley Road. Some traffic may also make use of NE 18th Street, which also provides access to Juniper Ridge. Both of these streets are designated in the Transportation System Plan as urban arterials. There are single family residential uses on either side of Cooley Road between the Juniper Ridge site and Highway 97N. Cooley is not currently built to full urban standards. Both compatibility and safety issues for these streets can be addressed through the modernization of Cooley Road and NE 18th St. to City of Bend urban arterial standards with separated sidewalks, planter strips, and planted median. Upgrading of the Cooley Rd./Hwy. 97 intersection will also be necessary, both to accommodate future development of the site and to enhance compatibility and safety for residents of adjacent neighborhoods. A recent amendment to the TSP includes a proposed new interchange to replace the existing Cooley/Hwy. 97 intersection as a project to be designed, funded, and built in the next five-year period. In addition, as discussed above, any future development on the Juniper Ridge site will require the preparation of detailed traffic impact studies addressing all transportation impacts, and proposing measures to ensure conformance with existing General Plan policies and development standards. These policies and standards will require improvements to substandard transportation facilities in the area as needed to accommodate anticipated increases in traffic volumes, ensure safety, and minimize potential adverse impacts to nearby uses.

Other Applicable Statewide Planning Goals

Goal 5 " Natural Resources"
The city is not proposing an exception to compliance with Goal 5. There are no known significant Goal 5 resources on the Juniper Ridge site. Any Goal 5 resources that might be found during the development of the sites will be evaluated using the standards in the Goal 5 administrative rule.

Goal 6 "Air, Water, and Land Resources Quality"
The city is not proposing an exception to compliance with Goal 6. Maintaining or improving the quality of the community's air, water and land resources will be assured through enforcement of state and local regulations.

Goal 7 "Natural Disasters and Hazards"
The city is not proposing an exception to compliance with Goal 7. There are no areas within the Juniper Ridge site that are subject to flooding or landslide activity. The wildfire hazard for the site is the same as other areas with junipers and native brush to the north and east of Bend. By providing adequate water to meet the fire flow requirements of industrial development the city will reduce the potential wildfire hazard in this area.

Goal 8 "Recreational Needs"
The city is not proposing an exception to compliance with Goal 8. As a side benefit to the industrial development on the Juniper Ridge site the city anticipates including open space areas in the master plan for the site, both for purposes of providing a buffer against adjacent neighborhoods and to allow for potential recreational uses.

Goal 9 "Economy of the State"
The city is not proposing an exception to this Goal. The purpose of the UGB amendment is to comply with this Goal. The administrative rule for economic development planning requires the city to have at least a 20-year supply of land for industrial development. As documented in the three-part Economic Lands Study, supplemented by findings in this burden of proof, the only way the city can achieve conformance with Goal 9 is to include more land within the UGB and zone it for industrial use.

Goal 10 "Housing"
The city is not proposing an exception to compliance with Goal 10. The expansion of the UGB to include the Juniper Ridge site is for the purpose of providing more land for jobs. The most recent housing needs analysis conducted by the city (1995) indicated that there was sufficient residential land within the UGB when the General Plan was adopted to meet the forecast housing needs. There is evidence that this may no longer be the case. However, inclusion of the Juniper Ridge site within the UGB will not result in any reduction of the city's buildable lands inventory for housing. The city will be updating its residential buildable lands inventory in 2004, and may propose additional UGB expansions to meet future housing needs as a result of that update.

Goal 11 "Public Facilities and Services"
The city is not proposing an exception to compliance with Goal 11. The large water lines and sewer service adjacent to both the Hunnell Road site and the Juniper Ridge site will allow for the efficient and cost effective extension of these needed services to these sites. The city has documented that there are adequate public facilities and services adjacent to the Juniper Ridge site to meet the needs of industrial development at the time such development occurs.

Goal 13 "Energy Conservation"
The city is not proposing an exception to Goal 13. The location of Juniper Ridge at the north end of Bend could save energy by reducing truck travel to existing industrial areas in the middle of Bend. Any workers from the north coming to future businesses in these areas would also save energy through shorter commute lengths or more efficient carpooling or public transit.

CONCLUSION:

These proposed amendments of the Bend Area General Plan to expand the Urban Growth Boundary, designate the Juniper Ridge site as "Industrial Light," and make related amendments to the Bend Area General Plan conform with applicable criteria of the General Plan and satisfy applicable requirements of Oregon Statewide Planning Goals, administrative rules, and statutes.

Exhibit A

Juniper Ridge Site

City File No. PZ 03-565 and PZ 04-02

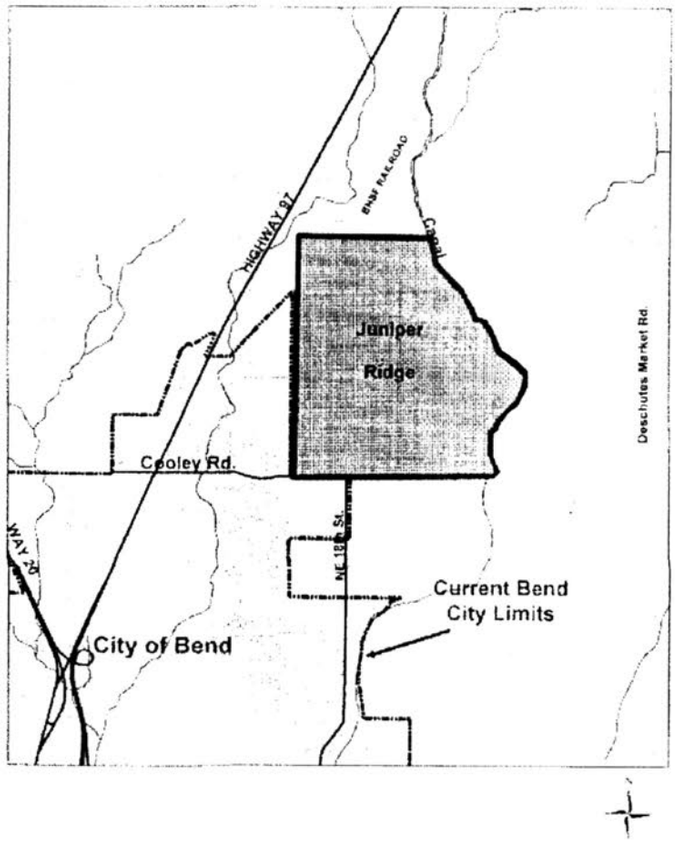




Exhibit B – Part 1

City File No. PZ-03-565

ECONOMIC LANDS STUDY

Part 1 – Trends, Inventory, and Forecast

Community Development

Long Range Planning
December 2000



FINAL REPORT – DECEMBER 2000

ECONOMIC LANDS STUDY
PART 1:
TRENDS, INVENTORY, AND FORECAST

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Appendix A Bend Urban Area Economic Land Inventory

Project Supervision: Deborah McMahon, Community Development Director

Research and Writing: Mike Byers, Principal Planner

This study was originally prepared in August 1999 and updated in December 2000

1. SUMMARY

1.1 Purpose

In 1998, the City Council adopted changes to the Bend Area General Plan that included a forecast of land needed for industrial and commercial development. Because of concerns about the rapid pace of growth, the price of land in Bend, and other factors, the Council felt that an additional evaluation of industrial and commercial land was needed.

The Council directed the City Development Services staff to further evaluate the type and amount of land needed for growth in Bend during the next 20 years. Key issues to evaluate were the changing market conditions, population and labor growth, the supply of industrial and commercial land within the urban area, and the demand or need for land during the 20-year planning period. This study, titled *Part 1: Trends, Inventory and Forecast*, provides a report to the City Council on these issues.

This study is the first of three related studies of Bend's industrial and commercial land needs. The second study, *Part 2: Meeting Forecast Needs*, recommends an approach to provide sufficient commercial and industrial land through a combination of rezoning land and expanding the Urban Growth Boundary. A draft of this study is scheduled to be released in February 2000. The third study, *Part 3: Alternative Site Analysis and UGB Expansion*, will be prepared in early 2001.

1.2 Regional and local trends

For the past 10 years the rate of population increase in Deschutes County and Bend have been among the fastest in the state. Although this rapid pace of growth is not expected to continue as a long-term trend, the county and city population growth is still expected to exceed the state average.

Most of this growth has come from persons moving into the area, and the majority of the new residents are the "baby-boomer" generation and the following generation. The continuing flow of families and individuals into the area will cause a shift in the demographic mix such that the younger generations will make up the largest share of the population.

The number of new jobs created in the three Central Oregon counties – and by assumption in Bend – has increased at a faster rate than the population. In Deschutes County, there are about 45 "wage and salary" jobs for every 100 persons, and this ratio is expected to remain constant through the 20-year planning period. For Bend, this means that about 21,000 new jobs will be created in the urban area during the next 20 years.

Continuing a trend that started in the mid-1980s, about seven out of every ten new jobs will be in the trade and service sectors. The expansion of the trade and service sectors will generate an increasing demand for land suited for retail, office and service uses. Jobs in manufacturing, warehousing, wholesale trade, communications and similar uses will also increase, but at a much slower rate than other jobs. Since job growth will be slower in these fields, the land needs for uses that have historically located in industrial areas will be slower.

1.3 Bend Land Inventory

For almost two decades, the conversion of vacant land to commercial or industrial uses has followed a general pattern of increasing land consumption. However, the actual year-to-year numbers fluctuate up and down, rather than showing a straight linear increase. A review of land use data for the mid 1990s shows that 61 percent of the land was used for retail, office, and services businesses, and 25 percent for manufacturing and warehouses/shipping uses.

In May and June of 1999 the city staff updated the inventory of developed and buildable industrial, commercial, and mixed use zoned lands within the Bend Urban Growth Boundary (UGB). Almost 59 percent of the land planned for economic growth has been developed. The results of this inventory are shown in the table below. A more detailed breakdown of the buildable acres is provided in Section IV of this report.

TABLE 1

Inventory of Land Planned for Economic Development As of end of June 1999		
General Category	Developed Acres	Buildable Acres
Industrial	579	493
Commercial	824	399
Mixed Use	195	232
Total	**1,598**	**1,124**

1.4 Forecast of Needed Land

The city staff evaluated more than 16 forecast scenarios using different historic periods or growth rates. All the forecasts were built on a common foundation of actual "on-the-ground" absorption or use of land within the UGB. The staff believes that using actual land absorption data for the forecast is more accurate that basing a land forecast on expected population, housing numbers, or new jobs. The forecast of needed acres to the year 2020 is for 744 acres of land for industrial uses and for 728 acres for commercial uses. Table 2 compares the buildable acres to the forecast need.

TABLE 2

Comparison of Forecast Needed Acres to Supply of Buildable Land Within the UGB					
	Inventory by zones	Mixed-Use Inventory	Total Buildable Inventory	Forecast Need	Additional Need beyond Inventory
Industrial Zones / uses	493	56	549	744	**195 Acres**
Commercial Zones / uses	399	176	575	728	**153 Acres**

Using this forecast, the need for 1,472 acres of land during the 20-year period exceeds the current supply of buildable land within the UGB as shown in Table 1 by about 348 acres. Most of the industrial need is for industrial parcels in the ½ acre to 2-acre size range, but there is also a need for about 60 acres for large site users that would be held in 10-acre minimum lot sizes.

There is limited opportunity to create new industrial land within the existing Urban Growth Boundary due to transportation needs and potential conflicts with adjacent properties. The majority, if not all, of the additional needed industrial acres will come from land brought into the urban area. Industrial acres that would be held in large minimum lot sizes is probably best suited for public owned land.

The commercial and mixed-use zones provide 575 acres of buildable land for retail and service uses. The forecast need is for about 153 more acres of land for commercial type development. A preliminary review suggests that a portion of the needed 153 commercial acres could be met by rezoning existing Residential High Density (RH) land within the city to the proposed Professional Office zone. Most of the vacant RH land is in the area around St. Charles Medical Center and other medical/office facilities near Neff Road and NE 27th Street.

An analysis of converting land within the Urban Growth Boundary, and of possible industrial and commercial sites outside the UGB, is the next step in the evaluation of needed land. City staff will prepare a subsequent study that will evaluate any specific areas that are proposed to be brought into the UGB

2. INTRODUCTION

2.1 State Planning Law

Oregon's statewide planning laws provide a guidepost for economic planning. The state's interest in economic land planning is carried out through land use planning Goal 9: Economic Development. The purpose of Goal 9 is: *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

Oregon's Administrative Rules (OAR 660-09) require cities to follow several steps in planning the amount and type of land needed for economic growth.

- Review national, state and local trends.
- Estimate the type and amount of industrial and commercial development to occur.
- Evaluate types of expected uses and site requirements.
- Inventory buildable industrial and commercial zoned land.
- Designate adequate land to provide for expected industrial and commercial development.

2.2 Previous studies

There have been several studies and forecasts of commercial and industrial land needs in the Bend urban area. Recent studies include one conducted by David Evans and Associates in 1987, and commercial and industrial lands studies prepared by or for the city in 1992. These studies used predictions of county or regional employment levels to estimate needed commercial and industrial land. In addition, the Bend Chamber of Commerce in 1992 and 1998 prepared updated inventories of industrial land and position papers on the need for more industrial land.

In 1994, the city and county began a major update of the Bend Area General Plan, the land use planning document for the urban area. This update was adopted in late 1998 and included a new forecast of needed industrial and commercial land to the year 2020. The year 2020 planning horizon was used to match the population and housing forecasts in the General Plan. The land need forecast in the General Plan used a different approach than the earlier studies. The forecast of commercial and industrial land needs in the General Plan is based on the average annual absorption or use of industrial and commercial land for the 11-year period from 1987 through 1997. The General Plan forecast does not account for uses in the Mixed-use Riverfront zone or for commercial like uses in the Residential High Density zone.

2.3 Purpose of this study

During the update of the General Plan the Bend Chamber of Commerce and Economic Development for Central Oregon, the regional economic development agency, expressed concerns about the forecast of needed industrial land. The City Council recognized that a more thorough economic growth study was needed, but did not want to delay adoption of other changes to the Bend Area General Plan.

The City Council directed city staff to re-evaluate the amount and type of land needed for future economic growth in Bend upon completion of the General Plan update. The objectives of this study were to:

- Update the city's database on the supply of buildable land zoned for industrial and commercial development.
- Consider changing market conditions affecting economic growth in the next 20 years.
- Forecast the demand for industrial and commercial land within the Bend area through the year 2020 planning horizon.
- Evaluate the suitability of existing industrial and commercial land to meet future market conditions.

The forecast in the General Plan showed that the land planned for economic growth within the UGB was about 350 acres short of the need during the 23-year period to 2020. The Council recognized that if this study confirmed a need for more land, than a subsequent evaluation of land inside and outside the urban growth boundary would be needed.

3. REGIONAL AND LOCAL TRENDS

3.1 Population and Demographics

An area's long-term economic health and opportunity for economic expansion is dependent upon several factors. These factors can work independently or in combination to support economic expansion and the need for more commercial and industrial land. Three basic factors that can effect job creation and economic growth are:

- Population change and demographics.
- Labor force numbers and participation rates.
- Market conditions such as changes in productivity, investment activity, and comparative economic advantages.

A Decade of Growth

In general, an increase in an area's population will drive economic growth. However, the age, education, and income of a population also affect the labor pool needed to fill new jobs and affect the types of businesses locating in an area. Since the late 1980s the rate of population increase in Deschutes County and Bend has been among the fastest in the state.

Table 3 below compares the rate of annual population increase for the past decade. Table 4 shows the numeric increase in Deschutes County and Bend populations in the 1990s.

TABLE 3

Population Growth 1990 – 1999	
Location	Average Increase per Year①
United States	1.03%
State of Oregon	1.77%
Crook County	2.11%
Jefferson County	3.22%
Deschutes County	4.66%
Bend Urban Area②	6.12%[1]
City of Redmond	8.75%

① United States data from US Census; others from PSU Center for Population Research and Census
② Lands within the Bend urban growth boundary

TABLE 4

Population Growth in the 1990s (July 1st each year)				
	1990	1993	1996	1999
Deschutes County	75,600	86,800	98,000	106,700
Bend Urban Area①←	32,570	35,730	41,565	50,650

① Land within the Bend urban growth boundary.

On July 1, 1999, the City of Bend annexed all the land within the Urban Growth Boundary into the city limits. The Portland State University Center for Population Research and Census estimated the annexed population to be 13,648 persons. Beyond the Bend urban growth boundary, there are more than 16,000 persons residing within about five miles of the UGB. [2] The majority of population growth in Central Oregon has come from persons moving into the area. For Deschutes County 87 percent of the population growth has come from in-migrants. Most of the people who moved to Deschutes County and Bend during the 1990s were baby-boomers and the following generation, rather than older retirees. Table 5 compares

[1] The average growth rate for the city portion of the urban area was 7% a year and the average growth rate for the county portion of the urban areas was about 4.5% a year.

[2] This figure is based on a 1995 Deschutes County Public Works estimate of population distribution within the county: Deschutes River Woods – 3,500; West of UGB – 1,000; Southeast of UGB – 4,000; Northeast of UGB – 4,000; Alfalfa – 500; and Greater Tumalo – 3,000.

population growth and in-migration patterns for the three Central Oregon Counties during 1990 to 1997. The table shows that growth in Deschutes County far exceeded the other counties and that our area had a different age mix of migrants.

TABLE 5

Population Change and In-migration -- April 1, 1990 to July 1, 1997 [3]						
County	Total Growth		Natural Increase	Net Migration Growth		
	Persons	Percent	(Births Over Deaths)	All Ages	Age 65+	Percent 65+
Crook	2,139	15.2%	349	1,790	227	12.7%
Jefferson	3,424	25.0%	1,175	2,249	540	24.0%
Deschutes	26,242	35.0%	3,301	22,941	1,846	8.0%

Future Growth

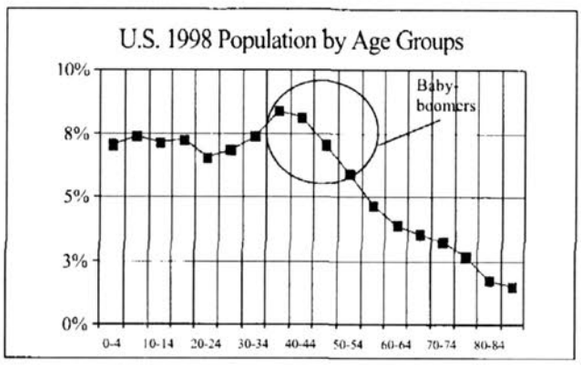
The existing long-range population forecasts for the city and Deschutes County were prepared in the mid-1990s. These population forecasts were coordinated through Deschutes County in accordance with ORS 195.036 and are consistent with the state's Office of Economic Analysis forecast. During the last half of this decade, the city and county population has grown faster than forecast.[4]

Although the recent exceptional growth rate is not expected to continue through the 2020 planning period, the county and city are still expected to exceed the state average. Under the current population forecast, the Bend population is expected to grow by about 20,000 persons in 20 years, and the surrounding population by another 4,400 based on vacant lots. The total county population is forecast to grow by about 78,000 persons by the year 2020.[5]

About 70 percent of the future population growth in Deschutes County and Bend will result from the continued migration of people into the area. While there will be a substantial increase in the graying baby-boomer generation—persons now in their late 30s to early 50s—there will be an even larger increase in younger families and persons in their 20s and 30s. This prediction is based on a couple of demographic trends.

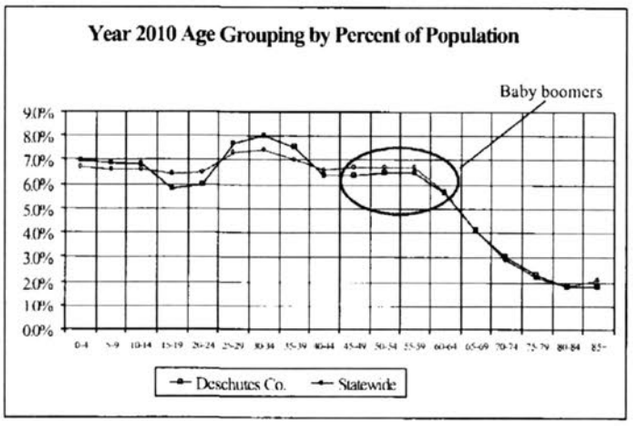
First, the national population age pattern does not reflect a bell-shaped curve with the baby-boom generation at the peak with older and younger age groups falling away from the peak. The chart below demonstrates that, for the United States as a whole, the baby-boomer generation is a peak followed by a plateau of younger age groups.

[3] The 1998 migration numbers for the counties are available, but do not include a breakdown by age.
[4] It is common for short-term growth rates to exceed or cycle around the long-term average growth rate.
[5] The Oregon Office of Economic Analysis is currently updating its population forecasts for the state and counties. The Bend population forecast will be reviewed again after the 2000 U.S. Census data are available.



Source: US Census data

Second, the traditional view that the graying baby-boomers will continue to make up the biggest peak in the population age groupings is not expected to occur in Bend. Since the majority of growth will come from in-migrants, the "plateau" of baby-boomer children and



grandchildren will increase and exceed the baby-boomer generation in numbers.

The graph below, using forecasts prepared by the Oregon Center for Population Research and Census, compares age groups for Deschutes County and the state at the end of the next

decade. It shows the baby-boomers, in their late 40's to early 60's in 2010, leading a *larger wave* of children and grandchildren.

Source: PSU Center for Population Research and Census

Younger persons and families have been, and will continue to be, attracted to Bend due to recreation opportunities, quality of life, increasing job opportunities, and comparative advantage of land and housing costs.[6] Younger persons who are raising families and establishing households create a different local demand for products and services than older generations or retirees.

Young workers also provide an important balance in the makeup of the workforce. Between the baby-boomers and the large number of younger persons it is easy to see that over the next 20 years the potential labor pool will be largely composed of those persons in their prime employment and earning years.

Conclusions

- Population in the county and the Bend urban area will continue to grow at a higher rate than the rest of the state.
- The majority of population growth will come from people moving into the area.
- The baby-boomer generation's children and grandchildren will make up the biggest percentage of the population and the workforce.

3.2 Labor Force Numbers and Participation Rates.

Central Oregon Counties

Growth in employment depends on an increase in the size of the labor force, a function of population growth and labor participation rates. Labor force participation rates are important because they provide a pattern of job increase (or decline) and general health of the local economy. Unfortunately, comparative data for the urban area are not available, and data for the city of Bend is limited to the 1990 census. However, employment growth data are available for the counties. The following table shows that job growth in Deschutes County during the 1990s was consistent over the years and has kept pace with the rapid population growth.

TABLE 6

Recent Growth in Deschutes County Population and Wage and Salary Jobs			
Year	July 1 Population①	July Wage & Salary Jobs②	Ratio of jobs to population
1990	74,958	33,380	.445
1991	79,800	34,820	.436
1992	82,600	34,940	.423
1993	86,800	36,330	.419
1994	89,500	38,300	.427
1995	94,100	41,400	.441
1996	98,000	43,440	.443
1997	101,200	44,910	.444

[6] This pattern of strong growth in younger persons and households is also demonstrated by the 56% increase in the elementary school enrollment levels in Bend's public schools between 1988 and 2000.

1998	104,900	47,130	.449
1999	106,700	47,760	.447
2000	115,367	52,580	.455

①←Certified total population from PSU Center for Population Research and Census
②↑Final employment number from various *Central Oregon Labor Trends* newsletters

The ratio of jobs to population can be looked at as a percentage of the total population. For example, in 1999 the number of jobs in the county was about 45 percent of the total county population, or almost 45 jobs for every 100 persons. This ratio is for the county as a whole and varies from area to area. The U.S. Census report for 1990 shows the ratio of jobs to population in the City of Bend as 0.509 or almost 51 jobs for every 100 residents.[7]

The strong Central Oregon economy has generated substantial job growth not just in Bend and Deschutes County but in Crook and Jefferson counties as well. The following table compares the change in population and jobs for the three Central Oregon (Region 10) counties.

TABLE 7

Long Term Change in Population and Employment						
	1980		July 1999		Percent Change	
	Population①←	Jobs②↑	Population→③	Jobs↓④	Population Up	Jobs Up
Crook	13,100	3,830	16,800	6,250	28.2%	63.2%
Jefferson	11,700	3,690	17,650	6,460	50.9%	75.1%
Deschutes	62,500	21,780	106,700	47,760	70.7%	119.3%

Notes: ① From 1980 US Census
② Average annual employment from Oregon Department of Employment
③ From Portland State University Center for Population Census and Research
④ From Oregon Department of Employment *Central Oregon Labor Trends* newsletter, October 1999

Although the percentage increase in either population or jobs has not been the same for the three counties, one important trend stands out. In each of the counties, the number of jobs has increased at a faster rate than the population.

If Deschutes County (mainly Bend) was creating jobs at an exceptional rate and drawing jobs "away" from the other two counties, then the populations of Crook and Jefferson should grow faster than the jobs in those counties. As Table 7 shows, this has not been the case. The job creation rates in Crook and Jefferson counties have been much greater than the population growth. In fact, in Crook County the job growth rate was more than twice the population growth rate.

The state economic experts explain the exceptionally high rate of job growth in Deschutes County in this way:

> *Deschutes' labor force has grown in part because of the rising labor force participation rate of women and young people. The diversifying and rapidly*

[7] By comparison, the ratio of jobs to population in Crook and Jefferson counties during the 1990s has been in the .35 to .40 range.

expanding Deschutes economy has provided a wide range of job opportunities including large numbers of entry level jobs for nearly anyone seeking employment. [8]

Table 8 takes a slightly different look at regional employment. It compares 1998 county work force levels to the number of jobs in each of the three Central Oregon Counties.

TABLE 8

County Workers and County Employment – July 1999			
County	Residence Labor Force ①←	Non-Farm Payroll Employment by Place of Work ②	Percent of Jobs in County to County Labor Force
Crook	7,140	6,250	87.5%
Jefferson	8,690	6,460	74.3%
Deschutes	52,800	47,760	90.5%

Source: Oregon Employment Department *Central Oregon Labor Trends* newsletter, October 1999
① Persons 16 years old and older by place of residence minus unemployed individuals.
② Place of works means the county the number of persons working in the county regardless of where they live.

Again, although the numbers are not identical, this table shows that all three counties have a similar percentage of jobs in the county to the number of workers who reside in the county. The higher percentage for Deschutes County may be due to a greater number of recreation and tourism related jobs than the other two counties. In addition, it is not surprising that the Jefferson County percentage is the lowest since these numbers are for non-farm payroll workers. Jefferson County has a higher percentage of agricultural workers than Crook or Deschutes counties, so the non-farm payroll jobs make up less of the total job mix.

Bend

At the end of 1999, there were more than 37,000 jobs in Bend or 72 percent of all the jobs in Deschutes County.[9] The fact that Bend has a higher percentage of jobs than its percentage of the total county population is not surprising. Bend is the nearest employment area and trade/service center for another 16,000 people residing near but outside the urban area. Thus, the greater Bend community is more than 65,000 people. The high number of jobs in Bend also reflects the fact that the major retailers and services firms have a service area that covers the whole Central Oregon area.

The regional state and federal government regional offices are located in Bend so there is a higher than normal government employment presence here. In addition, thousands of tourists and outdoor enthusiasts visit Bend in both the summer and winter seasons. These visitors create additional demand for goods and services. Finally, Central Oregon Community College provides a center for higher education. This regional aspect of Bend's economy generates still more jobs beyond the level that might normally be associated with a community of 65,000.

Future Job Growth

[8] Oregon Employment Department 1998 Regional Economic Profile for Region 10, p. 18.
[9] As part of the General Plan update the city reviewed detailed county-wide Employment Department employer and job type data. This data was sorted to determine the Bend UGB employment levels. See also Table 10.

In 1997, the state Office of Economic Analysis (OEA) forecasted employment growth for the counties through the year 2040. The OEA forecasts that the annual rate of employment growth in Deschutes County will be *the highest for any county in the state through 2015* and then fall slightly behind Clackamas County in 2015-2020. Table 9 shows the OEA wage and salary forecast for Deschutes County.[10]

TABLE 9

Oregon Office of Economic Analysis Employment Forecast for Deschutes County		
Year	Wage and Salary Jobs	Change from previous 5 years
1995	40,936	--
2000	51,090	10,154
2005	60,659	9,569
2010	68,763	8,104
2015	74,507	5,744
2020	79,198	4,691

Source: OEA *Long-Term Population and Employment Forecasts for Oregon*, January 1997

This increase in employment growth corresponds to the expected population growth. In the OEA analysis the total number of jobs will stay at about 45 percent of the total population (0.45) until 2010 and then decline slightly to about 43.5 percent by 2020. The jobs-to-population ratios for Crook and Jefferson counties are forecast by OEA to continue in the current .35 to .40 range for the next 20 years.

The percentage of jobs in Bend is expected to increase slightly to 75% of all the jobs in the county. The Bend Area General Plan uses the OEA countywide numbers to estimate that the number of urban area jobs will increase to 59,400 by 2020 from about 38,300 in 2000.

Since most of Bend's population growth is expected to come from younger persons rather than retirement aged persons there will be a large potential work force with a variety of job skills and job interests. Many of these employees will be at the peak of their work and income producing years.

Employment numbers are not used in this report to forecast the amount of land needed for economic development. However, they do reinforce the assumption that Deschutes County, and particularly Bend, will continue to experience job growth that keeps pace with the population increase.

Conclusions

- The recent job growth in Bend and Deschutes County has not come at the expense of other cities and jurisdictions.

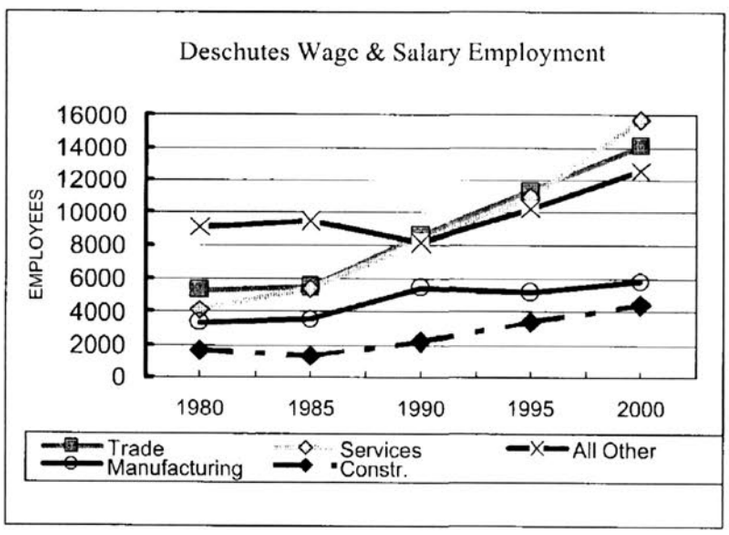
[10] The OEA forecast job increase in Deschutes County during the next 10 years is about twice the number of jobs forecast by the Oregon Employment Department. See page 16 for additional information.

- The existing and forecast job numbers for Bend are reasonable considering the exurban population and other factors.
- The increase in the area's labor force is expected to keep pace with the population increase.
- About 21,000 more jobs will be created in Bend during the next 20 years.
- The in-migration of younger individuals combined with the baby boomer generation of workers will create a large potential labor force in the peak of its' work and income producing years.

3.3 Changing Economic Markets

History

In the past 30 years, there has been a general shift in the types of jobs. The service, retail, and construction sectors gained a greater share of the employment mix with the other sectors slipping in their percentages.



The adjacent chart shows employment changes in the county between 1980 and 1998 as reported by the State Employment Department.

Although there has been an increase in the retail and service sectors, the overall mix of jobs is still well distributed. As of late 1999 there were at least 45 employers in Bend that had more than 100 employees.

The table below shows the mix of Bend jobs in late 1999. The employee numbers below are from Employment Department data for wage and salary employees and do not include self-employed persons, jobs that pay on commission, and family members in a family run business.

TABLE 10

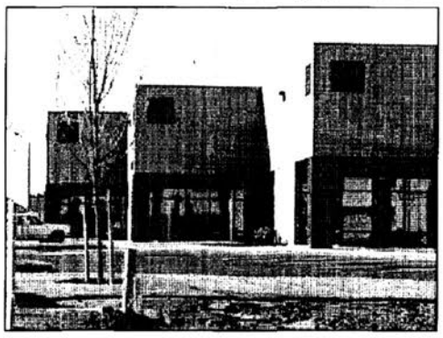
Bend Urban Area Employment Mix – 4th Quarter 1999		
	Number of	Percent of

Type of Wage & Salary Job	Employees	Urban total
Agriculture / Forest / Related ①←	951	3%
Mining & Construction	3,352	9%
Manufacturing	4,654	13%
Transport./ Comm. / Utilities	1,536	4%
Wholesale Trade	1,278	3%
Retail Trade	8,817	24%
Finance / Insurance / Real Est.	2,029	5%
Services & Miscellaneous	12,857	34%
Government	1,777	5%

① Includes U.S. Forest Service, BLM, landscaping, yard care work, and veterinary field.

Manufacturing.

Uses that have traditionally located in industrial zones – heavy manufacturing, warehousing, transportation, utilities and communications, and wholesale trade – have been among those businesses most affected by changing market conditions. Job growth in most of these industrial occupations has slowed due to consolidation of firms, automation, exporting jobs to other countries, and environmental concerns.[11]



In general, as job growth in these sectors has slowed, there has been a corresponding decline in land needed to support the larger industrial manufacturing and warehousing uses.

Fortunately, the manufacturing sector in Bend is now much more diverse than in the past, with the decline in local lumber and wood product employment being offset by many small manufacturing firms. In late 1999, there were more than 160 manufacturing firms in Bend. The Oregon Employment Department *Regional Economic Profile* report notes that in Deschutes County:

> *Prospects for future expansion across a variety of light manufacturing industries appear excellent as increasing numbers of small manufacturers are attracted by the livability factor and the existence of a rapidly-growing labor force.* [12]

An important part of the existing – and likely future – manufacturing sector in Bend is the high technology fields. State employment data indicates that more than 12 percent of the manufacturing employment in Deschutes County is in high technology fields – one of the highest percentages in the state. In addition, the average high tech wage in 1999 was $32,600,

[11] Nationally, manufacturing declined from 31 percent of all jobs in 1960 to 17.4 percent in 1990.
[12] Oregon Department of Employment *1998 Regional Economic Profile, Region 10*, October 1997

higher than the average manufacturing wage.[13] Most of these high tech firms also need smaller, more flexible space and lots.

These small manufacturing businesses along with an exceptional number of construction and wholesale trade firms has created a demand for industrial flex-space and smaller industrial parcels (1/2 – 2 acres). Since the market demand has been so strong for smaller lots, private landowners have had little incentive to create or hold industrial lots of 15, 10 or even 5 acres in size. The lack of industrial lots in this size range has made it difficult – and expensive – for local firms to expand. In addition, the lack of large lots in the inventory has hindered efforts to attract larger manufacturing or warehousing firms. Although the demand for large parcels is limited, there is a need to have a few large parcels in the city's inventory for firms that require a bigger site. It is probably most appropriate for a public agency to be the party holding large lots in reserve for future development. The city, county, state, and federal government all have large holdings next to the urban growth boundary.

Retail and Services.

Historically the number of retail and service jobs has made up a big share of the employment base. In the past 15 years, the number of trade and service jobs has grown at a much faster rate than other jobs. (See chart on page 12.)

Retail trade. The relative importance of retail trade in Deschutes County rose dramatically during the 1990s. In 1996, the Deschutes County per capita sales were $13,126, almost three thousand dollars above the state average and second only to Washington County at $13,365.



The interest shown by national retail chains – Wal-Mart, Costco, Office Max, Staples, Pier 1, Barnes & Noble, Old Navy, Home Depot, PetCo, Applebee's Bar and Grill, Outback Steakhouse and others – to locate in Bend represents a huge investment in Bend's retail sector. These retail businesses are supported by the Bend residents, by the regional population, and by visitors to the area.

Services. The service sector is the largest employment sector in Deschutes County and Bend. It is also a sector with a broad range of job types. The service category includes entry-level jobs in such fields as lodging and video rentals as well as doctors, lawyers, engineers and other professionals. The largest employer in Bend, St. Charles Medical Center, is in the service sector. Bend's service sector has been bolstered by national and regional firms offering video rentals, health care services, lodging and other services.

[13] Oregon Department of Employment *Central Oregon Labor Trends* newsletter, October 2000.



Like the growth in high tech manufacturing, there has been local growth in the firms providing "high technology business services" – data processing, computer maintenance, prepackaged software, computer design and drawing and similar firms. Almost one out of four business service firms in Deschutes County are in the high technology field – the highest rate outside the Portland area. [14]

The growth in service businesses in the past few years has generated strong demand for office and medical flex-space. As an example, in June of 1999, more than 120,000 square feet of office and medical space at 14 sites was under construction or had received planning approval.

Tourism. Tourists, outdoor enthusiasts, and business travelers visit Bend almost year-round and add more demand to both the trade and service sectors. In Deschutes County in 1996, travel-related expenditures totaled more than $278 million dollars.[15] Bend's increasingly diversified retail sector (without sales tax) is particularly alluring to out-of-state visitors who may purchase clothing, gifts, outdoor equipment, and food at restaurants or grocery stores.



Service businesses used by visitors include sports equipment rentals, golfing, outdoor adventure tours, equipment servicing, and lodging. In the past few years several national lodging chains – Sleep Inn, Hawthorne Suites, Holiday Inn Express, and EconoLodge – have built new facilities in Bend.

Comparative advantages. It was noted earlier that Central Oregon's "livability factor" helps attract new businesses to the area. This nebulous term covers various conditions that exist throughout the region – recreational amenities, low crime rate, large and generally well educated employment base. For Bend the list also includes such things as: a very diverse economic base; fiber optic trunk lines connecting Bend to Portland, Boise and the rest of the country; excellent health care facilities; new private and public schools; Central Oregon Community College; and local venture capital.

Regional forecasts

The Oregon Employment Department has projected changes in non-farm wage-and-salary employment for the 10-year period from 1998 to 2008. Table 11 on the next page shows the Employment Department's projected job changes for the state and Region 10 (Crook,

[14] See the Oregon Employment Department *Central Oregon Labor Trends* newsletter, January 1999.
[15] See the Oregon Employment Department *Central Oregon Labor Trends* newsletter, March 1998.

Deschutes, and Jefferson counties). Separate Employment Department projections are not available for Deschutes County, but the Deschutes employment typically makes up 78 to 80 percent of the total Region 10 wage and salary employment.

The Employment Department's projection is more conservative than the State Department of Administrative Services Office of Economic Analysis forecast in that the Employment Department projects far fewer new jobs. The Employment Department feels that due to the economic recovery in California the number of migrants to Oregon will be lower than previously estimated[16]. Although the job numbers are lower, the Employment Department projection is useful in that it estimates employment changes by category.

[16] An excellent summary of the Employment Department's thinking behind its forecast for slower growth is provided in the feature article of the Department's July 1999 *Oregon Labor Trends* newsletter.

TABLE 11

Employment Projections by Industry 1998 – 2008			
	Percent change in jobs		
Employment Category	Statewide Job change	Deschutes County	Increase in County Jobs[17]
TOTAL NON-FARM PAYROLL	**18.5**	**20.2**	**9,260**
GOODS PRODUCING	**10.1**	**11.6**	**940**
SERVICE PRODUCING	**20.7**	**19.2**	**8,320**
MANUFACTURING TOTAL	**8.6**	**8.6**	**470**
NON-MANUFACTURING TOTAL	**20.3**	**21.8**	**8,790**
Construction and Mining	14.4	13.0	470
Transportation-Communications-Utilities	16.5	22.2	350
All Trade	18.9	22.7	2,760
Wholesale Trade	*19.0*	*17.9*	*280*
Retail Trade	*18.0*	*23.4*	*2,480*
Finance-Insurance-Real Estate (FIRE)	14.5	13.7	480
Services	30.6	30.0	3,950
Government	10.9	12.2	780

Source: Oregon Employment Department, July 1999.

The Employment Department's projections contain several interesting points. First, in general, the percentage change in the various employment categories for Deschutes County is similar to the state as a whole. There is no category in this projection where Deschutes County job growth seems out of line with the overall state pattern for job growth. Even the Transportation-Communications-Utilities increase seems reasonable considering the earlier decline in these jobs due to centralization of services and mergers.

Second, the highest growth rates, both in percent and number, are in the trade and service sectors. In this forecast *more than seven out of ten new jobs in Deschutes County are forecast to be in the trade and service sectors.* The growth in trade and service sectors is consistent with the general shift in the economic markets, the expected growth in new and younger households, and growth in tourism. This growth will translate to a need for more retail and service businesses and more office space.

Third, the rate of new job growth in Deschutes County is projected at a rate similar to the state as a whole. This projected rate of job growth is <u>not</u> consistent with the faster population and employment growth rates forecast for the region by another state agency, the Office of Economic Analysis cited earlier in this report. The OEA does forecast a slowing of job growth during 2000 to 2010, but not to the dramatic level shown in the Employment Department projection.

[17] Between 1990 and 1999, Deschutes County employment grew by about 15,230 jobs. The Oregon Economic Analysis 1995 report estimated the county job increase between 2000 and 2010 to be 17,673 jobs. See Table 9.

Conclusions.

- The industrial sector in Bend is much more diverse than in the past.
- The predominant pattern of smaller firms needing smaller sites and/or flexible building spaces will continue during the planning period.
- The continued erosion of jobs in lumber and wood products will be replaced by other jobs in durable and non-durable manufacturing.
- High technology manufacturing and research and development firms create a new trend for industrial space that function and look more like office developments.
- Slightly more than seven out of ten new jobs will be in the retail and service sectors, continuing the pattern begun in the mid-19980s.
- The growth in retail and service jobs will be driven by several factors: population increase, demographic mix, and tourism.
- Competitive advantages in the region, and particularly Bend, will continue to attract entrepreneurs from outside the area.

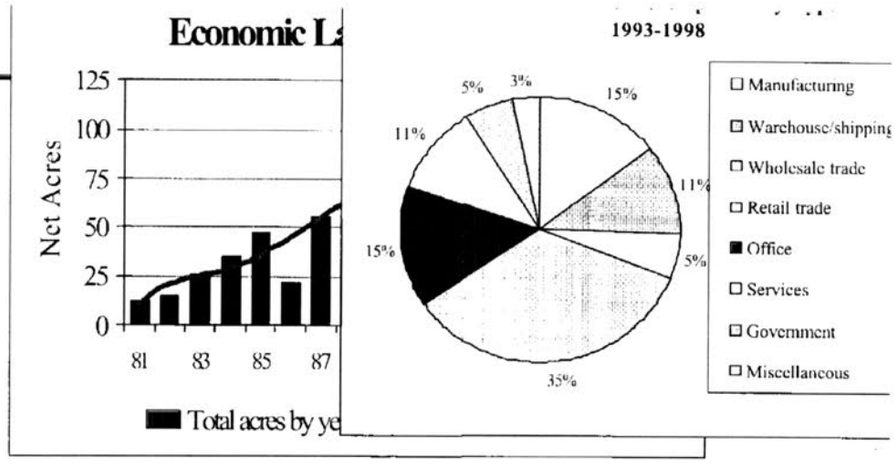
4. INVENTORY OF BUILDABLE LANDS

4.1 Land Absorption Pattern

The City has kept track of the annual conversion of undeveloped industrial and commercial land to developed sites within the urban area from 1981 to the present. This information is used to update the supply of land for industrial and commercial uses, and to gauge how fast land is being used up.

In 1995 the city replaced more than 200 acres of industrial zoning with a new Mixed-use Riverfront zone. The past two years have seen increasing interest and activity in developing sites in this mixed commercial and industrial zone. Although the *supply* of buildable land in this zone has been included in the city's inventory of buildable lands, the *acres used* in this zone have not been added into the absorption numbers for industrial or commercial zoned land.

A similar situation exists with the city's Residential High Density (RH) zone. The rapid growth in the 1990s of offices and clinics in the RH zone have not shown up in the industrial or commercial lands analysis. While developments in the RH zone do not reduce the *supply* of industrial or commercial zoned land, they do represent part of the total *demand* for land that allows for offices, clinics, and similar professional services businesses.



The chart below shows the annual acreage consumption of land between 1981 and 1998. This data is based on tax parcels so it is net acres of land, which does not include streets. This chart is different from the one in Chapter 6 of the Bend Area General Plan in that this chart includes MR land and RH zoned parcels lands that have been used for offices or clinics[18].

The annual absorption of land planned for economic growth is useful in a couple of ways. First, it shows the change in land absorption from the recessionary period of the mid-1980s to the high growth period of the 1990s so it provides a historical perspective. Second, the 'moving average' trend line smoothes out the extreme years and helps to show the general trend of increasing demand for all land needed for economic development.

The bars showing total acres per year mask information about each category. Generally, the annual rate of commercial use has increased during the historic period and the industrial average has become more stable. That is, the longer the historical period the better the industrial trend looks; the shorter the period the better the commercial growth looks.

The following pie chart provides another look at land consumption by type of development. The chart percentages are for 384 acres used up from 1993 through 1998. Office and medical projects in the RH zone and commercial or industrial projects in the MR zone are included in this chart. Not surprisingly, retail uses consumed more than 1/3 of the acres. Offices and service businesses used up ¼ of the land, and manufacturing and warehousing slightly more than ¼ of the total.



4.2 Buildable Lands Within the Urban Growth Boundary

The supply of buildable industrial and commercial land within the urban area was reviewed in May and June

r to 1990. Since 1990 development in RH and Mixed-use
he total economic land absorption.

1999. The previous lot-by-lot inventories prepared by the city were updated with current tax lot information and uses. Commercial and industrial properties with pending subdivisions were evaluated using the proposed subdivision plat. Land within the Mixed-use Riverfront zone and areas to be zoned Mixed Employment were also inventoried in June.

The results of the inventories are presented in the following three tables. The first table provides a summary of total acres by the broad categories in the General Plan.

TABLE 12

Inventory of Land Planned for Economic Development End of June 1999		
General Category①	Developed Acres	Buildable Acres
Industrial	579	493
Commercial	824	399
Mixed Use	195	232 ②↑
Total	**1,598**	**1,124**

① These are the broad categories in the General Plan and as shown on the Plan land use map. Actual zoned acres are less, but the city will rezone land during the 1999-2000 fiscal year to bring zoning into conformance with the General Plan map.
② There are 266 buildable acres in the Mixed Use zones. In the General Plan it is assumed that 34 acres in the MR zone will be developed for residential uses leaving 232 acres for other uses.

The second table adds the buildable acres in the mixed-use zones to industrial and commercial zones acres based on assumptions about how much acreage in each mixed-use zone would be developed for industrial or commercial uses. In this table, the mixed-use acreage has been reduced by the 34 acres expected to go to residential uses.

TABLE 13

Assignment of Mixed-Use Lands to Industrial and Commercial Uses					
	Buildable inventory in zones		Mixed-use inventory		Total Buildable Inventory
Industrial zones / uses	493	+	56	=	**549**
Commercial zones / uses	399	+	176	=	**575**

The third table divides the Buildable Acres into several size ranges.[19] Property for which a tentative subdivision plan has been filed was treated as if the subdivision is in place. The general pattern for the three land use categories is the same. Most of the buildable parcels are less than one acre in size, and there are only a few large parcels in any category.

TABLE 14

Buildable Acres By Lot Size – End of June 1999										
	0.1 – 0.9		1.0- 4.9		5.0 9.9		10.0 – 19.9		201	
	Lots	Acres	Lots	Acres	Lots	Acres	Lots	Acres	Lots	Acres
Industrial	156	89	77	139	5	34	2	23	5	208
Commercial	342	95	72	143	4	27	7	109	1	25
Mixed-use ①	82	36	25	54	5	28	3	41	2	107

① All 266 buildable acres are included. Residential uses are likely to come from the larger parcels.

[19] Appendix A provides additional detail on developed and buildable acres.

More than 63 percent of the buildable industrial parcels are less than one acre in size, and most of the parcels in the next size range are less than two acres in size. The predominance of small parcels is consistent with the market trying to meet the predominant demand for flex-spaces and smaller firms. There are only eight industrial parcels in the inventory that exceed ten acres in size, but only one of these parcels is held by an industrial corporation. The other large parcels are expected to be subdivided into smaller parcels.

The Chamber of Commerce and Economic Development for Central Oregon have indicated that the lack of large industrial parcels has hindered the expansion of local firms and has made it difficult to recruit larger businesses. A large manufacturing or warehousing firm may need twice as much land – 10 to 15 acres – as a 'big box' retail use. In addition, it is harder to assemble many small industrial parcels into a large site. The lack of large industrial sites in Bend makes it difficult to serve larger manufacturing or warehousing firms wishing to expand or locate here.

Because there is relatively little demand for industrial parcels ten acres and larger, it is not reasonable to expect private land developers to hold land in large parcel sizes. Larger parcels are probably best held by public agencies that can afford to set aside property for larger land users.

Conclusions:

- The land absorption trend since 1981 has shown a general trend of increasing total acreage, although actual acres consumed varies from year to year.
- An evaluation of use patterns in the mid-1990s indicated that more than one-third of the total acres went to retail trade, one-fourth of the total went to service and office uses, and another one-fourth went to manufacturing and warehousing.
- About 59 percent of the total supply of land planned for economic growth is developed.
- The majority of buildable parcels in each category are less than 1 acre in size.
- All but one of the industrial sites more than ten acres in size are held by developers and are expected to be subdivided into smaller parcels.
- Since the need or demand for large industrial parcels is small, it is not expected that private industrial land will held in large parcels on the speculation of meeting the need of the occasional firm looking for large industrial acreage.

5. FORECAST

5.1 Forecast Methodology

There are different ways to estimate or forecast how much land will be needed for economic growth. The approach to forecasting varies from the simple to sophisticated models that consider national or global economic influences. Although economic growth in Bend is clearly influenced by national firms, there is almost no specific economic data for Bend from which to craft complex forecasting models.[20]

[20] One advantage of reaching the 50,000 population figure is that in the future there will be more economic and demographic data specific to Bend.

For cities in Bend's size range there are three relatively simple ways to forecast needed acreage. One approach is employment based: the forecast of new jobs is used to estimate needed acres. A second approach is household based: the forecast of new housing units is used to estimate new employees and therefore the amount of land needed to support the jobs. A third method is land based: a historical pattern of acres used or consumed for industrial and commercial development is used as a measure of future need. Each of these approaches has advantages and disadvantages. The City believes that an analysis based on urban area land absorption data is more accurate than one based on forecast employment levels or number of dwelling units.[21]

5.2 Land Needed for Economic Development

The city evaluated more than 16 different historic periods and forecast scenarios against a qualitative test of "reasonableness" considering population and employment projections. In the end, the analysis that best matched the qualitative test of "reasonableness" used the 14-year period between 1985 and 1998 to generate the average number of acres used or absorbed each year. This initial evaluation, like that in the General Plan, considered just the absorption of lands that were within an industrial or commercial zone. However, this 14-year period is three years longer than that used in the earlier General Plan calculations. This time period includes more of the mid-1980s when Central Oregon was in a recession, so it provides a balance of quiet and active economic times in Bend.

The average growth rates during this historic period served as the foundation for adjustments to the commercial and industrial land calculations. The average acreage used in the commercial zones was adjusted to include office and clinic developments that have occurred in the Mixed-use Riverfront (MR) and High-Density Residential (RH) zones. Office and other commercial type development in the MR and RH zones have not been included in past commercial absorption calculations.[22] Including the MR and RH retail and office development gives a better picture of the overall community demand for office and service businesses, and provides a better base from which to forecast the continuing growth in the retail and service sectors.

The industrial need forecast is driven mainly by the demand for smaller industrial parcels. Most of the industrial demand has been for one-half to two acre sites, with only a few new industrial developments exceeding five acres. Because the demand for small lots is very strong, industrial land developers typically plat small lots rather than creating large parcels on speculation of selling to the limited number of large site users.

The Bend Chamber of Commerce, Central Oregon Economic Development Council, and local real estate firms have all commented on the lack of larger industrial sites in Bend's inventory of buildable land. For Bend, a large industrial site means 10 to 20 acres. The lack of large sites makes it very difficult for local firms to expand, or for the city to attract manufacturing or warehousing firms that need larger sites.

[21] The city tracks actual land absorption and initial uses. This data captures the local demand for different types of land and provides some general insights into changes in the employment sectors.

[22] The MR and RH data does not cover the full 14-year period from 1985 to 1998. The MR zone was created in 1996 and the city did not keep track of office/clinic development in the RH zone prior to 1990.

It is reasonable and prudent to adjust the base industrial need forecast to include acreage that would be reserved only for large site users. Building some larger sites into the industrial land forecast will help Bend retain local manufacturing or warehousing firms that plan to expand, and to have a better chance to attract firms. Based on local business retention and recruitment efforts, using an average of 15 acres every 5 years results in additional demand for 60 acres for large industrial users.

Table 15 shows the acres needed during for the planning period ending in 2020 based on the above discussion. The gross acres figures are net acres plus 10 percent. This is the same adjustment factor used in the General Plan to convert net industrial acres of use to gross acres of raw land need. The commercial net acres have also been increased by 10 percent.

TABLE 15

Forecast of Needed Industrial and Commercial Acres to Year 2020					
Category	Forecast Method	Adjusted Average Annual Demand	Land Needed to 2020 (Net Acres)	Plus 10% for roads and easements	Total Forecast (Gross Acres)
Industrial Land	Average 1985-1998 use adjusted with large site user needs	32.2 acres	676	68	**744**
Commercial Land	Average 1985-1998 use adjusted with MR and RH use	31.5 acres	662	66	**728**

The forecast of 1,472 needed acres must be compared to the inventory of buildable lands within the urban area discussed previously in this study. This comparison is shown in Table 16. Using this forecast, the need for industrial and commercial type lands during the planning period exceeds the supply of buildable land within the UGB by 348 acres (1,472 acres – 1,124 acres).

TABLE 16

Comparison of Forecast Needed Acres to Supply of Buildable Land Within the UGB					
	Inventory by zones	Mixed-Use inventory	Total Buildable Inventory	Forecast Need	Additional Need beyond Inventory
Industrial zones / uses	493	56	549	744	**195 acres**
Commercial zones / uses	399	176	575	728	**153 acres**

The next study will evaluate various ways the city can provide enough industrial and commercial land to meet the forecast need. One way will be to look at converting residential of land within the city to an industrial designation, although concerns about incompatible uses

and the traffic impacts associated with industrial and commercial uses may limit the possible sites.

Some of the additional need for "commercial" acres could be met by rezoning existing Residential High Density (RH) land to the city's Professional Office zone. The Professional Office zone is intended to serve part of the office and medical/dental clinic needs, so it would help some of the service-related growth, but not retail needs. It is most likely that the part of the needed commercial acres and most of the additional industrial land will come from land brought into the city limits.

An evaluation of converting land within the city, or the consideration of bringing additional industrial and commercial land into the city limits / UGB will be the focus of Part 2 of this three part study. City staff will prepare this second part of the study in 1999 or 2000.

Conclusions.

- The forecast commercial acreage needs exceed the existing supply of buildable land within the UGB by about 153 acres.
- The forecast industrial acreage needs exceed the existing supply of buildable land within the UGB by about 195 acres.
- There is not sufficient buildable land within the existing UGB to meet the forecast need.
- A subsequent study will evaluate ways to meet the forecast land needs



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APPENDIX A

BEND URBAN AREA ECONOMIC LAND INVENTORY

The following tables provide a summary the city's inventory of land planned for economic development. The acreage figures are based on the General Plan map designations and existing or expected implementing zoning districts. The data was compiled or updated during June 1999. Acreage numbers have been rounded to the nearest whole integer. Acreage totals in the second set of tables may be different from those in the first three tables due to rounding.

TOTAL ACRES

COMMERCIAL LANDS BY ZONING DISTRICT				
General Plan Zones	Developed Acres	Buildable Acres	Unbuildable Acres[1] ←	Number of Tax Lots
Highway Commercial	386	209	6	290
Limited Commercial	333	133	21	682
Convenience Commercial	41	34	0	170
General Commercial	38	23	15	289
Central Business District	25	0	0	139
Neighborhood Commercial	1	0	0	4
Totals:	824	399	42	1574

← [1]Primarily ODOT Parkway tax lots and Parkway remnants.

INDUSTRIAL LANDS BY ZONING DISTRICT				
General Plan Zones	Developed Acres	Buildable Acres	Unbuildable Acres[1] ←	Number of Tax Lots
Industrial Park	10	104	0	11
Limited Industrial	435	359	44	522
General Industrial	134	30	2	104
Totals:	579	493	46	637

← [1]Primarily canal easements, Parkway tax lots and topographic constraints.

MIXED USE LANDS BY ZONING DISTRICT				
General Plan Zones	Developed Acres	Buildable Acres	Unbuildable Acres[2] ↑	Number of Tax Lots
Mixed-use Riverfront[1]	52	174 ←	25	117
Mixed Employment	143	92	17	210
Totals:	195	266	42	327

← [1]Total MR zone buildable acres including 34 acres that are likely to be developed for residential uses.

↑ [2]Mainly river, wetlands, and common areas in MR zone. Mainly Parkway holdings in ME zone.

APPENDIX A
(Continued)

BUILDABLE ACRES BY ZONE AND SIZE

COMMERCIAL BUILDABLE ACRES BY ZONE AND SIZE										
	Less than 1 Ac.		1.0 – 4.9 Ac.		5.0 – 9.9 Ac.		10.0 – 19.9 Ac.		20+ Acres	
Zone	Lots	Acres	Lots	Acres	Lots	Acres	Lots	Acres	Lots	Acres
CBD	2	< .5	0	0	0	0	0	0	0	0
CC	42	14	8	20	0	0	0	0	0	0
CG	109	15	4	8	0	0	0	0	0	0
CL	122	34	23	39	3	22	1	13	1	25
CH	67	32	37	76	1	5	6	96	0	0
Totals	*342*	*95*	*72*	*143*	*4*	*27*	*7*	*109*	*1*	*25*

INDUSTRIAL BUILDABLE ACRES BY ZONE AND SIZE										
	Less than 1 Ac.		1.0 – 4.9 Ac.		5.0 – 9.9 Ac.		10.0 – 19.9 Ac.		20+ Acres	
Zone	Lots	Acres	Lots	Acres	Lots	Acres	Lots	Acres	Lots	Acres
IP	0	0	5	9	0	0	0	0	1	95
IL	147	84	66	118	5	34	1	11	4	113
IG	9	5	6	12	0	0	1	12	0	0
Totals	*156*	*89*	*77*	*139*	*5*	*34*	*2*	*23*	*5*	*208*

MIXED-USE BUILDABLE ACRES BY ZONE AND SIZE										
	Less than 1 Ac.		1.0 – 4.9 Ac.		5.0 – 9.9 Ac.		10.0 – 19.9 Ac.		20+ Acres	
Zone	Lots	Acres	Lots	Acres	Lots	Acres	Lots	Acres	Lots	Acres
MR	51	26	16	36	2	10	3	41	1	60
ME	31	9	9	18	3	18	0	0	1	47
Totals	*82*	*35*	*25*	*54*	*5*	*28*	*3*	*41*	*2*	*107*



Exhibit B – Part 2

City File No. PZ-03-565

ECONOMIC LANDS STUDY

Part 2 – Meeting Forecast Needs

Community Development

Long Range Planning
December 2000

ECONOMIC LANDS STUDY



PART 2:
MEETING FORECAST NEEDS

December 2000

ECONOMIC LANDS STUDY
PART 2:
MEETING FORECAST NEEDS

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APPENDIX A – Initial Industrial Site Evaluation
APPENDIX B – Commercial Site Calculation

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Research and Writing: Mike Byers
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This study was originally prepared in December 2000 and updated in June 2001

1. SUMMARY

1.1 Economic Lands Study

This study is the second part of a three-part analysis and action plan to meet the economic land needs in Bend. The first part of this analysis, titled *Economic Lands Study Part 1: Trends, Inventory, and Forecast*, was prepared by City of Bend staff in 1999 and updated in December of 2000.

The purpose of this second study, *Meeting Forecast Needs*, is to recommend how the city can provide sufficient industrial and commercial land to meet forecast needs during the 20-year planning period ending in 2020. A companion third study, *Part 3: Alternative Site Analysis and UGB Expansion*, is scheduled for publication in 2001.

The first study determined that during the 20-year planning period ending in 2020 there would be a shortage of industrial and commercial land within the Bend Urban Area. The land supply shortfall calculated in the *Trends, Inventory, and Forecast* study is **195 acres of industrial land and 153 acres of commercial land.**

After the first study was completed, the city adopted changes to General Plan that adjusted the commercial and industrial land inventories. In October of 2000, the City Council adopted the Lava Ridge Refinement Plan for an area in the northeast part of Bend. One product of this refinement plan was to change about 9 acres of vacant single-family residential land to a new Professional Office designation along Empire Avenue. In May of 2001, the City Council adopted the NorthWest Crossing master plan that includes a Mixed Employment category that can be used for both commercial and industrial development. These changes *added* 19 acres to the commercial supply and *reduced* the industrial supply by 10 acres.[1] These ult is an industrial land need of **205 acres** and a commercial need of **134 acres**.

This second study considered five approaches to increase the supply of industrial and commercial land for long-term economic development. These five approaches are:

- Adding "under-developed" sites to the inventory of buildable land;
- Redeveloping existing industrial or commercial properties to new uses;
- Modifying zoning regulation to change the mix of uses in zones or set minimum/maximum standards that dictate more development per acre;
- Converting or re-designating other types of land within the urban area to land that allows commercial and industrial development; and
- Expanding the Urban Growth Boundary (UGB) to include more land for industrial use.

This study recommends a strategy or package of measures to increase the supply of industrial and commercial land. Each package provides specific ways to meet the forecast acreage needs and other measures to encourage the efficient use of land needed for economic growth.

[1] These changes are described in more detail in the following sections. These revised supply and need acreage figures are used in the remainder of this report.

1.2 Industrial Land Recommendations

Based on city staff evaluation of the various approaches there is the potential to add 170 to 218 acres to the supply of industrial land. Most of the needed acres would come from expansion of the urban growth boundary into the urban reserve and other areas. Table 1 provides a summary of the recommended ways to provide more industrial land.

TABLE 1

RECOMMENDED MEASURES TO MEET INDUSTRIAL LAND NEEDS	
Approach Evaluated in study	**Approximate Additional Acres**
Adding under-developed sites to the inventory	0
Redevelopment of existing industrial sites	15
Revise zoning code to limit size and types of uses	Unknown
Expand Urban Growth Boundary into Urban Reserve	35-83
Expand Urban Growth Boundary into "800 acre" site - acres for market driven lots - acres for 10 acre minimum lots *Additional acres could be provided at this site if necessary to meet forecast needs*	 60 60
Total Additional Acres	170 – 218

In addition to the items listed in Table 1, it is also recommended that the following measures be taken as part of the overall strategy to ensure adequate industrial land during the planning period.

- Development of a master plan for part of the city's "800 Acre" site west of the canal. The master plan should provide for industrial development, for land that would be set aside as buffers and open space, and land reserved for future community needs.
- An evaluation of more efficient ways to use land required for parking for industrial uses. If appropriate, new standards or incentives could be part of a zoning code update in 2002-2003.
- Amending the zoning code to limit the type and size of retail and service uses allowed in the industrial zones. These changes should be part of the 2001-2002 zoning code update.
- In areas that in the future are designated for mixed-use development, that none of the buildable acreage in such zones be allocated for industrial uses. The recommendation applies to new mixed-use areas developed later this decade or the next. It does not apply to areas currently shown in the General Plan for Mixed-use Riverfront or Mixed-Employment in the General Plan, or the15 acres of Mixed-Employment in the NorthWest Crossing master plan.

Section 3 of this study describes in detail the evaluation of these approaches and the recommended measures.

1.3 Commercial Land Recommendations

Based on staff evaluation there is the potential to add about 170 acres to the supply of land for future retail, service and office development. Most of this total need would be met by changing the land use of existing residential land to various commercial designations. Table 2 is a summary of recommended ways to provide enough commercial land to meet the 2020 forecast need for 134 additional acres.

TABLE 2

RECOMMENDED MEASURES TO MEET COMMERCIAL LAND NEEDS	
Approach Evaluated in Study	**Approximate Additional Acres**
Adding under-developed sites to the inventory	0
Redevelopment of existing commercial sites	49
Revise zoning code to encourage the efficient use of commercial land	Unknown
Change some existing Residential High Density areas shown on the General Plan map and zoning map to Professional Office designation	86 see paragraph below
Change land along the east side of the Parkway from residential to commercial	15
Add two new small commercial centers or one larger center in an area to be determined	10
Change vacant Industrial Park designation to Mixed Employment on west side of urban area	10
Total Additional Acres	170

The total additional acres figure in Table 2 is about 26 acres more than the 144 acres needed to meet the forecast commercial sector demand. This surplus acreage is essentially in the 86 acres currently planned for High Density Residential use that are recommended to be changed to the Professional Office designation. These 86 acres are currently owned by St. Charles Medical Center, local physician groups, or are being marketed for office/clinic development. Although this acreage is possibly more than will be needed for medical related development near the hospital, it is not likely that these parcels would be developed for high-density housing. Changing the land now, even though it may be more than is needed in 20 years, makes good planning sense.

In addition to the measures in Table 2, it is recommended that the following steps be taken as part of the overall strategy to ensure that there is adequate commercial land during the planning period.

- Reduce the number of zoning districts that are primarily designed to meet retail and service commercial needs. There are now nine zones that are mainly "commercial" zones. These zones could be collapsed or combined into seven or six zones. This restructuring of the zoning districts could occur during the second or third round of zoning code amendments tentatively scheduled for 2002-2004.
- Eliminate office and medical clinic uses from the city's Residential High Density zoning district so that the remaining RH land will be developed for residential uses.

This work could be done as part of the second round of zoning code updates in 2002-2003.

- Evaluate zoning incentives or standards that promote the use of on-site parking structures or under-building parking to reduce the amount of land needed for parking. This work could be done by staff as part of a second round of zoning code changes in 2002-2003.
- Establish a minimum Floor Area Ratio for buildings in the Central Business District.

Section 4 of this report describes in more detail the recommended approaches for meeting the commercial land need.

1.4 Acreage Calculations

The following table provides a summary of the ways to provide sufficient industrial and commercial land to meet the forecast need and estimated acreage change for each recommended measure.

TABLE 3

BUILDABLE LAND INVENTORY AND ADJUSTMENTS TO LAND SUPPLY		
Item or Approach	Industrial Use Acres	Commercial Use Acres
1999 Inventory of Buildable land within the Bend UGB	549	575
Addition of Professional Office zone in Lava Ridge area		+9
NorthWest Crossing proposed change to replace Industrial zoning with Mixed-Employment zoning (net change)	-10	+10
Redevelopment of existing industrial and commercial sites	+15	+49
Convert residential land between Parkway and existing commercial zoning		+15
Convert High Density Residential land around St. Charles to Professional Office use		+86
One or two new commercial centers		+10
Expand UGB to take in Urban Reserve Area	+83	
Expand UGB to take in part of city "800 Acre" site	+120	
Total buildable acres with recommended changes	757	754
Forecast acres needed during 20-year planning period (2020)	744	728
Potential surplus (+) or deficit (-) acres	+13	+26

See sections 3 and 4 of this report for the discussion of these recommended measures and other measures that were considered.

2. OVERVIEW

2.1 Purpose

The purpose of this study is to recommend how the city can provide sufficient industrial and commercial zoned land to meet forecast needs during the 20-year planning period ending in 2020. This study is the second part of a three-part evaluation of economic land needs for the Bend Urban Area. The first part of this evaluation, titled *Economic Lands Study Part 1: Trends, Inventory, and Forecast*, was prepared by City of Bend staff in 1999 and updated in December 2000.

The *Trends, Inventory, and Forecast* study determined that during the next 20 years there is not enough planned industrial and commercial land within the Bend Urban Area to meet the forecast demand. That study showed is a need for another 195 acres of industrial land and another 153 acres of commercial land than currently are planned for in the urban area. Sixty acres of the industrial land need is for users that require larger parcels for manufacturing, warehousing, or similar uses.

Adjustment to Needed Acres

After the first study was completed, the city added nine acres of Professional Office zoning to the buildable "commercial" lands inventory as part of the Lava Ridge Refinement Plan. By increasing the supply of land for commercial development by nine acres the corresponding need for additional buildable land was decreased by nine acres. Thus, the commercial acreage need was reduced from 153 to 144 acres.

In the fall of 2000, developers of the "NorthWest Crossing" project on the west side of Bend proposed changing 15 acres of vacant Industrial Park land to the city's Mixed-Employment designation. The Mixed-Employment zone allows for a mix of light industrial, retail and service uses that would complement the planned Industrial Park and Commercial Limited zoning on the NorthWest Crossing site. Based on NorthWest Crossing's market analysis it is calculated that this change in designation would result in a net change or shift of about 10 acres subtracted from the industrial inventory and added to the commercial land inventory.

When the NorthWest Crossing proposal was adopted in May of 2001, the supply of buildable industrial land decreased by 10 acres, therefore the **industrial need figure *increases* to 205 acres**. With this change there was also a corresponding 10 acres addition to the supply of buildable commercial land. This corresponding commercial change further ***reduces* the 20-year commercial need to 134 acres**.

2.2 State Planning Requirements

Oregon's land use planning laws, and the administrative rules that interpret the law, provide guidance on how cities are to plan for economic growth and development. Oregon Administrative Rule 660-09 requires cities to inventory lands that are designated for industrial and commercial development, and to forecast needed industrial and commercial acres. The forecast can also identify uses that have special siting requirements such as large acreage or rail access. The city's inventory work was completed in the *Trends, Inventory, and Forecast* study cited above.

More importantly, OAR 660-09 also requires cities to provide a long-term supply of land to meet the forecast needs. The total acres "...shall at least equal the projected land needs for each category during the 20-year planning period."[2] Since the supply of buildable industrial and commercial land in Bend is less than the 20-year forecast, the City must meet the forecast need by using one or more of the approaches listed below:

- Accounting for under-developed sites to meet some of the future need.
- Considering the redevelopment potential of existing commercial and industrial sites.
- Enacting new zoning controls to maximize or restrict types of development within zoning districts to reflect the industrial or commercial purpose of the zone.
- Converting existing non-industrial or commercial land (typically residential or open space land) within the existing Urban Growth Boundary (UGB) to land for industrial and commercial development.
- Expanding the existing UGB to include more land to meet the needed industrial and commercial need.

The last approach, expanding the UGB for more land, carries with it some additional issues that have to be addressed. Although there are hundreds of acres of vacant or under-developed land outside the UGB, it is difficult to expand the UGB to include more land. Statutory requirements, administrative rules, and case law establish the standards and criteria by which to evaluate any expansion of the UGB. These standards currently address need, orderly and efficient provisions of public services, compatibility, and impact on resource lands. In the broad view, land may not be included with an urban growth boundary except under the following priorities:[3]

- The first priority is for land that is designated 'urban reserve' in the land use plan.
- The next priority is for land adjacent to an urban growth boundary that is identified as an 'exception' area or non-resource land.
- The third priority is to consider land that has marginal agricultural or forest resource value.
- The last priority of land to be considered for UGB expansion is land that is designated for agriculture or forestry use.

The state planning rules that regulate expansion of an Urban Growth Boundary into an urban reserve area or other areas are currently under review by the Land Conservation and Development Commission. It is possible that changes to the rules may be enacted prior to the city filing for an expansion of the UGB.[4] City staff will consider these new rules as part of the third and last study of this series, *Part 3: Alternative Site Analysis and UGB Expansion*.

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[2] See Oregon Administrative Rule 660-09-025(2) for more information.
[3] See Oregon Revised Statutes 197.298 for the complete text of the priorities for UGB expansion.
[4] On May 1, 2000 DLCD proposed amendments to State Land Use Goal 14 that would change the standards used to evaluate a UGB expansion. The corresponding Goal 14 administrative rules are also being reviewed. See proposed new rules 660-24, Urban Growth Management.

3. MEETING INDUSTRIAL LAND NEEDS

3.1 Changing Industrial Sector

Planning for an additional 205 acres of industrial land is a challenging task. Besides just the acreage needs, other factors such as special user needs (rail access, large lot, etc.), site needs (fire flows, road access, etc.), and compatibility with nearby land uses must be considered.

The search for new industrial land is further complicated by the changing nature of industrial sector businesses that affects the industrial user's land needs, site needs, and operating characteristics. Some of these changes are:

- *Employment shift to retail and service sectors.* The demand for land from traditional industrial users – manufacturing, processing, warehouses, bulk product storage, and utility service yards – is likely to decline as we continue the shift to a retail and service based economy and more business consolidations occur.

- *Decline in resource based manufacturing.* The shift from large resource based manufacturing and processing industries to smaller, more specialized industrial firms generally means smaller sites are needed. Due to the predominant demand in Bend for one-half to two acre sites, developers are less likely to develop multi-acreage sites for a larger manufacturing or warehousing business. Similarly, the strong market for smaller lots makes it difficult for an industrial firm that needs several acres of land to find large parcels.

- *More efficient production methods.* The global economy, technology and other factors will change the way some industrial firms operate. For example, subcontracting out some components or using robotics can reduce the number of employees and reduce the amount of land needed.

- *New users of industrial land.* Reduced land demand from industrial users may be offset by business service firms, or other users, seeking industrial zoned land that is near industrial clients or costs less per square foot than commercial zoned land.

- *Fewer environmental impacts.* Better control over air and noise pollution and better site appearance make new industrial operations more compatible with other types of land uses. However, while a specific industrial use may have fewer impacts, the overall operating characteristics – truck traffic, noise, hours of operation, etc. – of a large industrial area can still create potential conflicts with nearby residential or commercial uses.

- *Larger industrial land blocks.* The nature of industrial operations – truck or train activity, operation hours, better access for trucks, and relatively larger sites in the one-half to one-acre range – requires that bigger blocks of land be planned for industrial areas. While small commercial centers could be in the three to five acre range, the minimum acreage for a new industrial area is probably ten times that amount.

- *Mixed use zoning.* There is already some mixing of uses in the city's industrial and commercial zones. Bend's industrial zones permit some retail or service uses to locate in these zones. In addition, Bend's "heavier" commercial zones allow many uses that would normally locate in industrial zones. Besides the overlap of uses among the zones, Bend currently has two "mixed-use" zoning districts that permit a broad range of industrial and commercial uses. As the traditional distinctions between industrial and commercial uses and operating characteristics blur there will be increasing interest to use more mixed-use zoning. A technical problem with mixed use zones is that it makes it more difficult to accurately track the supply of land for future "commercial" or "industrial" use since the acres could be developed for either type of use.

3.2 Ways to Meet Industrial Land Need

The city considered several approaches to balance the supply of industrial land with the 20-year forecast. The various approaches and recommendations are described in the following pages.

3.2.1 Counting "under-developed" industrial land

A site with an existing single family residential use is an example of an "under-developed" industrial parcel. Industrial parcels like this that can be easily converted to an industrial use are already counted in the city's buildable land inventory as being available for development. Unless there is a physical constrain on the property, or the tax parcel has an odd shape, an under-developed site is counted as 100 percent available for development.

In addition, tax parcels that are only partially developed with an industrial use and have the potential for additional physical development on the site show up in the inventory with a percentage of the lot still available for development. Similarly, in calculating the absorption of industrial land, if only a part of a site is developed then only a percentage of the lot being developed is counted in the absorption acres.

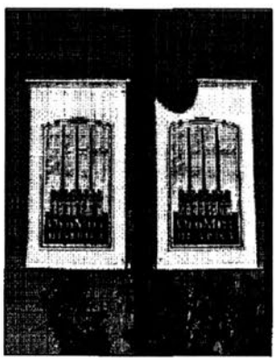
⊘ ***Under-developed industrial parcels are already counted in the land use inventory. There is no opportunity in this approach to increase the supply of buildable industrial land.***

3.2.2 Redevelopment

For the purpose of this discussion, redevelopment means a significant modification to an existing building or site. A minor improvement or modification made to an industrial building or site due to change of ownership or a tenant improvement is not considered redevelopment.

Because the Central Oregon economic base is changing, and because the economics of most small industrial businesses are different from commercial businesses, there is limited opportunity to redevelop industrial sites for new industrial development. Some of the characteristics of industrial development – relatively low prices for industrial land, uses not as sensitive to location as retail businesses, and special facility needs – often lead the industrial businesses to consider vacant land rather than to redevelop an existing industrial site.

The redevelopment of industrial sites generally involves very large sites like a mill, or several blocks of an older industrial area like Portland's Pearl District. However, due to the changing economic markets, and the location of older industrial areas near the center of town, these redevelopment projects are often geared to non-industrial uses. The redevelopment of the 200-acre DAW/Crown Pacific sawmill site in Bend followed this pattern. After the sawmill closed in the early 1990s the property was re-designated for mixed-use development. This area is now developing as the "Old Mill District" and the "Shevlin Riverfront Area" with office, retail and residential uses.



A second Bend example is the older industrial area along NE 1st and 2nd streets in the middle of town. For a variety of reasons this area has become less desirable for industrial use and has undergone a transition over the years to have a mix of wholesale/retail and service uses. This area was changed to the Mixed-Employment designation in 1998.

The most likely areas in Bend for industrial land to redevelop to new industrial uses are in the industrial areas away from urban core and the highway corridors. The three largest areas – Eastside Industrial Park, Brinson Industrial Park, and American Lane Industrial Park – are predominantly industrial in use and character, and are expected to remain so during the 20-year planning period. However, because Bend's industrial sector has diversified over the past couple of decades there are few large developed sites where redevelopment could occur. In the industrial areas mentioned above, there are only ten industrial users that occupy five or more acres. Of these ten sites, only two in the Eastside Industrial Park have operations that are likely to change during the next 20 years and have the potential for industrial redevelopment. The two sites that have the potential for industrial redevelopment total 15.5 acres in size.

☑ϑ ***It is recommended that the two sites with the greatest potential for redevelopment be included in the calculated supply of industrial land.*** This action would add about 15 acres to the supply of land for new industrial development.

3.2.3 Zoning tools

Before looking for additional land for industrial development, the staff considered several zoning tools that can encourage or require more development per acre of land. The zoning tools considered for industrial land were:

- Reducing or eliminating the landscape coverage requirements allows for more lot coverage by buildings and parking;
- Reducing front yard building setback distances increases lot coverage;
- Setting a high minimum ratio of building square footage to lot area (also known as "floor area ratio" or FAR);
- Placing a cap on parking, or requiring parking under a building or in a structure;
- Eliminating non-industrial uses from the city's industrial zones; and

- Allowing industrial uses in mixed-use zones.

Reducing landscaping. Although reducing the landscape minimum would add more buildable area per lot, it is contrary to the General Plan's policies to work with existing natural features on site and to improve the appearance of the community. It is also contrary to the trend toward more attractive industrial sites as a way to keep Bend's industrial market competitive with other industrial areas. Variance procedures are available to an applicant that has a justified need to reduce landscape cover.

⊘ ***It is not recommended that the required landscaping percentage be reduced in the industrial zones.***

Reducing front yard setbacks. The front yard setback in the Industrial Park zone is 20 feet, and the setback in the Light Industrial zone 10 feet. The City's General Industrial zone does not have a minimum setback to buildings. The front yard setback distance in the IP and IL zones provides most, if not all, of the required landscape area; provides a location for business signs; and provides separation between the sidewalk and the building or parking. The benefits of a maintaining a front yard setback area in these two zones outweighs the marginal increase in buildable site area that would be gained by eliminating the front yard setback.

⊘ ***It is not recommended that the front yard setback in either the IP or IL zones be reduced or eliminated.***

Minimum Floor Area Ratios. A Floor Area Ratio, or FAR, is the ratio between the total floor area of all buildings on a site and the lot square footage. Bend's Industrial Park zone establishes a maximum building lot coverage of 50 percent, but lot coverage only relates to the footprint of the buildings, not the total possible floor area of a multi-story building. Most industrial buildings in Bend are one story and cover about 40 to 50 percent of the lot area, a FAR of roughly 0.4 or 0.5 – one square foot of building for each two feet of lot area.

Bend does not require a minimum building floor area or FAR in any of the industrial zones. Specifying a minimum FAR above about 0.5 would force more development per acre then currently occurs. A FAR of 0.5 or greater would require either greater lot coverage by industrial users or multi-story industrial buildings. Establishing a minimum FAR for industrial property in Bend would create an artificial market constraint not matched by other communities in the region.

⊘ ***It is not recommended that minimum floor-area-ratios be applied to industrial zones.***

Cap on Parking. A requirement that limits the number of parking spaces for employees or customers could reduce the amount of land needed for development. However, the amount of land to be "gained" by taking this approach is small. On average, a vehicle parking space uses about 300 square feet of land. That means that it would take the elimination of 145 parking spaces to free up an acre of land for buildings. This approach has less impact in Bend when most of the industrial zone businesses are small or they have a low parking requirement.

As land prices increase, and as it becomes more difficult to develop additional land, there may be cause to place a parking cap or a requirement to incorporate parking into a structure.

⊘ ***It is not recommended that parking caps be instituted, as a general practice, in the industrial zones.***

☑ ***It is recommended that staff analyze more efficient ways to use land required for parking.*** To implement this recommendation city staff would develop concepts during the second round of zoning code updates tentatively scheduled for 2002-2003. Development concepts could include credit for on-street parking, shared parking for users, and park-and-ride or carpool standards.

Eliminating non-industrial uses. The zoning tool that merits the most discussion is that of eliminating non-industrial uses from the industrial zones. There is a concern that industrial land is being consumed by service or retail uses that are *not* tied to industrial customers. If these uses were located in commercial zones, it would "free up" more land for true industrial uses.

In the ten-year period of 1990 through 1999, a little more than 34 acres of industrial land in Bend was used for general office and other service or retail buildings. These 34 acres represent less than 12 percent of the total industrial land absorption during this period. Of this acreage, 23 acres occurred within Shevlin Industrial Park, and another 6 acres occurred north of Empire Avenue. The location of these two industrial areas has made them more desirable for other service and retail uses.[5] Other industrial areas in Bend have not experienced the same pressure for retail or service development.

Most of the 34 acres were used for offices, but there is increasing pressure to use lower priced industrial land for retail or service uses that are not location sensitive. Retail or service uses that have large sites, or that attract a high volume of customers from throughout the urban area, can erode the supply of industrial land or create traffic congestion in areas not designed to handle such volumes. Eliminating service and retail uses from the list of conditional uses would correct this condition, but eliminating all retail and service businesses would not be in the best long-term interest of the community.

One reason for allowing some services in the industrial zones is to provide for uses that complement the primary industrial uses. This concept is supported by the state's major land use planning agencies.[6] The *Smart Development Code Handbook*, funded by DLCD and ODOT, states:

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[5] The area north of Empire Avenue was changed to the Mixed Employment designation during the 1998 update of the General Plan. The proposed Urban Growth Management rules would prohibit a re-designation of industrial land except during Periodic Review or with the blessings of the Department of Economic Development. (660-024-0130; 10/12/00 draft)

[6] DLCD's proposed Urban Growth Management rules would only allow retail uses in industrial parks and would "limit retail uses to those that primarily serve the businesses and employees of the district..." (660-024-0130; 10/12/00 draft)

> *As employment centers, industrial areas teem with workers during the day, people who would benefit from amenities like a small scale store, lunch counter, or bank. Even small motels for visiting business people may be acceptable. Such businesses can satisfy some of the workers' needs without forcing them to drive ten miles to the nearest commercial zone just to buy a sandwich.*[7]

In addition to benefiting workers, allowing some service businesses such as maintenance, security, and payroll within industrial areas supports the trend of larger firms to "outsource" these services to smaller companies. It is reasonable to permit these types of firms to locate within industrial areas.

A second reason to allow some service uses in the industrial zones is that some service users are not "location-sensitive". Athletic clubs and gymnastic facilities are local examples of services uses that chose to locate in industrial land. Although these uses are service commercial in nature, they do not need to be in commercial areas, and the standards in the industrial zones (greater height, no building design review, etc.) and lower land costs better fit their needs.

The third reason is the changing economy that will produce new types of businesses that are a hybrid between traditional "commercial" and "industrial" businesses. Local examples are Internet/ "800" number customer service centers and software developers. These types of businesses look and operate like an office, but do not have the same site exposure or traffic access needs as a traditional commercial offices.



Allowing for some uses that do not fit the "traditional" industrial user profile can provide some flexibility to meet changing economic conditions. In some cases, it may be more efficient – in both cost and total land consumption for economic development – to allow non-traditional industrial uses in the industrial zones. If these types of uses are restricted to commercial zones that are more oriented to market niches (traveling public, neighborhood use, etc.) they could use up land that is better suited to other commercial uses.

Prohibiting all service or retail uses from Bend's industrial zones would be contrary to an efficient allocation of land for economic growth and could create a barrier to matching sites to the market demand. A more appropriate approach is to better describe these uses allowed in the industrial zones, and/or to regulate the building size of non-industrial uses. Restricting the type and/or reducing the size of service and retail uses in the industrial zone

[7] See the Smart Development Code Handbook, June 1998, at page 38. However, note also the subsequent discussion on mixed-use centers on page 13 of this study.

will provide some "additional", but unknown, amount of industrial land for future development.

☑ ***It is recommended that the type and size of service and retail uses allowed in the industrial zones be restricted or reduced.*** Specific proposals to implement this recommendation would be developed during the Periodic Review update of the zoning code scheduled for 2001-2002.

Mixed-use districts or centers. On the surface, it seems that many industrial uses could be an important component of mixed-use areas. The types of industrial businesses are changing, the environmental conflicts are less now than in the past, and industrial firms can bring a variety of job types (and salaries) to a mixed-use job center. As the distinctions between industrial and commercial uses diminish, it would seem a normal progression to have zones that permit a broad mix of commercial and industrial uses.

In fact, Governor Kitzhaber's Executive Order 97-22 proclaims that "*The state shall strive to ensure that its programs and activities help build...development patterns...[that provide] a mix of residential, commercial, industrial and institutional uses that supports a balanced transportation system.*"

If Bend were to follow this direction in its land use planning and zoning efforts it is likely that two things would change. First, there would be fewer zoning districts than exist today with a couple of zones replacing most of the industrial and commercial zones. Second, future studies would analyze the total amount of land available and needed for "economic development", without regard to it being 'commercial' or 'industrial'.

As noted earlier, although DLCD supports some service or retail uses in industrial zones, it does not favor industrial uses in mixed-use areas. DLCD has established policy positions and adopted administrative rules that *discourage* industrial uses in mixed-use districts.

First, the state planning rule requires an inventory of vacant land which are "...designated for industrial or commercial use".[8] This traditional approach of separating land uses into zones to calculate land supply and need works against mixed-use areas where only a more general calculation of land available for "economic development" can be made.

Second, the Smart Development program supported by LCDC and ODOT advocates "allowing limited retail services" in residential areas, or allowing multi-family housing in commercial zones. There is no discussion about mixing in industrial uses with housing and retail.[9]

Finally, recent changes to LCDC's Transportation Planning Rule have essentially eliminated industrial uses from being included in mixed-use centers.[10] The Transportation Planning Rule defines mixed-use centers or neighborhoods based on an assumption about

[8] See LCDC's rules for Industrial and Commercial development planning, OAR 660-09-015 and 660-09-025
[9] See the DLCD/ODOT Smart Development Code Handbook, pages 36-39.
[10] For more information, see the 'Transportation Planning Rule', Oregon Administrative Rule 660-12-0060(7).

reduced vehicle trips, but this definition excludes "most industrial uses". Similarly, the proposed Urban Growth Management rule excludes industrial uses in the definition of mixed-use development.[11]

⊘ ***It is recommended that no additional industrial acres, beyond that calculated as part of the Northwest Crossings proposal be assigned to new mixed-use areas.*** Oregon's statewide planning standards do not support industrial uses in mixed-use zones and essentially force industrial uses into industrial zones. The uncertainty of how much, if any, industrial land could be 'counted' as part of new mixed-use centers or districts make any estimate of industrial uses very tenuous. The safest course is to provide needed industrial land through other means.

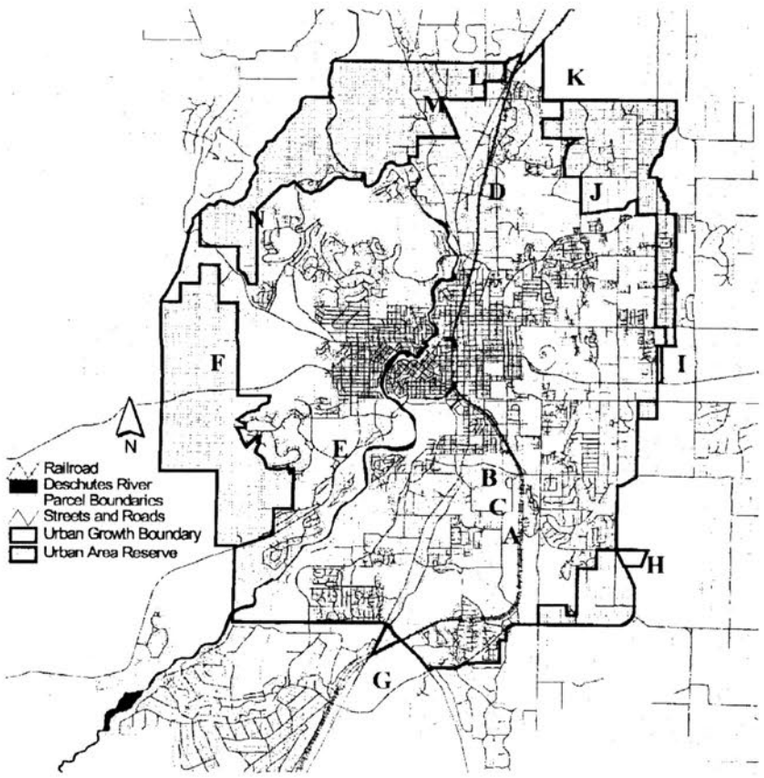
3.2.4 Looking for Additional Industrial Land

Redevelopment and zoning controls can only provide about 15 acres of the additional land needed for industrial growth. The main way for Bend to come up with industrial land to match the forecast demand is to look for potential sites with larger acreage.

In the fall of 1999, City staff compiled an initial list of 14 possible sites for future industrial development. Five of the sites are inside the Bend Urban Growth Boundary (UGB), and nine sites are outside the UGB. The map on the following page shows the location of these sites. One of the initial 14 sites, the area between Brosterhous Road and the railroad tracks, is now being developed as a residential subdivision and has since been dropped as a potential industrial site.

[11] DLCD proposed Urban Growth Management rules at 660-024-0120. (10/12/00 draft)

FIGURE 1 - Sites Initially Considered for Industrial Development



All of the sites were evaluated using the same nine criteria. The nine criteria addressed access to state highways, availability of adequate water, proximity to sewer, parcel size, ownership patterns, adjacent uses, and other factors. A point system was applied to each criterion and each site was given a point score. The sites with the highest point total are considered most likely for conversion to industrial land. A complete listing of the criteria and the potential points that could be scored under each criterion are described in Appendix A to this study.

Scoring of Potential sites

Table 4 describes the location and evaluation point score for the five sites within the city limits/UGB, and Table 5 covers the sites outside the UGB.

TABLE 4

POTENTIAL INDUSTRIAL SITES **INSIDE** THE URBAN GROWTH BOUNDARY			
Map Ref.	**Site Label**	**General Location and Description**	**Score**
A	Old Rail Yard*	Between Brosterhous Road and BNRR rail line south of American Lane industrial area	64
B	Bend Trap Club	On Brosterhous Road west of American Lane industrial area	54
C	Reed Mkt. Road South	South of Reed Mkt. Road & canal, west of American Lane industrial area	54
D	Boyd Acres West	North of Empire Ave. and west of Boyd Acres Road	47
E	Demo Dump	Old county demolition dump south of Simpson Ave.	49
**This site was dropped due to Foxborough residential subdivision of property that was filed after the initial round of site evaluations.*			

TABLE 5

POTENTIAL INDUSTRIAL SITES **OUTSIDE** THE URBAN GROWTH BOUNDARY			
Map Ref.	**Site Label**	**General Location and Description**	**Score**
F	Miller West	Central Oregon Pumice mining site north of Skyliners Road	45
G	Ward South	Triangle between Hwy 97, railroad tracks & China Hat Rd.	52
H	County East	Area east of county public works shops on SE 27th Street	51
I	Hwy 20 East	Area north and south of Hwy 20 East and west of Ward Rd.	33
J	USFS North	US Forest Service pine nursery site	39
K	Juniper Ridge	City owned "800 Acre" site north of Cooley Road	61
L	Hunnell Road	Either side of Hunnell Road, N. of Cooley Road	63
M	OB Riley No.	Between OB Riley Rd and Hwy 20, South of Cooley Road	29
N	Coats West	Coats operations and mining area north of Shevlin Park Rd.	44

As noted above, these sites were evaluated using nine criteria appropriate to industrial development. The five sites with the highest evaluation scores are listed in Table 6. Each of these sites includes an estimate of how many acres could be developed or converted for future industrial use. The two highest scoring sites – site "L", Hunnell Road and site "K", Juniper Ridge – are just outside the UGB at the north end of the urban area.

TABLE 6

FIVE SITES WITH HIGHEST EVALUATION SCORE				
Score	**Map Ref.**	**Site Label**	**Est. Acres**	**Current land use designation**
63	L	Hunnell Road	35-83	Urban Reserve Area; no special designation
61	K	Juniper Ridge	120	Agricultural – Exclusive Farm Use [County]
54	B	Trap Club	40	Single Family Residential
54	C	Reed Mkt. S.	40	Medium Density Residential
51	H	County East	60-80	Agriculture – Exclusive Farm Use [County]

Hunnell Road. This site includes three parcels - a 35 acre parcel, a 39 acre parcel and a 10 acre parcel – under separate ownerships.[12] All of the parcels considered in this site are in the Urban Reserve Area and therefore should be easier to bring into the UGB than the Juniper Ridge and County East sites. The Bend urban reserve area was formed prior to LCDC developing rules for creating such areas, so it is not clear which set of state regulations apply to these areas. It is recommended that property in this area be developed under the Industrial Light (IL) or Industrial Park (IP) zoning.

The last report in this three-part study, titled *Alternative Site Analysis and UGB Expansion*, will provide a more detailed evaluation of the Hunnell Road site beyond the criteria described in Appendix A. The *Alternative Site Analysis and UGB Expansion* study will also address other standards in the state rules that apply to this site.

☑ **It is recommended that the Hunnell Road site listed in Table 6 be brought into the Urban Growth Boundary.** The city will work with property owners to determine how many of the owners are interested in bringing their land into the UGB. The actual acreage will depend on the interest of the landowners.

Juniper Ridge. The Juniper Ridge site is part of a section of land (640 acres) and an adjacent quarter-section (160 acres) owned by the City of Bend. In the past two decades, this parcel has changed ownership from the Bureau of Land Management to Deschutes County and to the City of Bend. The Burlington Northern – Santa Fe rail line cuts through the northwest corner of the site at the edge of the UGB.

Although this parcel is outside the UGB, it was shown as "Industrial Reserve" in the original acknowledged Bend Area General Plan. In the past 20 years at least three studies have evaluated the potential for development on this site. Conceptual plans created for this site in the past decade showed a rough layout of roads, industrial land to be developed in a 'campus like' setting, and land to remain in its natural condition as open space and buffers to existing urban uses.

[12] The 35 acres parcel is made up of two tax lots under the same ownership. There is also a separate very small parcel (.05 acre) that is a remnant of a commercial parcel inside the UGB that was cut by Claussen Road. This small remnant would be included in the UGB annexation, but is not included in the buildable lands totals.

It is recommended that the Juniper Ridge site include 60 acres in the Light Industrial (IL) zone for the typical industrial market development of small lots. It is also recommended that another 60 acres on this site be developed under the Industrial General (IG) zone and held in 10-acre minimum lot sizes for large lot users. To develop the site as an industrial campus and reduce conflicts with adjacent residential uses it is estimated that another 30 to 50 acres of land should be included as non-developable land for open space, trails, and natural buffers. If needed, additional land at this site – up to about 200 acres – could be developed for industrial use or held in reserve for other urban uses.

Large water lines serving the schools and residential developments are adjacent to this property. City pressure sewer lines serve the schools and nearby residential area, and a city gravity sewer trunk line is planned to go through this site. The *Alternative Site Analysis and UGB Expansion* study will and address other standards in the existing state rules for expansion of the urban growth boundary.

☑ **It is recommended that the Juniper Ridge site listed in Table 6 be brought into the Urban Growth Boundary.** If this site is brought into the UGB, an overall master plan for the site would need to be approved by the City Council before any development could occur. A master plan for this site would also provide land for open space and possibly designate areas for future land needs to be held in reserve.

Trap Club and Reed Market Road Sites. The Trap Club and Reed Market Road sites are adjacent and share a large "Area of Special Interest" designation. The potential buildable acreage figure for these two sites would be reduced if the Area of Special Interest is preserved. A planned east-west collector road would bisect the area connecting the American Lane industrial area to Brosterhous Road.

Although these sites score well because of their proximity to the Parkway and existing industrial zoning, both are planned for residential development. When the residential lands inventory and forecast was prepared in 1995 there was a surplus of buildable residential land. More recently, there have been concerns voiced in the community about the supply (and use) of residential lands. In summary, these concerns are:

- The rate of residential growth the last half of the 1990s was about twice the expected growth rate, which means the residential land supply has been used up faster than expected. These two sites create one of the biggest blocks of vacant residential land within the urban area, and the City Council has expressed concern about converting large blocks of residential land to other uses. A re-evaluation of the housing need forecast and supply of buildable land for housing, schools and parks is scheduled for 2005.[13]

- In the fall of 2000, the Bend La Pine School District embarked on an analysis of the need for additional school sites during the next 10 years. For new middle school and high school sites, the district needs 25 to 40 acres. Because there are few large, vacant residential sites left in the urban area, one or both of these sites have the

[13] There are recommendations in the commercial section of this study to use about 110 acres of residential land elsewhere for commercial and office use. The location and existing land patterns make it more reasonable to convert these other residential areas to needed commercial land.

potential to be future school sites. The Trap Club site was considered in the previous school facility siting study conducted in the early 1990s.

- With increasing density and rapid growth, there is more interest in preserving the "Areas of Special Interest" and potentially other open space in the urban area. It is easier to preserve ASIs in residential areas than commercial or industrial zones due to density credits that can offset a "takings" issue.[14] In addition, there is greater benefit in having open space within residential areas rather than industrial sites.

⊘ **It is not recommended that the Trap Club and Reed Market Road South sites listed in Table 6 be re-classified for industrial development.** From an overall land planning perspective, it is better to keep these areas available for residential or school or open space use. If the Hunnell Road and Juniper Ridge sites are brought into the UGB there will not be a need to convert these lands.

County East. The acreage figure for this site is an estimate of land east of the public works complex and north of Knott Landfill. Two large Pacific Gas and Transmission natural gas pipelines run diagonally through this site. Although the County East site scored just below the third and fourth sites, it is not recommended that this site be included in the UGB for industrial land. The site is farther from the state highway system than the other two sites with the same score, and it has a large unbuildable area due to the gas transmission lines.[15]

⊘ **It is not recommended to bring the County East site into the urban growth boundary.** This site is not in an urban reserve area, and it is too far from the state highway system to provide reasonable truck access.

3.3 Summary of Recommended Actions

The overall recommended action plan to provide more land for industrial growth combines several of the approaches discussed in the previous pages. These recommended changes are shown in Table 7 on the next page. If all the recommended changes were enacted there would be 218 acres added to the industrial land inventory.

[14] Measure 7, approved by Oregon voters in November 2000, adds another component to the "takings" issue. A more intense industrial land category could force the city or parks district to buy the Area of Special Interest area at a higher market value.

[15] The Division of State Lands holds about 600 acres directly north of the County Public Works site. The DSL site was not included in the alternative site evaluation because it has the same drawbacks as the County East site and has some sensitive wildlife habitat areas (bat caves) on the site.

TABLE 7

RECOMMENDATIONS FOR INDUSTRIAL LAND		
Approach	**General Description**	**Approx. Acres**
Adding under-developed sites to the inventory	Under-developed industrial sites are already counted in the city's inventory of buildable industrial land	0
Redevelop existing industrial sites	Larger developed industrial sites that are likely to undergo major conversion to new industrial uses	15
Revise zoning code	Limit the type and/or size of office and service conditional uses in the industrial zones; possible parking restriction	Unknown
Expand Urban Growth Boundary	Expand UGB into urban reserve area at north edge of city for Light Industrial development	Up to 83
Expand Urban Growth Boundary	Expand UGB into city "800 Acre" property – 60 acres for market sites and 60 acres for large lots	120
	Total Acres	218

This additional industrial acreage, when added to the existing supply, would meet the total forecast industrial land need for the planning period ending in the year 2020. The amount of acreage actually added to the supply depends on several factors such as neighborhood concerns, City Council action, and the Oregon Department of Land Conservation and Development (DLCD) review.

4 MEETING COMMERCIAL LAND NEEDS

4.1 Commercial Overview

The broad range of retail and service businesses that seek commercial land have different and more complex site considerations than industrial users. Retail and service firms are generally more interested than industrial firms in site factors like traffic volumes, visibility, neighborhood access, site size, proximity to related businesses, and market demographics. In addition, a new business may need to consider other factors such as rent levels or improvement costs along with site preferences.

With the adoption in October 2000 of the Professional Office zone, the city currently has seven commercial zones and two mixed-use zones that permit a variety of retail and service commercial uses. Among these zones, there is a lot of overlap in allowed uses, and a few of the commercial zones bring in all the permitted uses from a less intense zone. The number of zones and overlapping uses makes it difficult to evaluate the demand for different commercial categories, and makes it harder to determine which zone is the most appropriate one for a zone change or plan amendment.

In addition, some zones are very specific in the uses allowed (i.e. "leather goods and luggage") while other city zones have very general uses (i.e. "retail"). This variation

between specific and general listed uses can also create difficulty in administering the zoning code.

☑ð ***It is recommended that staff refine the function of the zones to better serve different market niches.*** The market niches (i.e. neighborhood residential needs or highway oriented) and the uses listed could be broad or specific depending on the make up of the zones. This recommendation, if carried out, would not necessarily add any acreage to the supply, but would aid in the long-term efficient allocation of commercial land. This work could be done as part of a future update of the zoning code in 2003 – 2004.

☑ð ***It is recommended that the number of zoning districts serving the commercial sector be reduced.*** This recommendation is closely related to the previous one and work on this recommendation should be undertaken at the same time.

4.2 Ways to Meet Commercial Land Need

The search for more commercial land considered several ways to balance the demand and supply of land. Although the basic approach in evaluating commercial land was similar to the industrial land evaluation, the solution to finding enough land to meet the forecast "commercial" need is broader. The approach and recommended actions to provide enough commercial land are described in the following sections.

4.2.1 Counting "under-developed" commercial land

Like the industrial land inventory, under-developed commercial land is already accounted for in the city's inventory of the supply of commercial land. Commercial parcels that have interim use like a residence, or have additional land to develop, are counted in the supply of available acres. Unless there is a physical constrain on the property, or the tax parcel has an odd shape, an under-developed site is counted as 100 percent available for development.

In addition, tax parcels that are only partially developed with a commercial use and have the potential for additional physical development on the site show up in the inventory with a percentage of the lot still available for development. Similarly, in calculating the absorption of commercial land, if only a part of a site is being developed then just the part (percentage) of the lot being developed is counted in the absorption acres.

⊘ ***Under-developed commercial parcels are already counted in the land use inventory. There is no opportunity in this approach to increase the supply of buildable commercial land.***

4.2.2 Redevelopment of commercial land

For the purpose of this discussion, redevelopment means a significant modification to an existing building or site. A minor improvement or modification made to a commercial building or site due to change of ownership or a tenant improvement is not considered redevelopment.

One way to estimate the potential for a site to redevelop is to look at the ratio between the land value of a piece of property and the value of improvements on that property. For example, if the land value is three times the value of buildings and improvements on a site, then the site might be a target for tearing down the existing building and redeveloping the site to a new use.


Commercial redevelopment on S. Hwy. 97

Although the land-to-improvement ratio is often used to estimate redevelopment potential, the staff did not use this method. One problem with this approach is that the County Assessor's property review cycle takes several years, and so the improvement values data can be a few years out of date. On the other side, the selling price of property can be unpredictable and inflated so recent selling prices are not necessarily a good indicator of land and improvement values. In addition, this approach does not account for long term land owners that may have a low "cost basis" in the property and are not motivated by higher rents or high capital gains.

In place of the "land-to-improvement" ratio approach, the staff used a more subjective evaluation based on existing uses, developer inquiries about property, and the level of new commercial activity in different areas. In general, the areas considered for commercial redevelopment during the 20-year planning period were mainly along the (existing) state highways. The focus was on parcels in the older commercial strip areas, primarily along high traffic volume corridors, and with existing land uses that have been in place for 20 to 30 years. This subjective evaluation produced a list of 52 lots totaling 49 acres that have redevelopment potential. Most of these sites are small, and only a few of these lots are larger than five acres.

It should be noted that Governor Kitzhaber's *The Oregon Livability Initiative*[16] proposes to revitalize downtowns by "Discouraging strip commercial development along Oregon's high volume, high speed state highways such as Highway 97 through Bend...." However, the city staff feels that redevelopment of parcels along Highways 97 and 20 is consistent with other parts of the Governor's initiative to reduce sprawl and traffic congestion. Redevelopment of these commercial sites will provide better design and access for pedestrians and future transit users, and will provide better access control along the highway by shifting access points to the local side streets.

Another area that has redevelopment potential, but is even harder to predict or quantify is the Mixed Employment area between the railroad tracks and 3rd Street in the middle of town. Until the 1998 update of the General Plan this area was planned for Light Industrial Development and General (heavy) Commercial uses. The Mixed Employment designation is new, and the corresponding ME zone allows for a broad mix of industrial and

[16] *The Oregon Livability Initiative* was developed by Governor Kitzhaber and approved by the Oregon Legislature in September 1999. It consists of two parts: the 21st Century Community Fund and the Community Solutions Team.

commercial uses. As part of the inventory of industrial and commercial land it was assumed that most of the vacant and under-developed land in the Mixed Employment area would develop with commercial uses. This area's relatively close proximity to downtown increases the possibility that any redevelopment of existing business sites will be to commercial uses rather than industrial uses. However, the narrow street pavement widths in this area and access control along Greenwood Avenue and Franklin Avenue may limit large scale commercial redevelopment.

☑ ***It is expected that about 49 acres in the older commercial strip areas will be redeveloped to new commercial land uses.*** These areas are likely to redevelop and should be included as part of the land to meet future commercial needs.

4.2.3 Zoning tools

Several zoning standards that can encourage or require more development per acre were considered as part of the evaluation of commercial land.

Reducing landscape requirements. The zoning code requires that at least fifteen percent of a site be landscaped. Additional landscaping is required for shopping centers and other large developments. Most retail and service uses exceed the minimum landscaping standards.

Although reducing the landscape minimum would add more buildable area per lot, it is contrary to the General Plan's policies to work with existing natural features on site and to improve the appearance of the community. Over the years, the city has modified the zoning codes to require better landscaping in commercial areas and in the public street right-of-way. This effort is especially important for those commercial areas along the main arterial corridors and state highways.

Landscaping is a component of urban site design and plays a large part in setting the look and "feel" of a commercial site, not only when a site is developed, but for decades later. Reducing landscaping requirements would be contrary to community efforts to keep Bend an attractive and enjoyable place to work and shop.

⊘ ***It is not recommended that the required landscaping percentages be reduced in the zones that provide for retail and service uses.***

Reducing building setbacks. The required building setbacks from the front property line in all but one of the commercial and mixed-use zones is ten feet. The setback in the Neighborhood Commercial zone matches the adjacent residential zone, but the residential setback distance is also ten feet to the non-garage portion of the dwelling. The Central Business and Mixed-use Riverfront zones have no building setbacks.

Although the ten-foot minimum setback in some commercial zones is more than the recommended setback in DLCD's Model Development Code, this building setback distance is necessary and appropriate for several reasons. The ten-foot building setback distance: provides an area for the required landscaping, provides a more "pedestrian friendly" design by adding a little separation between the five-foot sidewalk at the property

line and building entrance, provides a more attractive streetscape, provides an area for monument signs, and provides an area for awning, tables and other pedestrian amenities. Reducing building setbacks to allow more land for development would add a very small amount of additional buildable land at the expense of other design and planning concerns.

⊘ ***It is not recommended that existing building setbacks in the commercial and mixed-use zones be reduced.***

Floor Area Ratios. A Floor Area Ratio, or FAR, is the ratio of total building floor area divided by the lot area. It is not just a measurement of the building footprint, but the total square footage of buildings on a site. It is a zoning tool that larger cities use to measure the intensity of development. A maximum FAR (like 20:1 or 40:1) is often used in downtown areas of big cities or other intense commercial areas to limit the height of a building or the intensity (square footage) of a development on a site. Conversely, a minimum FAR may be set to force more development per acre of land. A minimum FAR also may be used to meet public goals like revitalizing an area by increasing the value of development, boosting employment levels, or supporting transit ridership.

Bend does not have a minimum or maximum FAR in any of the zones. The existing areas where market conditions create a FAR of more than one are the Central Business district, and to a lesser extent, the Mixed-use Riverfront zone. Both of these areas have small minimum lot sizes, shared parking, and no building setback requirements. Specifying a minimum FAR that is higher than current commercial developments in these two zones could force more development per acre.

The system of public parking lots downtown and the option of making a payment "in-lieu-of" providing on-site parking makes the downtown area the zone that is most suitable for the establishment of a minimum FAR. Establishing a minimum FAR in the Central Business district would lead to more intensive development in the downtown core. However, a minimum FAR downtown would not necessarily "add" land to the commercial inventory as upper stories could be devoted to housing.

☑ ***It is recommended that Planning staff or Downtown Development Board staff determine the existing average Floor Area Ratio for development in the downtown area and evaluate the establishment of a minimum FAR.***

Limiting parking. The city zoning code has minimum on-site parking requirements for all uses. The exception is in the downtown area where businesses can pay a fee that supports the downtown parking lots in lieu of providing on-site parking. The zoning code allows for up to a ten-percent reduction in the minimum number of parking spaces if certain measures to encourage other transportation modes are provided on the site.

For the very large commercial sites there is also a *maximum* limit on the number of parking spaces set at 150 percent of the minimum number of required spaces. The purpose of the parking cap is to reduce the amount of "extra" land that is devoted to parking and to encourage shared parking among commercial businesses. These measures allow more development of buildings on a site by reducing the amount of land devoted to parking.

For users with a high ratio of employees per acre, or with a large customer base, there could be other options such as a parking structure or building above the parking that would provide more building area per acre. For example, about 33 parking spaces could be put under a building with a 10,000 square foot 'footprint' – enough parking for most offices of that size. Currently, there are only a handful of buildings in Bend with underground or structured parking. However, as commercial land prices increase, and on prime sites where there is limited area for parking, the need for under-building or structured parking will increase.



New office building on Columbia with parking underneath building

☑ ***It is recommended that staff evaluate zoning incentives to encourage use of on-site parking structures or under-building parking to reduce the amount of land needed for parking***. Proposed zoning code changes could be drafted during a subsequent review of the zoning code in 2002-2003.

4.2.4 Conversion of land within the Urban Growth Boundary

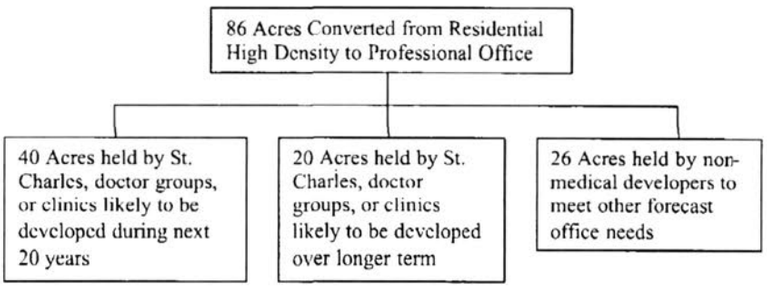
Most of the land considered for a change to a commercial designation is currently planned for medium or high-density residential development, the land use categories with the largest relative surplus of land. The type of plan change, and areas considered for conversion from other land uses, are described below.

High Density Residential to Professional Office

The Residential High Density (RH) zone permits professional offices and medical clinics as well as high-density residential uses. In the 1990s, almost 19 acres of land in the RH zone was used for professional offices, doctors' offices and medical clinics. Based on the 1990s trend of office and clinic development, about 40 acres of new office and medical related development would occur in the existing Residential High Density zone during the next 20 years.

St. Charles Medical Center is the only hospital in Bend and is the largest hospital facility in Central and Eastern Oregon. Much of the Residential High Density zoning around St. Charles has developed into offices and clinics rather than residential uses. It is expected, for a couple of reasons, that most of the RH zoned land near St. Charles will develop into medical related facilities rather than high density housing. First, the pattern of growth of medical offices and clinics is likely to continue as the St. Charles Medical Center and Bend assume an even larger role as the regional medical center east of the Cascades. Second, based on ownership of the vacant RH land, and the market targeted by other developers of RH land near St. Charles, there are currently about 60 acres of RH zoning in this area that is being "held" in anticipation of future medical and office uses.

The main geographic area that was evaluated for a change from Residential High Density to Professional Office was within a ¼ mile of St. Charles Medical Center. Areas considered included land along NE 27th Street north of Neff Road, land south of Neff Road between Purcell Boulevard and NE 27th, and land around the St. Charles Medical Center. [17] Based on ownership patterns, proximity to St. Charles and other major clinics, and development patterns, there are about 86 acres that should be converted from High Density Residential to Professional Office zoning.



Changing the land use designation to the proposed Professional Office zone would serve two purposes. It would recognize the predominant medical and office development that has occurred around St. Charles, and it would allow this land to be counted in the inventory of land available for service commercial development.

The other 26 acres that could be changed to the Professional Office zone could develop to additional medical related uses, other professional office uses or mixed office-residential uses allowed in the PO zone.

☑ ***It is recommended that the 86 acres along Neff and NE 27th be changed from Residential High Density to the Professional Office designation.***

With the adoption of the new Professional Office zone, and the application of this zone to better define what types of uses are expected to occur in different parts of the community, there is the corresponding need to delete office and clinic uses from the Residential High Density zone. This change would allow the city to use the High Density Residential zone for just residential development, rather than a market-driven mix of housing and offices.

☑ ***It is recommended that the RH zone be amended to eliminate new professional office and clinic uses.***

Multifamily Residential to Highway Commercial

A third potential area for change is south of Hayes Avenue between the new Highway 97 Parkway alignment and the existing commercial zoning. A policy in the General Plan

[17] The developments or areas included in this evaluation are The Woodlands Subdivision (16 acres), Connors Drive (5 acres), Carpenter Subdivision (10 acres), St. Charles Medical Center property (29 acres) and the Watt Way/Pilot Butte Business Park (26 acres). See Appendix B

states that the city will review this area for potential commercial uses after the Parkway is completed. The Oregon Department of Transportation expects to complete the southern section of the Parkway by late 2001 or early 2002.

After the Parkway is constructed there will be multifamily parcels that will be in between the Parkway and retail uses. Almost all of these parcels are remnants of larger multifamily parcels and are vacant or under-developed. In all, there are 11 parcels in this area with about 15 acres of land.

☑ ***It is recommended that staff evaluate non-commercial planned and zoned land along the east side of the Parkway for a change to commercial zoning.*** This staff work should be scheduled after the south segment of the Parkway is completed in late 2001.

Single Family Residential to Convenience Center(s).

A fourth, but more speculative potential change, is for two additional small "Convenience Commercial" centers or one larger mixed-use center to develop in areas not currently planned for these centers.

There are ten small commercial centers (four to five acres) identified on the Bend Area General Plan map. Any of these areas that are vacant or under-developed are already counted in the city's inventory of planned commercial land. Even though these existing commercial centers are well distributed through the urban area, there are still residential areas within the city that are one to two miles from any commercial services. In addition, since there are so many households outside the urban area, a new commercial center near the edge of the urban area could also serve this external population and reduce some trips or trip lengths into the commercial corridors along the highways.

An alternative to two small convenience commercial centers is the development of one larger commercial or mixed-use center. A larger center has the advantage of providing a broader mix of retail and service businesses (and jobs) at one location. One transportation alternative considered in the Bend Transportation System Plan included a new mixed-use center in the urban area. The southeast and northeast sectors of Bend are the areas most likely to benefit from new commercial centers. A larger mixed-use center would require more rigorous analysis of traffic impacts, utility services, and compatibility with other uses than would the smaller commercial centers.

For the calculations in this study, it was assumed that another 10 acres of commercial land could be developed in the urban area. Since there are currently several vacant or under-developed "convenience commercial" centers in the urban area the need for additional small centers or a larger center may not develop until several years into the 20-year planning cycle.

☑ ***It is recommended that the General Plan be changed to add either two small (4-5 acre) commercial centers, or one larger center in the urban area.*** This work should be scheduled several years out after the city has more time to understand the impacts of small commercial centers.

"NorthWest Crossing" master planned community.[18] The fifth and last potential change within the urban area is a change proposed by West Bend Properties LLC for the proposed NorthWest Crossing mixed-use development between Skyliners Road and Shevlin Park Road. The NorthWest Crossing property has 25 acres of commercial designation and 95 acres of industrial park designation. The Northwest Crossings proposal would change 15 acres of vacant Industrial Park land to 15 acres of Mixed Employment land.

Although the Mixed Employment zone permits a variety of industrial and commercial uses, the NorthWest Crossing's preliminary analysis is that about 70 percent of the proposed Mixed Employment parcels would go to commercial development. For the calculations in this study, staff assumed that about 10 acres of the proposed Mixed Employment land (70 percent) would develop into retail and services commercial uses. This net change or "shift" of 10 acres results in *reducing* the buildable industrial land supply by 10 acres and *increasing* the commercial land supply by 10 acres.

4.3 Summary of Recommended Actions

The overall recommended action plan to provide more land for commercial growth combines several of the approaches discussed in the previous pages. If all the recommended changes were enacted there would be 170 commercial acres added to the inventory. Table 8 provides a summary of ways that the needed commercial land could be provided. This land would meet the current forecast of commercial land needs for the next 20 years and the demand for office and medical clinic development that would have occurred in the RH zone.

TABLE 8

RECOMMENDATIONS FOR COMMERCIAL LAND		
Strategy	Location	Acres
Adding under-developed sites to the inventory	Under-developed commercial sites and existing non-conforming uses are already counted in the city's inventory of buildable land	0
Redevelopment of built commercial areas	Primarily along 3rd Street and Highway 20 east; limited potential adjacent to downtown.	49
Change High Density office and clinic areas to Professional Office	Applied to office and medical development areas along Neff Road and NE 27th Street.	86
Change mixed residential area to commercial designation	Along east side of Parkway generally south of COI canal.	15
Change Single Family residential to new small commercial centers or larger mixed-use center	No area proposed at this time.	10
Change Industrial Park designation to Mixed Use	Northwest Crossing proposal for area along Mt. Washington Drive.	10
	Total Acres	170

[18] This discussion about the proposed NorthWest Crossing development was included in the original December 2000 study, and was retained for reference in the June update to this study.

The total commercial acre figure in Table 8 is 26 acres more than the forecast additional acres needed. This acreage "cushion" is less than an average year of commercial demand, and is reasonable for a couple of reasons. The acreage numbers for land along the Parkway that can be converted or the amount of land that can be redeveloped may be less than forecast. On the other hand, the demand for medical facilities may provide more demand for office and clinic development around the hospital than forecast.

In addition to the measures in Table 8, it is recommended that the following steps be taken as part of an overall strategy to ensure that there is adequate commercial land during the planning period.

- Eliminate office and medical clinic uses from the city's Residential High Density zoning district so that the remaining RH land will be developed for residential uses. This work could be done as part of the second round of zoning code updates in 2002-2003.
- Evaluate zoning incentives or standards that promote the use of on-site parking structures or under-building parking. The purpose of this evaluation is to reduce the amount of land needed for parking. This work could be done as part of a second round of zoning code changes in 2002-2003.
- Establish a minimum Floor Area Ratio for buildings in the Central Business District.

End of Report

INDUSTRIAL SITE EVALUATION CRITERIA AND SCORING

The criteria used to evaluate the initial 14 industrial sites inside and outside the Bend UGB are listed below. The nine criteria have a maximum of 90 points. The last criterion is more qualitative than quantitative, and has a value of plus or minus 10 points.

1. DIRECT ACCESS TO A LOCAL ARTERIAL OR COLLECTOR STREET
   - Access to an improved arterial – 10 points
   - Access to a planned arterial or an arterial below urban standard – 7 points
   - Access to an improved collector – 5 points
   - Access to a planned collector or a collector below urban standard – 3 points
   - Access to a residential street – 0 points

2. PROXIMITY TO STATE HIGHWAY SYSTEM
   - Within 1 mile of Parkway interchange or signal, or within ½ mile of Hwy 97 north or south of Parkway terminus – 10 points
   - Within 1 mile of Hwy 97 or Hwy 20 West - 7 points
   - Within 1 mile of Hwy 20 East – 5 points
   - More than 1 mile from state highway system – 0 points

3. PROXIMITY TO ADEQUATE MUNICIPAL OR PRIVATE WATER
   - 12" or larger water line through or adjacent to site – 10 points
   - 12" or larger water line within ¼ mile of site – 7 points
   - 12" or larger water line within ½ mile of site – 5 points
   - 12" or larger water line between ½ and 1 mile of site – 3 points
   - Water line less than 12" or more than 1 mile from site – 0 points

4. PROXIMITY TO ADEQUATE MUNICIPAL OR PRIVATE SEWER
   - Sewer through or adjacent to site – 10 points
   - Sewer within ¼ mile of site – 7 points
   - Sewer within ½ mile of site – 5 points
   - Sewer between ½ and 1 mile of site – 3 points
   - Sewer more than 1 mile from site – 0 points

5. VACANT OR UNDERDEVELOPED LAND IN ONE OR MORE OWNERS IN MINIMUM PARCEL SIZES OF 10 ACRES
   One owner (parcel) of at least 50 acres – 10 points
   Two to three owners, or one owner less than 50 acres – 7 points
   Four to six owners of at least 50 acres – 3 points
   More than six owners or does not meet standard – 0 points

6. PROXIMITY TO URBAN GROWTH BOUNDARY
   Within Urban Growth Boundary – 10 points
   Within Urban Reserve Area – 7 points
   Outside Urban Reserve but adjacent to UGB – 5 points
   Other – 0 points

7. PROXIMITY TO EXISTING OR PLANNED INDUSTRIAL OR COMMERCIAL AREAS
   Adjacent to existing industrial – 10 points
   Adjacent to planned industrial – 7 points
   Adjacent to existing commercial – 5 points
   Adjacent to planned commercial - 3 points
   Not adjacent to existing or planned industrial or commercial – 0 points

8. PUBLIC OR PRIVATE OWNERSHIP
   Mix of public and private ownership – 10 points
   Public ownership only – 7 points
   Private ownership – 5 points
   Owned by aliens from outer space – 0 points

9. OTHER MITIGATING FACTORS; QUALITATIVE CONDITIONS
   Positive factor(s) – up to +10 points (plus 10)
   Neutral or no mitigating factor – 0 points
   Negative factor(s) – up to -10 points (minus 10)

TABLE 1 – POSSIBLE SITES INSIDE UGB / SUMMARY OF SCORING BY SITE AND CRITERIA

CRITERIA	Site Letter and Name				
	A Old BNRR rail yard	B Bend Trap Club	C Reed Mkt. South	D Boyd Acres West	E Old Demo Dump
Access to arterial or collector	3	3	3	0	7
Proximity to state highway	7	10	10	10	0
Proximity to adequate water	10	10	7	7	10
Proximity to adequate sewer	7	7	7	3	10
Size and number of owners	10	7	7	0	10
Proximity to UGB	10	10	10	10	10
Proximity to "I" or "C" areas	7	7	10	7	5
Ownership type	5	5	5	5	7
Mitigating factors	5	-5	-5	5	-10
POINT TOTAL	64	54	54	47	49

TABLE 2 POSSIBLE SITES OUTSIDE UGB / SUMMARY OF SCORING BY SITE AND CRITERIA

CRITERIA	Site Letter and Name								
	F Miller West	G Ward South	H County East	I Hwy 20 E.	J USFS North	K Juniper Ridge	L Hunnell Road	M OB Riley North	N Coats West
Access to arterial or collector	7	7	7	7	5	7	7	7	7
Proximity to state highway	0	10	0	5	0	10	10	7	0
Proximity to adequate water	3	10	10	5	10	10	10	7	3
Proximity to adequate sewer	3	3	7	5	10	7	7	3	7
Size and number of owners	10	10	10	3	10	10	7	3	10
Proximity to UGB	7	7	5	5	7	5	7	7	7
Proximity to "I" or "C" areas	0	0	0	0	0	0	5	0	0
Ownership type	10	5	7	3	7	7	5	5	5
Mitigating factors	5	0	5	0	-10	5	5	-10	5
POINT TOTAL	45	52	51	33	39	61	63	29	44

SITE "A" – OLD BURLINGTON NORTHERN RAIL YARD between railroad sidings and Brosterhous Road		
CRITERIA	DESCRIPTION / EXPLANATION	POINTS
Access to arterial or collector	Site is adjacent to Brosterhous Road and American Lane, both collector roads not built to urban standards	3
Proximity to state highway	One mile to Hwy 97 via Brosterhous Road	7
Proximity to adequate water	City constructing 16 inch line in Brosterhous & 12 inch line in American Lane	10
Proximity to adequate sewer	Within ¼ mile of American Lane sewer; future gravity line through site	7
Size and number of owners	50.34 acre parcel with one owner (Lynn Perlatti)	10
Proximity to UGB	Within Urban Growth Boundary	10
Proximity to "I" or "C" areas	American Lane industrial park is directly north; residential on other sides	7
Ownership type	Private ownership	5
Mitigating factors	Adjacent to railroad sidings and old switching yard; Brosterhous Road to Hwy 97 is substandard, curvy and through residential areas	5
	POINT TOTAL	64

SITE "B" – BEND TRAP CLUB on Brousterhous Road		
CRITERIA	DESCRIPTION / EXPLANATION	POINTS
Access to arterial or collector	Site is adjacent to Brosterhous Road, a collector road not built to urban standards	3
Proximity to state highway	Less than one mile to Reed Mkt. Rd / Parkway interchange	10
Proximity to adequate water	City constructing 16 inch line in Brosterhous Road	10
Proximity to adequate sewer	Within ¼ mile of American Lane sewer	7
Size and number of owners	39.39 acre parcel owned by Bend Trap Club	7
Proximity to UGB	Within Urban Growth Boundary	10
Proximity to "I" or "C" areas	American Lane industrial park is directly east; residential on other sides	7
Ownership type	Private ownership	5
Mitigating factors	Brosterhous Road to Hwy 97 is substandard, ASI #3 on north ¼ of property	-5
	POINT TOTAL	54

SITE "C" – REED MARKET ROAD SOUTH across canal and west of American Lane industrial park		
CRITERIA	DESCRIPTION / EXPLANATION	POINTS
Access to arterial or collector	Site not adjacent to existing road; planned collector at south edge of property	3
Proximity to state highway	Approximately ½ mile to Highway 97S; less than 1 mile to Reed Mkt. Rd. interchange with Parkway	10
Proximity to adequate water	16" water line will be built in Brosterhous Rd. approximately ¼ mile from site	7
Proximity to adequate sewer	Sewer line is being constructed within American Lane industrial park to the east	7
Size and number of owners	49.96 acre site in two tax lots under one ownership (Charles Anderson)	7
Proximity to UGB	Within Urban Growth Boundary	10
Proximity to "I" or "C" areas	American Lane industrial park to east; residential to west and south	10
Ownership type	Private ownership	5
Mitigating factors	Part of Area of Special Interest; access is across canal to Reed Mkt. Road	-5
	POINT TOTAL	54

SITE "D" – BOYD ACRES WEST North of Empire Avenue and west of Boyd Acres Road		
CRITERIA	DESCRIPTION / EXPLANATION	POINTS
Access to arterial or collector	Possible access to Empire Avenue; Boyd Acres Road not a collector or arterial	0
Proximity to state highway	Within one mile of Empire Avenue / Parkway interchange	10
Proximity to adequate water	Within ¼ mile of 12 inch line in Boyd Acres Road	7
Proximity to adequate sewer	Sewer in Boyd Acres Road between ½ and one mile away	3
Size and number of owners	26.12 Acres in four parcels	0
Proximity to UGB	Within Urban Growth Boundary	10
Proximity to "I" or "C" areas	Brinson Industrial park area to south across Empire Avenue	7
Ownership type	All under four separate private ownerships	5

Mitigating factors	Next to railroad tracks	5
	POINT TOTAL	47

SITE "E" – OLD DEMOLITION DUMP SITE south of Simpson Avenue		
CRITERIA	DESCRIPTION / EXPLANATION	POINTS
Access to arterial or collector	Access to Simpson Avenue, an arterial below full urban standards	7
Proximity to state highway	More than one mile to state highway system	0
Proximity to adequate water	12 inch water line in Mt. Washington Drive at west edge of property	10
Proximity to adequate sewer	18 inch sewer line in Simpson Avenue	10
Size and number of owners	55.87 acres under one ownership	10
Proximity to UGB	Within Urban Growth Boundary	10
Proximity to "I" or "C" areas	Surface Mining area next to part of site; residential and other also adjacent	5
Ownership type	County ownership in two parcels	7
Mitigating factors	Irregular topography with deep pit; potential fire or ground settling due to organic matter; next to Broken Top PUD.	-10
	POINT TOTAL	49

SITES OUTSIDE URBAN GROWTH BOUNDARY

SITE "F" – MILLER WEST – adjacent to west edge of urban growth boundary		
CRITERIA	DESCRIPTION / EXPLANATION	POINTS
Access to arterial or collector	Site adjacent to Skyliners Road, a designated County arterial road. Skyliners Road is not built to urban road standards	7
Proximity to state highway	More than 3 miles to Parkway. Site is approximately 3 miles from Hwy 97 and 5 miles from Hwy 97 through residential area and/or downtown.	0
Proximity to adequate water	16 inch supply line within ¼ to ½ mile, but no storage	3
Proximity to adequate sewer	Sewer line within one mile of site	3
Size and number of owners	Site is approximately 140 acres in one ownership.	10
Proximity to UGB	Site is within Urban Reserve Area and adjacent to western UGB line	7
Proximity to "I" or "C" areas	Unknown if site will be adjacent to master planned industrial and commercial areas in	0

	West Bend Property Company site	
Agriculture / forest capability	Property is not in farm or forest use	10
Mitigating factors	Current zoning on property is Surface Mining (SM) which allows some industrial uses	5
	POINT TOTAL	45

SITE "G" – WARD SOUTH – Triangle area between Hwy 97, railroad tracks and China Hat Road		
CRITERIA	DESCRIPTION / EXPLANATION	POINTS
Access to arterial or collector	Adjacent to China Hat Road, an arterial below full urban standards	7
Proximity to state highway	Within one mile to South Parkway terminus and next to Hwy 97 South	10
Proximity to adequate water	Avion Water Company has a 12 inch line in China Hat Road adjacent to site	10
Proximity to adequate sewer	Approximately ½ mile to Juniper Sewer and ¾ mile to future sewer in Parrell Rd.	3
Size and number of owners	67.07 acres; 33.6 ac. In urban reserve & 37.4 in city limits all in one ownership	10
Proximity to UGB	Within urban reserve area	7
Proximity to "I" or "C" areas	Not adjacent to existing industrial or commercial	0
Ownership type	Private ownership	5
Mitigating factors	Adjacent to railroad but under same ownership of golf course and PUD	0
	POINT TOTAL	52

SITE "H" – COUNTY EAST – East of County shops on SE 27th Street		
CRITERIA	DESCRIPTION / EXPLANATION	POINTS
Access to arterial or collector	Adjacent to SE 27th Street, an arterial not built to full urban standards	7
Proximity to state highway	2 miles to Hwy 20 and 4 ½ miles to Hwy 97 S.	0
Proximity to adequate water	Avion Water Company has a 20 inch line running through site adjacent to gas line	10
Proximity to adequate sewer	Pressure sewer in SE 27th Street; service to Co. shops complex	7
Size and number of owners	322 acres including County shops and part of Knott Landfill in one ownership	10
Proximity to UGB	Adjacent to UGB, but not in Urban Reserve Area	5

Proximity to "I" or "C" areas	Adjacent to Co. public works complex and Mid-State Electric yard	0
Ownership type	Owned by Deschutes County	7
Mitigating factors	Traffic capacity problems on 27th Street & Knott Road; PGT gas line through site	5
	POINT TOTAL	54

SITE "I" – HIGHWAY 20 EAST – between city limits and Ward Road		
CRITERIA	DESCRIPTION / EXPLANATION	POINTS
Access to arterial or collector	Adjacent to Highway 20, an arterial not built to full urban standards	7
Proximity to state highway	All of the area is within one mile of Highway 20 East	5
Proximity to adequate water	There is a city 12 inch line in Hwy 20 at edge of the Crossroads commercial development, ½ mile from site	5
Proximity to adequate sewer	City sewer at Crossroads commercial development within ½ mile of this site	5
Size and number of owners	Approximately 77 acres in five parcels and five owners; adjacent 55 acres in two parcels and one owner	3
Proximity to UGB	One ten acre site in Urban Reserve, but remaining 36 acre parcel on south side of Hwy 20 is outside Urban Reserve but adjacent to UGB	5
Proximity to "I" or "C" areas	Not adjacent to existing or planned industrial or commercial lands	0
Ownership type	Private ownership for all parcels	3
Mitigating factors	Two large parcels with direct access to Hwy 20, but zoned Exclusive Farm Use	0
	POINT TOTAL	33

SITE "J" – USFS NORTH – Forest Service Pine Nursery site on Yeoman Road		
CRITERIA	DESCRIPTION / EXPLANATION	POINTS
Access to arterial or collector	Bordered by Yeoman Road and Deschutes Mkt. Road on three sides; collectors not constructed to full urban standards	5
Proximity to state highway	1 ½ mile to Parkway via Empire Avenue (when completed)	0
Proximity to adequate water	16 inch water line in Yeoman Rd. at SW corner of site; large capacity well on site	10
Proximity to adequate sewer	36 inch sewer interceptor along canal at south edge of property	10

Size and number of owners	221 Acres in two tax parcels under one ownership	10
Proximity to UGB	In Urban Reserve Area adjacent to UGB	7
Proximity to "I" or "C" areas	Not adjacent to existing or planned commercial or industrial development	0
Ownership type	Parcels owned by US Forest Service	7
Mitigating factors	Site is discussed as a future Bend Metro Parks & Recreation sports complex	-10
	POINT TOTAL	39

SITE "K" – JUNIPER RIDGE – part of city owned "800 Acre" site north of Cooley Road		
CRITERIA	DESCRIPTION / EXPLANATION	POINTS
Access to arterial or collector	Adjacent to Cooley Road, an arterial not built to full urban standards	7
Proximity to state highway	½ mile from Highway 97 North	10
Proximity to adequate water	Avion Water Company has a 12 inch line in NE 18th about 300 feet from site	10
Proximity to adequate sewer	City 24 inch interceptor sewer engineered to run through the site, but not yet built	7
Size and number of owners	530 Acres west of North Unit Canal in one ownership	10
Proximity to UGB	Adjacent to UGB on west side and adjacent to Urban Reserve on south side	5
Proximity to "I" or "C" areas	Not adjacent to existing or planned industrial or commercial areas	0
Ownership type	Site entirely owned by City of Bend	7
Mitigating factors	History of opposition proposed development; some site analysis already done	5
	POINT TOTAL	61

SITE "L" – HUNNELL ROAD – Either side of Hunnell Road North of Cooley Road		
CRITERIA	DESCRIPTION / EXPLANATION	POINTS
Access to arterial or collector	Adjacent to Hunnell Road and/or Cooley Road, arterials not built to full urban standards	7
Proximity to state highway	Less than ¼ mile to Hwy 97 North and ½ mile to Hwy 20 West	10
Proximity to adequate water	12 inch Avion line in Clausen Road and 10 inch Avion line in Hunnell Road	10
Proximity to adequate sewer	Pressure sewer in Hwy 97 and in Clausen Lane	7
Size and number of owners	84 acres in three ownerships – four tax parcels	7

Proximity to UGB	In urban reserve Area; UGB adjacent to the east and across Cooley Road	7
Proximity to "I" or "C" areas	Adjacent to existing Highway Commercial properties to the south and southeast	5
Ownership type	Private ownership of all parcels	5
Mitigating factors	Easy access to Hwy 97 North at signalized intersection	5
	POINT TOTAL	63

SITE "M" – OB RILEY ROAD NORTH – Between O.B. Riley Road and Hwy 20 West, South of Cooley Road		
CRITERIA	DESCRIPTION / EXPLANATION	POINTS
Access to arterial or collector	Direct access to Hwy 20 West or Cooley Road, both arterial roads	7
Proximity to state highway	Adjacent to or within ½ mile of Highway 20 West	7
Proximity to adequate water	No water within O.B. Riley or Cooley Rd., but 12 inch line at County jail site	7
Proximity to adequate sewer	No sewer within OB Riley or Hwy 20, but sewer is less than one mile to South	3
Size and number of owners	89.2 acres total in four ownerships; 62 acres in one ownership (three parcels)	3
Proximity to UGB	In Urban Reserve Area	7
Proximity to "I" or "C" areas	Not adjacent to existing or planned industrial or commercial areas	0
Ownership type	Private ownership by five separate owners	5
Mitigating factors	Major parcels are personal home of Richard Brownrigg; limited Hwy access & unsignalized intersection; area of no-growth sentiment	-10
	POINT TOTAL	29

SITE "N" – COATS WEST – Coats sand and gravel operations and mining area North of Shevlin Park Road		
CRITERIA	DESCRIPTION / EXPLANATION	POINTS
Access to arterial or collector	Direct access to Shevlin Park Road, an arterial not built to full urban standards	7
Proximity to state highway	More than three miles to the Parkway or Highway 97	0
Proximity to adequate water	12 inch water line in Mt. Washington Drive between Skyliners and Shevlin Pk. Roads	3
Proximity to adequate sewer	Sewer ¼ mile away in Polar Star Drive and in Awbrey Glen PUD	7
Size and number of owners	68.5 acres in two tax lots under one ownership	10

Proximity to UGB	In Urban Reserve Area	7
Proximity to "I" or "C" areas	Not adjacent to either existing or planned industrial or commercial areas	0
Ownership type	Private or corporate ownership	5
Mitigating factors	Working sand and gravel operation, some industrial extraction and processing uses allowed	5
	POINT TOTAL	44

ECONOMIC LANDS STUDY - PART 2 **APPENDIX "B"**

COMMERCIAL SUPPLY AND DEMAND ACRES IN UGB

The following information provides a summary of the calculations for adjusting the commercial
land inventory. See the next page for potential sites within the urban area that could help meet the forecast need for more commercial land.

COMMERCIAL NEED FOR 20 YEARS ENDING IN 2020			
Forecast Gross Acres equals	728 ACRES		
COMMERCIAL SUPPLY (1999 INVENTORY)			
Commercial buildable acres	399		
Mixed use buildable acres	176		
	575 acres		
DIFFERENCE BETWEEN NEED & SUPPLY			
Total need / demand	728		
Minus commercial supply	-575		
Additional Acres Needed	153 acres		
NW CROSSINGS PROPOSAL ADJUSTMENT			
Total need / demand	728		
Minus '99 Com. & Mixed use supply	-575		
Minus new NW Xing Mixed Emp. Acres		-10	IP to ME
Need minus Supply	~~143~~		

POTENTIAL SITES FOR COMMERCIAL REDEVELOPMENT OR CONVERSION

The following two lists are the basis for recommendations in this study for redevelopment or conversion of land.

POTENTIAL COMMERCIAL REDEVELOPMENT

ALONG STATE HIGHWAYS & NEAR DOWNTOWN

	Lots	Acres
CL ZONE		
Near Downtown	6	1.0
Along Hwy 97 (north middle)	9	2.0
Along Hwy 97 (south middle)	17	10.0
Along Hwy 20 east	3	2.0
CH ZONE		
Along Hwy 97 north	3	21.0
Along Hwy 97south	6	10.5
CG ZONE		
Downtown & Greenwood	8	2.5
		49.0

POTENTIAL RESIDENTIAL CONVERSION
EAST OF BEND PARKWAY

	Lot	Acres
18-12-08AB	500	0.4
	501	1.5
	505	0.4
	403	2.6
	405	0.4
1812-08C	1400	1.4
	1403	0.7
	1500	2.8
18-12-08AC	102	0.8
	400	2.0
	500	2.8
		15.6

(under-utilized sites and 'sawtooth' area already counted in buildable acres totals)

POTENTIAL RH CONVERSION ALONG NE 27TH AND NEFF ROAD NEAR SCMC

	Lot	Acres
17-12-27DA	1300	0.75
Medical Center Subdivision	1400	0.31
(all owned by St. Charles MC)	1500	0.30
	1600	0.32
	1700	0.43
	1800	0.42
	1900	0.43
	2000	0.32
	2100	0.32
	Subtotal	**3.60**
17-12-26CB	2302	1.55
The Woodlands subdivision	2303	1.14
	2304	1.54
	2305	1.10
new office - 2000	2306	1.11
	2307	1.14
new office - 2000	2308	0.40
new office - 2000	2309	0.40
	2310	0.40
	2311	0.40
	2312	1.25
	2313	1.32
	2314	2.00
Co. Health 2000	2315	3.11
	Subtotal	**16.86**
17-12-34AB	6003	0.41
Williamson Professional Park	6004	0.33
	6005	0.67
	6008	0.50
	6009	0.50
	6014	0.27
	Subtotal	**2.68**
17-12-34AA	200	1.61
Pilot Butte	300	1.27
Prof. PK	400	1.02
	1700	7.11
	1800	0.73
	1900	0.64
	2000	1.32
	2100	1.17
	2200	1.14
	2300	1.08
	Subtotal	**17.09**
17-12-27DC	100	3.00
Part of St.	200	4.07
Charles MC	Subtotal	**7.07**
17-12-27	1200	27.50
St. Charles		
main property	Subtotal	**27.50**
17-12-26CB	2100	4.60
Carpenter	2102	0.87
Subdivision	2103	0.80
	2104	0.42
	2105	0.42
	2106	0.83
	2107	3.42
	Subtotal	**11.36**
	TOTAL ACRES =	**86.16**



Exhibit B – Part 3

City File No. PZ-03-565

ECONOMIC LANDS STUDY

Part 3 – Alternative Site Analysis and UGB Expansion

Community Development

Long Range Planning
December 2000

ECONOMIC LANDS STUDY
PART 3: ALTERNATIVE SITE ANALYSIS and UGB EXPANSION

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- B. Letter from Michael Bauer, OSU Extension Service
- C. Letter from George Read, Deschutes County
- D. Natural Resources Inventory, Fishman Environmental Services

1.0 SUMMARY AND CONCLUSIONS

1.1 Purpose of This Study

This is the third and final study on the supply of and demand for land needed to support economic development in Bend between the years 2000 and 2020. The analysis and conclusions in the previous two studies demonstrated a need to expand Bend's Urban Growth Boundary to provide more land for industrial development.

This study specifically addresses the state law criteria and standards that must be satisfied in order to expand the UGB to include the two sites with the greatest potential for future industrial development. The intent of this report is to provide the background findings and justifications necessary for the city to hold land use hearings on the expansion of the UGB.

One aspect of the more detailed site analysis was that at one site there is a need to include additional land beyond that needed for industrial sites to reduce conflicts with adjacent uses and to provide the site amenities needed to attract industrial users. This additional acreage would be in non-developable buffers, open space areas, and trails to support a campus industrial site.

The findings and recommendation in this study are based on expanding the UGB by 245 acres for industrial use and site development needs. Adding 245 acres into the UGB represents slightly more than a one percent increase in the size of the UGB. *This is the first significant increase in Bend's UGB since the General Plan was acknowledged by the Land Conservation and Development Commission in 1981.*[1]

The allocation of these acres by uses is described in the Section 1.3 below and in Table 1.

1.2 Summary

In 2000 the City of Bend staff inventoried the supply of buildable commercial and industrial land within the Bend Urban Growth Boundary. At the same time, staff also forecasted the commercial and industrial land needs to determine the adequacy of the land supply for the 20 year planning period ending in 2020. This work is documented in a study[2] that shows there is not enough buildable industrial land or commercial land within the urban growth boundary to meet the forecast need.

A second study, also prepared in 2000, considered various ways to provide sufficient industrial land and commercial land within the Bend Urban

[1] The UGB was amended twice in the 1990s. First to include school district property next to Cooley Road for the construction of a needed elementary school and a second time to include the County Public Works complex on SE 27th Street.

[2] The title of this study is *Economic Lands Report Part 1: Trends, Inventory and Forecast, December 2000.*

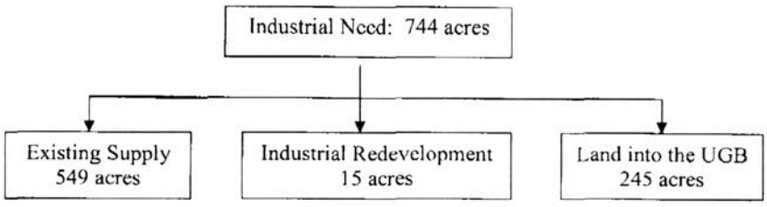
Growth Boundary (UGB).[3] This study recommended several changes to the General Plan and zoning code to provide enough commercial land within the UGB to meet the forecast commercial need.

However, for the industrial lands, these various planning and zoning measures can only provide another 15 acres of additional supply, far below the total 205 additional acres needed for industrial development. In order to satisfy the future need or demand for industrial land, about 190 acres of land needs to be added to the UGB. The additional need for industrial land is for:

1. Land that is suitable for light industrial development to provide for choice in the normal industrial land market place; and

2. Land that will provide sites for large tracts and that meets the need for large site uses. Larger sites will allow local firms to expand and provide suitable sites for new manufacturing or high-technology firms to locate in Bend.

Because there was not sufficient land within the Bend UGB to meet the forecast industrial land need, the second study also evaluated sites outside the UGB. All the potential sites were evaluated using criteria appropriate to industrial development and rated using a scoring system. The two sites outside the UGB that have the greatest potential for industrial development are recommended to be brought into the UGB to ensure an adequate supply of land for long-term economic viability of the community.



1.3 Description of Sites

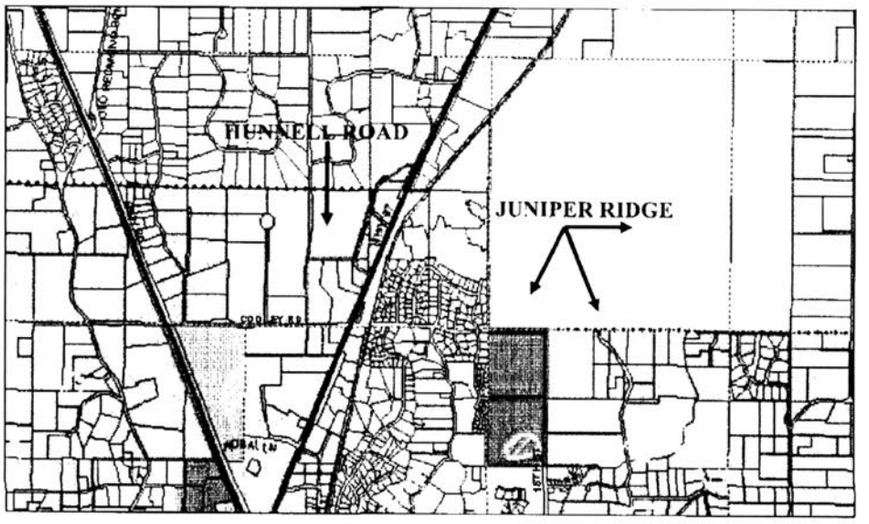
The land to be brought into the city limits/UGB being includes two sites. One site, called the Hunnell Road site, is in an area designated as Urban Reserve in the Bend Area General Plan (BAGP). The second site, referred to as the Juniper Ridge site, is in an area adjacent to the UGB, but designated as agricultural on the Deschutes County Comprehensive Plan. A summary of the uses and related acres is presented in Table 1.

[3] The title of the second study is *Economic Lands Report Part 2: Meeting Forecast Needs, December 2000.*

TABLE 1
Summary of Land to be added to Bend UGB

Site	Use	Acres
Hunnell Road	Light Industrial (market lots)	35
Juniper Ridge	Light Industrial (market lots)	100
Juniper Ridge	General Industrial (large lot sites)	60
	*Industrial land subtotal**	*195*
Juniper Ridge	Buffers, open space, canal setback, etc.	50
	Total land to brought into UGB	***245***

* See text above and Table 1 in the Part 2 study



The **Hunnell Road** site is 35 acres in one ownership (two tax parcels) that is adjacent to the UGB on two sides.[4] The site has a flat to rolling topography with a couple of 10 to 14 foot-high pressure ridges (rock outcroppings). The predominant vegetation is bitterbrush and juniper trees. Property to the east and south is in the UGB and developed with urban level commercial uses. Land to the north is a county "exception" area with small acreage

[4] In the preceding *Economic Lands Study Part 2* it was calculated that the Hunnell Road site could include up to 84 acres for industrial development in four tax parcels. Property owners of the adjacent 39 acres to the west and 10 acres at the corner of Hunnell Road and Cooley Road are not interested at this time in having their property included in an UGB amendment for industrial land. Without these two parcels the site acreage was reduced to 35 acres. A small remnant tax parcel of about 2100 square feet will be included with the Hunnell Road annexation, but this parcel is not counted in the buildable lands acreage.

home sites. The land to the west of the Hunnell Road site is in the Bend urban reserve area with a mix of residential and hobby farm lots.
The Hunnell Road site is well served by the urban road system. At the east edge of the property is a local commercial road that serves a small commercial area adjacent to Highway 97 North. Hunnell Road, designated and constructed as a major collector road, terminates at the edge of the site. Hunnell Road is shown on the County Transportation System Plan as a collector road that continues north to and through the residential exception area. Hunnell Road connects to Cooley Road, an urban minor arterial road. These roads provide easy access to Highway 20 and Highway 97.

Sanitary sewer and water service are adjacent to the site on two sides and can be easily extended to serve development of the site. There is no urban storm sewer system in this part of Bend, and all storm water runoff is required to be retained on site in accordance with city and Department of Environmental Quality standards.

Upon annexation, this area would be designated for Light Industrial development and rezoned to the city's Light Industrial zone.

The **Juniper Ridge** site is about ½ mile east of Highway 97 and north of Cooley Road. It is part of 800-acres in two parcels that is adjacent to the UGB on two sides. The Pilot Butte Canal, a large irrigation canal that runs north to Redmond through this site, divides the site with about 540 acres west of the canal and about 260 acres east of the canal. The canal provides a natural break to separate urbanizable land from rural land. This site is much more rocky than the Hunnell Road site with many small pressure domes, rock outcroppings and ridges. The predominant vegetation is juniper and high desert brush.

The UGB/city limits is along the west edge of this site. This adjacent area within the UGB is planned and developed for urban residential density. The south edge of the site borders the UGB for ¼ mile along Cooley Road opposite Sky View Middle School. Other land along the south edge is in the urban reserve and has been developed with suburban residential housing on 2½ acre lots. Land to the north and east of this site is undeveloped city land.

Cooley Road, an urban minor arterial, is adjacent to the site on the south side. Cooley Road currently ends at its junction with NE 18th, but is planned in both the city and county Transportation System Plans to be extended east to Deschutes Market Road. Northeast 18th Street, an urban minor arterial, would be extended into the site as a collector road. Northeast 18th will provide the site with access to Highway 97 via Cooley Road. The Highway 97 / Cooley Road intersection is a signalized intersection.

Sanitary sewer lines and large water lines that serve Sky View Middle School are adjacent to the site. A large city gravity sewer interceptor line that serves the northeast part of the city is planned to transect this site.

Upon annexation into the UGB the land would be held in the existing EFU zone or other holding zone until adequate urban services can be provided to the site. When adequate urban services, including transportation services, are provided the property will be annexed into the city limits and the zoning changed. About 100 acres of the site would be designated for Light Industrial development, about 60 acres for large lot General Industrial development, and about 50 acres for open space to preserve natural features and promote the planned "industrial campus" atmosphere of the site.

1.4 Summary of Analysis

The following paragraphs in this section provide a general statement of why it is reasonable to bring the Hunnell Road and Juniper Ridge sites into the Bend UGB. Sections 3 through Section 7 of this report contain the more detailed analysis for land use Goal consistency or needed Goal exceptions.

Continuing a trend that started in the late 1980s, Bend's population and economy is expected to grow at rates that exceed the state average. This growth will require the city to expand the Urban Growth Boundary to provide enough land to meet future industrial land needs.

The two sites to be added to the UGB are well suited for economic development and allow for an orderly extension of public services. Both sites have large water lines adjacent to the sites, and sewer service is either adjacent to the sites or less than ¼ mile away. Each site has direct access to either an urban collector or minor arterial road, and both sites are within ½ mile of Highway 97 North, the major freight highway in Central Oregon.

Bringing these sites into the UGB provides for efficient use of land within the existing UGB and of land on the fringe of the urban area. Industrial development requires larger parcels with particular site factors. Large sites inside the UGB would come out of the urban residential land supply. Sites outside the UGB have the advantage of larger blocks of land and fewer issues of compatibility with adjacent uses. The city owned Juniper Ridge site has an added advantage of allowing lots to be held in large (10 acre) minimum lot sizes, something that cannot be required of privately owned parcels that are responding to the market demand for small parcels.

Neither the Hunnell Road site nor the Juniper Ridge site has soils that will support agricultural uses. Although the Juniper Ridge site is designated as agricultural on the County Comprehensive Plan, the property has never been farmed or grazed, and the combination of poor soils and rock outcroppings make the site impractical to use for any type of agricultural operation. The predominant soil type at the Juniper Ridge site is the Gosney-Rock Outcrop-

Deskamp complex with Class VIIs and VIIIs agricultural capability ratings. There are no agricultural or forestry operations near these two sites that would be adversely affected by converting these sites to urban uses.

1.5 Next Steps

In order for land outside the Urban Growth Boundary to be used for urban level development, the Bend UGB must be expanded to include the land. This study provides the justification to add more land to the UGB based on the factors and standards in state law. However, this study is only the foundation for a package of related planning and zoning amendments to carryout an expansion of the Urban Growth Boundary.
In addition to action by the City, both the Deschutes County Planning Commission and the Board of County Commissioners must hold hearings to approve the UGB expansion. When the land is brought into the UGB there must be corresponding plan and zoning changes to the appropriate city plan designations and zoning.

The expansion of the UGB will require a package of planning and zoning amendments to carry out this change. The various amendments that are needed to carry out the recommended plan amendment are listed below:

1. Amend the Bend UGB to include 35 acres of land currently designated as Urban Area Reserve in the Bend Area General Plan.
2. Amend the Bend UGB to include 210 acres of land currently designated as agriculture in the Deschutes County Comprehensive Plan.
3. Amend the Bend Area General Plan map to designate the appropriate land use categories for the areas annexed into the UGB – Industrial Light for the Hunnell Road site and Industrial Light, Industrial General and Public/Special District for the Juniper Ridge site.
4. Add one or more policies to the General Plan that commit the city to place the land at Juniper Ridge in a holding zone until adequate urban services, particularly transportation, can be provided, and to adopt a master plan for the site.
5. Amend the Deschutes County Comprehensive Plan map to remove the Juniper Ridge site.
6. Amend the Bend zoning map to apply Light Industrial zoning to the 35 acres in the Hunnell Road site.
7. Amend the Bend zoning map to apply either the existing EFU zoning or the Urban Area Reserve-10 zoning to the Juniper Ridge site as an interim holding zone until a master plan is adopted for the site. Upon adoption of a master plan, apply the Light Industrial, General Industrial, and Public Facilities zones on the Juniper Ridge property consistent with the adopted master plan.
8. Amend the city zoning code by adding a Juniper Ridge overlay zone or similar measure that provides the following:

a. Protect the large lot area for its intended industrial use by application of a 10-acre lot size to the area so designated in the Juniper Ridge master plan
b. Conserve major rock outcroppings identified on the conceptual Juniper Ridge master plan.
c. Conserve the Pilot Butte Canal corridor and associated parklands identified on the Juniper Ridge master plan.
d. Provide a buffer area between the residential area and the proposed industrial area as shown on the Juniper Ridge master plan.

9. Amend the Road System map to extend NE 18th Street, a minor arterial, north to the edge of this annexed boundary.

2.0 BACKGROUND INFORMATION

The following background information is part of the findings to support expansion of the Bend UGB.

2.1 Part 1 Study: Trends, Inventory and Forecast

The need to add 205 acres to the UGB for industrial use is based upon a forecast of industrial land needs through the year 2020. The city analyzed the supply of developable land, and forecast the demand for land, in a study titled *Part 1: Trends, Inventory, and Forecast*. The result of this analysis was that the need for both commercial land and industrial land exceeded the current buildable lands inventory. Table 2 compares the inventory acres and forecast needed acres.

TABLE 2

Comparison of Needed Acres to Supply of Buildable Land Within the UGB

	Inventory by zones	Mixed-use inventory	Total Buildable Acres	Forecast Needed Acres	Additional Need beyond Inventory
Industrial zones / uses	493	56	549	744	**195 Acres**
Commercial zones / uses	399	176	575	728	**153 Acres**

See the *Part 1: Trends, Inventory and Forecast* study for more detail on how the supply of land was inventoried and the 20-year need calculations. The Part 1 study also provides background information on the trends and growth patterns in Central Oregon and Bend. The Part 1 study is background material for this Part 3 study and information in that study is referenced as part of the findings to support expansion of the urban growth boundary.

2.2 Adjustments to the inventory

After this first study was prepared the Bend Area General Plan was amended by the adoption of the Lava Ridge Refinement Plan. The refinement plan changed nine acres of residential land to a new Professional Office designation. This change adds nine acres to the commercial land supply figure (575+9=584 acres) thereby reducing the needed acres to 144 acres.

In late 2000, the West Bend Property Company L.L.C., proposed the NorthWest Crossing mixed use development on the west side of Bend. Included in the NorthWest Crossing proposal was a change of 15 acres of currently designated Industrial Park land to a Mixed Employment land use category and corresponding zoning. This proposal was adopted in May of 2001, with the net affect of adding 10 acres to the commercial land supply (584+10= 594 acres) reducing commercial need to 134 acres.

This Mixed Employment land use change reduced the supply of buildable industrial land supply by the corresponding 10 acres. The result of this change increased the needed industrial land from 195 to 205 acres.[5] The NorthWest Crossing land use change was included in the Part 2 study.

Table 3

Adjustments to Part 1 Inventory

	Part 1 Needed Acres	Lava Ridge Refinement Plan PO addition	NorthWest Crossing plan IP change	Adjusted needed acres
Industrial uses	195	NA	+10 acres	**205 Acres**
Commercial uses	153	- 9 acres	-10 acres	**134 Acres**

2.3 Part 2 Study: Meeting Forecast Needs

A second study, titled *Part 2: Meeting Forecast Needs*, evaluated various planning and zoning measures that could be used in Bend to meet the forecast land need for commercial and industrial land. These measures included:

- Adding "under-developed" sites to the inventory of buildable land;
- Redeveloping existing industrial and commercial properties to new uses;
- Modifying zoning standards to regulate the mix of uses in zones or to set standards to dictate more development per acre;
- Converting or re-designating other types of land within the urban area to land that allows commercial and industrial development; and
- Expanding the Urban Growth Boundary to include more land for commercial or industrial use.

[5] At the time this report was initially drafted the proposed NorthWest Crossing development and master plan was before the City Council for review. No appeal was filed on this plan change so the effective date is June 2001.

This study found that there was a package of measures that could be taken to provide sufficient commercial land within the UGB to meet the forecast need. However, there are only a few steps the city can take that are likely to provide more industrial land within the urban area to meet the forecast need. This study concluded that most of the additional industrial land must come from outside the current Urban Growth Boundary.

The second study also evaluated fourteen sites for their potential to meet the physical and infrastructure requirements needed for industrial development. Five of the sites were inside the UGB and nine were outside the UGB. All of the sites were evaluated using the same nine criteria. The criteria addressed proximity to the state to highways, parcel size, availability of utilities, adjacent uses and other factors.

A point system was applied to each criterion and each potential site was scored. The two sites with the highest score – the ones best suited for industrial development – were the Hunnel Road and Juniper Ridge sites. The more detailed site analysis and justification to bring these two sites into the Bend UGB is the subject of this third study.

See the *Part 2: Meeting Forecast Needs* study for more information on the different planning and zoning measures considered, and on the site evaluation criteria and scoring. The Part 2 study is incorporated by reference as background material supporting the findings in this study.

2.4 Urban Growth Boundary Amendment Criteria

The Bend UGB was acknowledged in 1981 according to the requirements of statewide planning Goal 14 - Urbanization. Amending the UGB requires that this goal be applied again. Goal 14 states the factors that must be considered in evaluating a UGB amendment are:

"Urban growth boundaries shall be established to identify and separate urbanizable land from rural land. Establishment and change of the boundaries shall be based upon consideration of the following factors:

1. Demonstrated need to accommodate long range urban population growth requirements consistent with the goals;
2. Need for housing, employment opportunities and livability;
3. Orderly and economic provision for public facilities and services;
4. Maximum efficiency of land uses within and on the fringe of the existing urban area;
5. Environmental, energy, economic and social consequences;
6. Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority; and
7. Compatibility of the proposed urban uses with nearby agricultural activities.

The results of the above considerations shall be included in the comprehensive plan. In case of a change of a boundary, a governing body

proposing such change in the boundary, separating urbanizable land from rural land, shall follow the procedures and requirements as set forth in the Land Use Planning Goal (Goal 2) for goal exceptions." The Goal 14 and Goal 2 exception process, along with other applicable Goal exceptions are described in later sections in this study.

3.0 THE SEVEN FACTORS OF GOAL 14

Oregon's land use Goal 14 (Urbanization) and its implementing administrative rule list seven factors that must be addressed as part of an expansion of an urban growth boundary. The seven factors are listed below with their related findings and justifications for the Hunnell Road and Juniper Ridge sites.

3.1 FACTOR #1 – Demonstrated Need To Accommodate Long Range Urban Population Growth Requirements Consistent With The Goals.

Between 1990 and 2000 the Bend urban area population increased by almost 20,000 persons. Based on the current Deschutes County/OEA coordinated population forecasts, the UGB population is forecast to increase by another 18,000 persons by the year 2020. Most of this increase will come from individuals and families moving into the urban area. The exurban population of Deschutes County near Bend is also forecast to grow during the next 20 years.

Factor #1 of Goal 14 more directly applies to land that is brought into a UGB for additional housing to meet population growth. However, the population growth also drives a corresponding increase in employment that in turn creates the need for more industrial and commercial land to serve the growing community.

For the past decade, employment levels in Bend and Deschutes County have increased at a faster rate than the population. This pattern is forecast to continue during the next 20-years. By the year 2020 it is forecast that more than 21,000 lobs will be added to Bend's current employment level. The expected high rate of job creation is due to Bend's increasing role as a regional center for Central Oregon, the increasing exurban population that works, shops and obtain services in Bend, and increasing disposable household income to spend on goods and services.

Additional background information and findings about population and employment growth are in the companion study titled *Part 1: Tends, Inventory, and Forecast.* The Part 1 study is part of a set of three reports and is included by reference as part of the supporting justification for UGB expansion in this report..

CONCLUSION. The need for more land for industrial development is demonstrated by the coordinated population forecast and the corresponding increase in new jobs during the next 20 years.

3.2 FACTOR #2 – Need For Housing, Employment Opportunities And Livability.

The initial forecast of the need to add 195 acres of industrial land to the UGB is based upon a forecast of industrial land needs through the year 2020. The city analyzed the supply of developable land and the demand for land in a study titled *Part 1: Trends, Inventory, and Forecast.* This study included a lot-by-lot inventory of commercial and industrial buildable lands to determine the adequacy of Bend's economic land supply. This study also forecast a need for 744 acres of industrial land – about 195 acres more than the supply of buildable industrial acres in the urban area. This initial figure of 195 acres was later adjusted upward slightly to 205 acres based on the proposed NorthWest Crossing development.[6] About 15 acres of the future need is expected to be met by the redevelopment of existing industrial sites within the UGB.

The 190 acres (205 –15 acres) of additional industrial land to be brought into the UGB is justified to meet the regular industrial market needs and to meet the city's long-term economic development objective of developing land that is suitable for large-scale industrial campus-like development. This combination will provide for choice in the market place and to meet the quantitative and qualitative site suitability criteria of larger manufacturing industries. The proposed amendments are consistent with and support the policies of the Bend Area General Plan and the Statewide Planning Goals.

A second study, titled *Part 2: Meeting Forecast Needs,* provided an evaluation of various planning and zoning measures that could be used in Bend to meet the forecast land need. Although there are steps the city can take to improve the supply of industrial land within the urban area, the city must add more land from outside the current Urban Growth Boundary if it is to provide the 20-year industrial land supply required by Oregon planning rules. This second study is part of the set of three studies that evaluate the need for more industrial land and is incorporated by reference as background material and findings for this third study.

The land added into the city limits/UGB is made up of two sites, both at the north end of the urban area. The Hunnell Road site includes 35 acres on the east side of Hunnell Road, a designated urban collector road. The second site, referred to as Juniper Ridge, includes 160 acres of land for industrial development, plus 50 acres of non-developable open space and buffers.

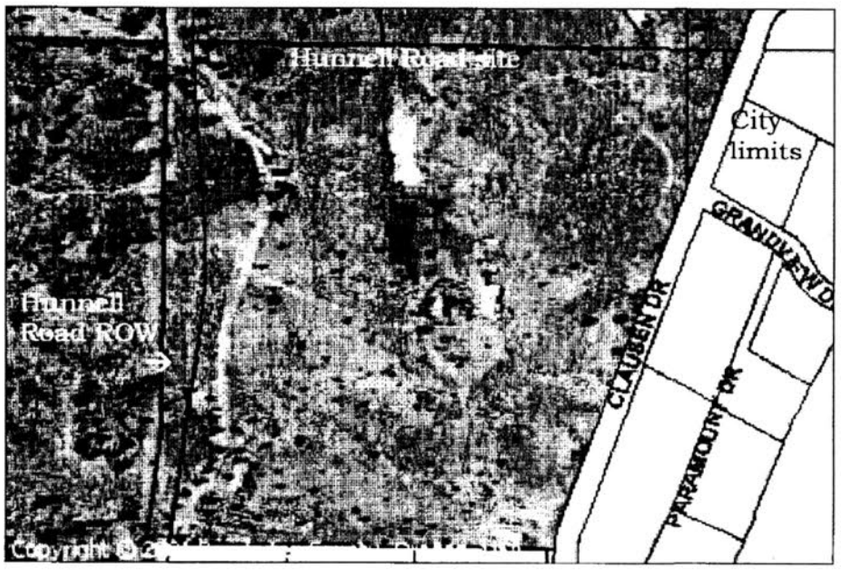
Hunnell Road Site

The Hunnell Road site is ¼ mile west of Highway 97 North in an area designated as Urban Reserve in the Bend Area General Plan (BAGP). The area is zoned Urban Area Reserve (10 acre minimum lot size) and there is no

[6] About 70 percent of the changed acreage (10 acres) is expected to develop with retail and service commercial uses with the remaining 5 acres being used for new industrial development.

special plan land use designation for the area. It is adjacent to urban commercial development on the east and south sides, and adjacent to large lot rural residential use on the other two sides.

This site is adjacent to and just north of Cooley Road, a designated urban arterial road, and is divided by Hunnell Road, a collector road in both the city and county transportation system plans. All 35 gross acres in this site would be designated and zoned for Light Industrial without any restriction on minimum lot sizes.



Juniper Ridge Site

This site is ½ mile east of Highway 97 N adjacent to the Bend UGB on two sides. It is an area that is designated as Agriculture in the Deschutes County Comprehensive Plan, and is zoned Exclusive Farm Use – Alfalfa (EFU-AL).[7] One-quarter mile of this site is adjacent to Cooley Road, a designated urban arterial. Coolcy Road is also planned to extend east to tie in with Deschutes Market Road. NE 18th Street, also an urban minor arterial, "Tees" into Cooley Road opposite the Juniper Ridge site.

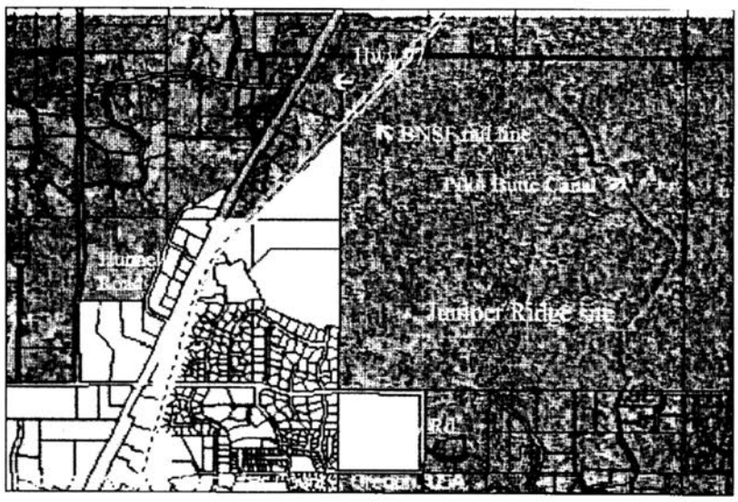
At the Juniper Ridge site the city proposes to add 210 gross acres. This acreage figure includes 160 acres needed for industrial use, and 50 acres of unbuildable land to enhance the development of an industrial campus on the site. About 20 acres of the 50 will be reserved as open space buffers

[7] Additional information on the Plan designation and zoning for the Juniper Ridge site is provided under Factor #6.

adjacent to the existing development within the UGB. The remaining 30 acres will be large rock outcroppings, natural areas, and jogging trails.

The City and County first started the process to develop this site for industrial uses in the late 1970s after an industrial lands study identified it as desirable location for industrial development. The 210 acres proposed to be included in the UGB are part of a larger 800-acre site (two tax parcels) currently owned by the City of Bend. The site had previously been owned by Deschutes County. The County transferred title to the property to the City in 1990 after the County had traded lands with the BLM.[8] The City and County identified this area for industrial development in the Bend Area General Plan that was acknowledged in 1981. This site was, and still is, considered desirable for industrial development because:

- It is adjacent to the Urban Growth Boundary.
- The BNSF freight rail line runs through the northwest corner of the site.
- It is adjacent to two urban arterial roads, and close to Highway 97. It is a large, vacant site under public ownership.
- It is buffered from agricultural uses and large lot rural residential development and by additional land under the same (city) ownership.
- The site has shallow, rocky soil with many rock outcroppings.
- The site has never been farmed or used for grazing.

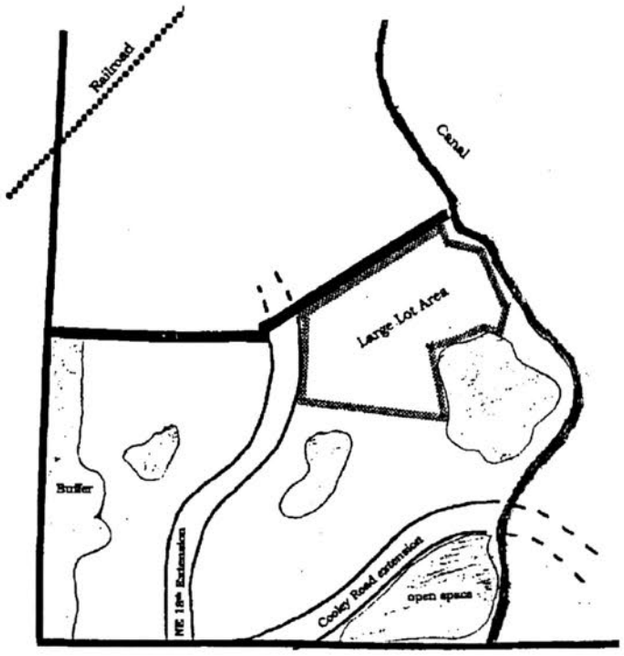


Bend recognizes suitable industrial land is a relatively scarce resource in the Bend area. Piece-meal development of the Juniper Ridge site will not be allowed. The protection and development of the planned industrial areas for their intended "market" size lots or large lot use will be assured through city's adoption of a master development plan for the site before any development occurs.

[8] See attached history of what has been historically referred to as the "800 acre" site.

Figure 1 shows the conceptual Juniper Ridge master plan map with the areas that are tentatively planned for market-driven lots and for large lot development, as well as the areas to be kept as open space buffers, rock outcroppings, natural areas, and other site amenities such as trails. The portion of the site with the flattest ground that will be held for large site development is in the center and northeast part of the site, away from two edges adjacent to the UGB.

FIGURE 1 – CONCEPTUAL MASTER PLAN FOR JUNIPER RIDGE



CONCLUSION. The Bend community and the Bend Area General Plan have long recognized the importance of a variety of industrial sites in meeting

local and regional economic development objectives. Including the Hunnell Road and Juniper Ridge sites within the UGB will help to diversity the community's economy and provide land for future family-wage jobs typically associated with manufacturing, research and development, and the trades. The proposed inclusion of these sites into the Bend UGB, and particularly the Juniper Ridge site as a planned industrial campus, will fulfill the promise of many years of cooperative planning efforts.

3.3 FACTOR #3 – Orderly And Economic Provision For Public Facilities And Services

Water Service

Hunnell Road Site. The Avion Water Company, a franchise domestic water provider within the Bend urban area, serves the Hunnell Road site. Avion currently has a 12-inch water line in Hunnell Road, a 12-inch line in Cooley Road a quarter-mile from the site, and a 12-inch water line in Clausen Road at the east edge of the site. These water lines are large enough to serve the industrial development planned for this site.

Juniper Ridge Site. Domestic water for this site will be provided by either the City of Bend municipal water system, or by the Avion Water Company. Avion is a franchise domestic water provider within the urban area. The city has extended a 12-inch water main to the intersection of Boyd Acres Road and Cooley Road, ¼ mile west of the Juniper Ridge site. In addition to the city water main, Avion Water Company has a 12-inch line in NE 18th about 300 feet from the site. These water lines are large enough to serve the area planned for industrial development and any irrigation needs of the open space areas that are included as part of the industrial campus designs for this site.

CONCLUSION. The existing large water lines adjacent to each site will allow for the orderly and economic extension of adequate water service to the Hunnell Road and Juniper Ridge sites. The size of water mains adjacent to both sites will provide adequate water needed to support industrial development. Serving these sites with water to support urban level development will not adversely affect the ability of the City of Bend or the Avion Water Company to serve other areas within the UGB.

Sewer Service

Hunnell Road Site. City sewer service is currently provided to commercial development adjacent to this site on the east and south. There is a pressure sewer line in Clausen Lane adjacent to the site on the east side, and an eight inch gravity sewer line in Hunnell Road that terminates at the edge of the Hunnell Road site to serve the adjacent "Highland" commercial subdivision. The City's *Utilities System Master Plan* encompasses the proposed site and identified sewer facilities that are needed to make the site functional as an urban industrial area.

Juniper Ridge Site.
A four-inch city pressure sewer line serves Sky View Middle School directly across Cooley Road from this site. In addition, Bend's *Utilities System Master Plan*, adopted in 1992, plans for a 24 to 27-inch "North UGB" gravity sewer line to run through this property. The North UGB sewer line is a major trunk line that will provide service to all of the north UGB area. Routing this line through the Juniper Ridge site is necessary to maintain a gravity flow line into the city's main sewer interceptor line that goes northeast out of town to the wastewater treatment plant. This large sewer trunk line will provide excellent service for this site. The route for the North UGB sewer line has been surveyed through the site.

The City has a separate sewer system fund and constructs sewer system improvements based on the *Utilities System Master Plan* and its 5-year capital improvement program. The large sewer trunk line through the Juniper Ridge site is a major facility identified in the *Utilities System Master Plan* and therefore is paid for by system development charges. If this site should be developed before the North UGB gravity line is built or if there is a policy change regarding large gravity lines, the Juniper Ridge site can be served by pressure sewer facilities that pump to the Lava Ridge pressure line or to the "Yeoman" sewer interceptor to the east.

CONCLUSION. The City's *Utilities System Master Plan* covers both the Hunnell Road and Juniper Ridge sites. It has identified the sewer facilities that are needed to allow the sites to develop for industrial uses. The provision of service to these sites will not adversely affect the City's ability to serve other areas within the existing UGB. All existing industrial areas have sewer service.

Storm Sewer
Because there is little precipitation in Central Oregon there is no system of small creeks or streams within Bend in which to discharge storm waters. The only storm sewer system in Bend is an old one that serves the area around downtown and drains into the Deschutes River. There is no public or private off-site storm sewer system to serve either of the sites.

Bend's planning and engineering standards require that all storm drainage outside the existing storm sewer system be retained on site through the use of catch basins and dry wells, drainage swales, or retention ponds. These standards will apply to any development of roads and building sites in the two areas to be annexed.

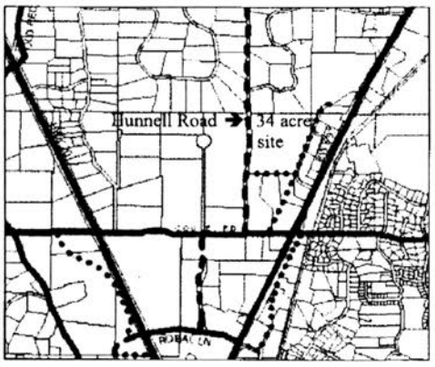
CONCLUSION. There is no storm water system to be extended into these areas to be annexed. Development within the Hunnell Road and Juniper Ridge sites would be required to retain storm water run-off on-site using a city approved system.

Transportation System

Hunnell Road site. The 35 acres planned for industrial development at this site is within the Bend urban planning area. This site has been included for years in the Bend transportation system planning, and is included within the area covered by Bend's adopted Transportation System Plan.

The location of the Hunnell Road site at the north end of the urban area is advantageous for industrial development. This site will provide easy access to Highway 97 and to Highway 20, the main routes for truck traffic from the north and Portland area, and from the Willamette Valley via the Santiam Pass on Highway 20.

The site will be served directly by two roads. To the east, Clausen Road, a Highway 97 frontage road provides access to Highway 97 through a commercial area. Hunnell Road is a north-south collector road that runs up to the edge of this site. North of Cooley Road Hunnell Road is an urban collector road. It changes to an urban minor arterial south of Cooley as it connects through a large commercial area to Robal Road. In early 2001 Hunnell Road north of Cooley was being reconstructed to bring the road up to full urban collector standards to serve the adjacent urban commercial area. Because of the way the urban growth boundary lays in this area, the reconstructed part of Hunnell Road will link to the Hunnell Road site.



Cooley Road, 1/8th of a mile south of the site, is a designated urban arterial that connects to both Highway 97 and Highway 20. The intersection of Cooley Road and Highway 97 N is a signalized intersection. Robal Road has signalized intersections at both Highway 97 and Highway 20. The system of local collector and arterial roads and the state highway system will provide excellent access in and out of this site.

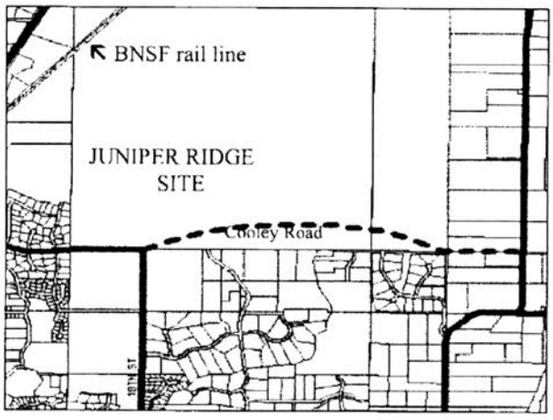
The area north of Cooley Road has been included in the traffic load computer modeling since 1990. In the most recent update of the transportation modeling program,[9] the Hunnell Road site is within Transportation Analysis Zone (TAZ) #20.

[9] Transportation Model (EMME/2) Update, May 2000, prepared by Kittelson & Associates, Inc. and adopted as part of Bend's Transportation System Plan. The 2020 forecast assumed a large increase in commercial and industrial jobs in this Transportation Analysis Zone (TAZ)

This TAZ covers the area north of Cooley Road between Hwy 20 and the railroad tracks, which includes the urban commercial zoning along Cooley Road and Highway 97 within the existing UGB. When the EMME/2 computer model was updated in early 2000 as part of the city's Transportation System Planning work, 50 acres of urban area reserve land were assumed to change to industrial development during the planning period ending in 2020.

The 50 acres of future industrial trips that was factored into the traffic loading model exceeds the 35 acres in the Hunnell Road site, therefore the traffic impacts have already been accounted for in the city's transportation planning. The EMME/2 model analysis shows that the 34 acres of industrial zoning will not increase the traffic loading on local urban arterial and collector roads to the point that would affect the functional classification of these roadways.

Juniper Ridge site. This site is located ½ mile east of Highway 97, with direct access to Cooley Road, an urban minor arterial, at the south edge, and NE 18th Street, an urban minor arterial street that currently dead ends at the edge of the Juniper Ridge site. The Bend Transportation System Plan and Deschutes County Transportation Plan shows Cooley Road extending east through this site and connecting to Deschutes Market Road, a county arterial road.



The conceptual master plan for this site would extend NE 18th as urban minor arterial through the middle of the site and would eventually provide a new internal collector loop road to serve the industrial development within the site. In the longer term, NE 18th could be extended through the site to connect with Highway 97 at a new separated grade intersection.

Like the Hunnell Road site, the location of the site at the north end of the urban area will provide good access to serve industrial truck traffic from the Portland metropolitan area and the Willamette Valley. The Juniper Ridge site also has the advantage of potential access to the Burlington Northern – Santa Fe rail line that runs through the corner of the property. Access to a rail line can benefit large site industrial users by providing rail service as an alternative to truck service and as a regional freight redistribution center.

This area has been included in Bend's transportation model since the first computer model was prepared in 1990. In the latest update of the EMME/2 computer model for the Bend urban area it was assumed that 90 acres of the Juniper Ridge site (TAZ #23) would be developed as industrial uses and 5 acres as commercial uses. As noted earlier, the model update was prepared in mid-2000 before the final analysis of needed industrial land was completed. The final need calculations add 70 more acres of industrial land to the Juniper Ridge site than were included in the EMME/2 model 2020 forecast.

In 2001 the city traffic engineer prepared a preliminary analysis of traffic impacts if 200 acres of the Juniper Ridge site was developed to industrial uses. That analysis found that the intersection of Cooley Road / NE 18th Street and an intersection of the extension of Cooley Road and an internal collector street would operate within the acceptable levels for urban minor arterial streets if roundabouts are used. The addition of up to 200 acres of industrial land will not change the functional classification of these local arterial streets. Additional, more detailed traffic impacts would be required upon development of specific uses at the site to further refine the traffic engineer's preliminary analysis.

The intersection of Highway 97 and Cooley Road is forecast to have capacity problems even without adding the Hunnell Road and Juniper Ridge sites into the UGB. The forecast increase in 'background' traffic through the intersection and the continuing buildout of commercial uses adjacent to Highway 97 and along Cooley Road will lower the capacity of the intersection to a level of service 'F'. The capacity problem at this intersection that may significantly affect the transportation facilities is not, by itself, a basis by which to deny an expansion of the UGB.[10]

The current thinking among Oregon Department of Transportation and city staff is that a separated grade interchange is the long-term solution to solve capacity problems at this intersection. Another alternative that could be considered during development of the Juniper Ridge site is to extend NE 18th through the site to a separated grade interchange about one mile north of the Cooley Road intersection.

These issues, including any actions that would affect the functional classification or capacity of the roadways, would need to be resolved during the development and approval of a master plan for the Juniper Ridge site. A large lot holding zone would need to be applied to the site until the transportation issues are resolved.

[10] LUBA has made a distinction that the act of amending a UGB by itself does not alter the type or intensity of land uses. See *Citizens Against Irresponsible Growth vs. METRO*, LUBA No. 99-007.

CONCLUSION. Adding 35 acres of industrial land in the Hunnell Road area into the UGB will not create levels of travel that would adversely affect the functional classification of the local minor arterial and collector street system serving this area. Similarly, adding 160 acres of industrial land in the Juniper Ridge site into the UGB will not create levels of travel that would adversely affect the functional classification of the local minor arterial roads serving this area.

Capacity problems at the intersection of Highway 97 North and Cooley Road will exist in the future based on expected growth within the current UGB and the region. The city and ODOT will need to develop a plan to correct the Highway 97 – Cooley Road intersection problems before industrial sites are developed.

Fire Protection

Both the Hunnell Road site and Juniper Ridge site are currently within Rural Fire District No. 2. The District contracts with the City for fire protection, so the areas outside the UGB that are within the Rural Fire District No. 2 boundaries have essentially the same fire protection as property within the city limits.

Hunnell Road Site. The Rural Fire District recently funded the construction of a new fire station near the intersection of Robal Road and Highway 20. This new fire station is a little more than ½ mile from the Hunnell Road site via urban arterial roads or US Highways.

The large water lines in Hunnell Road and Clausen Road adjacent to this site can be easily extended to serve the 35 acres proposed for annexation into the UGB. These water lines can provide sufficient flow to provide fire protection to industrial development in this area. The extension of Avion water system lines and installation of the fire hydrants will enable adequate fire protection for this area.

Juniper Ridge. The new fire station on Highway 20 is about two miles from the Juniper Ridge site, with access via urban arterials or state Highways. In addition to the new fire station, there is an existing east-side fire station on Neff Road that is about five miles from the Juniper Ridge site.

The water lines in Cooley Road and NE 18th can be easily extended to serve this site. These water lines can provide sufficient flows for fire protection for development in this area. The extension of City of Bend or Avion water system lines and installation of the fire hydrants will provide adequate fire protection for new industrial development in this area.

CONCLUSION. The large water lines adjacent to both sites will provide adequate water for domestic use and fire protection. The close proximity of

the water lines to both the Hunnell Road site and Juniper Ridge site allows for an orderly and efficient extension of water facilities.

Police Protection
Both sites to be added to the UGB are currently within the jurisdiction of the Deschutes County Sheriff's office. Upon annexation to the UGB police protection will be provided by Bend Police Department. The Bend Police Department currently has 76 officers who serve and protect the urban area. The city will be able to provide professional police services to these two industrial areas without jeopardizing its current level of service to the city.

Schools
This proposed UGB amendment does not include land for housing; therefore there is no need to plan for additional schools as part of this proposal. In 2000 the Bend La Pine School District initiated a multi-agency *Sites and Facilities 2000* committee to evaluate the need for new schools to serve the district population. Neither the Hunnel Road site nor the Juniper Ridge site are areas in which the school district is looking to build new schools.

CONCLUSION: Essential public facilities and services are available to the site or will be made available when the site is assured of annexation to the UGB.

3.4 FACTOR #4 – Maximum Efficiency Of Land Uses Within And On The Fringe Of The Existing Urban Area.
The previous study complete in 2000, titled *Part 2: Meeting Forecast Needs*, evaluated several planning and zoning tools to provide efficient land use within and on the fringe of the urban area. As noted previously, this companion study is part of a three-report set and is included by reference as supporting findings for Factor #4.

In addition to planning and zoning tools to use land more efficiently, alternative sites inside and outside the UGB were considered as possible sites to meet the forecast need for more industrial land. Each site was carefully evaluated against the requirements of the Statewide Planning Goals. Based on this evaluation, the City determined that the Hunnell Road and the Juniper Ridge sites, both just north of the UGB, are best suited to meet Bend's long-term economic development objectives. Both sites are adjacent to the UGB, and will provide for logical, continuous development of the urban area. Development on either site cannot be considered "urban sprawl" or "leap-frog" development.

Lack of Large Sites
The most recent inventory of buildable industrial land shows that the larger planned industrial parcels are being subdivided at a rapid rate into smaller

parcels to meet the major market demand.[11] When the inventory was conducted in 1999 there were only seven industrial parcels within the UGB that were ten acres or more in area. Since the 1999 inventory was prepared two of the sites have been subdivided into small lots.

The Bend Chamber of Commerce, industrial land realtors, and local economic development groups have pressed upon the city the need to have larger parcels (10 to 20 acres) available to meet future large site users. With few large sites in the local industrial land inventory the city is extremely limited in its ability to retain local firms that need to expand or to attract new firms that need larger sites.

Hunnell Road site

This site is adjacent to the Bend UGB on two sides and is between the junction of two major US highways in Central Oregon – Highways 97 and 20. New commercial development is occurring adjacent to this area to be brought into the UGB. The Hunnell Road site is served by planned urban arterial and collector roads providing efficient movement of goods to and from this site.

The availability of urban utilities adjacent or near the site provides for efficient development of the site for urban uses. Allowing urban industrial uses to occur within the Hunnell Road site is the proper and expected evolution of land development within the urban reserve area adjacent to the Bend UGB. Because of the utility sizes and road system created to serve the adjacent and nearby commercial uses, it is efficient and logical to develop other uses that can benefit from these existing public facilities.

Juniper Ridge site

This site is located adjacent to the Bend UGB on two sides and is bordered by a quarter mile of paved Cooley Road, an urban minor arterial. The intersection of NE 18th Street and Cooley Road allows for direct access south to Empire Boulevard, a local major arterial road that has a separated grade connection with the Bend Parkway (Highway 97).

Because there are no identified sites within the UGB that meet Bend's siting criteria and the need for a large industrial area, UGB expansion is necessary. Efficiency of land use will be well-served by approving a UGB amendment for land that can connect with existing urban infrastructure, and which will be developed according to a master plan.

This site, of the nine alternative sites outside the UGB that were evaluated, is the best site that provides infrastructure and access needed to support industrial development and land that can be held in larger lot industrial sites. The Juniper Ridge site in this amendment is an area where large lot

[11] See Appendix A to the city's *Economic Lands Study, Part 1: Trends, Inventory, and Forecast*, December 2000.

sizes can be assured because of its ownership by the City of Bend, and the commitment by the city to hold part of the site for large lot users by imposing a large minimum lot size. Because of numerous rock outcroppings on the site the area with the fewest outcroppings and the flattest ground needed for larger lots is in the center and northeast part of the 210 acres to be brought into the UGB.

This area provides the most efficient location for new industrial development providing access to rail, not available elsewhere; providing close access to the Redmond Regional Airport; and providing good ties to the regional highway system. This is the only site within public ownership that provides the community the opportunity to assure large sites are available for the community.[12]

CONCLUSION. The goal of "maximum efficiency of land use" will be best served through this UGB expansion. Both sites capitalize on major public and private investments that have already been made in water, sewer, roads, and fire protection measures to serve the growing north end of Bend. Additional planned improvements to the road system and utility systems are planned to serve Bend and the surrounding Central Oregon area.

3.5 FACTOR #5 - Environmental, Energy, Economic And Social Consequences.

The consequences of converting urban reserve and rural land to urban industrial use are described in the following sections. Some of the evaluation is subjective as there are no clear standards by which to measure the positive and negative effects of development.

Environmental Consequences

According to information provided to the City by the Oregon Department of Fish and Wildlife[13] as part of the Goal 5 periodic review work task, neither the Hunnell Road site nor the Juniper Ridge site are in a designated deer or elk winter range area, or in a big game habitat area. No known critical habitat or nesting areas for threatened, endangered, or sensitive species exist on either site.

The Bend Urban Area is in attainment for all state and federal air quality standards. Adding 245 acres of land into the UGB will not cause the area to exceed existing air quality standards. With the changing national and regional economy, the older resource-based "smokestack" industrial firms are a thing of the past and will not locate in Bend.[14] More efficient

[12] Public land holdings are more likely to be held for large lot development than private industrial land that responds more to the predominant market demand for small lots. See the previous study, Part 2 – Meeting Forecast Needs, for more discussion of this point.

[13] Letter and map from Steven George, ODFW Deschutes District Wildlife Biologist, September 22, 2000

[14] For more information on this point see section 3.3 *in Economic Lands Study Part 1 – Trends, Inventory and Forecast.*

manufacturing businesses and high-technology firms are replacing these types of companies, and these are the firms likely to locate in the areas to be annexed. In addition, any firm that has manufacturing by-products that may be considered hazardous or to affect the quality of air is regulated by the Oregon Department of Environmental Quality.

The City is in compliance with applicable state and federal water quality standards. Setback buffers or other means such as piping or relocating the watercourses can protect any irrigation canals or laterals that go through these sites. Similarly, planned building setbacks and buffers along the canal will control any potential adverse water quality impacts to the irrigation canal during construction and operation of industrial developments. Nothing is expected to develop in these two areas that would adversely affect water quality in the community.

The city's sewerage treatment plan complies with DEQ rules and regulations. The City maintains and enforces an ordinance that requires the pretreatment of industrial wastes before they are discharged into the sanitary sewer system. The addition of 195 industrial acres to the UGB will not cause the city to violate its sewage treatment standards and agreements.

Hunnell Road site

All of the land in the Hunnell Road site is within Bend's urban reserve area. This area was designated as urban reserve in the late 1970s by the city and county as part of the long range planning for the urban area. The urban area reserve designation for this area was approved in 1981 when the Oregon Land Conservation and Development Commission approved ("acknowledged") the Bend urban area comprehensive plan.

Both parcels in this site have a mix of juniper and brush, with no wetlands, riparian areas or significant natural areas. This site is not included in the area designated by ODFW as deer or antelope winter range or migration routes. There are no known environmental hazard areas on this site.

Juniper Ridge site

The Juniper Ridge site is not listed on any adopted natural resource inventory. An analysis of the Juniper Ridge site by Fishman Environmental Services[15] did not identify any threatened or endangered species within this site. The Juniper Ridge site is not within areas mapped by ODFW as deer, elk, or antelope winter range. In addition, this site is not listed on any adopted Goal 5 natural resource inventory.[16]

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[15] *Natural Resources Inventory Pilot Butte Canal Site Bend, Oregon* prepared by Fishman Environmental Services, June 1991

[16] Letter from George Read, Deschutes County Community Development Director, dated June 2, 1997.

The landscape at the site is varied with many lava pressure ridges, outcroppings, and the Pilot Butte Canal. The Pilot Butte Canal is a seasonal canal that has no associated riparian or wetland habitat areas. The Fishman inventory identifies native plant communities associated with rock out-croppings on the west side of the Pilot Butte Canal.

The more important natural areas on this site will be identified and protected through the master site planning process. The planned open space conservation areas that are part of the master plan will protect the environmental integrity of the significant rock and natural areas.

Social Consequences:
Bringing 245 acres into the UGB will convert under-used urban reserve land and vacant land to industrial uses and open space. By providing land for future manufacturing jobs the city will encourage the creation of jobs that generally pay more than most retail and service jobs. Higher household wages will have a positive social consequence by maintaining or improving living standards, and by increasing disposable income for goods and services including health care services.

Conversion of these lands to industrial use will introduce activity, noise and light impacts to properties that have minimal or no existing development. At the Hunnell Road site, however, intensive commercial development is already within ¼ mile of the rural residential uses to the north and west of this site. These existing commercial uses – motels, gas stations, big box retailers and golf driving range with night-lights – already have generated impacts to the nearby areas.

Although the Juniper Ridge site is in an undeveloped natural condition, it is not fenced and is often used by area residents for dog walking, jogging and similar passive recreation activities. A preliminary master plan for the Juniper Ridge site includes walking trails and open space that will be open to the public so some level of social contact between humans and animals will be maintained.

One social consequence of developing the Juniper Ridge site will be adding new development near existing residential areas and the loss of open space. At the Juniper Ridge site the 50 acres of buffer, natural features and open space areas included in the Juniper Ridge site are intended to assure compatibility with adjacent urban and suburban residential property. By maintaining wide natural buffer areas and placing development away from urban residential areas the city will mitigate the impacts of activity, noise and light on adjacent areas. In addition to natural buffers, various city codes regulate the placement of lights, parking and maneuvering areas, and site screening as necessary to reduce impacts between different land uses.

The development in the Hunnell Road and Juniper Ridge site will increase traffic on Cooley Road and NE 18th Street, both minor arterial streets. The EMME/2 transportation model demonstrates that these streets have adequate capacity the handle additional traffic from future industrial development, but both streets will need to be improved to full urban standards. Additional intersection improvements will be necessary to ensure safe vehicle and pedestrian traffic.

Economic consequences:
By adding 195 acres of urban industrial land, Bend will increase the supply of land to provide needed jobs and economic development opportunities during the planning period. Industrial sector and wholesale trade jobs generally have higher salaries than retail and many service jobs, and these jobs will help maintain income levels.

The economic consequences of amending the UGB to include 195 acres for industrial development is necessary for Bend to meet the need for industrial sites in the changing industrial development market. The buildable acreage in the Hunnell Road and Juniper Ridge sites represent about six years of industrial land needs during the 20-year planning period. Based on an average of 12 industrial employees per acre, these two sites have the potential to accommodate more than 2,000 industrial sector jobs during the next 20 years.

By providing both small and large industrial lots in a master planned industrial campus at the Juniper Ridge site, Bend will improve its likelihood of attracting many of the technology industries that will lead the change in the industrial sector.

The two properties in the Hunnell Road site are not viable farm units and are basically in a natural condition with juniper trees, bitterbrush, and other high desert shrubs. This land is not currently being used as an economic resource or as a farm use. Leaving the land EFU will not have any positive economic benefits. The close proximity of the Hunnell Road site to intense urban commercial development that have brought urban level infrastructure to the boundary of this site makes it easy to convert these parcels to urban level development.

Because this site is not fenced and directly adjacent to the urban area, it is a favorite place to dump old appliances, couches, and household garbage. The development of this site will have the economic consequence of forcing the people that use this site as a dump to pay to deposit their garbage at the County Knott Pit landfill site at the south edge of the urban area, or to drive farther out to other public lands on which to illegally dump their materials.

Similarly, Juniper Ridge is unofficially used as a site for rifle and pistol target practice and speed shooting at the expense of innocent appliances, junipers, and small wildlife. The development of this site will terminate

these activities and force people using Juniper Ridge for such uses to find new sites. Persons needing to find new sites for weapon use may face a social consequence of added stress to find a new site, and added energy and economic consequences of driving further out of the urban area. There will be less stress on residents living next to Juniper Ridge with the termination of target practice and other gunplay when Juniper Ridge is developed.

The Juniper Ridge site has never been farmed nor used for grazing. There is no economic loss of agricultural products or revenue from the use of this site for industrial development.

Energy Consequences:
The Hunnell Road and Juniper Ridge sites are located near two major state highways, Highway 97 and Highway 20. The highways and the new Bend Parkway will allow more direct and energy efficient access to these sites. These sites offer the most direct access to regional transportation facilities of any of the alternative sites evaluated.

In addition, sites at the north end of town provide more direct and energy efficient access for truck traffic to and from the Willamette Valley, Redmond and the Portland area. Trucks serving firms in these two areas and will not have to drive into the middle of the urban area where there is more traffic congestion that could lower truck speeds and increased idling time.

Potential development in the Hunnell Road and Juniper Ridge sites can also benefit from close proximity to supportive commercial services along Highway 97 and Highway 20. Both sites are well connected to the local arterial street system that provides energy efficient travel for employees and other service providers.

CONCLUSION. Inclusion of these sites within the Bend UGB will have environmental impacts that can be mitigated through appropriate site planning or compliance with DEQ regulations. Any development in these areas to be annexed will have no significant adverse energy consequences. By adding land for manufacturing, research and development, and other industrial businesses the community will be able to add jobs to keep pace with expected population growth. Industrial jobs in these two areas will provide a positive economic impact and positive social consequences by providing better paying jobs. Impacts to adjacent areas can be mitigated through setback buffers and city development codes.

3.6 FACTOR #6 – Retention Of Agricultural Land As Defined, With Class I Being The Highest Priority For Retention And Class VI The Lowest Priority.

Hunnell Road site

The predominant soil east of Hunnell Road is the Deskamp-Gosney soil complex (SCS soil #38B). This soil complex has a Class VI agricultural capacity rating. It is similar to the Gosney-Rock Outcrop-Deskamp complex (#58C) described below under Juniper Ridge, but slightly deeper and with fewer rock outcroppings.

The primary agricultural use for these soils is irrigated cropland and grazing. Typical native plants are juniper, bitterbrush, sagebrush, Idaho fescue, bunchgrass, wheatgrass, and needleandthread. The property that makes up the Hunnell Road site is in a natural condition, except for the area around the one homesite on the property.

Juniper Ridge site

This property was transferred from BLM ownership to Deschutes County in 1983. The county transferred title to the land to the City of Bend in 1990.

Juniper Ridge is undeveloped land without any dwellings or improvements such as fencing or irrigation ponds. The predominant vegetation types are junipers, bitterbrush, sagebrush and bunchgrass. The terrain is broken with many lava outcropping and pressure ridges of five to twenty feet in height.

There are two soil types at the Juniper Ridge site. The Gosney-Rock Outcrop-Deskamp soil complex covers about 90 percent of the area to be brought into the UGB. The Deskamp-Gosney complex covers about 10 percent of the site, or about 20 acres, in the southwest corner of the site.

The Gosney-Rock Outcrop-Deskamp soil group (SCS #58C) is characterized by shallow, very stony loam sand soils over basalt bedrock with slopes of 0 – 12 percent. Within the soil group, the Gosney component makes up about 50 percent of the land, the Rock Outcrop component covers 25 percent of the area, and the Deskamp part makes up about 20 percent.

Because of the shallow well-drained soil and rock outcroppings, the major agricultural use for the Gosney-Outcrop-Deskamp soil is grazing. The Juniper Ridge site has never been actively farmed, and BLM records indicate that there has never been any grazing in the area to be added to the UGB.

The Gosney-Rock Outcrop-Deskamp soil complex has a SCS Class VIIs and VIIIs capability rating without irrigation.[17] These agricultural capability ratings are the least productive agricultural soils and do not meet the definition of "Agricultural Land" in Goal 3. If irrigated, the SCS classification becomes IVs, which meets the definition of agricultural land. However, the

[17] See General Soil Map with Soil Interpretations for Land Use Planning, Deschutes County, Oregon, Soil Conservation Service - US Department of Agriculture, 1973 (m7-L-22770). Gosney-Rock Outcrop -Deskamp (58C) is the predominant soil type on the site.

site does not have irrigation water rights. Even if water rights were to be secured for this site, the rock outcroppings and topography do not make it feasible to set up and move irrigation pipes for pasture. The high cost of clearing the rocky terrain makes hay production unfeasible. These topographic constraints make it unlikely that this site could even become an effective farm unit.[18]

The other soil type at Juniper Ridge is the Deskamp-Gosney soil complex (SCS #38B). This soil type is similar to the Gosney-Rock Outcrop-Deskamp soil, but has fewer rock outcrops and is less steep. Major agricultural uses are livestock grazing and irrigated cropland. This soil complex has a Class VIe rating without irrigation, and a Class IIIe with irrigation. Management limitations with this soil are shallow soil depth, rapid permeability, and loss of unprotected soil due to wind erosion.

Although Juniper Ridge has never been used for agricultural purposes, the conversion of 210 acres to urban use requires an exception to Goal 3, the agricultural lands goal. Additional material on the Goal 3 exception is provided on pages 32-34 of this study.

CONCLUSION. The two areas to be annexed into the city for future industrial development do not have prime or high priority soil types that support significant agricultural production. The soils in both areas do not meet the definition of agricultural soils or are poor quality agricultural resource lands. Conversion of these lands from vacant rural land to industrial land will not affect the agricultural revenues in Deschutes County.

3.7 FACTOR #7 – Compatibility Of The Proposed Urban Uses With Nearby Agricultural Activities.

Hunnell Road site

The area to the west of the Hunnell Road site is in the Bend Urban Reserve Area and has a pattern of large lot rural residential uses. The only agricultural use close to this site is an irrigated pasture and tree farm about three acres in size about ¼ mile west of the Hunnell Road site.[19]

To the south of the Hunnell Road site is the city limits with highway commercial development. On the east edge of the site is the city limits and a local road that serves two motels, a gas station and other highway commercial retail businesses. The land to the north of the site is in a county exception area and has developed in five to ten acre rural residential home sites.

[18] See letter from Michael Bauer, Deschutes County extension service agent, May 11, 1992.
[19] See the year 2000 aerial photo included as Attachment A to this study.

Any significant agricultural uses are more than a mile away from the Hunnell Road site. There are no nearby agricultural activities that would be impacted by future industrial development in the Hunnell Road site.

Juniper Ridge site

To the west of the site is the Bend UGB with existing or planned urban residential uses.[20] There are no agricultural activities or uses to the west of the site. On the south side of the site there are two public schools inside the city limits and rural residential development with 2 ½ acre minimum lot sizes. There are no nearby agricultural activities to the south of this site.

The Pilot Butte Canal defines the eastern boundary of the Juniper Ridge site. On the other side, further east of the canal, is another ¼ to ½ mile of city owned land that was transferred to the city from the county. This land is unimproved and not used for any agricultural purposes. This city land has the same Gosney-Rock Outcrop-Deskamp soil type that is not suitable for grazing or farming, so it is unlikely that agricultural uses would develop in this area in the future. This additional city land east of the canal provides an effective 1300 to 2600 foot wide buffer between the proposed urban industrial uses and the small farms along Deschutes Market Road.

The northern boundary of the site abuts property that is also under city ownership, and composed of Class VIIs soils that are not irrigated or farmed. Since there is little prospect that future farming or grazing will occur on the site in the absence of irrigation, there would be no adverse impacts resulting from conversion of the site from rural to urban industrial use.[21] There is also about ¼ mile of city owned land to the north of the Juniper Ridge site, beyond which is a county exception area that allows mixed rural residential

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[20] See the year 2000 aerial photo included as Attachment B to this study.

[21] Research indicates that industrial development has a relatively low impact on surrounding agriculture--compared with recreational or residential land uses.

The Lane County 1989 *Addendum to the Developed and Committed Lands Working Paper* explains why the designated exception areas in the Rural Comprehensive Plan met applicable legal standards. One of the main issues covered was compatibility between resource land and adjacent land designated for other uses. In order to determine compatibility, Lane County staff met with a panel or resource experts. These experts included self employed farmers, sheep ranchers, Forest Service agents, and extension agents.

> "The more homes there are adjacent to agricultural lands, the more likely the potential for conflict. Agricultural experts contend that the heart of the conflict is that people often move to rural areas in search of solitude; whereas those who already reside in the area are there to grow crops or raise animals. Sooner or later the newcomers are likely to object to the dust from plowing, the smell of animals, the spraying of pesticides and other chemicals, and long hours of noise from machinery...
>
> Recreational facilities are least compatible because their attraction is due to the very qualities that are contrary to efficient resource management. Commercial and industrial uses tend to be more compatible because of a greater tolerance to objectionable practices."

and small farms on ten acre parcels. This area is not designated as agricultural land, so there are no major agricultural activities nearby.

CONCLUSION. The conversion of the Hunnell Road and Juniper Ridge sites to urban use will not have an adverse impact on any actively farmed agricultural land. There are no "nearby" agricultural activities, and the combination of urban level development, rural residential uses or adjacent open space around each site will ensure compatibility with even distant agricultural activities. There is no evidence to suggest that there will be any adverse impact on agricultural operations from including this land within the UGB. The County's EFUAL zone will remain in effect on the remainder of the City's "800 acre" site.

4.0 RESOURCE LANDS EXCEPTIONS

An amendment to the UGB may also require consideration of statewide planning Goals 3 - 13 and their administrative rules. Discussion and findings for these Goals are this section and section 6 of this study.

4.1 Goal 3 " Agricultural Lands"

Oregon's land use planning Goal 3 is intended to preserve and maintain agricultural lands for farm use. A city planning to convert agricultural land to urban uses must take an exception to complying with Goal 3 by justifying why the Goal does not apply or that it is reasonable to convert the land to other uses. The definition of agricultural land is provided in Goal 3:

> *Agricultural land...in Eastern Oregon is land of predominantly Classes I, II, III, IV, V and VI soils as identified in the Soil Capability Classification System....Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands shall be included as agricultural land in any event.*

Hunnell Road site

The Hunnell Road site is within the Bend urban reserve area and as such is not designated as agricultural resource land. An exception to Goal 3 is not required for this site. Information on the soil type and agricultural capability of soils covering this site was provided previously in Sections 3.6 of this report.

Juniper Ridge site

The Juniper Ridge site is designated on the Deschutes County Comprehensive Plan as agricultural resource land, and is zoned EFUAL. Although this site is designated as agricultural land, according to BLM records, the area west of Pilot Butte Canal has never been farmed or even used for grazing.[22]

[22] BLM records indicate that Howard Nelson had a grazing allotment for an area east of the canal and northeast to Deschutes Market Road. There are no grazing records west of the canal.

To the west of the site is the city limits. To the south is the city limits and urban reserve area that has developed with 2½ acre residential zoning. To the east of this site is additional city property that is part of the original BLM parcel. To the north of the Juniper Ridge site is additional city land and county rural residential area. The Juniper Ridge site is bordered on three sides by the urban area or county exception areas. The agricultural designated land to the east is city owned land that is not used for agricultural purposes. About one-half mile east of the Juniper Ridge site there are some small farm parcels on Deshutes Market Road. Based on soil and topographic conditions and location, this property is better suited for a rural residential or urban level development. During the County planning process this area was designated as "agriculture" based on the parcel size and ownership (at that time) by Deschutes County.[23]

The predominant soil type at the Juniper Ridge site is the Gosney-Rock Outcrop-Deskamp complex. The Gosney soil type makes up about 50 percent of the area and has a Class VII agricultural capability rating. The Rock Outcrop component makes up about 25 percent of the area and has a Class VIII agricultural rating. The Deskamp soil type makes up about 20 percent of the site and has a Class VI agricultural capability rating.

If irrigated, the agricultural capability rating for the Gosney and Deskamp soil components can drop to a Class IV rating. Although a canal transverses the site, the city has no irrigation rights for this property. Even if water rights were to be secured for this site, it is still not feasible as a hay production site due to the cost of clearing the rocky terrain and removing hundreds of juniper trees. If the rock outcroppings are not removed, the outcroppings and topography make it impractical to run pivot irrigation or move irrigation pipes for pasture or hay production.

There are also limitations to using the property for grazing. The native grasses have limited value for grazing, and the shallow sandy (pumice ash) soils are subject to wind erosion once the native vegetation is removed or depleted by grazing or activity. At the Juniper Ridge site, the soils are so poor that they have never been used for any agricultural purpose, despite being close to Bend and with an irrigation canal through the property. The combination of poor soils and topographic make it unlikely that an effective farm unit can be made of this site.[24]

The land to the north and east of the Juniper Ridge site has similar soil types and is owned by the city. The portions of the city's "800 acre" site that is not included in this amendment will remain under the county's agricultural designation and EFUAL zoning.

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[23] Catherine Morrow, Deschutes County Planning, personal communication.
[24] See letter from Michael E. Bauer, Horticultural / Crops Agent, OSU Extension Service, dated May 11, 1992.

CONCLUSION. The Hunnell Road site is within the Bend urban reserve area and not designated as agricultural resource land in the Bend or Deschutes County land use plans. Therefore, no exception to Goal 3 is needed for the Hunnell Road site.

The Juniper Ridge site, although designated as 'agricultural resource land' on the county plan, is not really agricultural land by definition or use. It has very poor soils that are only suited for hay production or grazing if the property had adequate water rights and was physically easy to farm. The lack of water rights, combined with the high percentage of rock outcroppings and large juniper trees mark it as unsuitable and unproductive land for agricultural use. At the Juniper Ridge site, the soils are so poor that they have never been used for any agricultural purpose, despite being close to Bend and with an irrigation canal through the property

4.2 Goal 4 "Forest Lands"

The predominant plant types in the two areas planned for annexation into the city are juniper trees and high desert shrubs such as bitterbrush and rabbitbrush. There are no stands of pines or other commercial timber crops on the two sites. Neither the Hunnell Road site nor the Juniper Ridge site is designated as Forest Resource land.

CONCLUSION: The two sites are not designated as Goal 4 resource land therefore no exception to Goal 4 is required.

5.0 GOAL 2 EXCEPTIONS

A governing body proposing to change the Urban Growth Boundary must address the requirements as set forth in the Land Use Planning Goal 2 for goal exceptions. Goal 2 is implemented by OAR 660-0040-0010 for boundary changes. OAR 660-004-0010(1)(c)(B) provides:

When a local government changes an established urban growth boundary it shall follow the procedures and requirements set forth in Goal 2 'Land Use Planning', Part II, exceptions....Revised findings and reasons in support of an amendment to an established urban growth boundary shall demonstrate compliance with the seven factors of Goal 14 and demonstrate that the following standards are met:

(i) Reasons justify why the state policy embodied in the applicable goals should not apply (this factor can be satisfied by compliance with the seven factors of Goal 14);

(ii) Areas which do not require a new exception cannot reasonably accommodate the use;

(iii) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with

measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(iv) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

These four criteria are repeated and expanded upon in 660-004-0020, Exception Requirements. The following paragraphs address the four standards in Goal 2 and explain how the standards are met by the proposed annexation.

5.1 Justification why the state policy embodied in the applicable goals should not apply.

The Goal 2 administrative rule at 660-04-0010(1)(c)(B)(i) states that this requirement "...can be satisfied by complying with the seven factors of Goal 14." Section 3 of this study provides findings and justification for compliance with the seven factors of Goal 14.

CONCLUSION: The city has satisfied this part of the administrative rule by addressing the seven factors of Goal 14.

5.2 Areas which do not require a new exception.

OAR 660-04-0010 specifically requires examination of alternative areas that could potentially accommodate the proposed use. Although site-specific comparisons are not necessarily required, it must be demonstrated that resource lands are not unnecessarily being converted to urban uses. In other words, this section of Goal 2 requires an explanation of why: (1) the industrial need cannot be met on land that now exists inside the UGB; and (2) industrial need cannot be met in an area that is already committed to non-resource use (i.e. an "exceptions area").

The related study titled *Part 2: Meeting Forecast Needs* evaluated other zoning techniques that could lead to more efficient industrial land use and also included an "alternative lands" analysis.[25] In this study the city evaluated 14 sites inside and outside the UGB as possible alternative sites for industrial use. Five of the sites were inside the UGB and nine sites were outside the UGB. Of the nine sites were outside the UGB, six were within Bend's urban reserve area. These sites are mapped and described in the *Part 2: Meeting Forecast Needs* study.

All 14 sites were evaluated and scored using nine relevant factors or criteria pertinent to industrial development. The siting criteria included access to state highways and arterials, parcel size, ownership patterns, adjacent uses and other factors. The two sites that had the highest score, meaning the

[25] See *Economic Lands Study Part 2 – Meeting Forecast Needs*, Section 3.

sites best suited to be converted to industrial development, were the Hunnell Road site and the Juniper Ridge site.

The Hunnell Road site was one of the six in the urban reserve area and was selected because it scored the highest of any the 14 sites in the alternative site analysis. Other sites in the urban reserve scored lower than the Hunnell Road site due to a variety of factors, but typically these other sites had poorer access to highways, had less developed utility systems nearby, and had nearby conflicting uses.

Two alternative sites within the urban growth boundary had relatively high scores, but still lower than the Hunnell Road and Juniper Ridge sites. Any new industrial areas within the UGB will come out of the residential land inventory. Other local land planning considerations such as the need to preserve large blocks of residential land future population growth, for community open space, or for new school sites[26] out-weighed the need for industrial land in these areas.

CONCLUSION: An analysis of alternative sites inside and outside the urban growth boundary was prepared in the previous Economic Lands Study. Other sites that do not require a Goal exception could not reasonably accommodate the need for more industrial land.

5.3 The long term environmental, economic, social and energy consequences. The purpose of this section is to demonstrate why use of these two sites, with measures designed to reduce adverse impacts, would not have significantly more adverse impacts than having the uses located in other exception areas.

There are minimal environmental impacts from developing industrial uses at these two sites. They do not have any Goal 5 significant resources. The wildlife species in these areas are typical of that within and on the fringe of the urban area. At the Juniper Ridge site the efforts to incorporate natural buffer areas and basalt tumuli into the campus industrial plan will allow the preservation of native plant species and small animal habitat that could not be assured at other alternative sites.

The *Part 2: Meeting Forecast Needs* study evaluated fourteen alternative sites, nine of which are in areas that would require an exception. All the sites were evaluated using the same factors such as distance to highways and arterial roads (energy consumption), compatibility with adjacent uses (economic and social impacts), availability and location of public facilities (economic costs), and existing use patterns (social impacts). The Hunnell

[26] The sites inside the UGB that scored high are called the 'Trap Club' and 'Reed Market Road South' [Anderson] sites. These sites are two of the three sites the Bend LaPine School District is considering for a new middle school and high school during the 20-year planning period.

Road and Juniper Ridge sites scored the highest of the fourteen sites in this evaluation. Although these two sites did not score the highest in all categories, there were no identified measures that would create impacts that were significantly more adverse that development at other exception areas.

5.4 Compatibility with other adjacent uses.
Under this criterion the city must describe how the proposed uses are compatible with other adjacent uses, or will be so rendered through measures designed to reduce adverse impacts. The administrative rule explains that "compatible" is not an absolute term meaning no interference or adverse impacts of any kind with adjacent uses.

The agricultural impacts of converting the Hunnell Road and Juniper Ridge sites to urban industrial uses are minimized by the sites being at least a quarter mile from the nearest farm or agricultural operations. In addition, the land between the existing agricultural areas and the Juniper Ridge site is undeveloped land owned by the city. Also, as noted earlier in this report, industrial uses and facilities are generally compatible with agricultural activities.

On two sides of the Hunnell Road sites there are highway commercial uses within the city limits. It is expected that any of the light industrial uses that could locate in the Hunnell Road area would have minimal impacts on commercial uses, or that any significant impacts could be mitigated through the city's site plan review process.

To the north and west of the Hunnell Road site are large lot residential parcels either within the urban reserve area or in a county rural residential exception area. Building setback standards, screening requirements, and other standards in the city's site plan review process can mitigate any impacts from the industrial development. At the Juniper Ridge site there are residential uses to the west and south. By using natural buffers and site design, the city can reduce the impacts of development on existing residential areas.

One of the common impacts to residential areas from adjacent commercial or industrial development is extra vehicle traffic through the residential area, especially truck traffic. Vehicle traffic to the Hunnell Road site will be via Cooley Road and the portion of Hunnell Road currently being improved to full urban standard, rather than the dirt and gravel portion of Hunnell in the residential area. At the Juniper Ridge site the main access routes will be Cooley Road or NE 18th Street, both urban arterials. There are single family residential uses on either side of Cooley Road between the Juniper Ridge site and Highway 97N. Cooley is not currently built to full urban standards. Both compatibility and safety issues can be addressed through the modernization of Cooley Road to City of Bend urban arterial standards with separated sidewalks, planter strips, and planted median.

6 OTHER APPLICABLE OREGON LAND USE GOALS

6.1 Goal 5 " Natural Resources"

The city is not proposing an exception to compliance with Goal 5. There are no known significant Goal 5 resources on either the Hunnell Road site or the Juniper Ridge site. Any Goal 5 resources that might be found during the development of the sites will be evaluated using the standards in the Goal 5 administrative rule.

6.2 Goal 6 "Air, Water, and Land Resources Quality"

The city is not proposing an exception to compliance with Goal 6. Maintaining or improving the quality of the community's air, water and land resources will be assured through enforcement of state and local regulations.

6.3 Goal 7 " Natural Disasters and Hazards"

The city is not proposing an exception to compliance with Goal 7. There are no areas subject to flooding or landslide activity. The wildfire hazard for the site is the same as other areas with junipers and native brush to the north and east of Bend. By providing adequate water to meet the fire flow requirements of industrial development the city will reduce the potential wildfire hazard in these areas.

6.4 Goal 8 " Recreational Needs"

The city is not proposing an exception to compliance with Goal 8. As a side benefit to the industrial development on the Juniper Ridge site the city will include open space land.

6.5 Goal 9 "Economy of the State"

The city is not proposing an exception to this Goal. The purpose of the UGB amendment is to comply with this Goal. The administrative rule for economic development planning requires the city to have at least a 20-year supply of land for industrial development. The only way the city can meet this standard is to include more land within the UGB.

6.6 Goal 10 "Housing"

The city is not proposing an exception to compliance with Goal 10. The expansion of the UGB is to provide more land for jobs. The housing needs analysis conducted by the city in 1995 indicated that there was sufficient residential land within the UGB to meet the forecast housing needs.

6.7 Goal 11 "Public Facilities and Services"

The city is not proposing an exception to compliance with Goal 11. The large water lines and sewer service adjacent to both the Hunnell Road site and the Juniper Ridge site allow for the efficient and cost effective extension of needed infrastructure to these sites. The city has documented that there are adequate public facilities adjacent to the areas to be annexed to meet the needs of industrial development.

6.8 Goal 12 "Transportation"

The city is not proposing to take an exception to complying with Goal 12, the Transportation Planning Rule, or the local adopted Transportation System Plan. The two sites to be annexed are adjacent to existing planned arterial roads and near the state highway system. Hunnell Road, an urban collector road shown in both the city and county Transportation System Plans divides the Hunnell Road site. Any needed improvements to the roadway and pedestrian systems will be made before, or concurrent with, the development of the sites to urban uses.

6.9 Goal 13 "Energy Conservation"

The city is not proposing an exception to Goal 13. The location of these sites at the north end of Bend could save energy by reducing truck travel to existing industrial areas in the middle of Bend. Any workers from the north coming to future businesses in these areas would also save energy through shorter commute lengths or more efficient carpooling or public transit.

7.0 OREGON REVISED STATUTE 197.298

ORS 197.298 establishes a priority ranking for land that is to be brought into an urban growth boundary. Under section (1) of the law, the first priority is land that is designated as an urban reserve area. The next priority is for areas in which the county has already taken an exception to the resource land goals, or for resource land that is completely surrounded by exception areas. The third priority is for land that has marginal resource value, and the last priority for land to be brought into the UGB is for land designated for agriculture or forestry.

The law also explains how land of a lower priority (i.e. land of second, third, or fourth priority) can be considered over higher priority land. ORS 197.298(3) states:

> *Land of lower priority under subsection (1) of this section may be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land estimated in subsection (1) of this section for <u>one or more of the following reasons</u>:*
>
> *(a) Specific types of identified land needs cannot be reasonably accommodated in higher priority lands,*
>
> *(b) Future urban services could not reasonably be provided to the higher priority due to topographical or other physical constraints, or*
>
> *(c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion of lower priority lands in order to include or to provide services to high priority lands.* [emphasis added]

<u>Hunnell Road site</u>

The Hunnell Road site is totally within an area designated as urban reserve by the city and county when the Bend Urban Area General Plan was adopted

in 1979 and acknowledged by LCDC in 1981. The current zoning in this area is Urban Area Reserve, a holding zone with a ten-acre minimum lot size. The establishment of this urban reserve area is consistent with the enabling legislation in ORS 195.145 stating "...local governments may cooperatively designate lands outside urban growth boundaries as urban reserve areas..."[27] Since urban reserve areas are the first priority for land to be brought into the UGB, the Hunnell Road site meets this standard in ORS 197.298.

The need for more industrial land, as well as an analysis of alternative sites was documented in the two previous studies. This site was better suited for industrial development than the alternative urban reserve sites evaluated.

CONCLUSION. The Hunnell Road site is the first priority land to be brought into an established urban growth boundary.

Juniper Ridge site

The Juniper Ridge site is designated as agricultural resource land in the Deschutes County Comprehensive Plan. By simple application of the statutory priorities, this area is classified as "fourth" priority land, or land that should be considered last to be brought into the urban area. However, because of reasons described below, the Juniper Ridge site is really third or second priority land.

First, this site is not, by definition in Goal 3, agricultural resource land because the soils have a Class VII and VIII agricultural capability ratings. Further, this site has no irrigation rights and has never been farmed or even used as grazing land.

Second, this site is part of the larger continuous property owned by the city, an area of more than 1500 acres that runs north from Cooley Road almost to Deschutes Junction. In essence, the Juniper Ridge site is surrounded by non-agricultural uses. The Bend urban area abuts this site on the west, and the urban area or urban reserve abuts the site on the south. To the north is county rural residential exception land, and to the east and northeast is the city land with the Class VII and VIII Gosney-Rock Outcrop-Deskamp soil. The city land is unimproved and not part of a larger agricultural unit. In reality, these conditions put this site into the second priority lands category.

Third, other alternative sites evaluated in the urban reserve area (first priority land) did not meet some of the specific requirements for additional industrial land. Other higher priority land sites cannot provide the large lot industrial user sites that are planned for part of the Juniper Ridge site due to a combination of parcel sizes and private ownership.

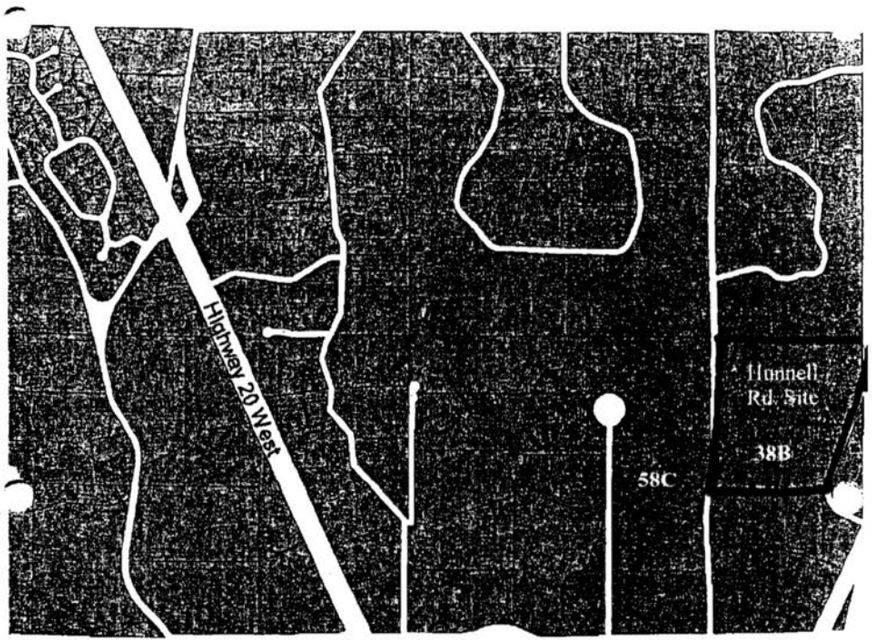
[27] ORS 195.145(1).

Fourth, there are other industrial site needs that the Juniper Ridge site can better meet than other higher priority sites considered in the urban reserve area or exception areas. This site has the advantage of size, direct access to urban arterial roads, proximity to major highways, and fewer compatibility issues with adjacent uses due to open space and buffers that will be incorporated into the site master plan.

CONCLUSION. The Juniper Ridge site satisfies the standards in ORS 197.298 to incorporate land of "lower" priority into the UGB. By definition, use, and surrounding conditions, the Juniper Ridge site functions as a priority 2 site. Several of the site conditions that will support the needed industrial land are best met at the Juniper Ridge site. Other high priority sites in the urban reserve or rural residential exception areas do not have the same site advantages as the Juniper Ridge site.

End of Report

ATTACHMENT "A"



171208,09,10 taxlots

Soils

157C

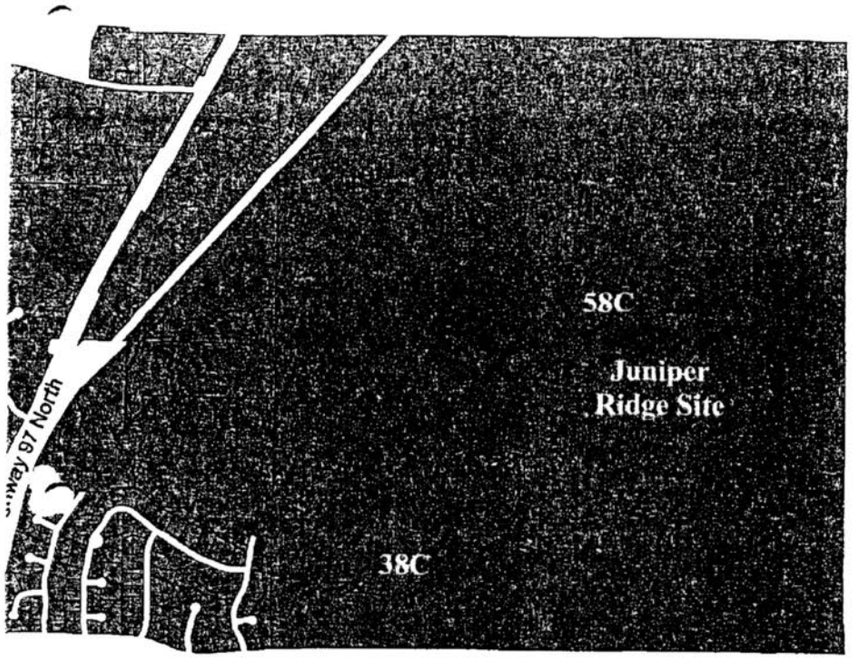
27A

36A

38B

58C

ATTACHMENT "A"



388

[illegible]IZ=Deskamp-Gosney complex, 0 to [illegible] percent slopes

Composition

Deskamp soil and similar inclusions=50 percent
Gosney soil and similar inclusions=35 percent
Contrasting inclusions=15 percent

Setting

Landscape position:
Deskamp=swales
Gosney=on and adjacent to rock outcrops
Landform: Lava plains
Parent material: Volcanic ash
Elevation: 3000 to 4000 feet
Native plants:
Deskamp=western juniper, mountain big sagebrush, antelope bitterbrush, Idaho fescue, and ne[illegible]leandthread
[illegible]y=western juniper, mountain [illegible]g sagebrush, antelope [illegible]itterbrush, bluebunch wheatgrass, and Idaho fescue
Climatic factors:
Mean annual precipitation=10 to 12 inches
Mean annual air temperature=47 to 50 degrees F
Frost-free period=70 to 90 days

Typical Profile of the Deskamp Soil

0 to 17 inches=brown loamy sand
17 to 32 inches=pale brown gravelly loamy sand
32 inches=basalt bedrock

Properties and Qualities of the Deskamp Soil

Depth: Bedrock at a depth of 20 to 40 inches
D[illegible]inage class: Somewhat [illegible]sively drained
[illegible]ability: Rapid
[illegible]vailable water capacity: About 3 inches

Typical Profile of the Gosney Soil

0 to 2 inches=grayish brown stony loamy sand
2 to 14 inches=grayish brown and pale brown loamy sand
14 inches=basalt bedrock

Properties and Qualities of the Gosney Soil

Depth: Bedrock at a depth of 10 to 20 inches
Drainage class: Somewhat excessively drained
Permeability: Rapid
Available water capacity: About 1 inch

Contrasting Inclusions

Clovkamp soils in swales
Soils that are shallower than 10 inches on ridges
Rock outcrop

Major Uses

Livestock grazing and irrigated cropland

Major Management Limitations

Surface texture, soil depth, permeability, slope, available water capacity
Gosney=stones on surface

Use and Management

Livestock grazing:
Care should be taken during range improvement to protect this soil from wind erosion.
Reestablishment of potential native vegetation is very slow on soils influenced by pumice ash once the native vegetation is removed or depleted.
The opportunity for pond development in this unit is generally impractical due to soil

58C

11,42E,119E,116E,116E-105E,96-105E=Gosney-Rock Outcrop-Deskamp complex, 0 to 15 percent slopes

Composition

Gosney soil and similar inclusions=50 percent
Rock outcrop=25 percent
Deskamp soil and similar inclusions=20 percent
Contrasting inclusions=5 percent

Setting

Landscape position:
Gosney=on and adjacent to rock outcrops
Deskamp=swales
Landform: Lava plains
Parent material: Volcanic ash
Elevation: 3000 to 4000 feet
Native plants:
Gosney=western juniper, mountain big sagebrush, antelope bitterbrush, bluebunch wheatgrass, and Idaho fescue
Deskamp=western juniper, mountain big sagebrush, antelope bitterbrush, Idaho fescue, and needleandthread
Climatic factors:
Mean annual precipitation=10 to 12 inches
Mean annual air temperature=47 to 50 degrees F
Frost-free period=70 to 90 days

Typical Profile of the Gosney Soil

0 to 2 inches=grayish brown stony loamy sand
2 to 14 inches=grayish brown and pale brown loamy sand
14 inches=basalt bedrock

Properties and Qualities of the Gosney Soil

Depth: Bedrock at a depth of 10 to 20 inches
Drainage class: Somewhat excessively drained
Permeability: Rapid
Available water capacity: About 1 inch

Typical Profile of the Deskamp Soil

0 to 17 inches=brown loamy sand
17 to 32 inches=pale brown gravelly loamy sand
32 inches=basalt bedrock

Properties and Qualities of the Deskamp Soil

Depth: Bedrock at a depth of 20 to 40 inches
Drainage class: Somewhat excessively drained
Permeability: Rapid
Available water capacity: About 3 inches

Contrasting Inclusions

Clovkamp soils in swales
Soils that are shallower than 10 inches on rock outcrops

Major Uses

Livestock grazing

Major Management Limitations

Surface texture, soil depth, surface stones

Use and Management

Livestock grazing:
Care should be taken during range improvement to protect this soil from wind erosion.
Reestablishment of native vegetation is very slow on soils influenced by pumice ash once the native vegetation is removed or depleted.
The opportunity for pond development on this soil is generally impractical due to soil depth.
Shallow soil depth of the Gosney soil limits the choice of species

OREGON STATE UNIVERSITY
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Bend Branch Office
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Redmond Telephone 503-548-6088 or 388-6012 Bend Telephone 503-385-1410

May 11, 1992

RECEIVED
MAY 12 1992
PLANNING DEPT.

Mr. Mike Byers
Senior Planner
City of Bend
P.O. Box 431
Bend, OR 97709

Dear Mike

After visiting with you on April 27 at the 1500 acre site owned by the City of Bend and located at the east terminal of Cooley Rd. in Bend, and then revisiting the site with another Extension agent, I have some information regarding the suitability of the acreage to irrigated pasture or rangeland.

As I mentioned at the April 27 visit, the acreage is not suitable for irrigated pasture or hay. Hay production would not be feasible because of the cost of clearing the land and the rock outcroppings that occur sporadically throughout the acreage. Irrigated pasture would not be practical because of the expense.

On May 6, I visited the property with Tim DeBoodt, Extension Livestock and Range Agent from Crook County. He made several points regarding the property's suitability for range use:

- Consideration would have to be made for it's designation by Oregon Department of Fish and Wildlife as a critical or general winter range.
- The grass species found in the area are primarily Idaho fescue, bluebunch wheatgrass, squirreltail and Sandburg bluegrass.
- Public access would be a consideration - gates may be left open, vandalism of water supplies, etc.
- At this point in time the ecology of the acreage as a range is in stagnation, mostly because of misuse. This is evidenced by the relative lack of new seedlings, lack of

EXTENSION SERVICE
Agriculture, Home Economics, 4-H Youth, Forestry, Community Development, Energy, and Extension Sea Grant Programs. Oregon State University, United States Department of Agriculture, and Oregon counties cooperating.

top leader growth (rounding) on junipers, and dying sagebrush.

- The 1500 acres will support approximately 100 animal units per month. It would be wiser to have 100 animals on the acreage for 3-4 weeks rather than 10 animals on for 10 months.

- Other considerations:
  animal control
  fencing
  livestock water would be needed

I hope this information will be useful.

Sincerely

OREGON STATE UNIVERSITY

Michael E. Bauer
Deschutes County
Hort/Crops Agent

db

Community Development Department

Administration Bldg., 1130 N.W. Harriman, Bend, Oregon 97701
(541) 388-6575
FAX 385-1764
Planning Division
Building Safety Division
Environmental Health Division



June 2, 1997

John Hossick, Planning Director
City of Bend
PO Box 431
Bend, Oregon 97708

re: **Inventory Goal 5 Resources on the City Industrial Reserve Land North of the Bend UGB**

Dear John:

Attached is a map of the subject property. There are no Goal 5 Resources inventoried by Deschutes County on the subject property. Deschutes County has completed its Periodic Review with respect to all Goal 5 Resources and is currently acknowledged by the Land Conservation and Development Commission.

If you or anyone else has any questions regarding this matter, please do not hesitate to contact me at your convenience. Thank you.

Sincerely,
DESCHUTES COUNTY COMMUNITY DEVELOPMENT

George J. Read

George J. Read, Director

GJR/mjz

Attachment

Quality Services Performed with Pride

NATURAL RESOURCES INVENTORY

PILOT BUTTE CANAL SITE

BEND, OREGON

Prepared for:

David Newton Associates
1201 S.W. 12th Avenue, Suite 620
Portland, Oregon 97205

Prepared by:

Christie Galen
Martha S. Mitchell
Fishman Environmental Services

June 1991

FES Project #388

Fishman Environmental Services • 434 NW Sixth Avenue • Suite 304 • Portland, OR 97209-3600 • 503-224-0333

INTRODUCTION

On June 4 and 5, 1991, Christie Galen, ecologist, and Marty Mitchell, physical geographer, of Fishman Environmental Services completed a natural resources inventory of approximately 800 acres of undeveloped land approximately 4 miles northeast of downtown Bend, Oregon (Figure 1). The site is located in section 10 and the west 1/4 of section 11, in Township 17 N., and Range 12 E. (Figure 2). This report summarizes natural resources findings and makes recommendations regarding the proposed uses.

PROJECT BACKGROUND

The City of Bend required an analysis of the site to determine its suitability for inclusion in the Urban Growth Boundary for industrial development. Market and infrastructure analysis, and planning and engineering considerations are being addressed by the Mitchell Nelson Group of Portland, and subconsultants. This report is prepared for David Newton Assoc., Portland, as a component of the Urban Growth Boundary analysis for the project to assist in site planning.

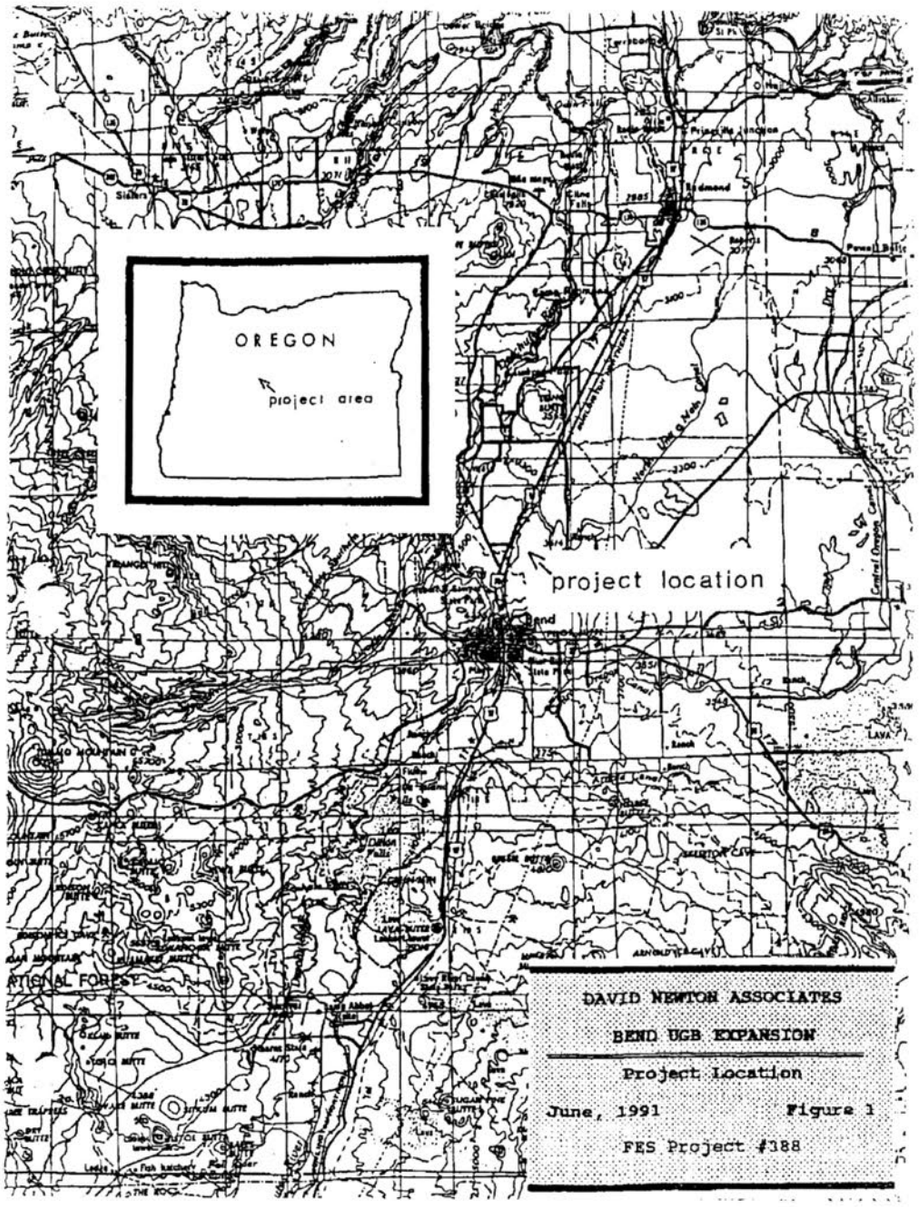
OVERVIEW OF PHYSICAL SETTING

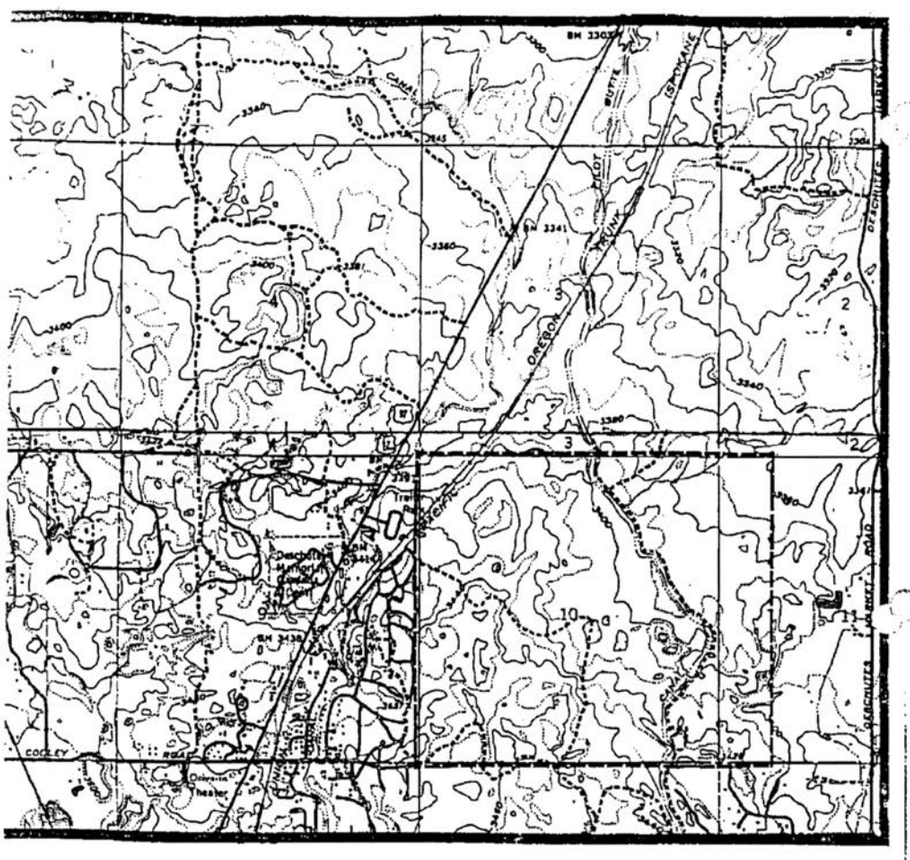
The project site is located in the High Lava Plains Physiographic Province immediately northeast of Bend, Oregon. It consists of approximately 800 acres of undeveloped juniper/shrub/steppe at about 3,400 feet in elevation at the eastern piedmont of the Cascades. Topographic relief on the site is less than 20 feet; hummocks of low basalt outcrops called tumuli, and intervening depressions characterize the terrain. These tumuli are part of an extensive field of inflated basaltic lava that originated at Newberry Volcano approximately 200,000 years ago (Chitwood, Larry, pers. com.) The tumuli are interspersed throughout the site. The soil in the depression areas consists of shallow loamy sands derived from wind blown ash and soil.

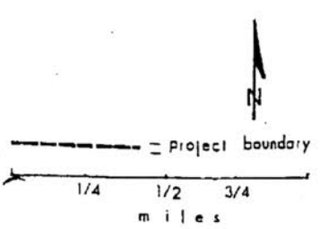
Water on the site is limited to the Pilot Butte Canal, which is regulated by the Central Oregon Irrigation District. The canal bisects the site from north to south in the east half of section 10. It is a significant source of water for local wildlife during much of the year.

The land west of the canal has been degraded by vehicle use and garbage dumping, yet retains native bunchgrass communities in excellent condition. East of the canal vegetation shows signs of past disturbance possibly related to construction of the canal or grazing.

ATTACHMENT "D"







DAVID NEWTON ASSOCIATES

BEND UGB EXPANSION

Project Site

June, 1991 Figure 2

FES Project #388

NATURAL RESOURCES AND VALUES

Basalt Outcrops - Tumuli

Tumuli are scattered throughout the site. They provide valuable habitat for small wildlife species. The cracks and cavities within the outcrops provide shade, thermal protection, food storage sites, and escape from predators. Bushy-tailed woodrats are common; cottontail rabbits and chipmunks are also present. They use the rocks for thermal protection and escape. Western fence lizards were frequently observed basking on the sun-baked rocks. They use the rock outcrops for thermal regulation and escape.

The rock outcrops provide valuable wildlife habitat as well as an interesting landscape pattern. They should be preserved where possible.

Water Resources: Pilot Butte Canal

The Pilot Butte Canal is controlled by the Central Oregon Irrigation District (COI). The district has a maintenance easement that extends 50' on either side of te canal's center line. The main channel is approximately 30-50' wide, 2-6' deep and flows 2-7 cfs. Water is present from April through October and four to five days in other months. It provides the main water source for wildlife in the area even though the swift current and unnatural bank may limit access and availability for wildlife.

No wetlands are associated with the canal and no hydric soils occur in the study area. Wetland vegetation occurs along the banks and extends approximately two feet out from the shoreline. Vegetation is mostly limited to grasses and rushes but also includes occasional shrubs.

A small number of fish enter the canal from the Deschutes River upstream. The unnatural instream structure and the seasonal flow of water through the canal limits fish habitat by not providing suitable feeding, resting, and spawning habitat.

The seasonal water, rapid current, and lack of natural banks all reduce the wildlife value of the canal. The steep falls on the south end of the property could be used as a scenic addition to a park or development.

Soil

Site soils are shallow loamy sands derived from volcanic ash. Because of the semi-arid climate of the area (ca. 12 " precipitation/year), there is a high erosion potential particularly for disturbed or unvegetated soils on slopes. Strong westerly winds suggest that deflation of exposed or disturbed soils could be a potential problem; lack of soil fines and organic litter in open disturbed areas throughout the site bears this out. Further evidence of the susceptiblilty of these soils to losses of fines due to deflation are pockets where frost heave has rendered soils very

friable. Frost heave in these pockets continually churns subsurface soil structure and breaks the soil surface crust, exposing fines to movement by wind. Once disturbed, these thin, fragile soils are difficult to revegetate.

Vegetation

The dominant vegetation of the site is a juniper/shrub/steppe community consisting of western juniper, bitterbrush and sagebrush, and bunchgrass. Native vegetation is generally in excellent condition on the west side of the canal except where roads, garbage and trampling have disturbed it. This probably is due to the location of the site between the canal, the railroad tracks and the highway; this part of the study area does not appear to have been grazed. On the east side of the canal there are pockets of bunchgrass but generally the plant community shows signs of degradation. A plant species list can be found in Table 1. Within this community there are two micro-habitats: rock outcrops and sandy depression areas.

Trees. The canopy is dominated by western juniper; one ponderosa pine was also observed. Juniper occurs throughout the site; both on rock outcrops and in sandy depression areas. Trees range in diameter from approximately 6" diameter at breast height (dbh) to 30" dbh. Several older trees were noted near the west side of Pilot Butte Canal in the SE 1/4 of section 10.

The trees provide perching, nesting and foraging sites for numerous bird species. The trees also provide shade and limited forage for mammals. Birds construct nests in the branches and utilize cavities in the trunks and larger branches.

Shrubs. The shrub community is dominated by big sagebrush and bitterbrush. Bitterbrush is common in the rock outcrops. Gray rabbitbrush, green rabbitbrush, and big sage are common in the sandier areas in the more disturbed sites.

The shrubs provide perching, nesting and foraging sites for a variety of bird species. They also provide protective cover for small mammals, herptiles, and invertebrates.

Steppe. The understory throughout the site is dominated by bunchgrasses. Sandberg's bluegrass is dominant. Bluebunch wheat grass is common in the rock outcrops. Thurber's needle grass and Indian rice grass dominate the sandy depressions. Many forbs also are present throughout the site in the less disturbed areas. The presence of bunchgrasses and forbs is a reflection of the excellent vegetative condition of most of the site. There are also areas of disturbance where the habitat has been degraded by motorized vehicles, dumping, trampling, and/or grazing. The vegetative understory in the disturbed areas loses its diversity; cheatgrass and denser stands of rabbitbrush and sagebrush become dominant. These areas provide lower wildlife habitat value because of reduced species diversity; consequently, disturbed areas are not as significant as the undisturbed communities.

TABLE 1. PLANT SPECIES LIST

SCIENTIFIC NAME	COMMON NAME
Agropyron spicatum	blue bunch wheat grass
Antennaria dimorpha	low pussytoes
Arabis sparsiflora	curve-pod rockcress
Arenaria franklinii	Franklin's sandwort
Astragalus purshii	wooly-pod locoweed
Calochortus macrocarpus	mariposa lily
Camalina microcarpa	hairy falseflax
Chamaesaracha nana	dwarf chamaesaracha
Chrysothamnus nauseosus	gray rabbitbrush
Chrysothamnus viscidiflorus	green rabbitbrush
Cryptantha circumscissa	matted cryptantha
Collinsia parviflora	blue-eyed Mary
Descurainia pinnata	tansy mustard
Eriogonum umbellatum	sulfur buckwheat
Erysimum occidentale	wallflower
Festuca idahoensis	Idaho fescue
Festuca scabrella	rough fescue
Fritillaria lanceolata	chocolate lily
Holodiscus dumosus	gland oceanspray
Juniperus occidentalis	western juniper
Leptodactylon pungens	prickly phlox
Lomatium macrocarpum	gray-leaf desert parsley
Lomatium triternatum	nine-leaf desert parsley
Microsteris gracilis	midget phlox
Mimulus nanus	dwarf purple monkey-flower
Oryzopsis hymenoides	Indian rice grass
Penstemon miser	gold tongue penstemon
Phacelia linearis	thread-leaf phacelia
Phlox hendersoni	Henderson's phlox
Pinus ponderosa	ponderosa pine
Plectritis macrocera	white plectritis
Poa pratensis	Kentucky bluegrass
Poa sandbergi	Sandberg's bluegrass
Ribes cereum	squaw currant
Stipa thurberiana	Thurber's needlegrass
Townsendia florifer	showy townsendia

Wildlife

A variety of wildlife or wildlife sign were observed during site reconnaissance, including 34 species (Table 2): 8 mammals, 20 birds, 2 reptiles, and 4 butterflies. These species are typical summer residents in the juniper/shrub/steppe habitat. Greater numbers of species are expected to use the site throughout the year.

Wildlife require water, food and shelter. Water is present in the canal from April through October and sporadically during the remainder of the year. It is present during critical times of the year: during the breeding season for most species and also during the dry season. The rapid current and lack of natural banks limits wildlife access. The canal is not a major attractant for water dependent wildlife species such as waterfowl, heron, and shorebirds because of its swift current and its lack of natural wetland communities along its banks. There is no riparian community, limited emergent wetland, no still water eddies, and no muddy shores.

Food is available in each layer of vegetation: seeds, leaves, insects, and flowers are important forage components. Shelter is provided by the multi-layered plant community as well as the protective rock outcrops.

PRESERVATION AND MITIGATION RECOMMENDATIONS

The study area does not contain any threatened or endangered species or unique habitats for the Bend area. However, it contains native plant communities in excellent condition. It also contains special geomorphologic features: basalt tumuli. It was impossible to map tumuli and areas of better quality native vegetation because of the small scale of the aerial photo provided. With a better aerial photo, tumuli and natural habitats could be mapped for site planning and field checked for specific planning needs.

Basalt tumuli, particularly the ones which retain native shrubs and bunchgrasses, should be considered for preservation in any development scenario for the site. They could be successfully incorporated into the landscape design. Many wildlife species live in or use this habitat. Connecting these rock ridges with undeveloped depression area habitats of native vegetative associations, will allow wildlife species greater access to water and food resources and will allow the system to function as a wildlife habitat and not isolated islands. Islands of rock outcrops would isolate species and prevent them from acquiring necessary food resources. An ecologist familiar with native bunchgrass communities should walk the site with the site developer to point out which outcrops and depression areas contain native plants and which do not. This effort would help preserve tumuli for their landscape beauty as well as preserve native plant communities.

Water resources should be protected from water quality declines. Development should include on site retention of runoff. Runoff should be treated before it is allowed to enter ground and surface water systems.

TABLE 2. WILDLIFE SPECIES AND/OR WILDLIFE SIGN OBSERVED ON SITE

SCIENTIFIC NAME	COMMON NAME
Syvilagus nutalli	Nuttall's cottontail
Lepus californica	black-eared jackrabbit
Eutamias minimus	least chipmunk
Citellus beldingii	belding's groundsquirrel
Neotoma cinerea	bushy-tailled woodrat
Dipodomys ordii (?)	kangaroo rat (?)
Canis latrans	coyote
Odocoileus hemionus	mule deer
Buteo jamaicensis	red-tailed hawk
Callipepla californica	California quail
Zenaida macroura	mourning dove
Colaptes auratus	northern flicker
Empidonax wrightii	gray flycatcher
Tachycineta bicolor	tree swallow
Tachycineta thalassina	violet green swallow
Pica pica	magpie
Corvus brachyrhynchos	American crow
Parus gambeli	mountain chickadee
Psaltriparus minimus	bushtit
Sialia Currucoides	mountain bluebird
Turdus migratorius	American robin
Bombycilla cedrorum	cedar waxwing
Sturnus vulgaris	European starling
Spizella passerina	chipping sparrow
Junco hyemalis	dark-eyed junco
Euphagus carolinus	brewer's blackbird
Molothrus ater	brown-headed cowbird
Carpodacus mexicanus	housefinch
Scleroperus occidentalis	western fence swift
Pituophis melanoleuca	gopher snake (?)
	cabbage white butterfly
	blue butterfly
	copper butterfly
	ochre ringlet

The canal can be a visual amenity as well as an important component of the wildlife habitat. The canal easement with its associated access roads could be used for recreation. A development scenario could incorporate corridors of the native landscape into the landscape design and further integrate this with pathways utilizing the amenities provided by the canal. This design concept could meet the potentially conflicting needs of adjacent landowners while accomplishing aesthetic, recreation, conservation, and landscaping objectives on site.

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Exhibit C

City File No. PZ-03-565

Draft Revised Chapter 6
Bend Area General Plan:

The Economy and Lands For Economic Growth

BEND AREA GENERAL PLAN

CHAPTER 6: THE ECONOMY AND LANDS FOR ECONOMIC GROWTH

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DECEMBER 2003

PREAMBLE

Bend cannot rest on the economic diversity that existed in the 1990s. The community must work hard to ensure that the local economy continues its pattern of healthy growth, and that new jobs in all wage levels are available for its citizens. Governments, economic development groups, and developers all have a role in retaining, expanding, and recruiting businesses that will serve our needs in the 21st century. The role of the General Plan is to provide an adequate supply of industrial, commercial, and mixed-use land for Bend's economic growth.

GOALS

The intent of the General Plan is to provide the community with sufficient land to meet the city's goal of promoting quality economic growth and assuring a diverse economy. The following goal statements describe the future economic hopes of the community and serve as the foundation for policy statements in this chapter.

The citizens and elected officials of Bend wish to:

- ❑ have a vital, diverse and sustainable economy, while enhancing the community's overall livability.
- ❑ ensure an adequate supply of appropriately zoned land in Bend to provide for a full range of industrial, commercial, and professional development opportunities.
- ❑ stimulate economic development that will diversify and strengthen economic activity and provide primary and secondary job opportunities for local residents.
- ❑ strengthen Bend's position as a regional economic center.
- ❑ improve the income levels of Bend residents.
- ❑ create commercial areas in outlying sections of the community as neighborhood centers rather than extending the existing strips along major roads.
- ❑ encourage more small neighborhood commercial developments and convenience commercial centers to reduce vehicle trips and trip lengths.

OVERVIEW

At the turn of the century several companies in Central Oregon raced to build irrigation canals through the area, and agriculture — primarily horse and cattle ranching — provided the basis for the Bend economy. After the Oregon Trunk Railroad was completed through Bend in 1915, large sawmills were built in the area, and for two generations the local economy was measured by the sound of saws and the smell of cut pine.

FAST FACTS:

- ***Nearly 70% of all the jobs in the county are in the Bend urban area.***
- ***Bend is the regional trade and service center for Central Oregon.***
- ***About 23,500 new jobs will be created in the Bend urban area between 2000 and 2020.***

Employment Changes

In the 1970s the Bend economy started to become more diverse with other manufacturing businesses, trade, medical services, and tourism providing a bigger share of local jobs. Along with the development of a more diverse job base, the number of jobs in the county and the urban area increased dramatically during the last quarter of the century. While the population more than tripled in the 30 years between 1970 and 2000, the wage and salary employment in 2000 is more than five times that of 1970.

Table 6-1

County Population and Employment History

	1970	1980	1990	2000
County Population	30,442	62,142	74,958	115,367
Wage & Salary Employment[1]	9,900	21,780	32,530	51,901

Notes:

[1] Wage and salary employment makes up about 90% of all the jobs in the county. Not included are self-employed persons, jobs that pay on commission, agricultural workers, and family members in a family run business.

Source: Portland State University Center for Population Research and Census, and Oregon Employment Department

Increase in Trade and Service

Most of the growth in the county employment levels has come in the non-manufacturing sectors. From 1970 to 2000 more than 38,400 new non-manufacturing jobs were created. In the early 1970s manufacturing jobs in the county made up about 24 percent of the total wage and salary jobs. This percentage dropped county-wide to about 11.5 percent in 2000, and slightly lower at 11.2 percent in Bend.

Comparable employment growth has occurred within the Bend urban area. Although the Bend urban area had 45 percent of the county population in the year 2000, 69 percent of all the jobs in the county were in the urban area. This high employment percentage is not surprising for two reasons. First, Bend is a regional trade, service, and education center for a five county area and a tourist destination, so many jobs at all levels exist to serve these

needs. Second, there are more than 15,500 additional residents within five miles of the UGB in rural subdivisions, and these "exurban" residents typically work, shop, and receive services in Bend. Table 6-2 shows the number of jobs in the county and the Bend urban area in the year 2000.

Table 6-2
Bend Urban Area Employment (Year 2000)

Type of Wage & Salary Job	Total Jobs in County	Jobs in Bend UGB	Bend UGB as Percent of Total	Bend UGB Percent by Job Type
Agricultural, Forestry, Fishing, Mining	806	513	63.6%	1.4%
Construction	4,264	3,396	79.6%	9.5%
Manufacturing	5,974	4,000	67.0%	11.2%
Transport., Communications, Utilities	1,903	1,127	59.2%	3.2%
Wholesale Trade	1,691	1,249	73.9%	3.5%
Retail Trade	12,688	8,934	70.4%	24.9%
Finance, Insurance, and Real Estate	3,128	1,732	55.4%	4.8%
Services	14,130	10,303	72.9%	28.8%
Government	7,265	3,346	46.1%	9.3%
Nonclassifiable / All Others[1]	52	38	73.1%	0.1%
Other Private Ownership[2]	N/A	1,191	N/A	3.3%
Totals	51,901	35,829	69.0%	100.0%

Notes:
[1] Includes firms that are not classified by an industry code.
[2] Includes firms that are not identified in an industry due to confidentiality.
Source: Oregon Employment Department "Covered Employment" data for Deschutes County

FORECASTS

Historically, heavy manufacturing and resource extraction — the industries that provided

the "primary jobs" in a community — have been considered the foundation for a strong local economy because they produce goods that are sold outside the area. Examples of such local industries include sawmills, pumice mining, and secondary wood product manufacturing, among others. These firms are important because they bring money into the community and are relatively immune to fluctuations in the local economy. But over the years, the national, state, and local economies have become less dependent on resource extraction and production for jobs that export goods and bring in money. As a result, the concept of primary jobs has broadened to include such diverse businesses as high technology products and software, tourism, business services (firms that provide services to other businesses), and some regional retail and medical services that serve regional markets.

- ***Seek new firms that provide primary jobs.***
- ***Retain and expand existing businesses that provide primary jobs.***
- ***Provide adequate sewer, water, transportation systems, and land for economic growth***

To keep pace with changing economic conditions the City of Bend, the Central Oregon Economic Development Council (COEDC) and the Bend Chamber of Commerce strive to recruit and retain or expand businesses that will position Bend for the next generation of jobs. The city, COEDC, and the Chamber's strategies for job recruitment and retention/expansion are described in the adjacent box. One of the key strategies is to recruit new primary job employers that have salary levels that will support a family.

Local Trends

The Bend area economy will need to continue to adapt and evolve to remain strong and competitive during the next two decades. Local trends for the next several years include:

- the industrial sector, a major source of primary jobs, will continue to become more diverse as new medium and small manufacturing firms locate in Bend;
- a need for large industrial parcels to support expanding or new industries;
- as Bend grows it will continue to attract interest from more national or regional restaurants chains, motels, and large retailers;
- an expanding mix of large retail stores and specialty shops will solidify the urban area as the regional trade center;
- the services and retail sectors will continue to be a significant source of jobs;
- Bend's climate and natural beauty also will draw in businesses and entrepreneurs

wishing to relocate from other areas;
- ❑ the relatively large percentage of middle-aged and young persons in the area will provide a solid work force base for new or expanding businesses; and
- ❑ the exceptional increase in new jobs in the 1990s in Bend is expected to slow to more normal levels over the long term.

Employment Increases

The forecasts of future employment levels in the Bend urban area to the year 2025 were prepared by the city staff. The forecasts were based on: (1) county employment projections from the Oregon Office of Economic Analysis; (2) forecast population growth in the urban area and rural portion of the county; (3) the continued expansion of Bend as a regional service, trade, medical, and education center; and (4) employment goals and strategies of the city and the Central Oregon Economic Development Council.

It is forecast that Bend's share of future county-wide employment will increase slightly to about 75 percent of the total county employment during the planning period. The forecast of total full-time and part-time wage and salary jobs in the Bend urban area is shown in Table 6-3.

Table 6-3

Bend Urban Area Employment Forecasts

Year	*2000*	*2005*	*2010*	*2015*	*2020*	*2025*
Jobs	*35,828*	*42,765*	*49,509*	*54,763*	*59,398*	*61,374*

Source: derived by city from Oregon Office of Economic Analysis forecasts for Deschutes County

The mix of future wage and salary jobs by sectors is forecast to be roughly the same as year 2000 levels, with a few changes. Roughly 16 percent of the 25,500+ new jobs are expected to be in the manufacturing field, about five percent above the mid-2000 level. Also, the percentage of jobs in mining and construction is expected to decline as the pace of growth slows.

Economic Lands Study

In 1998, the City Council adopted changes to the Bend Area General Plan that included a forecast of land needed for industrial and commercial development. Because of concerns about the rapid pace of growth, the price of land in Bend, and other factors, the Council felt

that an additional, detailed evaluation of industrial and commercial land was needed. That additional study was called for in General Policy 1of Chapter 6 of the General Plan:

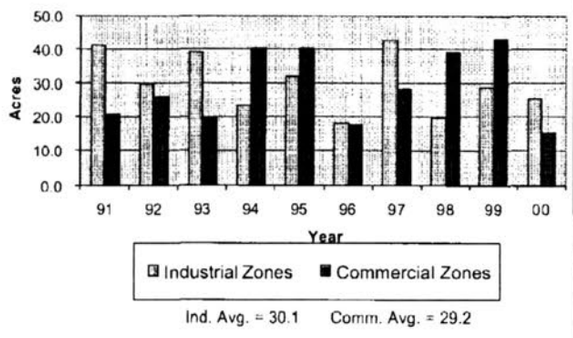
> 1. After the General Plan update in 1998 the city shall resume its study of industrial and commercial land needs, land supply, and allocation of future lands. The study will include an evaluation of the "industrial reserve" site north of Cooley Road, and other potential industrial areas inside and adjacent to the UGB, and local/regional commercial centers.

The City's long-range planning staff conducted this detailed study, titled the Economic Lands Study, during 1999-2000. Key issues to evaluate were the changing market conditions, population and labor growth, the supply of industrial and commercial land within the urban area, and the demand or need for land during the 20-year planning period. The three-part Economic Lands Study was completed in December 2000. That study was used as the basis for updating this chapter of the General Plan in early 2004, although some data in this chapter is more current than that contained in the Economic Lands Study. That study determined that during the 20-year planning period ending in 2020, there would be a shortage of industrial and commercial land within the Bend Urban Area. The Economic Lands Study is included in its entirety as Appendix __ of the General Plan.

Land Needed for Economic Growth

In the Economic Lands Study, historical land absorption rates, adjusted for future growth levels, were used to forecast land needed for economic development. The land absorption rates are considered to be a more accurate method of forecasting land needs than job numbers based on population or jobs-per-housing ratios. Figure 6-1 shows the annual absorption of industrial and commercial land within the Bend UGB during the decade of the 1990's. These figures indicate the absorption rate of *net acres* of

Figure 6-1
Land Absorption by Year



C GROWTH

developable land during that period, without streets and utility easements. For forecasting purposes, the Economic Lands Study used an adjusted average annual absorption rate based on the period 1985-98. That period was selected for forecasting because it covers a sustained period during which a variety of economic conditions were experienced.

Although there has not been a straight trend-line increase in land needed each year, the long-term historic pattern indicates an increase in demand as the population and economy grow. The land needed for future economic development, using the absorption rate of industrial and commercial lands as a guide, is shown in Figure 6-2. Although the Economic Lands Study projects land demand to the year 2020, Figure 6-2 uses a forecast period to the year 2025, to match the population and employment forecast period.

Figure 6-2

INDUSTRIAL AND COMMERCIAL LAND NEEDS

LAND NEEDED FOR INDUSTRIAL USES		
Adjusted avg. annual acreage use 1985-1998	=	32.2 net acres
Times a 25-year planning horizon (2025)	=	805 net acres
Add 10% for streets and utilities	=	81 acres
Industrial land needed 2001-2025	=	***886 acres***
LAND NEEDED FOR COMMERCIAL USES		
Adjusted avg. annual acreage use 1985-1998	=	31.5 net acres
Times a 25-year planning horizon (2025)	=	788 net acres
Add 5% for streets and utilities	=	39 acres
Commercial land needed 2001-2025	=	***827 acres***
Total land needed 2001-2025	=	***1,713 acres***

Firms that are targeted for future development in Bend will need a variety of parcel sizes and settings in which to locate. The urban area industrial, mixed-use, and commercial designations provide a mix of parcel sizes, site amenities, and locations to serve a variety of new businesses and most of the target industries. Table 6-4 shows the estimated buildable acres as of the beginning of 2000. The acreage figures are based on estimates and assumptions as reported in the Economic Land Study, but are adjusted slightly to account

for a map amendment that was pending at that time.

Table 6-4
Summary of Buildable Acres (2000)

	Inventory by General Plan*	MR Zone General Plan	ME Zone General Plan	Available Acres Total	Needed Acres
Land for Industrial Development	478 acres**	50 acres	11 acres	539 acres	886 acres
Land for Commercial Development	399 acres	90 acres	96 acres	585 acres	827 acres
Total	877 acres	140 acres	107 acres	1,124 acres	1,713 acres

* For Industrial: (IG, IL & IP) Zones plus miscellaneous planned but not properly zoned parcels.
For Commercial: (all "C" plus PO) Zones plus miscellaneous planned but not properly zoned parcels.
** 493 acres minus 15 acres of IP converted to ME in Northwest Crossing.
Source: City of Bend Long Range Planning Division. Based on 1995 lot-by-lot inventory and adjusted for parcel absorption from 1996 through 1999. Figures may not include all Parkway takings or other lot changes.

The 1,124 acres of land available for future economic development in 2000 falls short of the 25-year forecast need of 1,713 acres needed. As the Economic Lands Study concluded, it also falls short of the forecast need as estimated to the year 2020. For industrial lands in particular, this deficit, plus the goal to increase the proportion of jobs in the manufacturing sector and other job sectors that typically use industrial sites – wholesale trade, transportation, construction, and utilities – will push the need for more industrial land. To meet the forecast need for industrial land to the year 2025, at least 347 more acres will be required than were available in 2000.

As discussed in the Economic Lands Study, there is very limited opportunity to create new industrial land within the existing Urban Growth Boundary due to transportation needs, potential conflicts with adjacent properties, and the reduction in acreage needed for housing that would result from converting residential zones to industrial zones. The Economic Lands Study therefore recommended that the additional needed industrial acres come from land brought into the urban area. The study included an evaluation of alternative sites that could be brought inside the Urban Growth Boundary, and recommended that two sites at the

north edge of the city would best meet the need for more industrial land. Both of these sites are located north of Cooley Rd. One site, known as Juniper Ridge, is owned by the City of Bend and has been informally considered as an "Industrial Reserve" property since it was acquired from Deschutes County in 1990. Juniper Ridge lies about one-half mile east of U.S. Hwy. 97. The other site is privately owned, and is identified in the Economic Lands Study as the Hunnell Rd. site. It lies about one-quarter mile west of U.S. Hwy. 97. Both the Juniper Ridge and Hunnell Rd. sites abut the northern Urban Growth Boundary.

Besides the shortfall in the amount of industrial land needed for the forecast industrial growth, there is a second concern about the lack of large industrial parcels. Much of the undeveloped industrial land planned to meet future needs has been held in large parcels until sewer service is available. As sewer service is extended into these areas, the large parcels are subdivided into smaller-lot industrial subdivisions to meet short-term industrial demand. As these larger parcels are subdivided during the planning period there will be fewer large sites available to meet the need of large manufacturing, assembly, or warehousing firms.

There is no industrial land currently in the urban area that is set aside or "held" in large lot sizes for target industries that need 15, 20, or more acres for an operation. This lack of large private or public industrial sites puts Bend at a competitive disadvantage compared to other cities in the region, and could lead to Bend residents commuting to work in other cities. The Juniper Ridge site in particular has sufficient size to allow for the creation of a number of large-lot industrial parcels that can be preserved as large development sites.

The amount and type of commercial land will also need to be periodically reviewed to make sure sufficient land is available. Continuing changes in the commercial markets, along with local factors such as how fast new commercial centers develop and the activity in mixed use areas, will affect the supply of land for commercial development. The Economic Lands Study found an inventory of about 585 acres of buildable land for retail and service uses in 2000. However, the study also found a shortfall in the amount of commercial land available to meet a 20-year need. The study recommended several measures that could be taken to increase the supply of land available to meet the forecast demand for commercial development without expanding the urban growth boundary.

Industrial Designated Areas

Most of the buildable land in the industrial designations is planned for light industrial or industrial park development, which is consistent with the shift away from the traditional heavy industrial uses such as mills and large manufacturing. All of the industrial areas are

close to arterial and collector roads to provide easy access throughout the community and inter-connections to the state highway system. The industrial lands by General Plan category are shown in Table 6-5.

Besides the developed areas, one undeveloped area is included in the General Plan to help meet future industrial needs. This 95-acre site is just inside the west edge of the Urban Growth Boundary, and was part of a pumice and rock mining operation that ended in 1997. This site will be redeveloped for light industrial or industrial park uses, and will provide for industrial jobs on the growing west side of the urban area. This industrial land is part of a partially developed, mixed-use, 380-acre site known as Northwest Crossing. In addition, the Plan provides for another 60 acres of adjacent industrial reserve land in the Urban Reserve Area for long-term industrial development on the west side.

There is one area within the UGB that is zoned for surface mining and has sufficient rock and mineral resources to be mined beyond the 20-year planning period. Because there are several mineral resource mining and processing sites adjacent to the urban area, no other area within the UGB is planned for resource extraction. Table 6-5 shows industrial lands by the three Plan designations, and includes the surface mining area.

Table 6-5
Industrial Designations

Plan Category	Description	Size Requirement
Industrial Park	provides for research and development facilities and compatible light manufacturing in a park-like setting	minimum ½ acre lot size; no maximum lot size
Industrial Light	provides for heavier commercial and light industrial uses in built- up areas of the urban area	no minimum or maximum lot size
Industrial General	provides for light and heavier industrial uses with a minimum conflict between uses	no minimum or maximum lot size
Surface Mining	provides for the extraction of pumice, ash, and rock to serve the construction needs of the urban area	no minimum or maximum lot size

Mixed-use Designated Areas

The Bend Area General Plan Map has two areas designated for mixed-use development. The largest area is along the Deschutes River south of downtown and is labeled as *Mixed-Use*

Riverfront. This mixed-use area creates the opportunity for the redevelopment of old sawmill sites into more intensive urban uses in the core of the urban area. This designation and implementing zone allow for a mixture of industrial, commercial, and residential uses within a framework that protects existing uses and provides compatibility through a facility plan, master plan and design review process.

A second area planned for mixed commercial and industrial development runs through the middle of the urban area. One area covers an older industrial and commercial area along NE 1st and NE 2nd streets. A second area is in a mixed development area along Highway 20 North. This land use category is labeled *Mixed Employment,* and recognizes the existing pattern of light industrial, commercial, and institutional uses in this area. It provides for land in the center of the urban area to be redeveloped to a more intensive mix of industrial and commercial businesses and employment that is consistent with the diversified economy of the urban area.

Table 6-6

Mixed-Use Designations

Plan Category	Description	Size Requirements
Mixed-Use Riverfront	mixed commercial, industrial, and residential development applied along the river in the area of old sawmills; special review standards	220 acres total; minimum 10 acres for Master Plan
Mixed Employment	mixed light industrial and commercial uses in areas that already exhibit a pattern of mixed development.	minimum 6,000 sq. ft. lot size; no maximum lot size

* The division of buildable acres is based on preliminary development plans and existing patterns. The Mixed-Use Riverfront category has about 35 additional acres for residential development. The Mixed-Employment category is made up of lands previously planned and zoned for industrial or commercial use.

Commercial Corridor Areas

Much of the commercial acreage in the urban area follows the historic pattern of development along the state highways, along major arterial streets, and in downtown Bend. In the future, as in the past, the commercial development along the highway corridors will be oriented to tourist commercial services, other needs of the motoring public, and major retailers that serve the area residents.

Although the General Plan recognizes the opportunity for redevelopment and infill along the existing corridors, it sets new expectations for site and building development that will benefit both the customers and the community. New developments along the corridors will be required to have a good site layout to serve vehicles, and to address pedestrian and bicycle needs as well. The large "super store" retailers may develop along the existing corridors, and the city will need to develop special standards to address the traffic and design issues associated with these large developments. The two main land use categories along the highways and main arterial streets are Limited Commercial and Highway Commercial.

New commercial areas should be designed as centers rather than as an extension of the existing commercial strips. New Limited Commercial centers that are deve loped away from the state highway system should have uses that support local needs, rather than the needs of tourists or motorists passing through the community.

For most visitors, the commercial areas create the visual image of the urban area, even though they occupy less than five percent of the land area.

The city will continue to improve the appearance of the commercial corridors.

Although commercial corridor development will be limited in the future, the appearance of such areas continues to be a concern. Additional landscaping and trees, plus widening or adding new sidewalks shall be encouraged. Because highway commercial areas are located on the Plan along major entrances to the community, special consideration shall be given to landscaping, setbacks, access, and signing. These areas will form the first impression of the community, and can have a significant impact on the traveling public.

Commercial Center Areas

Part of the land needed for commercial development will be met by new small commercial centers or stores as generally designated on the Plan Map. These centers are intended to support residential neighborhoods and reduce vehicle trips or trip lengths by providing commercial uses near or within developing residential areas. These new centers could be on one parcel, or several parcels within a limited geographic area like the commercial area on Newport Avenue, and should have several of the characteristics listed below that avoid the problems and appearance of "strip commercial" developments:

- ❑ buildings closer to the sidewalk
- ❑ limited vehicle access points
- ❑ shared parking facilities
- ❑ parking distributed around buildings
- ❑ walkways for pedestrian access
- ❑ uses that serve the neighborhood
- ❑ smaller monument signs
- ❑ buildings on site in scale with each other

The two main Plan designations for commercial center development are Neighborhood Commercial and Convenience Commercial. In addition, a 25-acre Limited Commercial center is planned near the west edge of the urban area. This center is intended to serve residential growth on the west side of the urban area, and is part of a large undeveloped parcel. This site will be adjacent to Mt. Washington Drive, but is shown on the Plan Map with a general site designation until a master plan is developed for this commercial site and related industrial and residential development.

Neighborhood Commercial areas are intended to provide locations for small businesses and services that fit into the residential development pattern and provide a convenience to residents in the immediate neighborhood. Specific Neighborhood Commercial sites are not shown on the Plan Map, but are intended to serve residential areas within a five or ten minute walk. Such uses are appropriate in residential areas if the following conditions are met: the building design and site landscaping shall be similar to the residential pattern in the area; the site size is one-quarter to one-half acre; the site is at least one-half to three-quarters of a mile from another commercial zone; and there is a market study or other analysis that shows there is an adequate residential base or other conditions in the area that can support the use.

Convenience Commercial areas are intended to provide for the frequent shopping or service needs of nearby residential areas. They will consist principally of a relatively wide range of small retail and service uses, the largest of which would be a grocery store. Uses such as a grocery store, drugstore, small bakery, specialty shops, and offices would be typical of these areas.

It is expected that new convenience commercial areas will develop to serve the emerging and future residential areas, and will particularly benefit the rapidly growing portions of the urban area. New convenience commercial areas reduce the need for residents to drive to the existing strip commercial areas for all their shopping or service needs.

Convenience Commercial areas should occur as centers on one or more properties together

in a block or across the street from each other, rather than as commercial strips. Convenience centers should be located on arterial or collector streets, preferably at or near an intersection with another similar street, and have a site size up to five acres. In order that convenience centers remain oriented toward serving nearby residential areas and do not expand to serve much larger parts of the community, commercial building floor areas should be limited to 35,000 to 55,000 square feet. The building design and site design should be compatible with the surrounding neighborhood. They should be spaced from one to one and one-half miles apart, and new locations should be based on a market study or other analysis that shows there is an adequate residential base or other conditions to support the uses.

Table 6-7

Commercial Designations

Plan Category	Description	Size Requirements
Convenience Commercial	provides for frequent shopping and service needs of nearby residents	no minimum or maximum lot size
General Commercial	provides a broad mixing of commercial uses in older, close-in sections of the community	no minimum or maximum lot size
Limited Commercial	provides locations for a wide range of retail, service, and tourist commercial uses in the community along highways or in new centers	no minimum or maximum lot size
Highway Commercial	provides for those uses that have large site requirements, or are oriented to highway access, or provide services to visitors	no minimum or maximum lot size
Central Business District	only applied to several blocks of downtown Bend	no minimum or maximum lot size
Neighborhood Commercial	provides location for small services and businesses that fit into residential area and serve the immediate neighborhood	½ acre minimum lot size; no maximum lot size

Exhibit D

City File No. PZ-03-565

Draft Amendments to the Bend Area General Plan:

Chapter 6 Policies

Draft Amendments to the Bend Area General Plan
Chapter 6 Policies

Text below shown ~~lined through~~ is proposed to be deleted. Text to be added is shown in **underlined bold type**.

~~*General*~~

~~1. After the General Plan update in 1998 the city shall resume its study of industrial and commercial land needs, land supply, and allocation of future lands. The study will include an evaluation of the "industrial reserve" site north of Cooley Rd., and other potential industrial areas inside and adjacent to the UGB, and local/regional commercial centers.~~

Industrial Development

1. In order to help meet the long-term need for future industrial development, at least 500 acres of the City-owned property known as Juniper Ridge shall be brought into the Urban Growth Boundary, annexed to the city, and designated on the Bend Urban Area General Plan Map as Industrial Light.

2. Prior to permitting industrial development on the Juniper Ridge site, the City shall prepare and adopt a development plan for the area. Preparation of the plan shall include an assessment of public facilities improvements, including transportation facility improvements, that may be needed to support industrial development.

3. The development plan for the Juniper Ridge site shall allocate at least 30% of total net buildable area for sites of ten acres and larger in size. Through the use of deed restrictions or other appropriate instruments, the City shall ensure that these large-lot sites will not be further subdivided prior to development.

ORDINANCE NO. NS-1937

AN ORDINANCE AMENDING THE CITY OF BEND ORDINANCE NS-1923, BY DELETING EXHIBIT 'A'.

Whereas,The Bend City Council enacted Ordinance NS-1923 on May 19, 2004, changing the zoning designation of properties as identified on a map described as Exhibit 'B' (incorporated into Ordinance No. NS-1923). The City found that there was a public need and benefit for the zone change enacted by Ordinance No. NS-1923, and

Whereas, Ordinance NS-1923 also includes Exhibit 'A', which lists the properties by tax map, tax lot and address. By virtue of the tax record, identification of the land described in Exhibit A changes over time, and

Whereas, Because of the changes in identification of property over time, as reflected in Exhibit A to Ordinance No. NS-1923, some property identifications in Exhibit A were inconsistent with the identification of certain parcels of property shown on Exhibit B to Ordinance No. NS-1923, and

Whereas, Citizens who received notice of the adoption of Ordinance No. NS-1923 were provided with the map, Exhibit B, and were therefore on notice that the intent of Ordinance No. NS-1923 was to change the zone map consistent with the map designated Exhibit B. Citizens who were notified of the City's consideration of Ordinance No. NS-1923 were not provided with Exhibit A, the listing of properties by tax map and tax lot. There was no reason, therefore, why the public would have been confused or improperly notified as to the effect of Ordinance No. NS-1923, even though Exhibits A and B were inconsistent as to property identification to a small degree, and

Whereas, It is the purpose of this ordinance to remove any remaining confusion or inconsistency within Ordinance No. NS-1923 by deleting Exhibit 'A' from Ordinance No. NS-1923, leaving Exhibit B (the map) as the controlling instrument designating the identity of the land that was re-zoned by Ordinance No. NS-1923.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Ordinance No. NS-1923, enacted by the City of Bend on May 19, 2004, is hereby amended by deleting Exhibit A therefrom in its entirety. Exhibit B shall remain as the sole instrument identifying the properties that were re-zoned by Ordinance No. NS-1923.

Read for the first time the 7th day of July, 2004.

Read for the second time the 21st day of July, 2004.

Placed upon its passage the 21st day of July, 2004.

YES: 7 NO: 0

Authenticated by the Mayor the 21st day of July, 2004.

Oran Teater, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1938

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF AN APPROXIMATELY 10.6-ACRE PARCEL OF LAND FROM UAR-10, URBAN AREA RESERVE – 10 TO CH, HIGHWAY COMMERCIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated June 18, 2004, file number PZ-04-150.

Section 2. Section 7(1) of Ordinance NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the property described in "Exhibit A" from Urban Area Reserve – 10 (UAR-10) to Highway Commercial (CH).

Read for the first time the 7th day of July, 2004.

Read for the second time the 21st day of July, 2004.

Placed upon its passage the 21st day of July, 2004.

YES: 7 NO: 0

Authenticated by the Mayor the 21st day of July, 2004.

Oran Teater, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

EXHIBIT "A"

A portion of the Southeast Quarter of the Southwest quarter (SE1/4 SW1/4) in Section 9, Township 17 South, Range 12 East of the Willamette Meridian, more particularly described as follows:

Beginning at the Southwest corner of Section 9, Township 17 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon; thence North 89°54'20" East, 1322.33 feet to the West sixteenth corner between Sections 9 and 16; thence North 0°19'33" West, 1327.17 feet to the Southwest sixteenth corner of Section 9; thence North 89°47'07" East, 326.05 feet along the sixteenth line to the True Point of Beginning of this description. Thence South 5°47'54" West, 493.75 feet; thence South 45°33'38" East, 370.55 feet; thence South 2°26'19" West, 441.23 feet; thence South 34°50'32" West, 93.09 feet to the Northerly right of way of Cooley Road; thence North 88°22'21" East, 423.86 feet along the right of way of Cooley Road to the Westerly right of way of State Highway #97; thence North 24°12'49" East, 617.12 feet along said right of way; thence North 72°56'51" West, 497.94 feet along the center line of a 30 foot road easement; thence North 3°41'51" West, 552.21 feet to the North sixteenth line of the Southeast quarter of the Southwest quarter of Section 9; thence South 89°47'07" West, 317.44 feet to the True Point of Beginning.

EXCEPTING THEREFROM, that portion conveyed to the State of Oregon by Deed Recorded March 5, 2003 in Book 2003, Page 14889 Deschutes County Records.

Exhibit 1

ORDINANCE NO. NS-1939

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 RS, URBAN STANDARD DENSITY, TO RM, URBAN MEDIUM DENSITY RESIDENTIAL AS DESCRIBED IN EXHIBIT "A" ATTACHED.

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 25, 2004 file number PZ-03-461.

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 17-12-20A, Tax Lot 300 from Urban Standard Density (RS) to Urban Medium Density Residential (RM).

Read for the first time the 21st day of July, 2004.

Read for the second time the 4th day of August, 2004.

Placed upon its passage the 4th day of August, 2004.

YES: 6 NO: 0

Authenticated by the Mayor the 4th day of August, 2004.

Oran Teater, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

EXHIBIT A

Lot three (3) of Norwood, Deschutes County, Oregon

DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

2004-68387

$41.00

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11/16/2004 10:24:45 AM

D-IPPS Cnt=1 Stn=23 TRACY
$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-1940

AN ORDINANCE VACATING PORTION OF COB STREET THAT LIES WITHIN NE ¼ OF SE ¼ OF SECTION 12, TOWNSHIP 18 SOUTH, RANGE 11 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on May 5, 2004 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 4th day of August, 2004, at 7:00 p.m. local time in the Tower Theater at 835 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 4th day of August, 2004.

Read for the second time the 18th day of August, 2004.

Placed upon its passage the 18th day of August, 2004.

Yes: 7 No: 0

Authenticated by the Mayor the 18th day of August, 2004.

Bruce Abernethy
~~Oran Teater~~, Mayor Pro Tem
Bruce Abernethy

ATTEST:

Patricia S Stell
Patricia Stell, City Recorder

Please record pages one through three of Ordinance NS-1940. After recording return to Deputy Recorder, City of Bend, 710 NW Wall, Bend, OR 97701

LEGAL DESCRIPTION
FOR BRIAN GINGERICH
61395 COB STREET
BEND, OR 97702

COB STREET VACATION - TRACT "A"

A tract of land located in the Northeast one-quarter of the Southeast one-quarter of Section 12, Township 18 South, Range 11 East, W.M., City of Bend, Deschutes County, Oregon, described as follows:

Beginning at the Northeast corner of that tract of land as described in Volume 2002, Page 27726, Deschutes County Deed Records, said corner also being the Northeast corner of Lot 3, Block 9, FIRST ON THE HILL SITES and the Northwest corner of Cob Street; thence leaving the Easterly line of said lot and the Westerly right of way of said street N 76°20'54" E, along the Northerly right of way of said street, a distance of 42.00 feet; thence leaving said right of way S 13°23'49" E, 147.88 feet to the Northerly right of way of East Campbell Road; thence S 76°31'07" W, along said right of way, 42.00 feet to the Southeast corner of said tract and lot and the Southwest corner of said Cob Street; thence leaving said right of way N 13°23'49" W, along said Easterly line and Westerly right of way, 147.69 feet to the point of beginning.

EXCEPTING THEREFROM the following described tract of land:

A 10.00 foot wide strip of land being a public right of way for pedestrian, bicycle and utility purposes, lying 5.00 feet on each side of the following described centerline:

Commencing at the Northeast corner of that tract of land as described in Volume 2002, Page 27726, Deschutes County Deed Records, said corner also being the Northeast corner of Lot 3, Block 9, FIRST ON THE HILL SITES and the Northwest corner of Cob Street; thence leaving the Easterly line of said lot and the Westerly right of way of said street N 76°20'54" E, along the Northerly right of way of said street, a distance of 10.74 feet to the TRUE POINT OF BEGINNING; thence leaving said right of way S 51°39'48" E, 12.05 feet; thence Southeasterly, 9.32 feet, along the arc of a curve concave to the Northeast, having a radius of 20.00 feet (the long chord of which bears S 65°01'33" E, 9.24 feet); thence continuing Southeasterly, 22.71 feet, along the arc of a curve concave to the Southwest, having a radius of 20.00 feet (the long chord of which bears S 45°53'01" E, 21.51 feet); thence S 13°23'49" E, 114.35 feet to the Northerly right of way of East Campbell Road and there terminating, from which the Southeast corner of said tract and lot bears S 76°31'07" W, 37.00 feet. The sidelines of the described strip are to be lengthened or shortened to terminate in said Northerly right of ways of Cob Street and East Campbell Road.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JANUARY 28, 1991
TIM K. CHAPMAN
2477

Ex 12/31/05

Prepared by Baxter Land Surveying, Inc. P.O. Box 7022
Bend, OR 97708 (541)-382-1962

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LEGAL DESCRIPTION
FOR BRIAN GINGERICH
61395 COB STREET
BEND, OR 97702

COB STREET VACATION - TRACT "A"

A tract of land located in the Northeast one-quarter of the Southeast one-quarter of Section 12, Township 18 South, Range 11 East, W.M., City of Bend, Deschutes County, Oregon, described as follows:

Beginning at the Northeast corner of that tract of land as described in Volume 2002, Page 27726, Deschutes County Deed Records, said corner also being the Northeast corner of Lot 3, Block 9, FIRST ON THE HILL SITES and the Northwest corner of Cob Street; thence leaving the Easterly line of said lot and the Westerly right of way of said street N 76°20'54" E, along the Northerly right of way of said street, a distance of 42.00 feet; thence leaving said right of way S 13°23'49" E, 147.88 feet to the Northerly right of way of East Campbell Road; thence S 76°31'07" W, along said right of way, 42.00 feet to the Southeast corner of said tract and lot and the Southwest corner of said Cob Street; thence leaving said right of way N 13°23'49" W, along said Easterly line and Westerly right of way, 147.69 feet to the point of beginning.

EXCEPTING THEREFROM the following described tract of land:

A 10.00 foot wide strip of land being a public right of way for pedestrian, bicycle and utility purposes, lying 5.00 feet on each side of the following described centerline:

Commencing at the Northeast corner of that tract of land as described in Volume 2002, Page 27726, Deschutes County Deed Records, said corner also being the Northeast corner of Lot 3, Block 9, FIRST ON THE HILL SITES and the Northwest corner of Cob Street; thence leaving the Easterly line of said lot and the Westerly right of way of said street N 76°20'54" E, along the Northerly right of way of said street, a distance of 10.74 feet to the TRUE POINT OF BEGINNING; thence leaving said right of way S 51°39'48" E, 12.05 feet; thence Southeasterly, 9.32 feet, along the arc of a curve concave to the Northeast, having a radius of 20.00 feet (the long chord of which bears S 65°01'33" E, 9.24 feet); thence continuing Southeasterly, 22.71 feet, along the arc of a curve concave to the Southwest, having a radius of 20.00 feet (the long chord of which bears S 45°53'01" E, 21.51 feet); thence S 13°23'49" E, 114.35 feet to the Northerly right of way of East Campbell Road and there terminating, from which the Southeast corner of said tract and lot bears S 76°31'07" W, 37.00 feet. The sidelines of the described strip are to be lengthened or shortened to terminate in said Northerly right of ways of Cob Street and East Campbell Road.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JANUARY 29, 1981
TIM K. CHAPMAN
2477

Ex 12/31/05

Prepared by Baxter Land Surveying, Inc. P.O. Box 7022
Bend, OR 97708 (541)-382-1962

LEGAL DESCRIPTION
FOR BRIAN GINGERICH
61395 COB STREET
BEND, OR 97702

COB STREET VACATION - TRACT "B"

A tract of land located in the Northeast one-quarter of the Southeast one-quarter of Section 12, Township 18 South, Range 11 East, W.M., City of Bend, Deschutes County, Oregon, described as follows:

Beginning at the Northwest corner of Lot 1, Block 10, FIRST ON THE HILL SITES, as described in Volume 202, Page 880, Deschutes County Deed Records, said corner also being the Northeast corner of Cob Street; thence leaving the Westerly line of said lot and the Easterly right of way of said street S 76°20'54" W, along the Northerly right of way of said street, a distance of 16.00 feet; thence leaving said right of way S 13°23'49" E, 147.88 feet to the Northerly right of way of East Campbell Road; thence N 76°31'07" E, along said right of way, 18.00 feet to the Southwest corner of said lot and the Southeast corner of said Cob Street; thence leaving said right of way N 13°23'49" W, along said Westerly line and Easterly right of way, 147.96 feet to the point of beginning.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JANUARY 28, 1981
TIM K. CHAPMAN
2477

EXPIRES: 12/31/05

Prepared by Baxter Land Surveying, Inc. P.O. Box 7022
Bend, OR 97708 (541)-382-1962

LEGAL DESCRIPTION
FOR BRIAN GINGERICH
61395 COB STREET
BEND, OR 97702

COB STREET VACATION - TRACT "B"

A tract of land located in the Northeast one-quarter of the Southeast one-quarter of Section 12, Township 18 South, Range 11 East, W.M., City of Bend, Deschutes County, Oregon, described as follows:

Beginning at the Northwest corner of Lot 1, Block 10, FIRST ON THE HILL SITES, as described in Volume 202, Page 880, Deschutes County Deed Records, said corner also being the Northeast corner of Cob Street; thence leaving the Westerly line of said lot and the Easterly right of way of said street S 76°20'54" W, along the Northerly right of way of said street, a distance of 18.00 feet; thence leaving said right of way S 13°23'49" E, 147.88 feet to the Northerly right of way of East Campbell Road; thence N 76°31'07" E, along said right of way, 18.00 feet to the Southwest corner of said lot and the Southeast corner of said Cob Street; thence leaving said right of way N 13°23'49" W, along said Westerly line and Easterly right of way, 147.96 feet to the point of beginning.

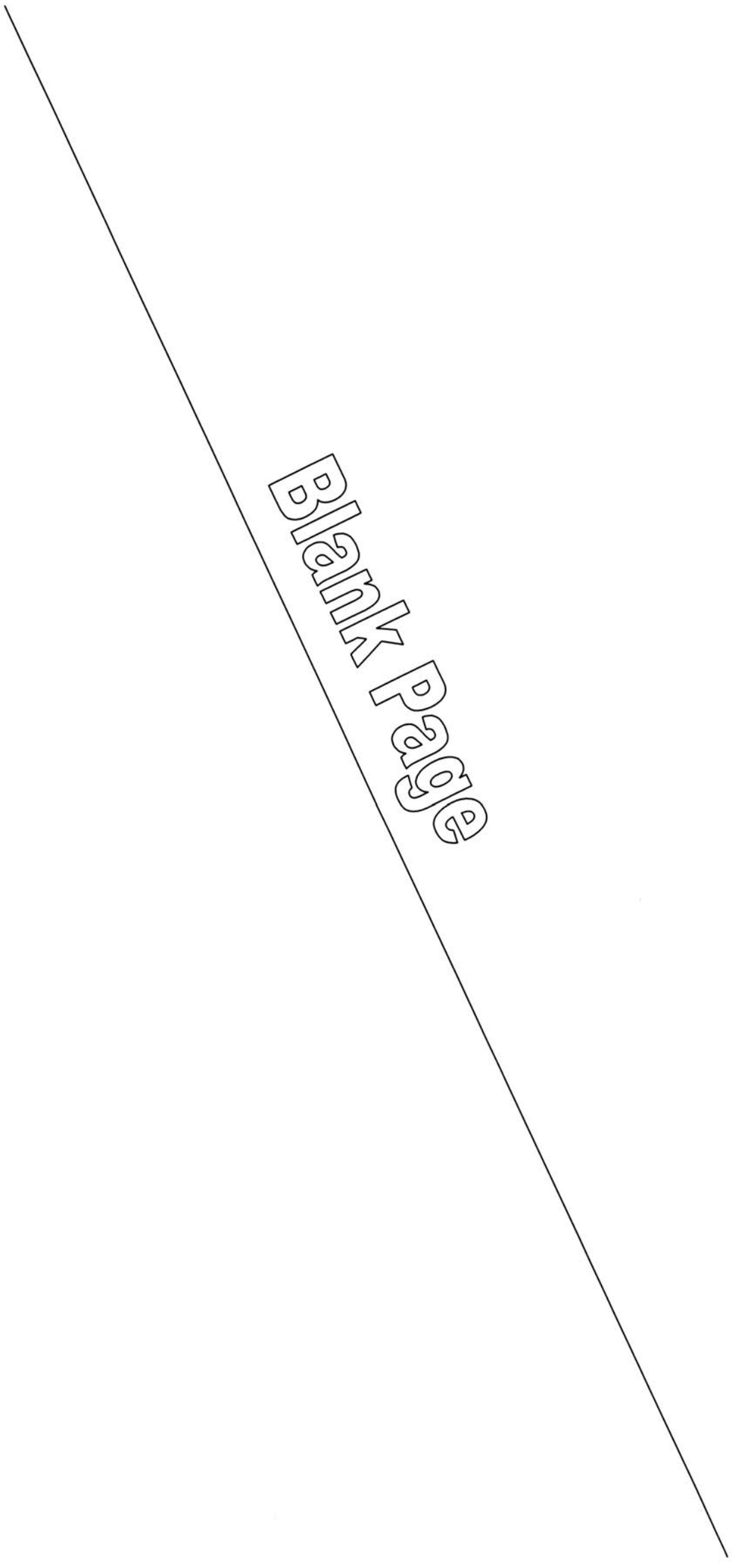
REGISTERED
PROFESSIONAL
LAND SURVEYOR
OREGON
JANUARY 28, 1997
TIM K. CHAPMAN
2417

Prepared by Baxter Land Surveying, Inc. P.O. Box 7022
Bend, OR 97708 (541)-382-1962

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ORDINANCE NO. NS-1941

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 RS, STANDARD DENSITY RESIDENTIAL to RM, URBAN MEDIUM DENSITY RESIDENTIAL AS SHOWN ON EXHIBIT "A".

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 15, 2004 file number PZ-04-208.04-209.

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 18-12-09BC, Tax Lot 1300 from Urban Standard Density Residential (RS) to Urban Medium Density Residential (RM).

Read for the first time the 4th day of August, 2004.

Read for the second time the 18th day of August, 2004.

Placed upon its passage the 18th day of August, 2004.

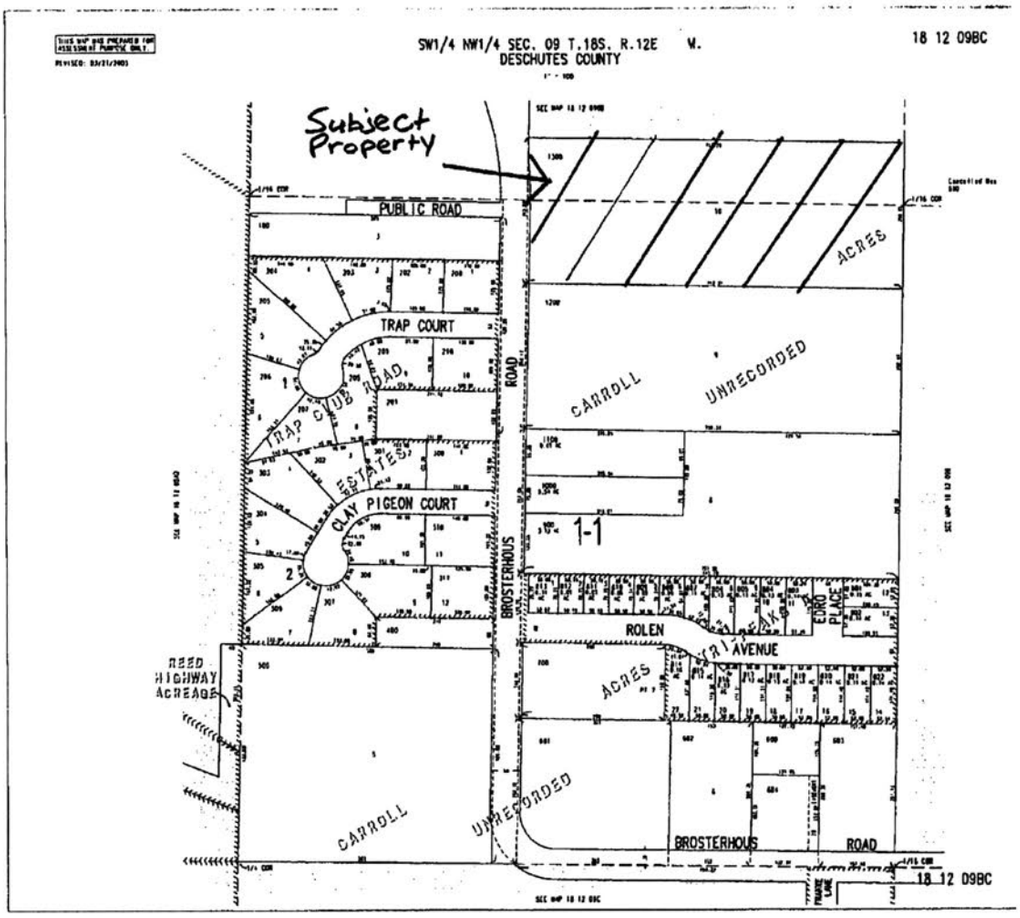
YES: 7 NO: 0

Authenticated by the Mayor the 18th day of August, 2004.

Oran Teater, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder


SW1/4 NW1/4 SEC. 09 T.18S. R.12E W.
DESCHUTES COUNTY
18 12 09BC
Subject Property
PUBLIC ROAD
TRAP COURT
TRAP CLUB ROAD
ESTATES
CLAY PIGEON COURT
BROSTERHOUS ROAD
CARROLL
UNRECORDED
ACRES
1-1
ROLEN
AVENUE
REED HIGHWAY ACREAGE
BROSTERHOUS ROAD
18 12 09BC

ORDINANCE NO. NS-1942

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 RM, URBAN MEDIUM DENSITY RESIDENTIAL. ALSO TO AMEND THE BEND AREA GENERAL PLAN DESIGNATION FOR THE SUBJECT PROPERTY FROM RH, URBAN HIGH 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 June 25, 2005 file number PZ 04-47.

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 and depicted in Exhibit "A" from Urban Standard Density Residential (RS) to Urban Medium Density Residential (RM).

Read for the first time the 1st day of September, 2004.

Read for the second time the 15th day of September, 2004.

Placed upon its passage the 15th day of September, 2004.

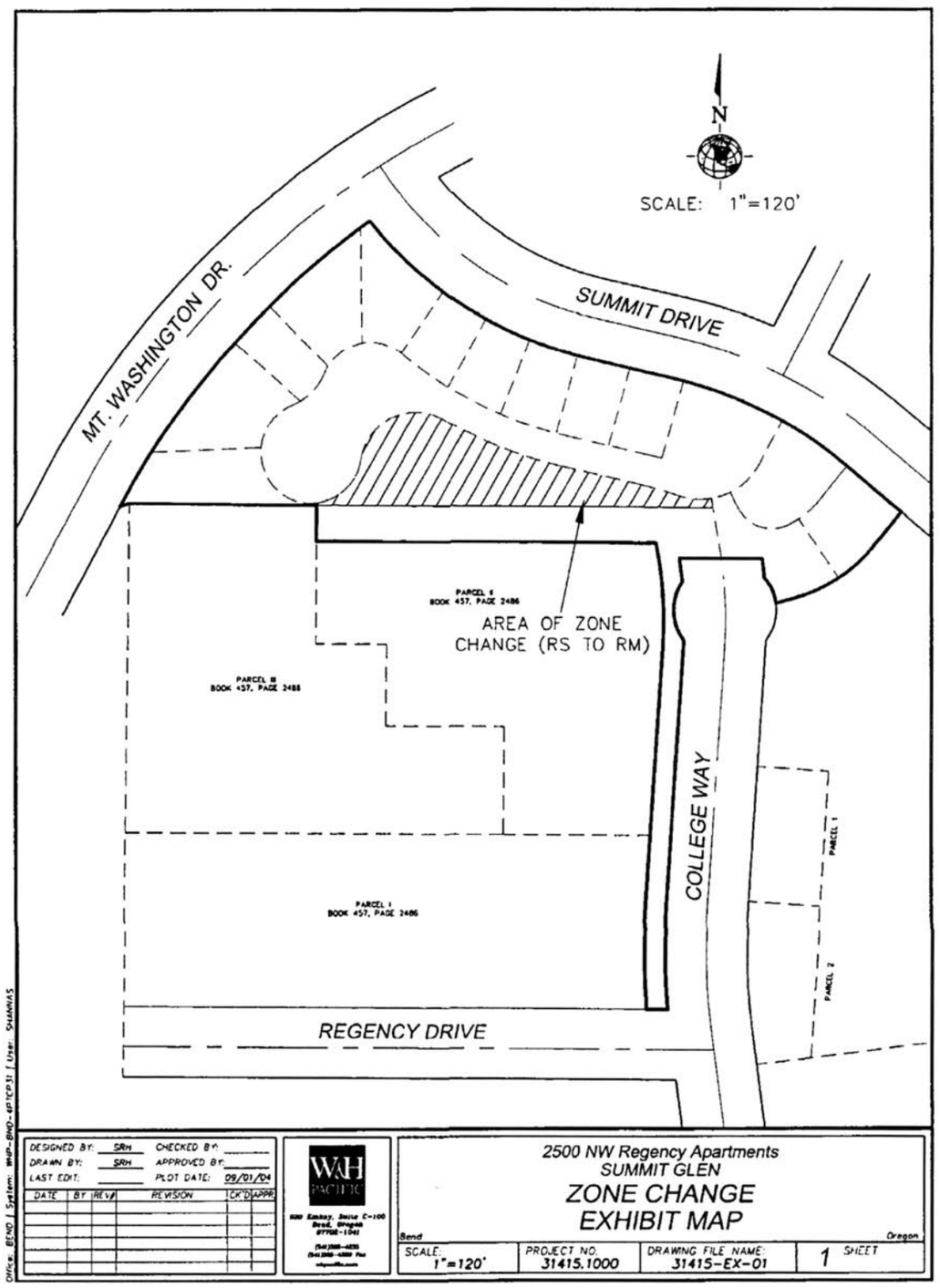
YES: 4 NO: 0

Authenticated by the Mayor the 15th day of September, 2004.

Oran Teater, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

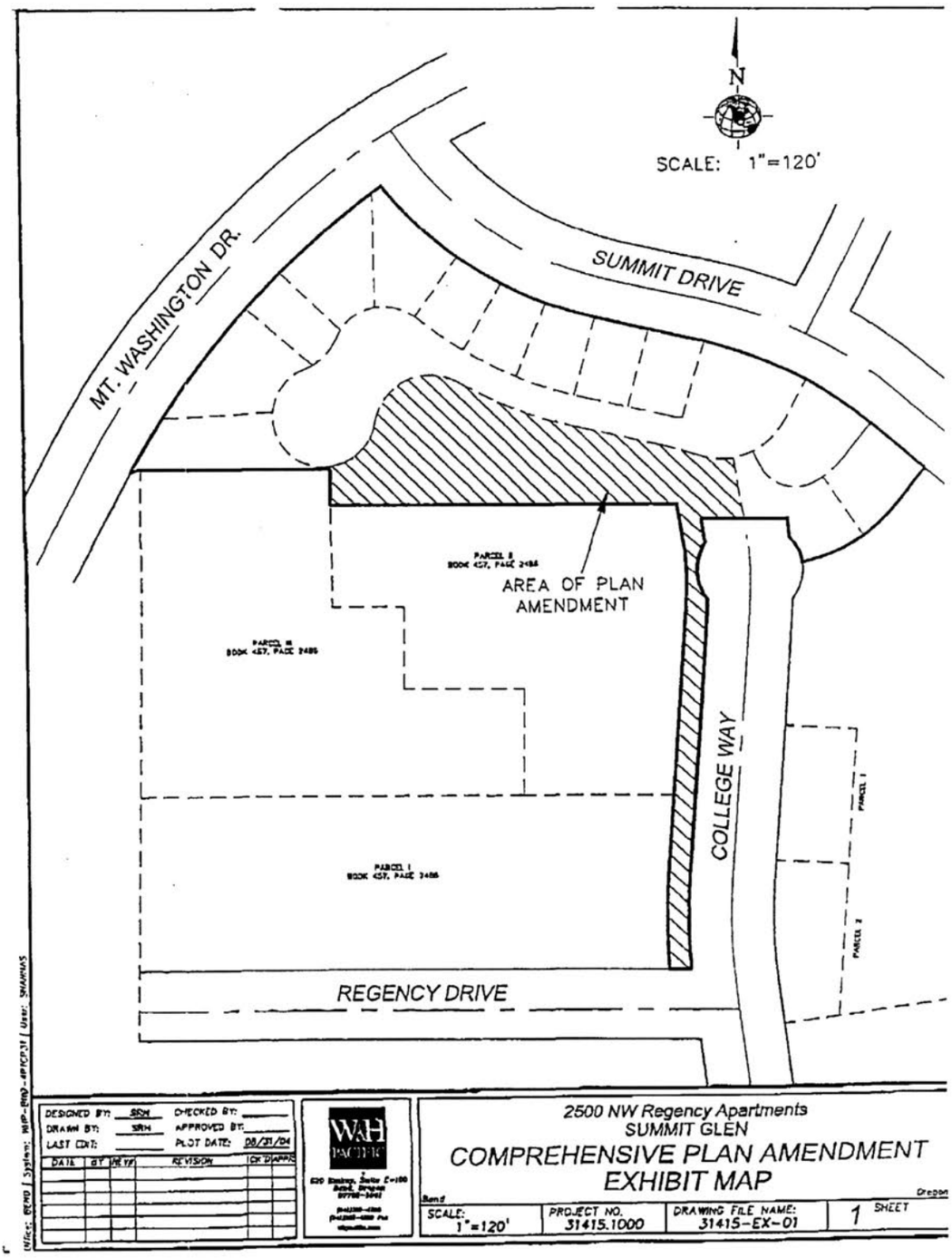

N
SCALE: 1"=120'
MT. WASHINGTON DR.
SUMMIT DRIVE
PARCEL II
BOOK 457, PAGE 2486
AREA OF ZONE
CHANGE (RS TO RM)
PARCEL III
BOOK 457, PAGE 2488
COLLEGE WAY
PARCEL I
BOOK 457, PAGE 2486
PARCEL 1
PARCEL 2
REGENCY DRIVE
DESIGNED BY: SRH
DRAWN BY: SRH
LAST EDIT:
CHECKED BY:
APPROVED BY:
PLOT DATE: 09/01/04
DATE | BY | REV# | REVISION | CK'D | APPR
W&H PACIFIC
2500 NW Regency Apartments
SUMMIT GLEN
ZONE CHANGE
EXHIBIT MAP
Bend
Oregon
SCALE: 1"=120'
PROJECT NO. 31415.1000
DRAWING FILE NAME: 31415-EX-01
SHEET 1
Office: BEND | System: WHP-BND-4PTCP-51 | User: SHANNAS

LEGAL DESCRIPTION
A PORTION OF TAX ACCOUNT 171125A 99

A parcel of land located in the northeast quarter (NE ¼) of Section 25, Township 17 South, Range 11 East, of the Willamette Meridian, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the northwest corner of that parcel of land described as Parcel II in deed to 2500 N.W. Regency Apartments, LLC, recorded August 11, 1997 in Volume 457, Page 2486 of the Deschutes County Official Records (Tax Account 171125A 600); thence North 00°00'00" East, 2.65 feet to a point of non-tangent curvature; thence along the arc of a 50.00 foot radius curve to the left, through a central angle of 74°45'34", an arc distance of 65.24 feet (the chord of which bears North 46°06'55" East, 60.71 feet) to a point of reverse curvature; thence along the arc of a 55.00 foot radius curve to the right, through a central angle of 111°31'57", an arc distance of 107.06 feet (the chord of which bears North 64°30'06" East, 90.94 feet) to a point of reverse curvature; thence along the arc of a 418.80 foot radius curve to the left, through a central angle of 17°19'05", an arc distance of 126.59 feet (the chord of which bears South 68°23'28" East, 126.10 feet) to a point of tangency; thence South 77°03'01" East, 80.22 feet to a point of curvature; thence along the arc of a 300.00 foot radius curve to the right, through a central angle of 07°02'15", an arc distance of 36.85 feet (the chord of which bears South 73°31'53" East, 36.82 feet) to a point of reverse curvature; thence along the arc of a 65.00 foot radius curve to the left, through a central angle of 29°11'38", an arc distance of 33.12 feet (the chord of which bears South 84°36'35" East, 32.76 feet) to a point of non-tangency; thence South 09°12'24" East, 9.40 feet to a point on the extension of the north line of said Parcel II; thence along the extension of the north line of said Parcel II, North 89°30'40" West, 390.72 feet to the point of beginning.

Zone Chg legal 9-01-04.doc


N
SCALE: 1"=120'
MT. WASHINGTON DR.
SUMMIT DRIVE
AREA OF PLAN AMENDMENT
COLLEGE WAY
REGENCY DRIVE
PARCEL II
BOOK 457, PAGE 2486
PARCEL III
BOOK 457, PAGE 2486
PARCEL I
BOOK 457, PAGE 2486
PARCEL 1
PARCEL 2
DESIGNED BY: SRH
DRAWN BY: SRH
LAST CHK:
CHECKED BY:
APPROVED BY:
PLOT DATE: 08/31/04
DATE BY APP'D REVISION CK'D APP'R
W&H PACIFIC
2500 NW Regency Apartments
SUMMIT GLEN
COMPREHENSIVE PLAN AMENDMENT
EXHIBIT MAP
SCALE: 1"=120'
PROJECT NO. 31415.1000
DRAWING FILE NAME: 31415-EX-01
1 SHEET

LEGAL DESCRIPTION
A PORTION OF TAX ACCOUNT 171125A 99
AND TAX ACCOUNT 171125A 600 (ADJUSTED)

A parcel of land located in the northeast quarter (NE ¼) of Section 25, Township 17 South, Range 11 East, of the Willamette Meridian, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the intersection of the westerly right of way of College Way and the northerly right of way of Regency Drive; thence along the said northerly right of way of Regency Drive, North 89°29'34" West, 20.10 feet to a point of non-tangent curvature; thence leaving said right of way, along the arc of a 610.00 foot radius curve to the right, through a central angle of 08°34'21", an arc distance of 91.27 feet (the chord of which bears North 00°41'34" West, 91.18 feet) to a point of non-tangency; thence North 03°37'17" East, 268.90 feet to a point of non-tangent curvature; thence along the arc of a 390.00 foot radius curve to the left, through a central angle of 14°52'14", an arc distance of 101.22 feet (the chord of which bears North 03°49'33" West, 100.94 feet) to a point of non-tangency; thence North 89°30'40" West, 335.74 feet; thence North 00°23'43" East, 35.66 feet; thence North 00°00'00" East, 2.65 feet to a point of non-tangent curvature; thence along the arc of a 50.00 foot radius curve to the left, through a central angle of 74°45'34", an arc distance of 65.24 feet (the chord of which bears North 46°06'55" East, 60.71 feet) to a point of reverse curvature; thence along the arc of a 55.00 foot radius curve to the right, through a central angle of 111°31'57", an arc distance of 107.06 feet (the chord of which bears North 64°30'06" East, 90.94 feet) to a point of reverse curvature; thence along the arc of a 418.80 foot radius curve to the left, through a central angle of 17°19'05", an arc distance of 126.59 feet (the chord of which bears South 68°23'28" East, 126.10 feet) to a point of tangency; thence South 77°03'01" East, 80.22 feet to a point of curvature; thence along the arc of a 300.00 foot radius curve to the right, through a central angle of 07°02'15", an arc distance of 36.85 feet (the chord of which bears South 73°31'53" East, 36.82 feet) to a point of reverse curvature; thence along the arc of a 65.00 foot radius curve to the left, through a central angle of 29°11'38", an arc distance of 33.12 feet (the chord of which bears South 84°36'35" East, 32.76 feet) to a point of non-tangency; thence South 09°12'24" East, 60.25 feet to a point on the northerly right of way of College Way; thence along the northerly and westerly right of way of College Way for the following six courses, thence North 89°30'40" West, 40.49 feet to a point of non-tangent curvature; thence along the arc of a 410.00 foot radius curve to the right, through a central angle of 03°17'52", an arc distance of 23.60 feet (the chord of which bears South 06°58'43" East, 23.59 feet) to a point of non-tangent reverse curvature; thence along the arc of a 50.00 foot radius curve to the left, through a central angle of 70°12'01", an arc distance of 61.26 feet (the chord of which bears South 01°18'31" East, 57.50 feet) to a point of non-tangent reverse curvature; thence along the arc of a 410.00 foot radius curve to the right, through a central angle of 00°53'49", an arc distance of 6.42 feet (the chord of which bears South 03°09'39" West, 6.42 feet) to a point of non-tangency; thence South 03°37'17" West, 268.90 feet to a point of curvature; thence along the arc of a 590.00 foot radius curve to the left, through a central angle of 08°45'33", an arc distance of 90.20 feet (the chord of which bears South 00°47'10" East, 90.11 feet) to a point on said northerly right of way of Regency Drive and the point of beginning.

Plan Amend legal 8-31-04.doc

Do not record this side

ORDINANCE NS-1943

AN ORDINANCE RENAMING THE CUL-DE-SAC OF MADEIRA COURT TO CELILO LANE AND DESIGNATING THE NAME OF CELILO LANE ONLY FOR THE CURRENT EAST/WEST ROAD SEGMENT AND ANY FUTURE IMPROVEMENT OR CONTINUATION OF THE RIGHT-OF-WAY WITHIN THE CITY OF BEND, OREGON.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. That the street name of the cul-de-sac of Madeira Court be changed to Celilo Lane and the name of Celilo Lane be designated only for the current east/west road segment and any future improvement or continuation of the 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 October 2004.

Read for the second time the 20th day of October 2004.

Placed upon its passage the 20th day of October 2004.

YES: 6 NO: 0

Authenticated by the Mayor the 20th day of October 2004.

Oran Teater, Mayor

ATTEST:

Patricia Stell, City Recorder

Record this side only
After Recording return to:
Deputy Recorder
City of Bend
710 NW Wall
Bend OR 97701

DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

2005-11892

$31.00

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$5.00 $11.00 $10.00 $5.00

DESCHUTES COUNTY CLERK

CERTIFICATE PAGE

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Do Not remove from original document.

NS 1943

ORDINANCE NO. NS-1944

AN ORDINANCE AMENDING THE BEND URBAN AREA GENERAL PLAN BY CHANGING THE TEXT OF THE LAVA RIDGE REFINEMENT PLAN. ALSO TO AMEND THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE TEXT OF THE LAVA RIDGE REFINEMENT PLAN.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the testimony, the record, and the Planning Commissions recommendations, 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 Staff, as recommended by the Planning Commission, dated September 17, 2004 file number PZ 04-268.

Section 2. Section 10-10.22C of Ordinance NS-1178 of the City of Bend is amended by changing the text of subsection (6)(b) to read as follows:

Residential development shall be oriented to a street, with a primary entrance that fronts on the street. Garages shall be no more than five feet in front of the front of the house. Front sides of garages shall represent no more than 50% of the building frontage of any residential structure. The planning director or designee may waive the standards if they are impractical due to factors including, but not limited to the following:

- **When the slope at the front of the lot exceeds 12%.**
- **Preservation of natural features, such as rock outcrops**
- **Preservation of trees or other vegetation**
- **Lot width at the front property line of lots existing prior to the date of this revision is less than 50 feet**

Read for the first time the 20th day of October, 2004.

Read for the second time the 3rd day of November, 2004.

Placed upon its passage the 3rd day of November, 2004.

YES: 5 NO: 1

Authenticated by the Mayor the 3rd day of November, 2004.

Oran Teater, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

Text in underlined typeface is added;
text in ~~struckthrough~~ typeface is deleted.

ORDINANCE NO. NS-1945

AN ORDINANCE AMENDING BEND CODE SECTION 1-15 (ORDINANCE NO. NS-863) TO PROVIDE FOR A MORE EFFICIENT MEANS OF DISPOSING OF UNCLAIMED PERSONAL PROPERTY

WHEREAS: The Bend Code currently provides that unclaimed property shall be auctioned by the City of Bend Police Chief on a periodic basis after public notice is given by traditional methods, and

WHEREAS: The current provisions of Bend Code Section 1-15 add unnecessary administrative costs to the City of Bend because, in practice, they require unclaimed property to be held by the City for significant periods of time, which takes up valuable space in the City's storage facilities, including the Police Department evidence room, costing the City significant administrative time and effort, and

WHEREAS: Due to new auction methods available over the internet, opportunities exist for the City of Bend to contract with firm(s) that will conduct the necessary auctions and relieve the City of the burden of storing unclaimed property, while getting the unclaimed property to auction more promptly, and

WHEREAS: The City Council finds that utilizing outside contracting firms to conduct auctions of unclaimed property is, all things considered, more cost efficient for the City of Bend and its taxpayers. The City Council, however, wishes to retain flexibility in the methods used by the Police Department for disposition of unclaimed property. Accordingly, the City Council finds amending the existing code provisions only to the extent necessary to allow disposition of unclaimed property by use of a contracting firm, while retaining the option of allowing the City to utilize other methods, if such other methods are more beneficial to the City of Bend, is in the best interests of the public. Now therefore,

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code Section 1-15.2, Section 3, is amended to read as follows:

3. Sale of Property. From time to time and after property is unclaimed for more than 60 days, the City Police Chief ~~shall~~ may either sell at public auction any personal property described in Section 1 which is unclaimed excepting property which has been confiscated or which is held for evidence or which has been ordered destroyed by competent authority, or the Chief of Police may utilize a contracting firm, approved by the City Council, for disposition of the property on terms and conditions contained in a contract approved by the City Council.. The Police Chief shall give notice of the public auction by ~~posting notice in the Bend City Hall and by~~ publishing notice of the means by which the property will be disposed of ~~in a newspaper of general circulation in the City of Bend once at least 10 days before the sale~~ on the City of Bend internet Website on an ongoing basis. Sale shall be for cash to the highest bidder. All proceeds of the sale shall be paid to the City's general fund, subject to the terms and conditions of the contract (if any) approved by the City Council between the City of Bend and a firm selected to conduct the auction.

Section 2. Bend Code Section 1-15.2, Section 4 is amended to read as follows:

4. Title to Property Sold. All personal property described in Section 1 which is sold shall be sold as is without any warranty, either express or implied, of any kind, including but not limited to warranties of title or fitness for any purpose. Upon receiving payment for the personal property from the successful bidder, the Police Chief or the firm selected to conduct the auction under Section 3 hereof, shall execute a bill of sale in substantially the following form:

BILL OF SALE

Pursuant to an ordinance of the City of Bend, I sold personal property described as:

(describe property)

This property was sold to (successful bidder's name) for ____ dollars paid to the City of Bend or (name of firm selected to conduct the auction under Section 3 hereof.).

This property was sold as is and without any warranty of any kind, either express or implied, including but not limited to warranties of title or fitness for any particular purpose.

Dated this _____ day of _____, ~~19~~ 20__.

_____, Police Chief (or name of firm selected to conduct the auction under Section 3 hereof).

I acknowledge purchase of this property on these terms:

_____ (name of successful bidder)

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Read for the first time the 20th day of October, 2004.

Read for the second time the 3rd day of November, 2004.

Placed upon its passage the 3rd day of November, 2004.

YES: 6 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 3rd day of November, 2004.

Oran Teater, Mayor

Attest:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1946

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NS-1178 AND THE BEND AREA GENERAL PLAN TO CHANGE THE MAXIMUM ALLOWABLE BUILDING HEIGHT ALLOWED IN THE CENTRAL BUSINESS (CB) ZONE.

WHEREAS, the Bend City Council adopted Ordinance No. NS-1178, establishing zoning regulations, providing penalties for the violation thereof and repealing Ordinance NS-796 and all amendments thereto; and

WHEREAS, the City of Bend has met the requirements of the Statewide Planning Goals; and

WHEREAS, the City of Bend has demonstrated a public need and benefit for the change; and

WHEREAS, the purpose of adopting new allowable building height limitations is to protect and enhance the Downtown core area of Bend; and

WHEREAS, reducing the maximum allowable building height limitation from 45 feet to 35 feet on CB zoned properties close to the Deschutes River will complement the adopted Deschutes River Corridor Development Standards, which recognize and respect the unusual natural beauty and character of the Deschutes River; and

WHEREAS, retaining the maximum allowable building height limitation of 45 feet on CB zoned properties in the heart of Downtown will retain the existing character of the heart of the Downtown area; and

WHEREAS, increasing the maximum allowable building height limitation from 45 feet to 55 feet or 70 feet on other CB zoned properties will allow redevelopment of Downtown properties at higher densities and improve the economic vitality of the area; and

WHEREAS, the City of Bend has conducted a public hearing on September 15, 2004 regarding adoption of new allowable building height limitations for the CB Zone, and legal notice of the public hearing was published in the Bend Bulletin on September 5, 2004; and

WHEREAS, the staff report, referenced studies, and staff correspondence are adopted by the City Council.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Amend Section 18 of the Bend Code as shown in Exhibit A.

Section 2. Amend Section 23C of the Bend Code as shown in Exhibit B.

Section 3. Amend Chapter 6 of the Bend Area General Plan as shown in Exhibit C.

Read for the first time the 3rd day of November, 2004.

Read for the second time the 17th day of November, 2004.

Placed upon its passage the 17th day of November 2004.

YES: 6 NO: 0 ABSTAIN: 1

Authenticated by the Mayor the 17th day of November, 2004.

Oran Teater, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

Section 18. Central Business Zone, or CB Zone.

(1) Purpose. This zone is intended to serve as the central trading area for the City and surrounding urbanized areas.

(2) Permitted Uses. The following uses are permitted in the CB Central Business Zone.

(a) Bank or other financial institution.

(b) Beauty or barber shop or other personal service establishment.

(c) Business or professional office.

(d) Eating or drinking establishment.

(e) Hotel or motel.

(f) Retail store.

(g) Theater.

(h) Technical and business schools.

(i) Bus terminal.

(j) Dwelling units that are above the ground floor of a permitted commercial use.

(3) Conditional Uses. The following conditional uses may be permitted subject to a Conditional Use Permit and the provisions of Section 29.

(a) Food store.

(b) Off-street parking lot.

(c) Residential uses on the ground floor of a building.

~~(d) Building over 45 feet in height.~~

(d) Buildings exceeding the height limits in Subsection (4) of Section 18.

(e) Department store.

(f) Small animal veterinary clinic.

(g) Right-in/right-out only driveway access to a street.

~~(4) Height Regulations. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed a height of 45 feet without a Conditional Use Permit.~~

(4) Height Regulations. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed the height regulations listed below without a Conditional Use Permit.

The maximum allowable building height limit in the CB Zone shall be as follows:

- **On CB Zone properties west of Brooks Street (Subarea A shown in Figure 1), the maximum allowable building height limit shall be 35 feet. No Conditional Use Permits to exceed the height limit shall be allowed in**

this area.

- On CB Zone properties east of Brooks Street and west of the alley between Wall and Bond Streets (Subarea B shown in Figure 1), the maximum allowable building height limit shall be 45 feet.

- On CB Zone properties east of the alley between Wall and Bond Streets and west of Bond Street (Subarea C shown in Figure 1), the maximum allowable building height limit shall be 55 feet. Where portions of a building are higher than 45 feet, 60 percent of the street-facing facades higher than 45 feet must be set back 1 foot from the street-facing property line for every 1 foot that the building exceeds 45 feet in height, with a minimum setback of 5 feet and a maximum setback of 20 feet. The required setback may be reduced by one foot for each foot below the 45-foot height level that the setback begins. E.g., for a building that begins its setback at the 35-foot height level (10 feet below what is required) the required setback can be reduced by 10 feet.

- On CB Zone properties east of Bond Street and west of the alley between Bond Street and Lava Road (Subarea D shown in Figure 1), the maximum allowable building height limit shall be 70 feet. Where portions of a building are higher than 45 feet, 60 percent of the street-facing facades higher than 45 feet must be set back 1 foot from the street-facing property line for every 1 foot that the building exceeds 45 feet in height, with a minimum setback of 5 feet and a maximum setback of 20 feet. The required setback may be reduced by one foot for each foot below the 45-foot height level that the setback begins. E.g., for a building that begins its setback at the 35-foot height level (10 feet below what is required) the required setback can be reduced by 10 feet.

- On CB Zone properties east of the alley between Bond Street and Lava Road (Subarea E shown in Figure 1), the maximum allowable building height limit shall be 70 feet.

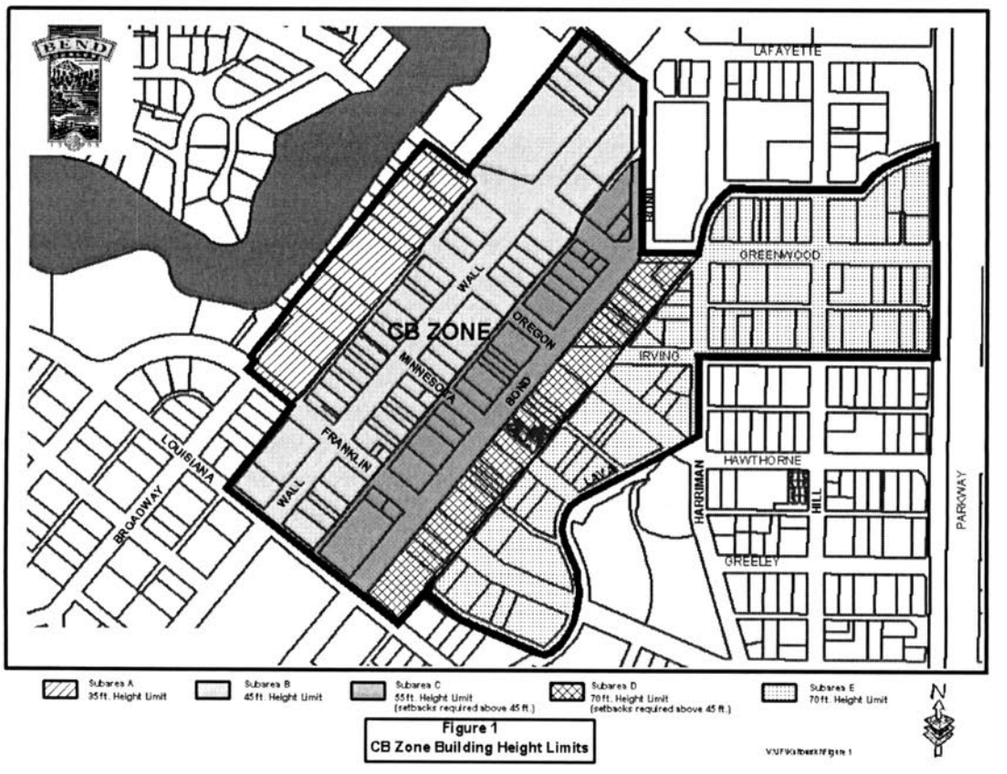


Figure 1
CB Zone Building Height Limits

Projections and architectural elements that do not add habitable interior floor area to a building, such as chimneys, spires, steeples, clock towers,

skylights, atriums, elevator shaft housings, stair enclosures, trellises, railings, flag poles, signs, mechanical equipment and screens, antennae and other similar items not used for human occupancy, shall be allowed to exceed the maximum allowable building height limit by 10 feet.

(5) Lot Requirements. No requirements, except that the requirements of Section 23C shall apply.

(6) Off-Street Parking and Loading.

(a) In the CB zone prior to the issuance of any building permit for construction of a new building, enlargement of an existing building, or the change of use requiring additional off-street parking as required by Section 24, the owner or occupant shall pay a fee in lieu of providing the required off-street parking or provide the off-street parking. The fee shall be established by resolution and adjusted from time to time by the City Council.

(b) The fee shall be a one time fee deposited in a fund to be used only for the planning, acquisition, development and maintenance of off-street parking facilities located in and/or adjacent to the CB zone.

(c) Buildings with five or more stories shall provide at least 15 percent of their off-street parking requirement on site and shall not be allowed to pay the in lieu of fee for the first 15 percent of the off-street parking requirement.

(d) Notwithstanding Subsection (6)(c) of Section 18, the parking requirement therein shall not apply to Lots 7, 8, 9, 10, 11, 12, 13, 14 and 15, Block 15, Plat of Bend.

(e) Notwithstanding Subsection (6)(c) of Section 18, the review authority is authorized to grant exceptions from the 15 percent parking requirement if it can be determined that:

(i) The reduction is necessary due to practical difficulties associated with building construction, such as necessary building support elements.

(ii) The exception is the minimum needed to achieve the purpose and objectives of this Ordinance.

(iii) Where a reduction in the off-street parking requirement is allowed by this section, the in lieu of fee shall be paid.

(7) Other Required Conditions.

(a) In any CB Zone directly across a street from an "R" Zone parking and loading area shall be set back at least 10 feet from the right of way and said area shall be appropriately landscaped along the residential street frontage to protect the character of the adjoining residential property. Such landscaping shall be maintained.

(b) Site Plan approval required for the area described as requiring parking in Subsection (6) of Section 18.

(c) Existing off-street parking shall be maintained unless alternative parking is provided with a redevelopment plan.

(d) Additional development and design standards that pertain to redevelopment and development in the CB Zone are contained in Section 23C.

(e) All buildings in the CB Zone shall contain retail, office, or housing uses along all street-facing facades of the ground floor to a depth of at least 50 feet into the building.

[Section 18(3)(f) added by ORD. No. NS-1221 passed June 6, 1979]
[Section 18(2)(i) added by ORD. No. NS-1372 passed March 2, 1983]
[Section 18(4) and (6) amended by ORD. No. NS-1372 passed March 2, 1983]
[Section 18(6) amended by ORD. No. NS-1560 passed April 15, 1992]
[Section 18(7)(c) amended by ORD. No. NS-1372 passed March 2, 1983]
[Section 18(2)(j) added by ORD. No. NS-1614 passed May 18, 1994]
[Section 18(2)(j) amended by ORD. No. NS-_____, passed _____]
[Section 18(3)(c) amended by ORD. No. NS-_____, passed _____]
[Section 18(5) amended by ORD. No. NS-_____, passed _____]
[Section 18(7)(d) added by ORD. No. NS-_____, passed _____]
[Section 18(3)(d) amended by ORD. No. NS-_____, passed _____]
[Section 18(3)(g) added by ORD. No. NS-_____, passed _____]
[Section 18(4) amended by ORD. No. NS-_____, passed _____]
[Section 18(6) amended by ORD. No. NS-_____, passed _____]
[Section 18(7)(e) added by ORD. No. NS-_____, passed _____]

Section 23C. Development and Design Standards for the CB Zone

(1) Purpose. In an effort to protect and enhance the downtown core area of Bend, the City Council has adopted of a special set of development and design standards. Development and design standards shall apply to all areas within the Central Business Zone (CB Zone) of downtown. The development and design standards shall apply to the area shown on the map below and apply to buildings and lots that are expected to be developed or redeveloped in the near future. The development and design standards for the CB Zone (Section 23C of the Bend Code) build upon the development standards in Section 18 of the Bend Code.

Major advantages of the development and design standards include:

- Ensuring that future development is consistent with the CB Zone's existing pedestrian-oriented scale of buildings.
- Strengthening the downtown area as the heart of the community, and as the place for people and business.
- Improving downtown's economic base, while expanding it to meet future opportunities.
- Enhancing the physical appearance of downtown through high-quality design.
- Garnering consensus for a shared vision among various interests in deciding how downtown shall be preserved and enhanced through refined design standards.

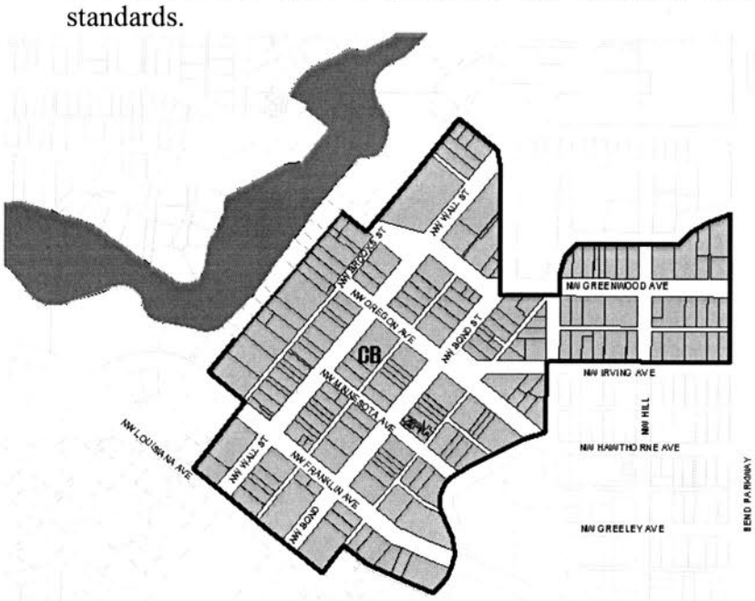


Figure 1
Bend Central Business (CB) Zone

(2) Exempt Development. No land use permit pursuant to this code is required for exempt development. Exempt Developments include:

(a) Landscaping or landscape alterations.
(b) Repair or maintenance of public or private buildings, structures, landscaping, roads and/or utilities that present a risk to public safety. Maintenance of the exterior of an existing structure such as re-painting, re-roofing, or re-siding where similar materials and colors are used are also exempt.
(c) Construction of a structure that does not require a building permit.
(d) Interior remodeling.
(e) Temporary structures and uses which are for relief of victims of disaster or an emergency.

(3) Non-exempt Development. Any development in the CB Zone that does not qualify as exempt development shall meet the development standards in Section 18 of the City of Bend Code and the development and design standards in Section 23C of the City of Bend Code.

(4) Application Process. Planning Staff or the Planning Commission (as described below) shall approve, approve with conditions, or deny an application based upon compliance with the development and design standards. Approval shall be obtained from the review authority prior to the issuance of a building permit for all non-exempt development. Non-exempt development in the CB Zone has two tracks for obtaining development permits. In both permitting tracks, the development standards must be met before proceeding to the design standards. Applicants shall use the City of Bend's Design and Development Handbook for the CB Zone to determine which of the two tracks they will pursue.

(a) Track 1 – Administrative Review of Compliance with Design Standards. Track 1 requires applicants to meet objective development and design standards. Design standards are quantifiable and measurable, and can be administered as part of the plan-review process. These applications are reviewed administratively by City of Bend Planning Staff, which reduces the amount of time that it takes to get the project reviewed. Track 1 provides an efficient time saving alternative to Track 2.

(b) Track 2 – CB Zone Design Review of Compliance with Design Guidelines. Track 2 similarly requires applicants to meet objective development standards, but deviates from requiring some or all of the design standards. In this case, applicants are subject to the design review process, which will be conducted by the City of Bend Planning Commission. During design review, the Planning Commission will determine whether an application meets the design guidelines. Unlike design standards, design guidelines are discretionary. In Track 2, the Intent Statements serve as the criteria for determining if the "intent" of the design standard is being met. In Track 2, applicants are required to identify how their proposed site/building plan meets the intent statements of the design standards, and why specific objective standards can not be met.

(5) Application Requirements. The applicant shall attend the City of Bend pre-application meeting to determine if the proposed development is "exempt" or "non-exempt" from the development and design standards. If the development is "non-exempt," the applicant shall file an application for CB Zone Design Review with the City. This application may be filed in conjunction with other permits when the property is subject to other land use action. The application shall be accompanied by pertinent materials containing information as specified by the City. The application form lists the required submittal information.

(6) Approval Process. As to Track 1 applications, the City of Bend Planning Staff shall use the standards in this section to ensure compliance with the development and design standards. As to Track 2 applications, the City of Bend Planning Commission shall use the intent statements in this section to ensure compliance with the development and design guidelines.

(7) Development Standards. The development standards for the CB Zone help ensure that new projects in the CB Zone will be compatible with the desired scale and character of Downtown Bend. The development standards shall be met before proceeding to the design standards.

(a) Minimum Floor Area Ratio (FAR). The minimum FAR shall be 2-to-1.

~~(b) Maximum Building Height. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed a height of 45 feet without a Conditional Use Permit as described in Subsection (3) of Section 18. Screened mechanical equipment is exempt from the maximum building height standard.~~

(b) Maximum Building Height. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed the height regulations listed below without a Conditional Use Permit.

The maximum allowable building height limit in the CB Zone shall be as follows:

- **On CB Zone properties west of Brooks Street, the maximum allowable building height limit shall be 35 feet. No Conditional Use Permits to exceed the height limit shall be allowed in this area.**

- **On CB Zone properties east of Brooks Street and west of the alley between Wall and Bond Streets, the maximum allowable building height limit shall be 45 feet.**

- **On CB Zone properties east of the alley between Wall and Bond Streets and west of Bond Street, the maximum allowable building height limit shall be 55 feet. Where portions of a building are higher than 45 feet, 60 percent of the street-facing facades higher than 45 feet must be set back 1 foot from the street-facing property line for every 1 foot that the building exceeds 45 feet in height, with a minimum setback of 5 feet and a maximum setback of 20 feet. The required setback may be reduced by one foot for each foot below the 45-foot height level that the setback begins. E.g., for a building that begins its setback at the 35-foot height level (10 feet below what is required) the required setback can be reduced by 10 feet.**

- **On CB Zone properties east of Bond Street and west of the alley between Bond Street and Lava Road, the maximum allowable building height limit shall be 70 feet. Where portions of a building are higher than 45 feet, 60 percent of the street-facing facades higher than 45 feet must be set back 1 foot from the street-facing property line for every 1 foot that the building exceeds 45 feet in height, with a minimum setback of 5 feet and a maximum setback of 20 feet. The required setback may be reduced by one foot for each foot below the 45-foot height level that the setback begins. E.g., for a building that begins its setback at the 35-foot height level (10 feet below what is required) the required setback can be reduced by 10 feet.**

- **On CB Zone properties east of the alley between Bond Street and Lava Road, the maximum allowable building height limit shall be 70 feet.**

(c) Minimum Building Setback. There is no minimum building setback from the property line facing the street.

(d) Maximum Building Setback. The maximum building setback **of the ground floor** from the property line facing the street is 10 feet. At least 50 percent of the length of the ground level, street-facing façade of buildings must be on the property line. If the site has two or more street frontages, this standard applies to both frontages. Buildings that set back from the property line and face a Residential Zone can choose to develop the setback with low shrubs and/or ground cover. Buildings that set back from the property line and face a Commercial Zone must incorporate a hardscape and be ADA Accessible. Plantings in the commercial-fronting setback must be in planters. All plantings must be drought tolerant and not be classified as a nuisance plant.

(e) Ground Floor Windows. Ground floor windows must be at least 50 percent of the building length and 60 percent of the street-facing ground floor wall area. Ground floor wall area includes all wall areas up to 10 feet above finished grade. If the site has two or more frontages, the Ground Floor Window Standard is only required on the primary façade – the façade that fronts the street with the higher City of Bend Street Classification. The other façade has a minimum requirement of 50 percent of the length and 25 percent of the ground floor wall area. Windows are required to be transparent to foster both a physical and visual connection between activities in the building and pedestrian activities on the street.

(f) Main Entrance. The main entrance to a building shall face the street or be on the corner.

(g) ADA Accessibility Guidelines (ADAAG). All public areas must comply with all ADAAG Standards and be ADA accessible (ADAAG Standards 4.4.1, 4.4.2, 4.5, 4.7, and 4.8). Creation of an attractive street life and sense of place for all Bend's residents and visitors includes:

- Making accessible sidewalks and pathways.
- Ensuring sidewalks and pathways are clear of objects.
- Eliminating projecting elements.
- Ensuring that spaces in the public realm are covered and protected from inclement weather.

(8) Design Standards. The design standards for the CB Zone help guide the development and redevelopment of properties within the CB Zone. They are intended to implement the community goals and objectives in the Bend Area General Plan by providing a framework for how Downtown Bend should ultimately look function, and feel.

(a) Existing Edge Conditions.

Intent: Encourage the development of a cohesive, exciting and vibrant street life.

Approach: All street-facing elevations must have front doors that face the street and meet at least one of the following options:

- Courtyard/Plaza Option. Embellish the pedestrian zone by creating ADA accessible courtyards/plazas as extension of the sidewalk (the public realm). Incorporate pedestrian amenities such as street trees, outdoor seating, display areas, public art, human-scaled lighting and decorative pavers.

- Street Edge Option. Orient the primary entrance to the building along the street-facing property line, fostering a continuous and cohesive edge and defining inside from outside.
- Recessed Entry Option. Create/enhance semi-public transition areas between the sidewalk (public realm) and the recessed entry door (private realm). Define this area with lighting that draws attention to ground floor window displays, signage and the building's architectural details. Supplement the lighting with special paving treatments that emphasize the entry (tile, etched concrete and/or brick). Asphalt is prohibited.
- Arcade Option. Design an arcade that meets the following requirements:
  - The columns and piers (that support the building above) are 6 to 10 feet deep between the front property line and the parallel building wall.
  - The columns and piers consist of openings that are a minimum of 6 feet wide.
  - The columns and piers are a minimum of 18 inches from the property line (measured to the center of the column or pier).
  - The columns and piers are equally spaced and extend the entire length of the opening.
  - The building façade directly behind the arcade meets the ground floor window development standard.
  - The arcade elevation facing the street is a minimum of 10 feet in height and covered by the building.

Note: Spacing between columns and/or posts along building elevations less than 30 feet in length shall not exceed 10 feet. Spacing between columns and/or posts along building elevations greater than 50 feet in length shall not exceed spacing of 20 feet.

Note: The arcade option meets the ground floor window standard provided that the ground floor building façade behind the arcade meets the 50 percent length and 60 percent wall glazing requirement.

Note: Buildings with two or more frontages are only required to meet the arcade option along one street façade. However, if the arcade is proposed on both street frontages, the minimum spacing for openings is required along the entire opening.

(b) Human Scale.

Intent: Building façades must be designed in a manner that is aesthetically appealing, comfortable to pedestrians, and compatible with the character of the surrounding built environment as a way of emphasizing human scale.

Approach: Provide visual interest for pedestrians by incorporating building details at the ground floor that relate to the surrounding built environment, and are at a human scale. This is to be accomplished by meeting two or more of the following options:

- Incorporating building lighting between 10 and 15 feet from the sidewalk to the bottom of the light fixture.
- Incorporating suspended signs (blade signs) between 8 and 12 feet from the sidewalk to the bottom of the suspended sign.
- Incorporating horizontal and vertical elements at the ground floor/the base of the building that are familiar to pedestrians and are at human scale: sign frieze, storefront cornice, window mullions, piers that

frame storefronts, engaged columns, arcades, brick coursings, awnings, and well-lit transoms.
- Incorporating a rhythm of awnings and/or canopies between 10 and 15 feet from the sidewalk to the bottom of the awning/canopy.

Note: Pedestrian-oriented lighting is required between structural bays; lighting must follow a consistent spacing pattern.

(c) Physical, Visual and Experiential Connections.

Intent: Create delight and wonder by incorporating interesting features into a building/site. Emphasize the role that physical, visual and experiential connections give to creating meaningful places.

Approach: Embellish the buildings with two or more of the following elements:

- A variety of building materials (stone, brick, concrete, wood, metal, and glass).

Note: Use of colors that are contextual to Bend and the larger Pacific Northwest landscape serve to embellish the building and the public realm.

Note: Traditional, Central Business zones, like Bend's CB Zone, often consist of tri-part buildings where the base, middle and top of the building are defined by color, texture and materials.

- Architectural elements such as cornices, arcades, porticos, and transom windows.
- Tri-part buildings facades that emphasize a clear base, middle and top.

Note: Traditional style storefront buildings typically include an uninterrupted band commonly referred to as a bulkhead, kickplate (doors), window base or a base panel, around the base of the building. This band is approximately 16 inches above the sidewalk and serves to "anchor" the building to the site. This band is most often constructed of wood, concrete, brick, stone or metal. Using tape or paint for the bulkhead is prohibited.

Note: Display windows in traditional storefront buildings are typically terminated in the base band or bulkhead. The bulkhead, window frame and windowsill hold the window and help to further accentuate relief in the building façade. The top of the storefront is architecturally capped by horizontal elements, including sign bands, storefront cornices and transoms. These features serve as a transition device from the base of the building to the middle of the building.

(d) Cohesive Elements.

Intent: Incorporate cohesive and repetitive elements into the building as a means of enhancing the pedestrian realm and giving meaning to the building.

Approach: Incorporate three or more of the following repetitive building elements:

- Building lighting
- Columns, engaged columns/pilasters and arcades
- Suspended signs (blade signs)
- Canopies and/or awnings

- Transoms
- Balconies

Note: Architects and designers are encouraged to think creatively above and beyond the ground floor window requirements specified in the design standards. Besides implementing cohesive elements, architects and designers should consider the interplay of shadows and light, and vertical and horizontal "architectural features" on neighboring buildings.

(e) Integrate Building Parapets and Rooftops.

Intent: Treat the top of the building, the point where the edifice meets the sky, as part of the larger façade composition and, where possible, accentuate the ornamentation found on existing traditional CB Zone buildings. Fully screen all roof top mechanical equipment from the adjacent sidewalk.

Approach: Create visual interest at the top of the building by incorporating one of the following options:

- Integrating elements at the roofline such as detailed eaves, projected cornices and articulated parapets.
- Incorporating rooftop forms, other than flat roofs, that add visual interest to the façade.

Note: Sloped roof heights from eave to peak should not exceed the height from grade to the eave (the roof should not be taller than the building wall supporting the roof).

- Designing roof top gardens for the purpose of managing stormwater run-off into Bend's rivers and streams and/or as a place for people to gather.

Note: Screening for roof top mechanical equipment is to be opaque and a minimum of 1 foot higher than the highest point on the equipment. Roof top equipment is required to be set back from the parapet or building edge a minimum of 10 feet. Screened mechanical equipment is exempt from the height requirement.

(f) Weather Protection Projections.

Intent: Weather protection shall be provided along buildings adjacent to pedestrian walkways.

Approach: Provide weather protection for pedestrians along 50 percent of the ground floor façade that is required to be on the property line and at all street-facing entrances.

Note: Awnings, marquees, balconies, overhangs, umbrellas, fabric tensile structures, building appendages, or other weather protection projections are required to extend 5 feet over the sidewalk.

(g) Reinforce the Corner.

Intent: Create dynamic public gathering spaces where streets intersect by embellishing the corner of the building.

Approach: Incorporate one or more of the following elements:

- Place the highest and/or the most visible part of the building within 25 feet of the corner. Use architectural features such as cupolas, turrets, and hipped or pitched roofs to add prominence to the corner location.
- Locate the main/primary entry to the building within 25 feet of the corner or at the corner itself.
- Emphasize the corners of the building as a gathering place by extending paving materials that front the building to the property line.

Note: The following elements typically define the corner entry: round or chamfered corners with double doors, doors with large amounts of glass, awnings/canopies and more defined vertical elements (columns).

(h) Pedestrian-oriented Ground Floor.

Intent: Ensure that the ground floor of the primary street façade is distinguished from the upper floors and that there is the sense of interaction between activities in the building and activities on the sidewalk. Create storefronts and entries that are visible (transparent) and easily accessible from the street.

Approach: Emphasize the importance of the ground floor, especially the primary street-facing entry, by incorporating three or more of the following elements:

- Extra-height entry lobby space
- Continuous well-lit transom windows
- Enhanced distinctive doorway treatments
- Decorative lighting
- Projecting or recessing the entry bays
- Incorporating artwork into the façade that is visible to pedestrians on the sidewalk
- Incorporating unified paving materials, textures, and color

Note: Paving material in recessed entries/vestibules should help emphasize the transition from the sidewalk to the building.

(i) Alley Façade Treatment.

Intent: Design alley facades that share a corner with street-facing façades to be inviting and safe for pedestrians.

Approach: Incorporate the following façade elements:

- Wrap the required street facing fenestration into the alley a minimum of 10 feet.
- Add exterior lighting along the entire length of the alley-facing façade to enhance visibility and safety.

Note: Windows facing the alley must be transparent to ensure that the alley is monitored by people inside the building ("eyes on the street").

(j) Urban Materials.

Intent: Ensure that building materials are compatible with well-designed surrounding buildings and where possible, embrace the natural features (geology) of the region.

Approach: Incorporate one or more of the following elements:

- At the ground floor, use materials that give the base of the building a sense of permanence with the use of: brick, metal, terra cotta, stone, concrete, block, or stucco.
- Clearly distinguish the ground floor from the upper floors by implementing strong horizontal elements such as a frieze or a cornice, and/or changing materials and/or arranging the upper windows, which are different in size than the storefront windows, in a consistent and rhythmic pattern.
- Ensure that the design of the upper floors is cohesive with that of the ground floor through the extension of actual guidelines (brick, expansion joints, and downspouts) and implied guidelines (cornices, transoms, balconies, and window mullions).
- Do not use materials that appear synthetic and are not compatible with materials (materials that are indigenous to the region) found on many of Bend's existing buildings. Undesirable materials and treatments include: mirrored glass, vinyl siding, cementitious siding, false-brick veneer and synthetic stucco.

(9) Purpose Statements.

(a) Floor Area Ratios. Floor Area Ratios (FARs) regulate the amount of use (the intensity) allowed on a site. FARs also work with the height, setback, and building coverage standards to control the overall bulk of development. FARs are calculated by dividing the building floor area by the lot size.

(b) Ground Floor Windows. In the CB Zone, ground floor street-facing windows are intended to:

- Provide a pleasant, rich, and diverse pedestrian experience by connecting activities occurring within a structure to adjacent sidewalk areas.
- Encourage continuity of retail and service uses.
- Create an exciting pedestrian environment.
- Create a visual dialogue between activities in the building and activities on the sidewalk.

Note: Windows must be at least 50 percent of the length and 60 percent of the ground level wall area. Ground level wall areas include all exterior wall areas up to 10 feet above the finished grade.

(c) Height. Height limits are intended to control the overall scale of buildings. The maximum building height within the CB Zone emphasizes pedestrians and a mix of uses. Exceptions to maximum height:

- ~~Projection allowed. Chimneys, flag poles, satellite receiving dishes, and other items similar with a width, depth, or diameter of 5 feet or less may rise 10 feet above the height limit, or 5 feet above the highest point of the roof, whichever is greater. If they are greater than 5 feet in width, depth, or diameter, they are subject to the height limit.~~

- **Projection allowed. Projections and architectural elements that do not add habitable interior floor area to a building, such as chimneys, spires, steeples, clock towers, skylights, atriums, elevator shaft housings, stair enclosures, trellises, railings, flag poles, signs, mechanical equipment and screens, antennae and other similar items not used for human occupancy, shall be allowed to exceed the maximum allowable building height limit by 10 feet.**

~~• Radio and television antennas, utility power poles, and public safety facilities are exempt from the height limit.~~

(d) Landscaped Areas. Landscaping is not required in the CB Zone, except for the 5 foot buffer next to Residential Zones. Landscaping is intended to soften the effects of built and paved areas. It also helps reduce stormwater runoff by providing a surface into which stormwater can percolate.

(e) Main Entrance. Fronting the main entrance of a building to the street enhances pedestrian access between the use inside the building and activities on the sidewalk. This orientation also enables building occupants to see what is happening in the street, such as arriving transit service.

(f) Pedestrian Standards. The pedestrian standards encourage a safe, attractive, and usable pedestrian circulation system in all developments. They ensure a direct pedestrian connection between the street and buildings on the site, and between buildings and other activities within the site. In addition, they provide for connections between adjacent sites, where feasible. A sidewalk circulation system must be hard-surfaced, and be at least 6 feet wide. Where the system crosses driveways, parking areas, and loading areas, the system must be clearly identifiable, through the use of elevation changes, speed bumps, a different paving material, or other similar methods. The on-site pedestrian circulation system must be illuminated to a level where employees, residents, and customers can use the system at night. Land between a building and the street lot line must be landscaped and/or hard-surfaced for use by pedestrians.

(g) Setbacks. Setbacks promote streetscapes that are consistent with the desired character of the zones. The CB Zone promotes buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial development that will maintain light, air, and privacy in residential zones. Exceptions:

- Canopies, marquees, and awnings.
- Uncovered stairways and wheelchair ramps that lead to the street-facing façade.
- Uncovered decks and stairways that are no more than 2 ½ feet above ground.
- Projections not allowed. Attached mechanical structures such as heat pumps, air conditioners, and emergency generators.

(10) Definitions.

(a) Arcade. 1. A range of arches carried on piers or columns, either free-standing or blind, i.e. attached to a wall. 2. A covered passage with shops on one or both sides. 3. An exterior covered passageway along a building façade open to the street frontage.

(b) Architrave. The lintel extending from one column or pier to another. Also, the lowest of the three main parts of an entablature.

(c) Awning. A roof-like cover extending over or in front of a place (as over the deck or in front of a door or window) as a shelter.

(d) Cementitious Siding. Combination of Portland cement, ground sand, cellulose (wood) fiber that when mixed with water allows for the creation of planks, panels, and shingles (exterior cladding) that is resistant to burning and rotting.

(e) Clerestory or Clearstory Window. The upper stage of the main walls of a church above the aisle roofs, pierced by windows; the same term is applicable in domestic buildings.

(f) Cornice. In classical architecture, the top, projecting section of an architrave; also any projecting ornamental moulding along the top of a building, wall, arch, etc., finishing or crowning it.

(g) Cupola. A dome, especially a small one on a circular or polygonal base crowning a roof or turret.

(h) Curtain Wall. A non-load-bearing wall which can be applied in front of a framed structure to keep out the weather. A continuous curtain wall of steel and glass separating 'structure' from 'cladding'.

(i) Design Standards. Design standards consist of objective design-oriented elements that help to ensure that the proposed development conserves and enhances the recognized value of the site or building. The design standards provide additional guidance to items such as pedestrian connections, building materials, ground floor and upper level treatments, and the like.

(j) Development Standards. Development standards are land use regulations that guide how sites and buildings can be developed. In commercial zones, these standards deal with allowed uses, building heights, densities, parking, building setbacks, etc.

(k) Entablature. The upper part of an order, consisting of architrave, frieze and cornice.

(l) Façade. The principal face, front elevation, or vertical surface of a building which is set along a frontage. (Primary Façade, as it is used in this ordinance, is the façade that faces the higher City of Bend street classification.)

(m) Floor Area Ratio (F.A.R.). The amount of a building floor area in relation to the amount of site area, expressed in square feet. For example, a floor area ratio of 2 to 1 means two square feet of floor area to every one square foot of site area.

(n) Frieze. The middle division of an architrave, between the architrave and cornice; usually decorated but may be plain.

(o) Frontage. The portion of a parcel of property which abuts a dedicated public street or highway or an approved public street.

(p) Lights. Openings between the mullions of a window.

(q) Main Entrance. That entrance of the building, which is most architecturally prominent and contains operable doors.

(r) Mullion. A vertical post or other upright dividing a window or other opening into two or more lights.

(s) Parapet. A low, solid, protective screening or decorative wall; often used around a balcony or balconet, or along the edge of a roof.

(t) Pergola. A covered walk in a garden usually formed by a double row of posts or pillars with beams above and covered with climbing plants.

(u) Pilaster. A rectangular or round column or shallow pier attached to a wall constructed to coordinate with the style of the building.

(v) Rhythm. Regularly recurring façade elements, features, or building masses.

(w) Transom. A horizontal glass plane, typically encased in a wood or metal frame, that separates the storefront from the upper façade.

(x) Trim. The framing or edging of openings and other features on a façade or indoors. It is usually of a color and material (wood, stucco, or stone) different from that of the adjacent wall surface.

(y) Turret. A very small and slender tower.

[Section 23C added by ORD. NS-_____, passed _____]
[Section 23C(7)(b) amended by ORD. No. NS-_____, passed _____]
[Section 23C(7)(d) amended by ORD. No. NS-_____, passed _____]
[Section 23C(9)(c) amended by ORD. No. NS-_____, passed _____]

EXHIBIT C

AMENDMENTS TO THE BEND AREA GENERAL PLAN CHAPTER 6 POLICIES

Text below shown in ~~strikethrough type~~ is proposed to be deleted. Text to be added is shown in **underlined bold type.**

Commercial Development

26. Proposed buildings that exceed ~~45 feet in height~~ **the maximum allowable building height limit in the zone** shall be reviewed through the conditional use permit process.

DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

2005-03738

$51.00

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01/21/2005 02:35:31 PM

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$25.00 $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.

RECEIVED
CITY OF BEND
ADMINISTRATION

ORDINANCE NO. NS-1947

AN ORDINANCE VACATING PORTION OF IDAHO AVENUE THAT LIES WITHIN NW ¼ OF SW ¼ OF SECTION 32, TOWNSHIP 17 SOUTH, RANGE 12 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

WHEREAS, a petition having been presented to the Bend City Council on June 2, 2004 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;

WHEREAS, 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;

WHEREAS, 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;

WHEREAS, the City Council of the City of Bend having fixed the 6th day of October, 2004, at 7:00 p.m. local time in the City Hall 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;

AND WHEREAS, 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 when all the following conditions have been met:

1. The petitioner, Douglas G. Knight, submits construction plans prepared by a professional engineer for 24 foot street with curbs and a 5 foot sidewalk from Congress Street to the Alley to City Standards for review and approval by the City Engineer and these plans are approved by the City Engineer.

2. Douglas G. Knight and Arthur C. F. Pratt must sign a Public Facilities Improvement Agreement for the construction of the 24 foot street and sidewalk according to the plans approved by the City Engineer. The Public Facilities Improvement Agreement shall include a completion date of July 31st, 2005

3. Douglas G. Knight and Arthur C. F. Pratt must complete construction of the 24 foot street and sidewalk per the Public Facilities Improvement Agreement and to the plans approved by the City Engineer.

4. The City accepts the 24 foot street and sidewalk improvements before the completion date of July 31st, 2005.

Please record pages 1 through 5 of Ordinance NS-1947

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

Upon satisfactory completion of the above conditions, this vacation shall be made a matter of record and the City Recorder shall then cause a certified copy of this ordinance with a certification that the conditions have been met 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 November, 2004.

Read for the second time the 17th day of November, 2004.

Placed upon its passage the 17th day of November, 2004.

Yes: 7 No: 0

Authenticated by the Mayor the 17th day of November, 2004.

Oran Teater, Mayor

ATTEST:

Patricia Stell, City Recorder

IDAHO AVENUE
PARTIAL STREET VACATION

PROPERTY DESCRIPTION

A parcel of land containing 2,100 square feet, more or less, located in Idaho Avenue in the Park Addition to Bend in a portion the Northwest One-Quarter of the Southwest One-Quarter of Section 32, Township 17 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the northerly most corner of Lot 1, Block 12, said Park Addition to Bend; thence North 38° 34' 00" East a distance of 15.00 feet; thence South 51° 26' 00" East a distance of 140.00 feet; thence South 38° 34' 00" West a distance of 15.00 feet the northwesterly boundary line of said Lot 1; thence along said northwesterly boundary line, North 51° 26' 00" West a distance of 140.00 feet to the "Point of Beginning", the terminus of this description.

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

See drawing attached hereto and hereby incorporated by reference.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 19, 1974
DAVID R. WILLIAMS
2686
EXPIRES: 30 JUNE, 2004

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IDAHO AVENUE
PARTIAL STREET VACATION

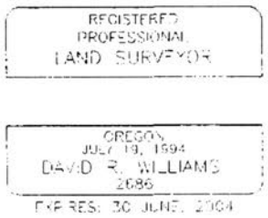
PROPERTY DESCRIPTION

A parcel of land containing 2,100 square feet, more or less, located in Idaho Avenue in the Park Addition to Bend in a portion the Northwest One-Quarter of the Southwest One-Quarter of Section 32, Township 17 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the westerly most corner of Lot 5, Block 11, said Park Addition to Bend; thence along the southwesterly boundary line of said Lot 5, South 51° 26' 00" East a distance of 140.00 feet; thence leaving said southwesterly boundary line, South 38° 34' 00" West a distance of 15.00 feet; thence North 51° 26' 00" West a distance of 140.00 feet; thence North 38° 34' 00" East a distance of 15.00 feet to the "Point of Beginning", the terminus of this description.

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

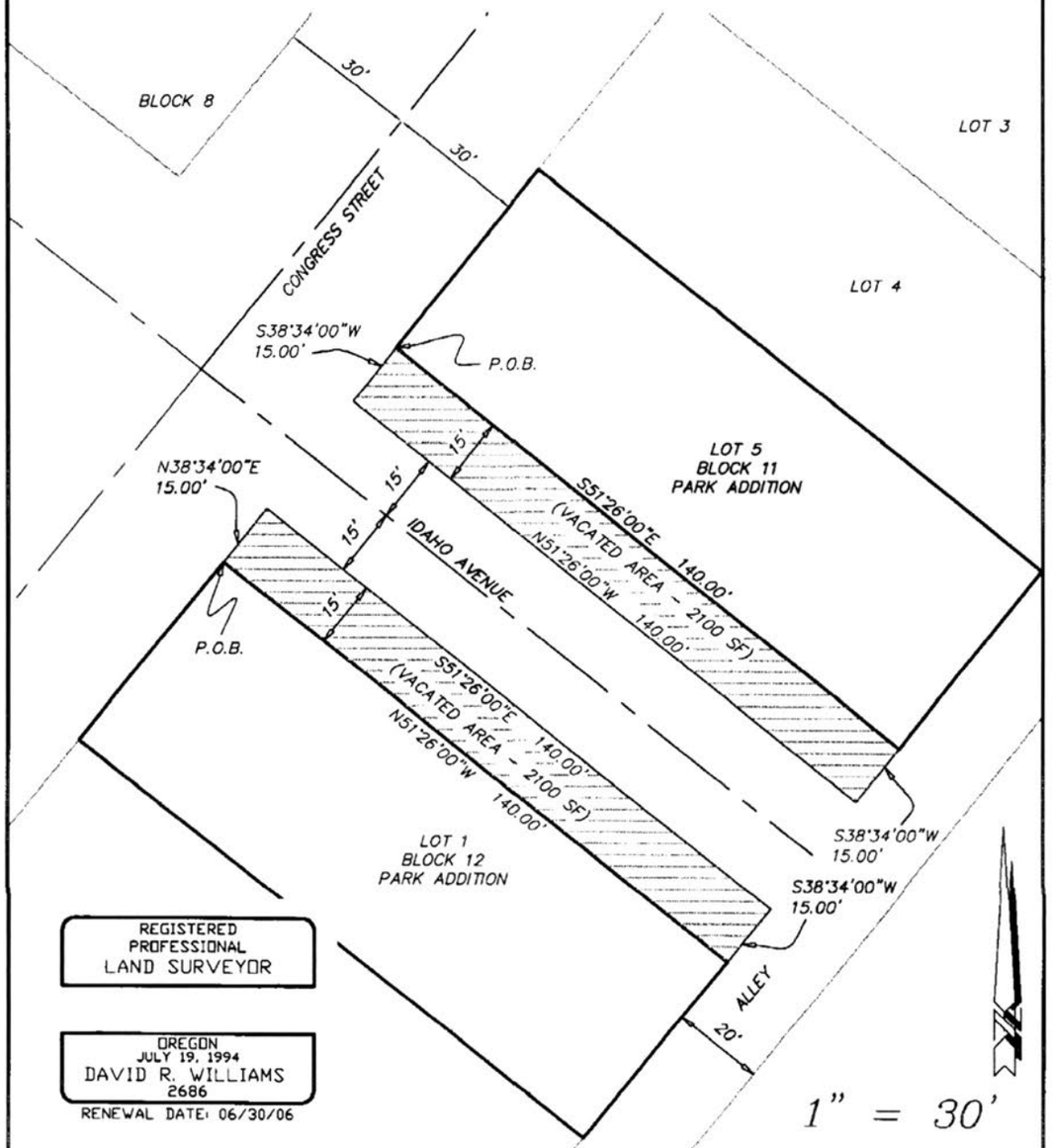
See drawing attached hereto and hereby incorporated by reference.



S:\Land Projects\040111-KNIGHT BNDRY\docs\lot-5-vac.doc

IDAHO AVENUE – PARTIAL STREET VACATION

LOCATED IN: THE PARK ADDITION TO BEND IN THE NW1/4 SW1/4 OF SECTION 32, T17S, R12E, W.M., CITY OF BEND, DESCHUTES COUNTY, OREGON



REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 19, 1994
DAVID R. WILLIAMS
2686
RENEWAL DATE: 06/30/06

HW&A SURVEYORS, ENGINEERS & PLANNERS

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

IDAHO AVENUE – PARTIAL STREET VACATION			SHEET
FOR: DOUG KNIGHT			1/1
SCALE: 1" = 30'	DRAWN BY: DRW	DATE: 10/26/04	

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ORDINANCE NO. NS-1948

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

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 changes. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated October 12, 2004, File Number PZ-04-457.

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 Residential to RM, Urban Medium Density Residential.

Read for the first time the 17th day of November, 2004.

Read for the second time the 1st day of December, 2004.

Placed upon its passage the 1st day of December, 2004.

YES: 6 NO: 0

Authenticated by the Mayor the 1st day of December, 2004.

Oran Teater, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

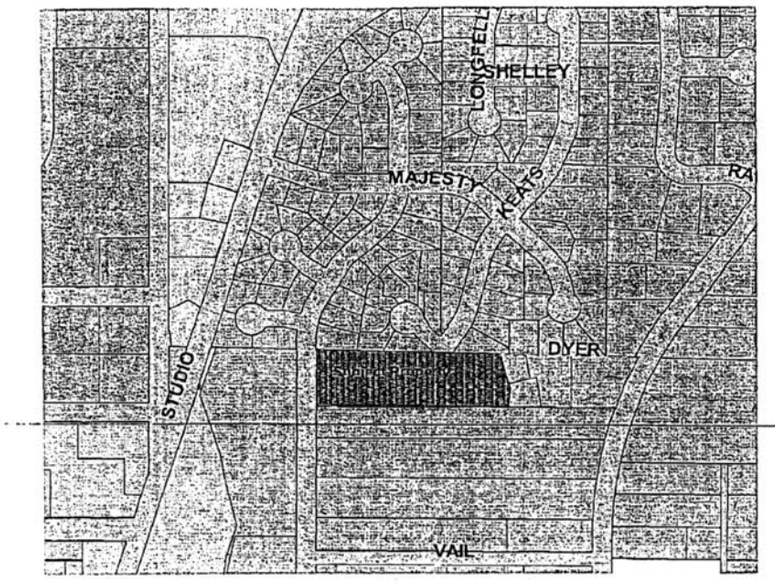
EXHIBIT A
File PZ 04-457 Page 1 of 1
City of Bend

EXHIBIT

Lot Six (6) and the North Fifty (50') feet of Lot Five (5), Block Six (6); all of the vacated portion of Seventh Street lying between Lot Six (6) and the North Fifty (50') feet of Lot Five (5), Block Four (4)and Lot Six (6) and the North Fifty (50') feet of Lot Five (5), Block Six (6); that portion of Lot Six (6) and the North Fifty (50') feet of Lot Five (5), Block Four (4), lying West of the center line of the Central Oregon Irrigation District ditch as now constituted more particularly described as follows: Beginning at a point on the West line of Lot Five (5), Block Four (4), which point is midway between the North line of said Lot 5 and the South line thereof; thence East 107 feet to the center line of the Central Oregon Irrigation District ditch; thence Northwesterly along the center line of said ditch to a point on the North line of said Lot 6, Block 4; thence West along the North line of said Lot 6, 81 feet to the Northwest corner thereof; thence South along the West line of said Lot 6 and Lot 5, 165.07 feet to the point of beginning, all in ELLIS SUBDIVISION, Deschutes County, Oregon.

17 12 28CA 00200 SERIAL NO 118745

EXHIBIT B
File PZ 04-457 Page 1 of 1
City of Bend



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DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

2005-03739

$41.00

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01/21/2005 02:35:31 PM

D-IPPS Cnt=1 Stn=23 TRACY
$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-1949

AN ORDINANCE VACATING PORTION OF NW JOHN FREEMONT THAT LIES WITHIN NW ¼ 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 4, 2004 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 17th day of November, 2004, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and;

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

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

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

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 17th day of November, 2004.

Read for the second time the 1st day of December, 2004.

Placed upon its passage the 1st day of December, 2004.

Yes: 6 No: 0

Authenticated by the Mayor the 1st day of December, 2004.

Oran Teater, Mayor

ATTEST:

Patricia Stell, City Recorder

Please record pages 1 through 3 of Ordinance NS-1949.
After recording return to: Deputy Recorder, City of Bend, 710 NW Wall
Bend, OR 97701

W&H PACIFIC
AN ASCG COMPANY

920 SW Emkay, Suite C100
Bend, Oregon 97702-1041
541.388.4255
Fax 541.388.4229

EXHIBIT "A"

A tract of land situated in the Northwest one-quarter of Section 36, Township 17 South, Range 11 East, Willamette Meridian, Deschutes County, Oregon, said tract being a part of Northwest Crossing, Phase 4, said tract more particularly described as follows:

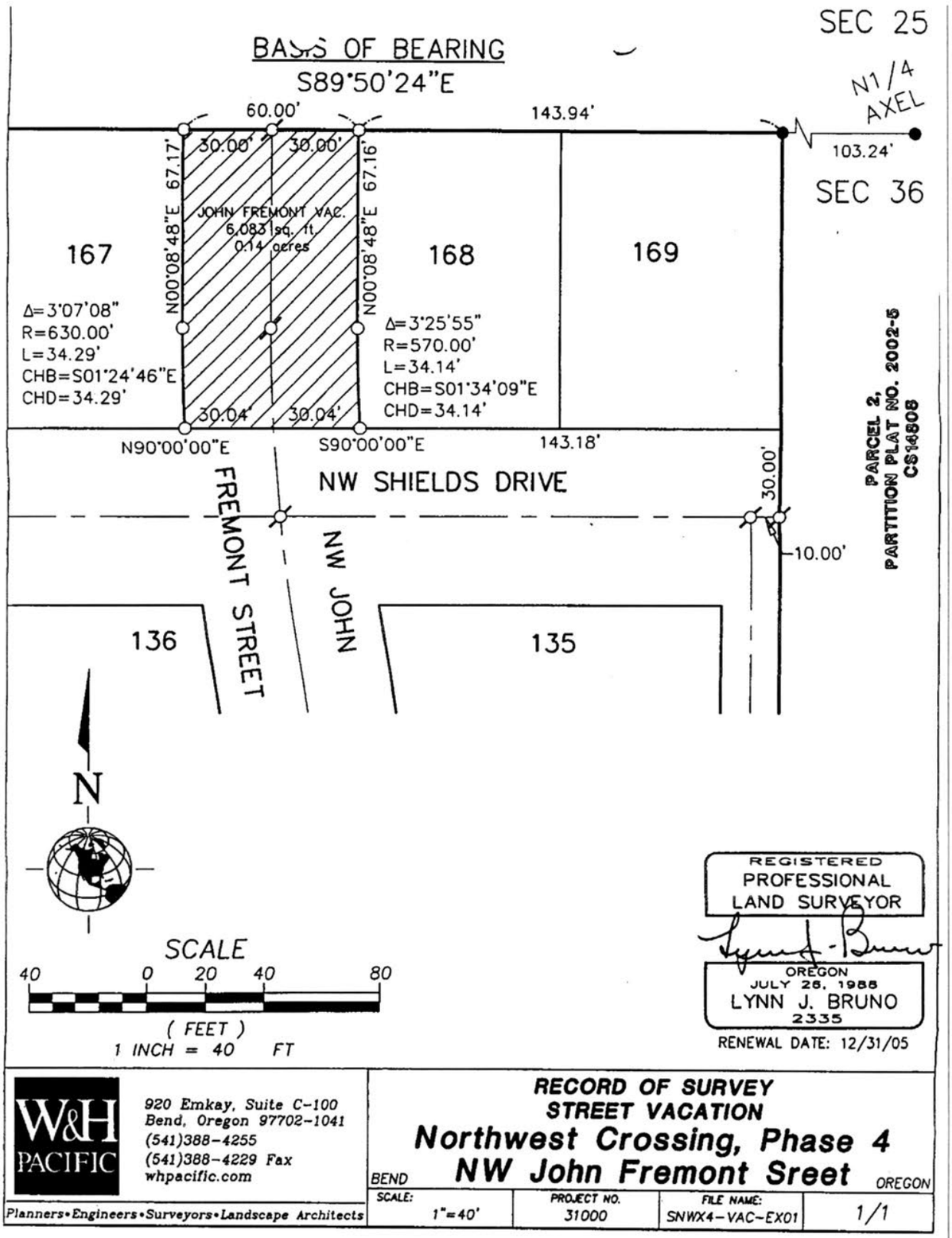
Beginning at the Northeast corner of Lot 167 of the plat of Northwest Crossing, Phase 4 as recorded in the Deschutes County Records; thence South 89°50'24" East, along the North line of said plat, 60.00 feet to the Northwest corner of Lot 168; thence leaving said North line, South 00°08'48" West, along the West line of said Lot 168, 67.16 feet to a point of curvature; thence continuing along said West line, along the arc of a 570.00 foot radius curve to the left, through a central angle of 03°25'55", and arc distance of 34.14 feet (the chord of which bears South 01°34'09" East, 34.14 feet) to the Southwest corner of said Lot 168; thence North 90°00'00" West, 60.08 feet to the Southeast corner of Lot 167 and a point of non-tangent curvature; thence along the East line of said Lot 167, along the arc of a 630.00 foot radius curve to the right, through a central angle of 03°07'08", and arc distance of 34.29 feet (the chord of which bears North 01°24'46" West, 34.29 feet) to a point of tangency; thence continuing along said East line, North 00°08'48" East, 67.17 feet to a point of beginning.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 26, 1988
LYNN J. BRUNO
2335
RENEWAL DATE: 12/31/05

\\JAVALINE1\QDLS\HTLTR\PZLTR\PROD\PZ2004\P0038530.DOC

Page 3 of 3



W&H PACIFIC

920 Emkay, Suite C-100
Bend, Oregon 97702-1041
(541)388-4255
(541)388-4229 Fax
whpacific.com

Planners•Engineers•Surveyors•Landscape Architects

RECORD OF SURVEY
STREET VACATION
Northwest Crossing, Phase 4
NW John Fremont Sreet

BEND OREGON

SCALE:	PROJECT NO.	FILE NAME:	
1"=40'	31000	SNWX4-VAC-EX01	1/1

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ORDINANCE NO. 1950

AN ORDINANCE TO ESTABLISH A NEW SECTION 1.950 IN THE BEND CODE ENTITLED "REVIEW OF DEMANDS FOR COMPENSATION UNDER OREGON REVISED STATUTES CHAPTER 197 AS AMENDED BY BALLOT MEASURE 37 PASSED NOVEMBER 2, 2004," AND DECLARING AN EMERGENCY

Whereas, on November 2, 2004, the voters of the State of Oregon approved Ballot Measure 37 that amended Oregon Revised Statutes Chapter 197; and

Whereas, Ballot Measure 37 provides that, in order to receive compensation, a present Owner of real property must make a written "demand for compensation" to the government entity enacting, enforcing or applying a land use regulation that allegedly restricted the use of their property and has allegedly had the effect of reducing the fair market value of the property; and

Whereas, Ballot Measure 37 authorizes the city to adopt and apply procedures for processing claims for compensation; and

Whereas, Ballot Measure 37 imposes an unfunded mandated duty on the city to review demands for compensation and make decisions on disposition of those demands. Prudent management of the public treasury, and fairness all taxpayers of Bend requires that a person submitting a claim for compensation under Ballot Measure 37 pay the actual costs of processing the claim, and

Whereas, Fairness to persons making claims under Ballot Measure 37 and the public interest mandates that determination of any claim made under Ballot Measure 37 be based on substantial factual information and analysis, which can only be provided by a present real property Owner at the time they make a written demand for compensation; and

Whereas, it is in the best interests of the city to establish a process to assess such demands in a timely manner by establishing, among other things, a procedure that requires the necessary factual and analytical information be included with the demand for compensation at the time the city accepts any written demand for compensation; and

Whereas, The Bend City Council finds that the City's regulations, ordinances, policies, standards and specifications that regulate construction and performance standards for water, wastewater, transportation or public utility systems are necessary for the protection of the public health and safety; and

Whereas, Ballot Measure 37 takes effect on December 2, 2004.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Section 1.950 of the Bend Code is adopted as follows:

Section 1.950 REVIEW OF DEMANDS FOR COMPENSATION UNDER OREGON REVISED STATUTES CHAPTER 197 AS AMENDED BY BALLOT MEASURE 37 PASSED NOVEMBER 2, 2004.

1.950(1) Purpose.

The purpose of this section is to accomplish the following regarding demands for compensation under Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004: Process demands for compensation quickly, openly, thoroughly, and consistently with the law; enable present real Property Owners making demands for compensation to have an adequate and fair opportunity to present their demands to the city's decision-maker; provide the city's decision-maker with the factual and analytical information

necessary to adequately and fairly consider demands for compensation, and take appropriate action under the alternatives provided by law; preserve and protect limited public funds; preserve and protect the interests of the community by providing for public input into the process of reviewing demands; and, establish a record of decisions capable of withstanding legal review.

1.950(2) Definitions.

For purposes of this Section the following definitions shall apply:

(a) Appraisal. Means a written statement prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon pursuant to ORS Chapter 674. In the case of commercial or industrial Property, the term "Appraisal" additionally means a written statement prepared by an appraiser holding the MAI qualification, as demonstrated by written certificate.

(b) Demand. Means the "written demand for compensation" required to be made by an "Owner" of "real Property" under Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, Passed November 2, 2004. Demands shall not be considered "made" under Ballot Measure 37 until the city accepts the Demand after the requirements for making a Demand under this Section are fulfilled by the Owner of real Property.

(c) Exempt land use regulation. Means:

(1) A regulation restricting or prohibiting activities commonly and historically recognized as public nuisances under common law, including Bend Code Chapter 5, as amended from time to time, and the criminal laws of Oregon and other offenses enumerated in the Bend Code;

(2) A regulation restricting or prohibiting activities for the protection of public health and safety, including, but not limited to: fire and building codes; health and sanitation regulations; solid or hazardous waste regulations; a regulation, ordinance, policy, standard or specification that regulates construction and performance standards for water, wastewater, transportation or public utility systems; and pollution control regulations;

(3) A regulation required to comply with federal law;

(4) A system development charge;

(5) A regulation restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing; or

(6) A regulation enacted prior to the date of acquisition of the real Property by the Owner or a Family Member of the Owner who owned the subject Property prior to acquisition or inheritance by the Owner, whichever occurred first.

(d) Family Member. Means the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the Owner of the real Property, an estate of any of the foregoing Family Members, or a legal entity owned by any one or combination of these Family Members or the Owner of the real Property.

(e) Land use regulation. Means any comprehensive plan, zoning ordinance, land division ordinance, or transportation ordinance of the City of Bend. The term "Land use regulation" does not include "Exempt land use regulations" as defined by Section 1.950(2)(c).

(f) Owner. Means the present Owner of real Property that is the subject of the Demand for compensation, or any interest therein. The Owner must be a person who is the sole fee simple Owner of the real Property or all joint Owners whose interests add up to a fee simple interest in Property including all persons who represent all recorded interests in

Property, such as co-Owners, holders of less than fee simple interests, leasehold Owners, and security interest holders.

(g) Property. Means any real Property or interest therein. It includes only a single parcel or contiguous parcels in single Ownership. It does not include contiguous parcels or parcels not contiguous that are under different Ownerships.

(h) Reduction in Value. Means the difference in the fair market value of the Property without ~~before and after~~ enactment, enforcement or application of a land use regulation **and the value with enactment, enforcement or application of a land use regulation**.

(i) Manager. Means the City Manager of Bend or his/her designee.

(j) Measure 37. Means those amendments to Oregon Revised Statutes Chapter 197, made by Oregon Ballot Measure 37, Passed November 2, 2004.

1.950(3) Pre-filing Conference.

(a) Before submitting a Demand for compensation, the Owner must schedule and attend a pre-filing conference with the Manager to discuss the Demand. The pre-filing conference shall follow the procedure set forth by the Manager and may include a filing fee, and notice to neighbors, other organizations and agencies. The filing fee shall be set by council resolution.

(b) To schedule a pre-filing conference, the Owner must contact the Manager and pay the appropriate conference fee. The pre-filing conference is for the Owner to provide a summary of the Owner's Demand to the Manager, and for the Manager to provide information to the Owner about regulations that may affect the Demand. The Manager may provide the Owner with a written summary of the pre-filing conference within 10 days after it is held.

(c) The Manager is not authorized to settle any Demand at a pre-filing conference. Any omission or failure by staff to recite to an Owner all relevant applicable regulations will not constitute a waiver or admission by the city.

(d) A pre-filing conference is valid for six months from the date it is held. If no Demand is filed within six months of the conference, the Owner must schedule and attend another conference before the city will accept a Demand. The Manager may waive the pre-filing requirements if, in the Manager's opinion, the Demand does not warrant that step.

1.950(4) Demand Requirements.

(a) Form, Completeness, Completeness Review, Extension and Tolling of 180-Day Period under Measure 37.

(1) A Demand shall only be submitted and accepted for review upon forms established by the Manager. A Demand shall consist of all materials required by Section 1.950. A Demand will not be accepted until found to be complete by the Manager after all materials required by Section 1.950 have been submitted.

(2) The Manager shall conduct a completeness review within 15 days after submittal of the Demand and shall advise the Owner, in writing, of any material remaining to be submitted. The Owner shall submit the material needed for completeness within 30 days of the written notice that additional material remains to be submitted. If the Owner fails to provide the materials necessary to make the Demand complete within the 30 day period the Demand shall not be accepted for filing.

(3) The 180-day period required to pass prior to any cause of action being available to Owner in circuit court specified Measure 37, shall only

commence on the date the Manager deems the Demand complete, and accepts it for filing. The Manager shall note the date of completeness and filing, in writing, upon the Demand.

(b) The Owner may request an extension for filing a complete Demand. A request for an extension or continuance shall be deemed to extend the 180-day period required to pass prior to any cause of action being available to the Owner in circuit court specified in Measure 37, and this Section 1.950.

(c) Information and Other Matters Required to be Submitted as Part of the Demand. A Demand shall be for a single Property and shall be submitted on forms established by the Manager, and shall consist of all materials required by this Section 1.950. A Demand will not be accepted for filing without all of the following information:

(1) Fee. An application fee to be paid in advance of acceptance for filing to cover the costs of completeness review and Demand processing. The City shall record its actual costs for processing the Demand, and, in the event that the advance payment is not sufficient to cover all of the City's costs, then the Owner shall pay the balance owed, if any, upon receipt of an appropriate billing statement from the City. The City may send the Owner periodic billing statements. If the Owner does not pay on the billing statements when due, the Owner will be deemed to have abandoned the Demand. If the advance fee is more than the amount of the City's actual costs in processing the claim, then the excess shall be returned to the Owner. This fee shall be established by council resolution. In the event that the fee is not paid in full, the City of Bend shall have a lien against any Property owned by the Owner(s), and the City may take any enforcement actions to collect such fee as provided by law.

(2) Form. A completed Demand form.

(3) Identification of Owner. Identification of the name, physical address, street address, and phone number of the Owner. If the applicant is not the Owner, this information must also be provided for the Owner and authorization to act on behalf of the Owner must be provided

(4) Property Description. A legal description of the Property as well as a common address for the Property.

(5) Proof of Present Property Ownership. Proof, acceptable to the Manager, that the Property is in the exclusive fee simple Ownership of the Owner or that the Owner has the consent of all Owners in the Property. The name and mailing address of all Owners other than the Owner making the Demand must be provided.

~~(6) Nearby Property Owner Information. The names and addresses of all Owners of property within 300 feet of the Property.~~

~~(7) Listing of Nearby Owned Property. Identification of any other property owned by the Owner within 300 feet of the boundary of the Property.~~

(6) Title Report. A title report, including the title history, a statement of the date the Owner acquired Ownership of the Property, and the Ownership interests of all Owners. The title report must also specify any restrictions on use of the Property unrelated to the land use regulation including, but not limited to, any restrictions established by Covenants, Conditions and Restrictions (CC&Rs), other private restrictions, or other regulations, restrictions or contracts.

(7) Copy of Existing Regulation. A copy of the land use regulation that the Owner making the Demand claims restricts the use of the Property, or interest therein,

that has had the effect of reducing the fair market value of the Property, including the date the Owner claims the land use regulation was first enacted, enforced or applied to the Property.

(8) Copy of Prior Regulations. A copy of the land use regulation in existence, and applicable to the Property, when the Owner became the Owner of the Property, and a copy of the land use regulation in existence immediately before the regulation that was enacted or enforced or applied to the Property, that the Owner claims restricts the use of the Property and, the Owner claims, caused a reduction in fair market value due to the land use regulation in question being more restrictive.

(9) Appraisals. A copy of a written Appraisal or Appraisals by an appraiser, qualified as such in the State of Oregon, indicating the amount of the alleged reduction in the fair market value of the Property by showing the difference in the fair market value of the Property before and after enactment, enforcement or application of the land use regulation in question, and explaining the rationale and factors leading to that conclusion. If the Demand is for more than $10,000, copies of two Appraisals by different appraisers must be included. If the Demand is for $10,000 or less, one Appraisal must be provided.

(10) Narrative. The Owner shall provide a narrative describing the history of the Owner and/or Family Member's Ownership in the Property, the history of the relevant land use regulations applicable to the Demand, and how the enactment, enforcement or application of the land use regulation restricts the use of the Property, or any interest therein, and has the effect of reducing the fair market value of the Property, or any interest therein.

(11) A statement Regarding Exceptions. A statement by the Owner making the Demand of why the land use regulation in question is not an "Exempt land use regulation" as defined in Section 1.950(2)(c).

(12) A statement regarding date of acquisition of the Property by the Owner. The statement must explain how the subject land use regulation was enacted ~~prior to~~ after the date of the acquisition of the Property by the Owner, or ~~prior to~~ after acquisition by a Family Member of the Owner who owned the subject Property ~~prior to~~ after the acquisition or inheritance by the Owner [if "Family Member" status is claimed it must also be addressed in the title report required by item (8) of this sub-section].[i]

(13) Statement of the Owner's Understanding of the Effect of Any Modification, Removal or Non-Application of Land Use Regulation. A statement by the Owner explaining their understanding of what effect a modification, removal or non-application of the land use regulation would have on the potential development of the Property, stating the greatest degree of development that the Owner believes would be permitted on the Property if the identified land use regulation were modified, removed or not applied.

(14) Copies of Prior Permit Applications and Description of Enforcement and/or Application Actions by the City. Copies of any land use actions, development applications or other relevant applications for permits that have previously been filed in connection with the Property and the action taken. Any such actions that represent the required "enforcement" and/or "application" of the land use regulation that are prerequisites to making a Demand must be described and identified as such.

(15) Site Plan and Drawings. A copy of the site plan and drawings related to the expected use of the Property should the land use regulation be modified, removed or not applied in a readable/legible 8 ½ by 11-inch format.

(16) Statement of Relief Sought. A statement of the relief sought by the Owner.

1.950(5) Demand Review Process.

(a) The Manager shall assess any Demand for compensation and make a recommendation to the city council on the disposition of the Demand.

(b) The Manager shall mail notice of the Demand to the Owner and to all Owners of record of property, and to all Owners of property within three hundred (300) feet of the Property that is subject of the notice, as listed on the most recent property tax assessment roll where such Property is located. Additional mailed notice shall be sent to the Oregon Department of Land Conservation and Development, Oregon Department of Justice, and such others as the city may designate by council resolution. The Manager may include the cost of this notice in the "fee" assessed under Section 1.950(4)(c)(1), and the Owner may be required to pay such fee prior to notice being given.

(c) The Manager's notice under subsection (b) of this section shall:

(1) State the basis of the Demand, the amount of the compensation sought and the regulation that causes the compensation to be alleged to be due.

(2) Identify the Property by the street address or other easily understood geographical reference;

(3) State that persons notified may provide written comments on the Demand, and provide the date written comments are due or, if a hearing has been scheduled, the date, time and location of the hearing. Include a general explanation of the requirements for submission of written comments or, if a hearing is to be held, the requirements for submission of testimony and evidence and the procedure for conduct of hearings;

(4) Identify the city representative and telephone number to contact to obtain additional information; and

(5) State that a copy of the Demand and the supporting documents submitted by the Owner are available for inspection at no cost, and that copies will be provided at reasonable cost.

(d) Written comments regarding a Demand may be submitted to the Manager. Any such comments must be received by the Manager within 14 days from the date identified in paragraph (c)(3), above. The Owner shall have an additional 7 days after the deadline set in paragraph (c)(3), above, to respond to any written comments received by the Manager. It is the duty of the Owner to determine if comments have been received by the Manager.

(e) The Manager shall schedule a public hearing, in the manger's discretion, after having an opportunity to review the Demand.

(f) If a hearing is conducted:

(1) All documents or evidence relied upon by the Owner shall be submitted to the Manager as a part of the Demand. Persons other than the Owner may submit documents or evidence at the hearing.

(2) Any staff report used at the hearing shall be available prior to the hearing.

(3) The Manager may reopen a record to admit new evidence or testimony, in the Manager's discretion.

(4) The failure of a person entitled to notice to receive notice as provided in this section shall not invalidate such proceedings. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television, or other electronic means.

(g) The Manager may make a recommendation, applying the standards of Measure 37 and this Section 1.950 to the city council based on all of the information presented.

(h) The Manager may, in the Manager's discretion, retain the services of an appraiser to appraise the Property and evaluate the Demand to assist in determining the validity of a Demand. The appraiser's fee may be included in the fee required of the Owner under Section 1.950(4)(c)(1).

(i) In making it's decision, the city council will consider the standards of Measure 37 and this Section 1.950; the benefit(s) accruing to the public arising as a result of application of the regulation; and the burden to the public in paying compensation to the Owner(s), taking into consideration the available financial resources of the city. The city council may take, but is not limited to taking, any one or more of the following actions on a Demand, as appropriate:

(1) Deny the Demand based on, but not limited to, any one or more of the following findings:

(a) The land use regulation does not restrict the use of the private real Property;

(b) The fair market value of the Property is not reduced by the enactment, enforcement or application of the land use regulation;

(c) The Demand was not timely filed;

(d) The Owner failed to comply with the requirements for making a Demand as set forth in this Section 1.950;

(e) The Owner is not the present Property Owner, or the Property was not owned by a Family Member if that is required for compensation, or was not the Property Owner at the time the land use regulation was enacted, enforced or applied;

(f) The land use regulation is an Exempt land use regulation as defined in Measure 37 and Section 1.950(2)(c);

(g) The land use regulation in question is not an enactment of the city;

(h) The city has not taken final action to enact, enforce or apply the land use regulation to the Property;

(i) The Owner is not entitled to compensation under Measure 37, for a reason other than those provided herein.

(2) Award compensation, either in the amount requested, or in some other amount supported by the evidence in the record. Payment of any compensation is subject to the availability and appropriation of funds for that purpose.

(3) Modify the regulation.

(4) Remove the regulation.

(5) Not apply the regulation.

(6) Acquire the affected Property through negotiation or eminent domain.

(7) Take such other actions as the city council deems appropriate consistent with Measure 37.

(j) The Owner shall bear the burden of proof relating to the Demand and entitlement to just compensation. The city shall bear the burden of proof to show that the regulation is exempt under Measure 37, or this Section 1.950. The standard of proof shall be by a preponderance of the evidence.

(k) A copy of the city council decision shall be sent by mail to the Owner and to each individual or entity that participated in the Manager or city council review process, provided a mailing address was provided to the city as part of the review process. The city council may establish any relevant conditions of approval for compensation, should compensation be granted, or for any other action taken under this subsection

(l) Failure to comply with any condition of approval is grounds for revocation of the approval of the compensation for the Demand, grounds for recovering any compensation paid and grounds for revocation of any other action taken under this Section 1.950.

(m) A decision to remove or modify a land use regulation is personal to the Owner, and shall automatically become void and invalid if the Owner conveys the Property to another person before development of the Property consistent with the removal or modification of the land use regulation is completed. Development of the Property under this sub-section shall not be deemed to be completed until a certificate of occupancy or other appropriate certificate indicating completion is issued by the City of Bend building official.

(n) In the event the Owner (or the Owner's successor in interest, if the development is completed as described in subsection 1.950(5)(m)) fails to fully comply with all conditions of approval or otherwise does not comply fully with the conditions of approval, the city may institute a revocation or modification proceeding before the city council.

(o) Unless otherwise stated in the city's decision (and only if the development described in subsection 1.950(5)(m) is completed before the Owner conveys the Property), any action taken under this Section 1.950 runs with the Property and is transferred with Ownership of the Property. All conditions, time limits or other restrictions imposed with approval of a Demand will bind all subsequent Owners of the subject Property.

1.950(6) Ex Parte Contacts, Conflict of Interest and Bias. The following rules govern any challenges to the Manager's or member of the city councils participation in the review and recommendation motion, or hearings regarding Demands:

(a) Any factual information obtained by the Manager or a member of the city council outside the information provided by city staff, or outside of the formal written comments process or hearing will be deemed an ex parte contact. The Manager or a member of the city council that has obtained any material factual information through an ex parte contact must declare the content of that contact, and allow any interested party to rebut the substance of that contact. This rule does not apply to contacts between city staff and the Manager or member of the city council.

(b) Whenever the Manager or a member of the city council, or any member of their immediate family or household, has a direct financial interest in the outcome of a particular Demand or lives within the area entitled to notice of the Demand, that Manager or member of the city council shall not participate in the deliberation or decision on that application.

(c) All decisions on Demands must be fair, impartial and based on the applicable review standards and the evidence in the record. Any Manager or member of the city council who is unable to render a decision on this basis must refrain from participating in the deliberation or decision on that matter.

1.950(7) Attorney Fees

If a Demand under Measure 37, and this Section 1.950 is denied or not fully paid within 180 days of the date of filing a completed Demand, and the Owner commences suit or action to collect compensation, if the city is the prevailing party in such action, then city shall be entitled to any sum which a court, including any appellate court, may adjudge reasonable as attorney's fees. In the event the city is the prevailing party and is represented by "in-house" counsel, the prevailing party shall nevertheless be entitled to recover reasonable attorney fees based upon the reasonable time incurred and the attorney fee rates and charges reasonably and generally accepted in Bend, Oregon for the type of legal services performed.

1.950(8) Private Cause of Action If the city council's approval of a claim by removing or modifying a land use regulation causes a reduction in value of other property located in the vicinity of the Property, the owner(s) of the other property shall have a cause of action in the appropriate Oregon Circuit Court to recover from the Owner(s) (of the Property subject to the Demand) in the amount of such reduction in value. A person who recovers for a reduction in value of property under this section shall also be entitled to recover attorney's fees and disbursements from the Owner(s) (of the Property subject to the Demand). This section does not create a cause of action against the City of Bend. [ii]

1.950(9) Availability of Funds to Pay Claims. Compensation can only be paid based on the availability and appropriation of funds for this purpose.

1.950(10) Severability.

If any phrase, clause, or other part or parts of this Section 1.950 is found to be invalid by a court of competent jurisdiction, the remaining phrases, clauses and other part or parts shall remain in full force and effect.

1.950(11) Applicable State Law.

For all Demands filed with the City of Bend, the applicable state law is Measure 37 as amended, modified or clarified by subsequent amendments or regulations adopted by the Oregon State Legislature or Oregon State Administrative Agencies. Any Demand that has not been processed completely under this Section 1.950 shall be subject to any such amendments, modifications, clarifications or other actions taken at the state level and this Section 1.950 shall be read in a manner so as not to conflict with such amendments, modifications, clarifications or other actions taken at the state level. This Section 1.950 is adopted solely to address Demands filed under the authority of those provisions of Measure 37. Except as expressly provided in Section 1.950(8), no rights independent of said provisions are created by adoption of this Section 1.950.

Section 2. Emergency Clause and Effective date. This Ordinance, being essential to the preservation of the health, safety, welfare and financial integrity of the city with amendments to Oregon Revised Statutes Chapter 197, from Ballot Measure 37, passed November 2, 2004, becoming effective on December 2, 2004, and it is essential to have a process in place for reviewing Demands under the law on the effective date of Ballot Measure 37, an emergency is hereby declared to exist and this Ordinance is effective upon its adoption.

Read for the first time the 17th day of November, 2004.

Read for the second time the 1st day of December, 2004.

Placed upon its passage the 1st day of December, 2004.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 1st day of December, 2004.

Mayor

ATTEST:

Recorder of the City of Bend

---

[i] *Correction of scrivener's error*

[ii] *Section 1.950(8) is effective December 31, 2004. See minutes from December 1, 2004 meeting.*

ORDINANCE NO. NS-1951

AN ORDINANCE APPROVING A STATUTORY DEVELOPMENT AGREEMENT PURSUANT TO ORS 94.504-528 ENCOMPASSING MULTIPLE LAND USE ACTIONS WHICH AUTHORIZE AND APPROVE RIVER'S EDGE PLANNED UNIT DEVELOPMENT (PUD) AND RIVERHOUSE HOTEL EXPANSION FOR 27,058 SF OF MEETING SPACE, 10,300 SF OF RESTAURANT, 102 HOTEL UNITS, 101 CONDOMINIUMS, ANCILLARY HOTEL DEVELOPMENT, PUD MASTER PLAN FOR UP TO 388 ADDITIONAL RESIDENTIAL UNITS, CORRECTION OF A SCRIVENER'S ERROR IMPROPERLY DESIGNATING 1.2+ ACRES OF LAND RESIDENTIAL STANDARD DENSITY, RS, AND INITIATION OF A REFINEMENT PLAN FOR CERTAIN AREAS OUTSIDE OF THE EXISTING HOTEL AND PROPOSED HOTEL EXPANSION AREAS.
THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, cons idered the city Staff findings and record, and has found that there is a public need and benefit associated with the Development Agreement between the City of Bend and River's Edge Investments, LLC, and ancillary approvals necessary to effectuate the agreement for property described by Exhibit "A". The Bend City Council adopts the Development Agreement and Findings dated October 20, 2004 for City of Bend Community Development Department File Number PZ 04-556.

Section 2. Section 7(1) of Ordinance NS-1178 and the Zoning Map of the City of Bend is amended by correcting the scrivener's error and by properly designating the 1.2+ acres of land currently zoned Residential Standard Density, RS, to Commercial Limited, CL, as described by the Development Agreement and Exhibit A-21, and adding a City of Bend Council initiated refinement plan designation for the property covered by the Development Agreement excluding the 23 +/- acre parcel and the existing hotel development.

Read for the first time the 17 th day of November, 2004

Read for the second time the 1st day of December, 2004

Placed upon its passage the 1st day of December, 2004

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor this 1st day of December, 2004

Oran Teater, Mayor

Attest: Patricia S. Stell
Patty Stell, City Recorder

ORIGINAL
1 of 3

DEVELOPMENT AGREEMENT

by and between

RIVER'S EDGE INVESTMENTS, LLC

and

THE CITY OF BEND

December 1, 2004

(Exhibit A-1 to Ordinance 1951)

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EXHIBITS

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Exhibit A-23	Eastside River Mitigation Drawing and Letter
Exhibit A-24	Transfer of Water Rights Application

DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT ("Agreement") is dated as of the ____ day of _____, 2004, by and between RIVER'S EDGE INVESTMENTS, LLC, an Oregon limited liability corporation ("River's Edge"), and THE CITY OF BEND, an Oregon municipal corporation (the "City"), and is adopted pursuant to ORS 94.504 – 94.528. Each of River's Edge and the City is hereinafter referred to as a "Party" and collectively as the "Parties." There are no other parties to this Agreement, and there are no third party beneficiaries to this Agreement.

Definitions:

Definitions. In addition to terms defined elsewhere in this Agreement, the terms listed below shall have the following meanings in this Agreement:

Construction Schedule means the schedule for the Street and Bridge Improvements (attached as Exhibit A-22).

Date of Adoption means the date the City adopts an ordinance approving this Agreement pursuant to ORS 94.508 – 94.528.

2004 Master Plan Amendments means all the modifications to the River's Edge Village Planned Unit Development Master Plan and the related land use applications that have been included with this Agreement, all of which are included in Exhibit A-1. These include without limitation: Modification of prior PUD approvals and establishment of the River's Edge 2004 PUD and Master Plan; site, design, WOZ and all other land use approvals necessary for completion of all elements of the Owner's plans described in these findings and on the plans as "Phase 1;" and building footprints, setbacks and heights as indicated on the submitted plans and described in the Conditions of Approval. Additional approvals granted through City Ordinance and this Agreement include acceptance of all river corridor exactions, mitigation and enhancements described in the Findings and Conditions of Approval and required for the proposed development; approval of proposed parking; correction of a clerical error in a prior zoning map amendment; and conditional use permits for additional roof heights in the CL and RS zones and river corridor, new dwellings in the CL zone; PUD and condominium approvals in the RS; and off-site parking.

Deschutes River Trail means the built and planned sections of the pedestrian portion of the trail along the Deschutes River that was adopted by the City as part of the Bicycle and Trail System Plan in the City of Bend's General Plan together with the additional trail sections described in the Pedestrian Easement in Exhibit A-16-A and the Conservation Easement in Exhibit A-16-B.

Drainage Easement means an easement granted by River's Edge to the City to drain the surface water from Mt. Washington Drive and the New Mt. Washington Drive

Bridge to a new storm water retention pond with a capacity up to 8,400 cubic feet of water within a portion of the easement on the fairway near the sixth tee boxes on the River's Edge Golf Course, all as described in Exhibit A-13.

Equivalent Residential Units or ERUs has the same meaning as the equivalent term in the City of Bend's 2004/2005 Resolution No. 2414.

Existing Bridge means the existing bridge located on Mt. Washington Drive that crosses the Deschutes River at the Riverhouse Hotel and intersects Business Highway 97.

Final Approval means a final decision by a governmental body with respect to a discretionary approval, containing only conditions acceptable to the Parties, and the expiration of all applicable appeal periods without an appeal having been filed, or if an appeal has been filed, then the affirmation of the final decision upon appeal, with no possibility of a further appeal, or the affirmation of the first appellate decision with no possibility of a subsequent appeal. "Final Approval" may be qualified by limitation to a particular appellate level such as the Land Use Board of Appeals ("LUBA") or the Oregon Court of Appeals.

Maximum Density means an overall density in the River's Edge Village 2004 PUD that puts no greater burden on the City's infrastructure than the sum of (1) the existing development in the River's Edge Village PUD, (2) the development authorized by the 2004 Master Plan Amendments and (3) the Remaining Development at a stated density. It is expressed quantitatively as 585 sewer EDU credits, 585 water EDU credits, and 505 PM Peak Trips. By way of illustration, the 2004 PUD Master Plan Amendments allocate the Maximum Density to 27,058 square feet of meeting space, 10,300 square feet of restaurant, 101 condominiums, 388 residential units, and a spa and recreation center.

Memorandum of Understanding or "MOU" means the Memorandum of Understanding dated July 16, 2004, between the Administrative Staff of the City of Bend and River's Edge (Exhibit A-3).

New Mt. Washington Drive Bridge means the new bridge to be constructed over the Deschutes River by the City, in substantial conformance with the conceptual design contained in Exhibit A-4.

ODOT MOU means a Memorandum of Understanding between the City Staff, River's Edge and the Oregon Department of Transportation, Region IV, accepting an access mitigation proposal to mitigate the items noted in the Traffic Impact Analysis.

Off-Site Transportation Impact Mitigation means mitigation of the increased burden that each portion of the Proposed Development will put on the transportation facilities of the City outside the property lines of the Proposed Development.

Permit means any quasi-judicial, legislative, or ministerial decision by an agency, department or authorized person of the federal, state or local government that is

necessary prior to, during or upon completion of, or to mitigate the effect of, or to enhance real property or natural resources in the vicinity of, any component of the Proposed Development described in this Agreement, including without limitation, the 2004 Master Plan Amendments and the Street and Bridge Improvements.

Proposed Development means the 2004 Master Plan Amendments and the Street and Bridge Improvements.

Remaining Development means the undeveloped portions of the River's Edge Village 2004 PUD Master Plan labeled as "Future North Riverfront Residential Development," "Future Residential," "Future Commercial," and "Future Development" and assigned with numbers of houses for purposes of calculating trips and the Maximum Density.

River's Edge Property means the property more particularly described on Exhibit A-5.

River's Edge Village 2004 PUD means the Planned Unit Development approved by the City in 1980 in File Number Z-1-80/C-4-80, revised from time to time in various land use decisions contained in Exhibit A-6, and revised further in the 2004 Master Plan Amendments.

Schedule means the construction schedule for the City's construction of the Street and Bridge Improvements. The Schedule will be negotiated between the City and the bidders on the contract, and will be attached as Exhibit A-22 to this Agreement as soon as reasonably practical after the City makes its award of, and executes the contract.

Shared Parking Plan means (1) the September 9, 2004 Technical Memorandum Regarding Parking Needs Assessment and Transportation Demand Management by Kittelson & Associates explaining how parking can be efficiently and safely allocated among the stalls located in various parking areas within the River's Edge Village PUD and (2) the September 13, 2004 Transportation Management Plan memorandum from Kittelson & Associates explaining the event management and demand management tools available to the City and River's Edge (Exhibit A-7).

Street and Bridge Improvements means the following improvements: the New Mt. Washington Drive Bridge structure; the highway improvements at the intersection of Business Highway 97 and Mt. Washington Drive, including a new southbound right-turn lane; the pedestrian pathways under and adjacent to the New Mt. Washington Drive Bridge that will provide pedestrian connectivity between the existing Riverhouse Hotel, the BMPRD trail, and the proposed meeting facility; the improvements required for the Drainage Easement, including the possibility of constructing an 8,400 cubic foot drainage pond, if the condition stated in Section 4.2 occurs; the improvements required to convert the Existing Bridge to a pedestrian pathway; and repairs to any existing improvements at the Riverhouse Hotel and the River's Edge office building such as the monument signs, parking lots and relocated ingress and egress points on Mt. Washington Drive from the East parking lot of the existing Riverhouse Hotel, and landscaping to the extent that any of the above are physically

damaged during the City's construction of the other components of the Street and Bridge Improvements; slope mitigation and appropriate landscaping.

Recitals:

The River's Edge Village 2004 PUD encompasses a major portion of the eastern face of Awbrey Butte, and has been approved by the City in various land use decisions as a Planned Unit Development, with various revisions and successive approvals from time to time, which are set forth in Exhibit A-6. In connection with satisfying conditions of the land use decisions allowing the development of the River's Edge Village 2004 PUD, River's Edge has installed utilities, dedicated open space and park trail easements, dedicated rights of way and constructed substantial portions of Mt. Washington Drive, a portion of Todd's Crest Drive, the Existing Mt. Washington Drive Bridge and the traffic signal at Mt. Washington Drive and Business 97.

Mt. Washington Drive is an essential east-west link in the City's Transportation System. The City is required to improve the Mt. Washington Bridge and corridor in order to comply with its Transportation System Plan and state law requiring cities to provide safe and efficient public transportation systems. The City must now acquire additional rights of way from River's Edge in order to facilitate the Street and Bridge Improvements inasmuch as River's Edge currently holds title to the Existing Bridge and the real property on both sides of the Deschutes River adjacent to the Existing Bridge in the location of the New Mt. Washington Drive Bridge and real property adjacent to Business 97 in the location of some of the Street and Bridge Improvements.

The City desires to commence by March 2005, and expeditiously complete construction of the Street and Bridge Improvements during the winter of 2005, and to this end to proceed immediately with the acquisition of additional rights of way, staging areas, easements and other accommodations from River's Edge for the Street and Bridge Improvements; to commence design work for the Street and Bridge Improvements; to acquire from River's Edge title to the Existing Bridge; and to acquire from River's Edge various utility easements across the River's Edge Property. The City also desires to facilitate the acquisition from River's Edge, and in favor of the Bend Parks and Recreational District, additional easements for the Deschutes River Trail that will allow existing portions of the Deschutes River Trail to be connected so as to create a continuous "river" trail from downtown Bend to Sawyer's Park. In addition, the City enters into this Agreement to obtain the community-wide benefit of a privately funded state-of-the art convention center and meeting facility.

River's Edge desires to obtain, as soon as possible, the City's approval of modifications to the PUD Master Plan in the areas that are directly affected by the New Mt. Washington Drive Bridge and to definitively establish and discharge all of its planning obligations for the development that falls within the Deschutes River corridor. River's Edge also desires to obtain assurances about the current status of all of its infrastructure obligations (*i.e.*, its obligations to provide to the City a roughly proportional share of the infrastructure burdened by the development) in the entire River's Edge Village 2004 PUD, so that River's

Edge can proceed with applications for Permits for the Remaining Development within the River's Edge Village 2004 PUD.

The Parties desire to settle litigation filed by River's Edge in Deschutes County Circuit Court Case No. 03CV0652MA against the City alleging that River's Edge has a vested right to proceed with development of the River's Edge property with no further exactions.

The Parties understand that negotiating settlement terms or conditions of approval in the variety of Permits that would be necessary to encompass all the elements mentioned above and that would be completed in a timeline sufficient to meet the City's schedule for constructing the Street and Bridge Improvements in 2005 would be unlikely without a collaborative approach. City Staff and River's Edge have therefore negotiated a Memorandum of Understanding. The Memorandum of Understanding identifies the major tasks that must be resolved in the course of negotiating a Development Agreement for presentation to the Council and sets certain parameters for the negotiations, such as disavowing any partnership between the parties and stating that any tentative agreement must be presented to the Council for consideration as a land use decision with all the appropriate procedural safeguards.

The City is willing to enter into this Agreement for the purposes of obtaining the significant public benefits associated with timely construction of the Street and Bridge Improvements and completion of the dedications for the Deschutes River Trail, and to conclude all the controversies (including but not limited to the litigation mentioned above) with respect to infrastructure contributions by River's Edge and approval of the 2004 Master Plan Amendments. In addition, the City enters into this Agreement to obtain the community-wide benefit of a privately funded state-of-the art convention center and meeting facility.

River's Edge is willing to enter into this Agreement for the following purposes: obtaining the Permits for the 2004 Master Plan Amendments; obtaining an acknowledgment that it has satisfied its obligations to pay its roughly proportional share of traffic, sewer, water, trail dedications associated with the Deschutes River Corridor Design Review Zone, and other infrastructure improvements for the River's Edge Village 2004 PUD up to the Maximum Density; and obtaining an acknowledgment that adequate infrastructure capacity is now available and no future exactions will be required by the City for the infrastructure items covered by this Agreement during the Term as long as the River's Edge Village 2004 PUD does not exceed the Maximum Density.

The Parties also understand that the City needs immediate assurances from River's Edge that it will dedicate portions of its PUD property when needed, and, notwithstanding that the 2004 Master Plan Amendments are still in the planning process, the actual construction of the Street and Bridge Improvements could materially affect the design and the cost of the 2004 Master Plan Amendments, the existing Riverhouse Hotel and the existing River's Edge office building in ways that may not be known until after the Date of Adoption. In order to induce River's Edge to make the dedications and other concessions required by this Agreement, the City is willing to protect River's Edge from material

impairment of its ability to complete the 2004 Master Plan Amendments by agreeing to extend the Term in the event of an appeal by a third party or to renegotiate the terms and conditions of this Agreement if it fails to achieve the purposes stated in the Recitals. River's Edge is willing to make the dedications and other concessions requested by the City for construction of the Street and Bridge Improvements, and to make other accommodations immediately for the benefit of the City, but only to the extent that the City is willing to protect River's Edge from the potentially damaging consequences of these concessions on River's Edge's ability to obtain Permits for the 2004 Master Plan Amendments.

Agreement:

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein, the Parties agree as follows:

1. **Term of Agreement; Vesting of Development Rights.** The term (the "Term") of this Agreement shall commence on the Date of Adoption, and shall continue for a period of seven (7) years unless terminated sooner in accordance with the provisions of this Agreement. The development rights conferred by this Agreement shall be fully vested for the Term, and shall expire upon expiration of this Agreement. Nothing in this Agreement limits use of any of the Property for other lawful purposes, so long as any required Permits are obtained. The Term may be extended pursuant to Section 12.

2. **Duty to Cooperate.** Execution of this Agreement represents each Party's acceptance of the purposes stated in the Recitals and the ways and means of effecting those purposes. Each Party shall cooperate with the other Party in obtaining Permits and in constructing the various components of the Proposed Development that are the responsibility of that Party. The Parties shall also consult with one another in good faith about any code interpretations or code revisions that may become necessary or desirable to implement this Agreement or to further the purposes of this Agreement. The Parties shall also cooperate fully in the defense of this Agreement.

3. **Stay of Litigation.** The Parties shall execute contemporaneously herewith, and shall contemporaneously file in the Deschutes County Circuit Court, the form of Stipulation in Exhibit A-8, staying the lawsuit filed by River's Edge against the City in Deschutes County Circuit Court, Case #03CV0652MA, and requiring dismissal with prejudice within 60 days of the Final Approval of this Agreement.

4. **The Street and Bridge Improvements.**

4.1 The City shall promptly and expeditiously design, apply for all Permits for, and shall construct the Street and Bridge Improvements at its sole cost and expense and according to the Schedule. In the event that the City or ODOT attempt to eliminate in the future the existing access point on Mt. Washington Drive into the upper parking lot of the Riverhouse Hotel ("the access point") or the proposed U-turn movement on Mt. Washington Drive ("the U-turn") the City shall design and construct an equivalent traffic improvement, so that Riverhouse hotel, conference, and Crossing's restaurant guests are not forced to drive onto Business Highway 97 in order to travel between the east and west banks of the Deschutes River and so that Riverhouse patrons will be able to proceed East on Mt. Washington Drive after making the U-turn; and so that the tenants of the River's Edge's office building and patrons traveling westbound on Mr. Washington Drive are able to access the building after making the U-turn and proceeding eastbound on Mt. Washington Drive. Provided, however, that the City shall be relieved of this obligation to provide alternate access in the event that the U-turn and the access point are explicitly prohibited by a future state or federal law; or in the event that the City Engineer determines in the exercise of his or her professional judgment, and based upon traffic accident data from the U-turn, that the traffic movements at

the U-turn is a significant safety problem and that there is no less restrictive alternative other than closing the U-turn. Prior to taking action to close the U-turn, the City Engineer shall first give notice to River's Edge of its desire to do so, and shall retain Kittelson and Associates or other traffic engineering firm with an equivalent level of expertise, as the Parties may agree, to conduct a peer review of the City Engineer's tentative professional opinion that a significant problem exists and that there is no less restrictive alternative. If the result of the peer review is an agreement between the peer review firm and the City Engineer, the U-turn shall be removed. If there is a difference of opinion between the peer review firm and the City Engineer, the City shall not eliminate the U-turn. This process may continue not more frequently than every two (2) years. The City also covenants that the construction of the Street and Bridge Improvements will not be used by the City as a justification to remove the existing pole-mounted sign, and to require that any replacement sign comply with the more restrictive standards of the City Sign Code.

4.2 The City's obligation as to the drainage system shall be as follows: (a) to build the conveyance piping from the City right of way to the pond with the necessary-sized pipe not to exceed 30" to meet the needs of both parties for the Rivers Edge 2004 PUD and the Street and Bridge Improvements; and (b) to build the 8,400 cubic foot drainage retention pond ("the pond"), but only if construction of the pond has not been commenced by River's Edge sufficiently in advance of the date the City estimates the pond will be needed for operation of the Street and Bridge Improvements for the City to be certain the pond will be completed on time. In that event, the City shall give notice to River's Edge of its intent to construct the pond, and River's Edge shall, if requested by the City, execute a license or right of entry to allow the City access to River's Edge's property to construct the pond, at no cost to the City and upon commercially terms, such as the City undertaking responsibility for any construction-related risks, maintaining adequate levels of liability insurance against such risks and naming River's Edge as an additional insured under such policies.

4.3 In the event that the construction of the Bridge and Street Improvements requirements modifications to the access to the existing Rivers Edge Office Building south of Mount Washington Drive and east of the river, the City shall contribute one-half of the cost of such modifications not to exceed the sum of $50,000.

4.4 The Street and Bridge Improvements call for the City, at its sole cost and expense, to move the existing driveway access for the Riverhouse Hotel on Mt. Washington Drive further to the West, and to allow right-in, right-out and left-in turning movements with respect to Mt. Washington Drive. The location of the new access point may be further modified in design refinements by the City, but in no instance shall the design refinements cause the new access point to be located closer than 150 feet from the existing centerline of Highway 20 at the intersection of Mt. Washington Drive and Highway 20 as reflected in the Conceptual Design for the Bridge and Street Improvements.

River's Edge is considering whether the new access point should be moved further to the West on Mt. Washington Drive ("the Optional Western Location"), and has engaged the City staff in discussions about the advantages and potential cost of this change. The City is prepared to file its application for land use approval for the bridge. In that regard, a pre-

application meeting has been scheduled for November 8, 2004. If Rivers Edge desires to include the proposed Optional Western Location in the City's application, Rivers Edge shall no later than November 5, 2004, provide to the City an engineered conceptual design reviewed by its traffic engineers of the Optional Western Location in order for the City's to include the Optional Western Location in the City's application. In the event that this time frame is not met, Rivers Edge may in the future apply for the relocation of the access, and the City shall not oppose the request provided that engineering and traffic safety requirements are equal to or better than the city provided access.

In the event that the Optional Western Location is included in the application and the design has been engineered and supported by Rivers Edge's traffic engineers, the City shall make its best efforts to obtain land use approval for the Optional Western Location; however, Rivers Edge shall be obligated to provide evidentiary support for the location.— Promptly upon awarding the construction contract for the Street and Bridge Improvements, the City shall provide River's Edge with a schedule that contains a date for the commencement of construction to enable Rivers Edge to negotiate a separate agreement with the Contractor for the construction of the Optional Western Location.

River's Edge may at its sole expense, but shall not be required to, construct the Optional Western Location during the construction of the Street and Bridge Improvements or at a later date, in a way that does not interfere with, increase the cost of, or delay the Street and Bridge Improvements.

The Optional Western Location shall retain the same range of turning movements with respect to Mt. Washington Drive, namely, right-in, right-out, and left-in.

5. **Dedications and Vacations.**

5.1. **Escrow Deposits by River's Edge**. River's Edge shall fully and properly execute and place into escrow with the Ameritite Office, 15 Oregon Avenue, Bend, Oregon, prior to the City Council's second reading of the Ordinance (Exhibit A-2) adopting the 2004 PUD Master Plan Amendments ("the Ordinance"):

5.1.1. A License and Right of Entry in favor of the City with respect to all property, access to which may be temporarily required for construction of the Street and Bridge Improvements ("the Staging Areas"), in the form set forth in Exhibit A-9.

5.1.2. Nonexclusive Easements in favor of the City allowing the City to operate and maintain (a) the water and sewer lines that cross the Deschutes River (b) the existing sewer pump station, and (c) the Drainage Easement, in the forms set forth in Exhibit A-11, A-12 and A-13.

5.1.3. A right of way dedication in favor of the City for a right turn lane from southbound Business 97 onto westbound Mount Washington Drive (Right of Way Dedication) in the form set forth in Exhibit A-14.

5.1.4. A Deed to the real property to be occupied by the New Mt. Washington Drive Bridge in the form set forth in Exhibit A-15.

5.1.5. A Nonexclusive Pedestrian Easement in favor of the Bend Park and Recreation District Board ("BMPRD")") and a nonexclusive Conservation Easement, for additions to the Deschutes River Trail system, as set forth in Exhibits A-16-A and A-16-B.

5.1.6. A non-exclusive Slope Easement for the areas on the southeastern and southwestern base of the bridge, as described in Exhibit A-10.

5.1.7. Additional water rights to be added to minimum stream flows in the Deschutes River, in the form set forth in Exhibit ____A Transfer of thirteen (13) acres of Water Rights to the City, which water rights do not contain any restrictions against transfers for mitigation, in the form set forth in Exhibit A-24.

5.1.8. A Deed in favor of the City or ODOT, as the City and ODOT may decide, for the southbound right-turn lane from Business 97 onto Mount Washington Drive, as more particularly described in the ODOT MOU.

5.2 **Rights of Way Vacations by the City**. The City shall draft and deposit in escrow a copy of a form of Ordinance and legal descriptions to vacate: (a) the undeveloped right of way dedicated to the City by River's Edge on the approximately 22.84 acres on the west bank of the Deschutes River, as described in the Intent to Rezone and adopting ordinance (Exhibit A-17), and (b) any existing right of way for the Street and Bridge Improvements that is not included in the final design of the publicly owned portions of the Street and Bridge Improvements or is not actually occupied by public improvements following completion of construction (c) existing right of way for the Existing Bridge.

5.3 **Escrow Instructions.** The parties shall fully execute and deposit with the escrow agent instructions authorizing and directing the escrow agent to release the from escrow of the documents named below to the City, ODOT, or BMPRD, as the case may be, on the following dates specified below:

5.3.1 Upon receipt of a certified copy of the fully-executed Ordinance from the City Recorder: the License and Right of Entry for the Staging Areas (Exhibit A-9); the Deed to the real property for the New Mt. Washington Drive Bridge (Exhibit A-15) the Deed to the southbound right-turn lane from Business 97 onto Mount Washington Drive described in the ODOT MOU; the Drainage Easement (Exhibit A-13); the Right-of-Way Dedication (Exhibit A-14); and the Slope Easement (Exhibit A-10). These real estate interests are conveyed to the City

and may be retained by the City independent of any legal challenges to this Agreement and the City obligation to build the Street and Bridge Improvements shall be independent of any legal challenges to this Agreement.

5.3.2 Upon Final Approval of this Agreement by the Land Use Board of Appeals: the Water and Sewer Line Easement (Exhibit A-11); the Sewer Pump Station Easement (Exhibit A-12); the Pedestrian Easement and the Conservation Easement (Exhibits A-16-A and A-16-B); and the Transfer of Additional Water Rights (Exhibit A-24).

5.4 Vacations by the City and Reconciliation Amendments by River's Edge. Upon the City's completion of construction of the Street and Bridge Improvements, and final inspection and acceptance by the City and ODOT, the City shall, at the next regularly scheduled City Council meeting, initiate the process for adoption of the ordinance vacating the rights of way described above in Section 5.2, together with any corrections to the legal description of the rights of way that may be necessary following construction and the preparation of "as built" drawings for the Street and Bridge Improvements, and proceed with the normal process to a final decision. River's Edge shall promptly thereafter, amend its land use applications with the City for the 2004 Master Plan Amendments to the extent necessary to include within the boundary of the PUD any additional real property arising that may become available to an abutting property owner out of these vacations or the vacations described in Section 5.2 above.

6 Infrastructure Contributions for the Proposed Development. The City's construction of the Street and Bridge Improvements and the public utilities to be provided by River's Edge in the 2004 Master Plan Amendments satisfy the obligations of the City and River's Edge to provide their pro rata share of the public improvements associated with the Proposed Development.

7 Vesting of Development Rights for River's Edge Village 2004 PUD up to the Maximum Density.

7.1 The City shall not require any additional off-site transportation mitigation measures or street exactions pursuant to Street Policy 6 or any other land use ordinance or policy, unless River's Edge applies for, and the City approves, modifications to the River's Edge Village 2004 PUD that would increase the total number of Peak Hour Trips beyond the total number of trips in the Maximum Density, in which case, the development that exceeds the Maximum Density may be subject to additional transportation-related exactions.

7.2 River's Edge shall provide additional mitigation for sewer-related impacts by granting the sewer easements to the City (Exhibits A-11, A-12 and A-19). The Sewer Easements, together with prior dedications, satisfies River's Edge's obligation to provide sewer impact mitigation in connection with the Maximum Density, expressed

as Equivalent Residential Units ("ERUs"). The City shall require no other sewer-related exactions as a condition of approval, unless River's Edge applies for, and the City approves, modifications to the River's Edge Village 2004 PUD that would increase the total number of ERUs beyond the total number of ERUs in the Maximum Density, in which case, the development that exceeds the Maximum Density may be subject to additional sewer-related exactions.

7.3 Water supply volume and pressure requirements to serve the River's Edge Village 2004 PUD have been satisfied by dedication, and no further improvements or charges shall be assessed or exacted as a condition of approval, unless River's Edge applies for, and the City approves, modifications to the River's Edge Village 2004 PUD that would increase the total number of ERUs beyond the total number of hookups in the Maximum Density, in which case, the development that exceeds the Maximum Density may be subject to additional water-related exactions.

7.4 Other than as specified in this Agreement, there shall be no additional dedications for public use of land or rights-of-way taken as exactions in any City Permit or on account of any component of the Proposed Development. The City's commitment herein does not extend to exactions that might be required by Third Party governmental entities such as the Oregon Department of Transportation or the Bend Metro Parks and Recreation District.

7.5 The provisions of sections 7.1, 7.2 and 7.3 (which vest development rights for the term of this Agreement up to the Maximum Density) do not relieve River's Edge from any responsibility it may otherwise have to third parties with respect to private utility facilities, such as private streets, sewer lines and water lines, that serve all or any portion of the privately owned real property within the River's Edge Village 2004 PUD.

8 **Land Use Approvals for 2004 Master Plan Amendments.** The following land use issues are resolved by this Agreement:

8.3 River's Edge's applications for the 2004 Master Plan Amendments are approved as satisfying the applicable standards of City ordinances, as discussed more definitively in those land use decisions approved in the Ordinance and supported by the attached Findings. Minor alterations, if any, in substantial conformance with the site plan approval and partial site plan approval that will be granted as part of the 2004 Master Plan Amendments shall be approved through a Type II process, provided the total square footage of all the building envelopes within the Deschutes River Corridor does not increase over the total square footage approved as part of the 2004 Master Plan Amendments, and provided further that no building is located closer than 50 feet from the ordinary high water mark of the Deschutes River. As more fully articulated in the conditions of approval of the 2004 Master Plan Amendments: (1) the meeting facility will be constructed first, and River's Edge will not be entitled to obtain building permits for the hotel rooms or condominiums until it has obtained a Certificate of Occupancy for the

meeting facility; and (2) River's Edge will not be entitled to obtain building permits until the transfer documents for the 13 acres of water rights described in Section 5.1.7 above have been fully executed.

8.4 The City interprets Section 15 of the Zoning Ordinance to the effect that a meeting facility or convention center that is included with a hotel is a use allowed outright in the CL zone.

8.5 The Proposed Development within 100 feet of the Deschutes River satisfies all the approval standards for the Deschutes River Corridor Design Review including protection of aquatic and riparian habitat, enhancement of the riparian area and provisions of open space within the Deschutes River Corridor Design Review Combining Zone.

8.6 The City interprets Section 24 of the Zoning Code to the effect that the number of parking spaces to be provided for the 2004 Master Plan Amendments satisfies the applicable approval standard.

8.7 The scrivener's error on the Zoning Map in the legal description of the RS portion of the River's Edge property is corrected and the Zoning Map is amended to show this property as CL by adoption of an Ordinance in the form of Exhibit A-21.

9 **Areas for Remaining Development**. The 2004 Master Plan Amendments contain a variety of undeveloped areas referred to collectively herein as "Remaining Development." River's Edge is currently engaged in the conceptual design with respect to the Remaining Development, and there have been no City approvals with respect to the Remaining Development other than a determination by the City that no further street, water, sewer and park trail exactions are due from River's Edge to the extent that the Maximum Density is not exceeded. Within the Term of this Agreement the Parties shall continue with the collaborative approach used in the Memorandum of Understanding to complete the planning required for the Remaining Development and River's Edge shall file with the City an application for a Refinement Plan for these areas.

10 **Conditions Precedent to Parties' Obligations.**

10.1 Conditions Precedent to River Edge's Performance.

10.1.1 City Staff shall have completed its conceptual design of the New Mt. Washington Drive Bridge substantially in accordance with the description in Section 4 and Exhibit A-4, shall have published its Request for Proposals for the construction contract for the New Mt. Washington Drive Bridge, and shall have provided to River's Edge legal descriptions of all the real property interests described in Section 5, above, that will be conveyed by River's Edge to the City in connection with the Street and Bridge Improvements.

10.1.2 City Staff shall have approved or recommended approval by the Council of the Traffic Impact Analysis for the 2004 Master Plan Amendments and the Shared Parking Plan submitted by River's Edge.

10.1.3 City Staff shall have approved the Site Plan for the 2004 Master Plan Amendments in accordance with applicable provisions of the City Code.

10.1.4 City Staff shall have recommended approval of the 2004 Master Plan Amendments and all other land use decisions applied for by River's Edge (included in Exhibit A-1) in a staff report that is substantially ready to be transmitted to the City Council.

10.1.5 The Bend Metro Park and Recreation District Board shall have approved a Pedestrian Easement and the Conservation Easement attached as Exhibits A-16-A and A-16-B.

10.1.6 The City shall not have adopted any Code amendments or interpretations that would materially and adversely affect or increase the cost of obtaining any of the Permits required to complete any component of the Proposed Development.

10.1.7 The Oregon Department of Transportation shall have approved the Traffic Impact Analysis for the 2004 Master Plan Amendment submitted by Kittelson & Associates on behalf of River's Edge and shall have approved through the ODOT MOU, the Parties' access mitigation proposal to mitigate the items noted in the Traffic Impact Analysis.

10.2 **Conditions Precedent to City's Performance**.

10.2.6 River's Edge shall have executed and placed in escrow, with appropriate escrow instructions all the documents described in Section 5, above.

10.2.7 River's Edge shall have filed with the City its Application for Approval of the 2004 Master Plan Amendments, which shall have been deemed complete by City Staff under ORS 227.178.

10.3 **Effect of Conditions**. If the Conditions that benefit that Party have been satisfied or waived within the dates specified herein, the Party shall be obligated to proceed in accordance with the terms of this Agreement. If a condition benefiting a Party is not fulfilled by the date specified herein, the affected Party may elect to (1) terminate this Agreement, which termination shall become effective sixty (60) days after the notice of termination is sent unless, before the sixty (60) day period ends, the condition is satisfied or the notice of termination is revoked in writing, which notice of revocation may not itself be revoked; (2) waive the benefit of that condition to its obligation to

perform under this Agreement, and proceed in accordance with this Agreement; or (3) extend the date for satisfaction of that condition provided the other Party agrees to the extension, and, if the Party does not agree to the extension, such disagreement shall constitute the termination of this Agreement.

11 **Fees and Charges.** River's Edge and the City shall each pay the filing fees and charges in effect at the time any land use or other applications are filed with the City. When building permit applications are filed for all or any portion of the Proposed Development, the applicant shall pay and the City shall collect the System Development Charges ("SDC") in effect at the time of each application.

12 **Reasonable Extensions of Time.** The Parties acknowledge that this Agreement may be subject to objections, appeals or other litigation by third parties that could interfere with Final Approval of this Agreement or performance of a Party's obligations hereunder. If such an event occurs, the Parties shall negotiate in good faith an extension of the Term of this Agreement to assure that each party has a full seven (7) year period following the Date of Adoption to perform its obligations under this Agreement. At no time shall the Term exceed ten (10) years from the Date of Adoption. The construction of all Proposed Development shall be completed within the applicable periods in the City Codes in effect at the time that the land use permits and building permits for the particular improvement are granted.

13 **Assumptions Relating to City's Ability to Serve Development.**

13.1 ORS Section 94.504(6) requires that a Development Agreement state the assumptions underlying the Agreement that relate to the ability of the City to serve the development.

13.2 The Recitals are included in the assumptions underlying this Agreement.

13.3 The Parties operate under the assumption that construction of the Proposed Development substantially in accordance with this Agreement will provide adequate off-site transportation infrastructure and facilities, and that the infrastructure obligation of the River's Edge Village 2004 PUD is fully discharged and vested up to the Maximum Density for the Term. The adequacy of transportation facilities is determined with reference to the standards in effect as of the Date of Adoption.

14 **Continuing Effect of Agreement**.

14.1 In case of any change in regional policy, federal or state law, or in the event of an adverse administrative agency decision, LUBA opinion and order, appellate judgment, or other event that delays, or renders performance or compliance with, this Agreement materially more difficult or expensive, or impossible or unlawful, the Parties shall

immediately make best efforts either to give effect to the remainder of the Agreement, or to renegotiate the terms of the Agreement so that the purposes set forth in the Recitals can be accomplished, but only if doing so does not prejudice the substantial rights of either Party under the Agreement. By way of illustration, if an appeal were filed against the Development Agreement that resulted in a reversal or remand, in whole or in part, or if litigation were filed or pursued by third parties that had a similar effect, the Parties would negotiate in good faith the best means to obtain Permits for each and every component of the Proposed Development. This might involve amendments to the City's comprehensive plan and zoning ordinances, additional land use applications, additional land use procedures, or the use of alternative dispute resolution services, such as mediation, arbitration or the like.

14.2 If any of the events mentioned in Section 14.1 above occur, either Party may give notice to the other Party, and the Parties shall commence and diligently pursue negotiations to resolve the problems identified in the notice.

14.3 If the Parties fail to agree to an amended Agreement within thirty (30) days of the commencement of negotiations, either Party may request that Rick Isham, Jacob Tanzer or other qualified member of the Oregon State Bar with experience in land use law or alternative dispute resolution be appointed as an arbitrator or mediator, as the Parties may decide, to determine an equitable effect for the remainder of the Agreement or to amend the Agreement. If Rick Isham or Jacob Tanzer is not available, and the Parties cannot agree on the selection of an arbitrator or mediator, then the arbitrator or mediator shall be selected by the Presiding Judge of the Circuit Court, Deschutes County, Oregon.

15 Future Discretionary Approvals.

15.1 The Parties shall cooperate with one another in securing all Permits for the Proposed Development needed from entities other than the City.

15.2 This Agreement shall not be construed to limit the discretion of the City or of any of its officers or officials with regard to building permit approvals, inspections and other decisions of a similar character which require the exercise of discretion by the City or any of its officers or officials, *provided that* subsequent ministerial activities by City Staff shall not prevent completion of any condition of any Permit or construction of any component of the Proposed Development in substantial conformance with the terms and conditions of this Agreement.

16 Reasonable Modifications. Reasonable modifications or refinements to individual components of the Planned Development shall be allowed, consistent with the terms of this Agreement, provided the applicant for any such change or refinement first consults with the other Party over the impact the proposed change may have on the other Party, in the same manner as described in Section 23, provided the other Party agrees to the changes, and provided that the applicant for the Permit being modified obtains the Permit. By way of illustration, the City's conceptual design of the New Mt. Washington Drive Bridge has been approved by the Parties, but nonetheless may be

modified as a result of the public bidding process for the construction contract in ways that change minor details of the design. Such changes shall be discussed between the Parties to be certain that the changes do not materially affect the existing Riverhouse buildings, such as the existing motel units on the west side of the Deschutes River and the River's Edge office building, or the design and cost of the meeting facility. These changes may, in turn, require minor changes to legal descriptions of the real property interest to be transferred between the Parties, and may require minor changes to the design of the meeting facility. However, design changes that place the New Mt. Washington Drive Bridge further north on the west side of the Deschutes River or further south on the east side of the Deschutes River, and thus in the same location or within code-required setbacks of the existing buildings or the proposed meeting facility would have a materially adverse impact on these buildings and would not be acceptable to River's Edge.

17 **Compliance Review**. Each Party may call for a meeting to discuss compliance issues, and to the extent requested by the City Council, Staff shall provide a compliance report.

18 **Future Assurances**. Each Party shall promptly execute and deliver such additional documents and shall perform such acts that are reasonably necessary in connection with the performance of their respective obligations under this Agreement.

19 **CEO Meeting**. In the case of a claim of default, which is not cured or being cured in accordance with Section 25, a non-defaulting Party may not file litigation to exercise a remedy unless the non-defaulting Party gives the defaulting Party a notice requesting a meeting between the City Manager on behalf of the City, and the principals of River's Edge, on behalf of River's Edge, and establishing a weekday date for the meeting within not fewer than seven (7) and not more than fourteen (14) days of the date of the notice. The representatives of the Parties shall meet on the day noticed and engage in good faith discussions in an attempt to resolve the claimed event of default. The meeting may be continued until either Party elects not to participate further. If this process does not resolve the claimed breach, each Party shall be entitled to pursue any other remedy pursuant to this Agreement.

20 **Design Coordination**. The Parties recognize that design coordination between the Street and Bridge Improvements and the 2004 Master Plan Amendments is essential. Accordingly, City Staff will administer an informal design coordination process between River's Edge and City Staff, and, at the unanimous election of the Parties, the Parties may invite other interested persons, but only to the extent such persons actively participate and use reasonable efforts to arrive at compatible designs that will not adversely affect the design integrity, function or cost of either the Street and Bridge Improvements or the 2004 Master Plan Amendments. Nothing in this Section 20 shall give any Party, other than the City, the authority to determine the final design for the Street and Bridge Improvements.

21 **Unavoidable Delay**.

21.1 Neither Party shall be considered in default of its obligations under this Agreement due to causes beyond its control (which were not known by the Party asserting the Unavoidable Delay as of the Date of Adoption) and without its fault or negligence, including but not limited to: acts of God, the public enemy, the government, or of the other Party; litigation or appeals filed by third parties which prevent or delay a Party's performance; fires, floods, epidemics, quarantine restrictions, strikes, bid protests, freight embargoes, equipment, facilities, sources of energy, material or supplies in the open market; malicious mischief; condemnation; unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar events and/or occurrences beyond the control of the parties and adverse market conditions (each an "Unavoidable Delay"). Extensions granted pursuant to Paragraph 21 shall not extend the Term of the Agreement, beyond the limits expressed in Paragraph 12.

21.2 If a Party believes that a condition affecting such Party cannot be satisfied by the applicable date due to an Unavoidable Delay, the Party shall give written notice to the other Party identifying with reasonable specificity the cause of the Unavoidable Delay. The scheduled date for the satisfaction of a condition shall be extended for the period of Unavoidable Delay. If a Party does not agree that an Unavoidable Delay exists, the Party shall give notice of its disagreement to the Party claiming that Unavoidable Delay exists and the issue shall be resolved by the arbitration provisions of Section 14.3. If an event of an Unavoidable Delay prevents or is likely to prevent a Party's performance for a period longer than one (1) year, any Party may give notice of its election to initiate negotiations to amend this Agreement. If a Party so elects, the other Party shall participate in such negotiations in good faith and in the spirit of cooperation for a period of at least ninety (90) days. At any time after the ninetieth (90^{th}) day, any Party may elect to terminate negotiations by written notice. In the event neither Party initiates negotiations pursuant to this Section 21.2, then the period of Unavoidable Delay shall end on the last day of the one (1) year period.

21.3 Adverse Market Conditions. The term "adverse market conditions" exists if River's Edge gives written notice to the City that the meeting facility will not be likely to produce a reasonable return on equity, based upon all relevant market factors, including, but not limited to: interest rates, availability of financing and the state of the local economy. Along with the notice, River's Edge shall provide the City with the information that demonstrates the existence of "adverse market condition," and the City will respond by its concurrence or disagreement within thirty (30) days. If the City does not concur, River's Edge may seek the determination by the third party arbitrator pursuant to Section 14.3. A declaration of adverse market conditions shall not relieve River's Edge from the obligation to construct the Meeting Facility prior to constructing the condominium units or hotel rooms, as more particularly specified in the applicable conditions of approval for the South Riverfront area

in substantial conformance with the plans for the Meeting Facility submitted in this Development Agreement process.

22 **Concurrent Construction**.

22.1 If the Parties undertake construction of their respective portions of the Proposed Development at such time and in locations where the construction activities of one may interfere with the construction activities of another, each Party shall take such steps as may be reasonably necessary to avoid interference with the other's activities.

22.2 The Parties shall confer with one another as often as required to establish construction schedules and procedures that will mitigate interference with each other's construction activities.

23 **Prior Review of Permits**. Each Party having a construction obligation under this Agreement shall be solely responsible for obtaining all Permits necessary to construct the project. Each Party shall cooperate with the other Party to facilitate reviews, but the City's cooperation does not guarantee City approval and does not constitute a waiver of the City's regulatory powers. In addition to any other rights of approval specifically stated in this Agreement, each Party shall have the right, but not the obligation to review and comment upon a Permit application of another Party prior to its submission for regulatory review to determine any concerns a Party may have with the application. The Party receiving comments shall consider them in good faith and shall decide how the concerns of the commenting Party can be reasonably addressed.

24 **Notices.** Any notice, demand, request, approval, consent, or other communication (collectively referred to as a "Notice") concerning this Agreement or any matter arising in connection with this Agreement shall be in writing and addressed to the other Party at the address set forth below. Any Notice shall be given by either: (i) personal delivery in which event it shall be deemed given on the date of delivery; or (ii) certified mail return receipt requested in which event it shall be deemed given three (3) business days after the date deposited in any post office, branch post office, or official depository. Any Party may change any address for the delivery of Notice to such Party by giving Notice in accordance with the provisions of this Section. The attorneys for the Parties may give any Notice.

Notice Addresses:

If to River's Edge:

Wayne Purcell
Riverhouse Hotel
3075 N. Business 97
Bend, OR 97701

With a copy to:	Elizabeth A. Dickson Hurley, Lynch & Re, PC 747 SW Mill View Way Bend, OR 97701
If to City:	Bend City Manager City Hall 710 NW Wall Street Bend, OR 97701
With a copy to:	Peter M. Schannauer Forbes & Schannauer, LLP 835 NW Bond Street Bend, OR 97701

25 Default.

25.1 A breach of a material provision of this Agreement, whether by action or inaction of a Party, which continues and is not remedied within thirty (30) days after the other Party has given Notice specifying the breach, shall constitute a default by a Party. If the breach is of such a nature that it cannot reasonably be cured within such thirty (30) day period, the cure period shall be extended to an amount of time that is reasonable but only if the breaching Party promptly commences, and thereafter diligently prosecutes, such cure.

25.2 The exercise by either Party of any one or more of such remedies available to it shall not preclude the exercise by it, at the same or different time, of any other such remedy for the same default or breach or of any of its remedies for any other default or breach by the other Party, including, without limitation, the right to compel specific performance.

26 **Miscellaneous.**

26.1 **Future Appropriations.** Any provision herein that requires the City to expend funds may be contingent upon future appropriations as part of the City budget process. Nothing herein requires the City to appropriate such funds in the future.

26.2 **Waivers.** No covenant, term or condition of this Agreement shall be deemed to have been waived by any Party, unless such waiver is in writing signed by the Party charged with such waiver. Any waiver of any provision of this Agreement, or any right or remedy, given on any one or more occasions shall not be deemed a waiver with respect to any other occasion.

26.3 **Integration.** This Agreement constitutes the entire Agreement between the Parties with respect to the subject matter herein contained and all prior negotiations, discussions, writings and agreements between the Parties with respect to the subject matter herein contained are superseded and of no further force and effect. This Agreement can only be amended or modified in writing signed by both Parties hereto.

26.4 **Counterparts.** This Agreement may be signed in one or more counterparts, each of which shall be an original and all of which, when taken together, shall constitute one and the same instrument.

26.5 **Captions.** The captions contained in this Agreement were inserted for convenience of reference only. They do not in any manner define, limit, or describe the provisions of this Agreement or the intentions of the Parties.

26.6 **Gender/Singular/Plural.** Whenever masculine, feminine, neuter, singular, plural, conjunctive, or disjunctive terms are used in this Agreement, they shall be construed to read in whatever form is appropriate to make this Agreement applicable to both Parties and all circumstances, except where the context of this Agreement clearly dictates otherwise.

26.7 **Severability.** The unenforceability or invalidity of any provisions hereof shall not render any other provision herein contained unenforceable or invalid.

26.8 **Time of Essence.** Time is of the essence of this Agreement.

26.9 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.

26.10 **Mediation/Arbitration.** The Parties will have no requirement to engage in alternative dispute resolution methods to resolve differences regarding matters contained herein, other than the CEO Meetings as specified in Section 19, above or the responses to changed circumstances specified in Section 14, above, but may do so upon agreement.

26.11 **Applicable Codes.** The 2004 Bend Zoning Ordinance No. NS-1178 and the Bend Land Use Review and Procedures Ordinance No. NS-1775 and other related documents in force at the Date of Adoption will govern the Proposed Development to the extent that such provisions are not contained herein. To the extent that any future rules, regulations, ordinances or codes are adopted in any way inconsistent with the uses or Code interpretations approved in this Agreement, the development rights conferred herein, or any other express or implied determinations made herein, this Agreement shall govern, in accordance with the powers granted to such Agreement by ORS 94.518. To the extent that questions may arise regarding the proportionate share of contributions to infrastructure, the provisions of this Agreement shall control,

and this Agreement establishes that River's Edge and the City have provided in each case the Party's proportionate share of the infrastructure needed to offset the impact of the Proposed Development, and in the case of River's Edge, the impact of all the development proposed in the River's Edge Village 2004 PUD, up to the Maximum Density.

26.12 **Exhibits**. The Exhibits attached to this Agreement are fully incorporated into this Agreement where they are first referenced.

26.13 **Assignment of Agreement.** This Agreement shall not be assigned without the written consent of the other Party. Such consent shall not be unreasonably withheld.

26.14 **Recordation of Agreement.** This Agreement shall be recorded in the real property records of Deschutes County. The rights and obligations of this Agreement shall run with the land and shall be binding upon the heirs and successors of the Parties.

26.15 **Lot Releases**. The City shall release developed lots from this Agreement upon the request of River's Edge as and to the extent that all terms and conditions of this Agreement have been satisfied.

IN WITNESS WHEREOF, the Parties have signed this Agreement as of the date set forth in the first paragraph of this Agreement.

RIVER'S EDGE INVESTMENTS, LLC,
an Oregon limited liability company

By: Wayne Purcell
Name: Wayne PURCELL
Title: operating Manager

CITY OF BEND, OREGON, an Oregon municipal corporation

By:
Name: Oran Teater
Title: Mayor

Attest: Patricia S. Stell
Name: PATRICIA S. STELL
Title: City Recorder

ORDINANCE NO. NS-1952

AN ORDINANCE AMENDING THE TEXT WITHIN SECTION 21A OF THE CITY OF BEND ZONING ORDINANCE NS-1178, APPENDING SECTION 21A(5)(P).

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Section 10.10.21A(5)(p) of NS-1178 is hereby amended to read as follows:

(5) Permitted Uses. The following permitted uses are subject to the building and site design standards of subsection (4) of this Section. Permitted uses may be restricted or mitigation measures applied if the use conflicts with existing uses adjacent to the MR zone. Any proposed development that is on property within 100 feet of the ordinary high water mark of the Deschutes River is also subject to the design review standards in Section 22A.

(p) Retail sales and service businesses with less than a total of 15,000 square feet of gross floor area, but excluding the following uses:

(A) Motor vehicle or equipment repair and painting;

(B) Motor vehicle sales or storage;

(C) Veterinary clinics with kennels;

(D) Drive-up windows for motor vehicle service.

(E) Notwithstanding the above, structures in existence at the time of the adoption of Ordinance No. NS-1636 creating the MR Zone that exceed 15,000 square feet may be leased as a single retail sales and service unit regardless of total gross floor area.

Read for the first time the 1st day of December, 2004.

Read for the second time the 15th day of December, 2004.

Placed upon its passage the 15th day of December, 2004.

YES: 7 NO: 0

Authenticated by the Mayor the 15th day of December, 2004.

Oran Teater, Mayor

ATTEST:

~~Patricia Stell~~ Kim Meyers, City of Bend Recorder Deputy

ORDINANCE NO. NS-1953

AN ORDINANCE CLARIFYING THE CITY OF BEND URBAN AREA TRANSPORTATION SYSTEM PLAN, ARTERIAL STREETS POLICY 21 IN RESPONSE TO THE REMAND DECISION OF THE DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

WHEREAS, the Bend City Council adopted the Bend Urban Area Transportation System Plan on October 11, 2000;

WHEREAS, several parties filed objections to the Department of Land Conservation and Development (DLCD) to various portions of the TSP;

WHEREAS, DLCD issued a decision on March 1, 2001, dismissing some objections and sustaining other objections;

WHEREAS, DLCD sustained objections concerning Arterial Policy 21 and directed the City to clarify certain aspects of that Policy;

WHEREAS, it is the desire of City Council to clarify Policy 21 by settling forth the complete analytical framework for the widening decision;

AND WHEREAS, the City Council held public hearings on October 20, 2004 and December 1, 2004, of which public notice was provided, to receive public testimony about the proposed ordinance clarifying;

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION ONE

The Transportation System Plan is amended to include the following text to be added at the end of the introduction to *Section 6.5.1.4 Minor Arterials*, as follows:

Central City - Minor Arterial Street Widening Limitation

Recent transportation and land use studies and reports, such as; the *Newport Avenue Corridor Study*, 2000, and the *Use of Land for Transportation Alternatives* (ULTRA), 2003, [although neither have been officially adopted by the City] have supported the concept of minimizing roadway widening in exchange for preserving specific community qualities. Thus, the studies have advocated the development of transportation corridor improvements that emphasize community and streetscape design that will continue to foster and enable non automobile modes of travel. Simply stated, these studies have concluded that this alternative transportation/land use development scenario may be a more prudent strategy and may actually help reduce the demand on roadway capacity and therefore overcome a need to widen these particular arterial street corridors.

Widening arterial streets, although it may provide important added roadway capacity to serve automobile demand, can have too detrimental of an impact on the neighborhoods that are impacted by the roadway widening. One result of street widening is that it can develop an environment that may be counterproductive to fully developing and realizing the benefits of non automobile alternatives for a specific corridor. Many citizens that have actively participated in public workshops, related to these previously mentioned studies, have indicated that they prefer placing a higher value on preserving the existing character of these neighborhoods and are, for

the most part, willing to endure higher roadway congestion levels and travel delay in exchange for preservation of the affected neighborhoods.

For these reasons, the Bend Transportation System Plan (TSP) seeks to acknowledge specific corridors within unique areas of the central city where the combination of existing land uses; residential, commercial and institutional, and the presence of a well-connected system of local streets and accessways, that provide a diverse range of travel options and mode choices, may make minor arterial roadway widening unnecessary and/or less desirable. Thus, the following minor arterial corridors are identified by the Plan as *"not being authorized for lane expansion"* (unless subsequent study has been supported by an amendment to the Plan to permit the roadway widening, an existing safety issue has been identified and approved by the City Council that will be resolved by a widening project, or the improvement is otherwise exempted by TSP Street Policy 21):

West Central City:

- **NW 14th Street, between Newport and Galveston avenues**
- **NW Newport Avenue, between 14th Street and Wall Street**
- **NW Galveston Avenue, between 14th Street and Riverside Avenue**

Downtown Central City:

- **NW Greenwood Avenue, between Wall Street and the Parkway**
- **NW Riverside Avenue, between Tumalo and Franklin avenues & NW Franklin Avenue, between Wall Street and the Parkway**
- **NW Wall Street, between Greenwood and Franklin avenues & NW Bond Street, between Greenwood and Franklin avenues**

East Central City:

- **NE 8th Street, between Olney/Penn and Franklin avenues**
- **NE Olney Avenue, between 4th and 8th streets**
- **NE Franklin Avenue, between 4th and 11th streets & NE Bear Creek Road (including the 11th St. extension), between Franklin Avenue and 15th Street**

SECTION TWO

The Transportation System Plan - Arterial Street Policy No. 21 is amended to read as follows (Text additions are represented by bold font and deleted text is represented in strike-out font):

Paragraph 1

The City shall ~~implement~~ **evaluate the effect of** transportation demand management (TDM) and transportation system management (TSM) measures ~~prior to major and~~ **that would successfully eliminate or delay the need for** minor arterial street widening beyond ~~three lanes~~ **the existing travel lanes within the twenty-year design life of a proposed roadway project. Transportation system computer modeling is one acceptable evaluation method that can be used to assist in the assessment of forecast travel demand and the associated vehicle travel lane needs.**

Paragraph 2

TDM/TSM measures *as an alternative* to roadway widening: The TDM and TSM measures recommended for implementation, as an alternative to roadway widening, shall be capable of funding and fulfillment within a reasonable time period such that the subject arterial level-of-service shall not diminish below an acceptable adopted City standard.

Paragraph 3

TDM/TSM measures *AND* roadway widening: If **the implementation of** TDM and TSM ~~techniques~~ **measures alone** are determined **to be** insufficient in

~~solving~~ **meeting** the transportation ~~corridor problems~~ **system needs along the subject roadway corridor**, ~~then~~ **the City shall undertake** an evaluation of the consequences that additional roadway widening may have on adjoining neighborhoods ~~versus~~ **as well as** the benefits gained by additional street construction. ~~should be conducted as a part of the determination of need for a road widening project~~.

~~a) *Consequences* may include: reduced crossing comfort and safety for pedestrians and bicyclists, increased traffic noise impacts, residential or business displacements, increased storm water run-off and water quality impacts, the potential for "generated" traffic and the disruption to neighborhood cohesiveness.~~

~~b) *Benefits* may include: improved traffic flow, bicycle and pedestrian improvements, reduced crash potential, reduced traffic diversion to adjacent neighborhood streets and improved air or noise quality (caused by congestion).~~

This evaluation shall include an assessment of the design features and construction options for the road widening project. The design analysis of roadway widening shall consider the impacts on all modes of travel, adjacent affected travel corridors and the impact on properties immediately adjacent to the contemplated road widening. The most effective and appropriate TDM and TSM measures recommended by the evaluation should be implemented either in conjunction with, or before, the road widening project.

Paragraph 4

The City Council shall receive this evaluation report that makes the aforementioned analysis of TDM and TSM measures, and the evaluation of roadway widening design options, prior to considering authorization of proceeding with the road widening project.

Paragraph 5

Minor arterial street corridors shall be designated by City Council as falling into one of three classifications:

a. "Not authorized for lane expansion". These minor arterial corridors are described in the TSP, in Section 6.5.1.4 requiring a TSP amendment before being categorized as "b" or "c" as described below.

b. "Possible lane expansion". These minor arterial corridors are listed in the City's annual Capital Improvement Plan as corridors where additional travel lanes may be necessary within the 20-year planning period. Street corridors in this category may not be programmed for lane expansion in the CIP without City Council authorization.

c. "Probable lane expansion". These minor arterial corridors are listed in the City's annual Capital Improvement Plan as corridors where additional travel lanes are probably going to be necessary within the 20-year planning horizon. Street corridors in this category may not be programmed for lane expansion in the CIP without City Council authorization.

Intersection widening and improvements, that are necessary for vehicle turning lanes or pedestrian safety, are exempt from this policy.

Paragraph 6

Notwithstanding a street's categorization as "possible lane expansion" or "probable lane expansion", the City Council must comply with paragraphs 3 and 4 of Transportation System Plan Arterial Street Policy 21 prior to authorizing a road widening project.

ITEM NO. __

STAFF REPORT

LEGISLATIVE AMENDMENT TO THE BEND AREA GENERAL PLAN AND THE BEND TRANSPORTATION SYSTEM PLAN REVISION OF STREET SYSTEM - POLICY NUMBER 21 (TSP 6.9.6.21)

PROJECT NUMBER: PZ 04-586

DATE OF REPORT: October 7, 2004 [Revised: November 22, 2004]

DATE OF HEARING: October 20, 2004, December 1, 2004

APPLICANT: City of Bend

REQUEST: To clarify the General Plan Text for Chapter 7 - Policy 21 as required by a remand order from the Oregon Department of Land Conservation and Development of the City's Transportation System Plan [TSP], which the City Council had earlier adopted as part of periodic review. The proposed clarification will include an amendment to the General Plan/TSP Text, and adoption of findings and policy language satisfying part of the remand order and Oregon Statewide Planning Goal 12.

PROJECT MANAGER: Rick Root, Transportation Planner

APPLICABLE CRITERIA:

(1) The Bend Area General Plan

(2) Bend Urban Area Transportation System Plan

(3) State of Oregon Transportation Planning Rule - TSP Remand

ATTACHMENT:
Exhibit "A" – Proposed Implementing Ordinance

I. BACKGROUND

A. Origin of Policy 21

In the early 1990s, the City created a Transportation Citizens Advisory Committee (CAC) for the purpose of providing citizen input on the update of the *Bend Urban Area General Plan* and the development of the *Transportation System Plan* (TSP). The CAC first generated the subject *street policy*, in 1997, as part of the update of the General Plan – Transportation Element. The CAC's main concern, at that time, was that *minor arterials* would be widened without a just consideration of the improvement impact on the adjoining neighborhoods and non-motorized user groups. (*The Bend Urban Area Planning Commission later added **"major arterials"** to the policy text during the adoption process of the General Plan.)*

The Transportation CAC was concerned that arterial streets, like Newport Avenue, might end up looking and operating like a Greenwood Avenue. Greenwood Avenue was noted as an (*undesired)* example of creating a wide, multi-lane roadway that bisects neighborhoods, causing difficulties for bicycle and pedestrian use, and would seemingly continue to foster travel reliance via the automobile by providing possibly excessive motor vehicle capacity along arterial roadways. (Noting also; that a specific goal of the State - Transportation Planning Rule, that requires development and adoption of a Transportation System Plan, is to *reduce reliance* on the automobile.)

The CAC struggled with the *exact* language of the policy that would capture their intended meaning - having contemplated various versions of the policy text before finally settling on the current language of the policy. The basic purpose and intent of the policy was to ensure that the City's Capital Improvement Program (CIP) process wouldn't move widening projects (beyond 3 lanes) forward for construction until reasonable amounts of Transportation Demand Management (TDM) and Transportation System Management (TSM) had been implemented, stating further, that project consideration should also be required to analyze the *benefits* as well as the *consequences* of road widening on adjacent neighborhoods prior to widening major and minor arterial roadways. The policy language seemed to address the primary concern of the CAC, at the time, but the committee had very limited discussion on the subject of how the policy would actually be instituted – this was left up to staff to interpret.

Subsequent to the update of the *General Plan* and later the *Transportation System Plan*, citizen appeals (to the State of Oregon Land Use Board of Appeals [LUBA] and the Department of Land Use and Conservation [DLCD]), related to both planning documents, raised questions concerning the interpretation/application of the subject street improvement policy. The most recent series of legal questions have resulted in the City being directed, by a *Remand Order* of the TSP from DLCD, to amend the policy language in order to provide more clarification on implementation, among other issues.

B. Land Use Board of Appeals Review of the Bend Urban Area General Plan Appeal

The State of Oregon, Land Use Board of Appeals, responded to an appeal of the city of Bend's adoption of the *Bend Urban Area General Plan*, adopted by the City Council, in November 1998, by sustaining a number of objections and remanding specific items back to the City for additional work. Most of the petitioner's objections (appeal) were directed at the designation of NE 27th Street as a ***major*** *arterial* and the impact of possible future street widening to properties along the corridor as well as inconsistencies in the plan relative to the policy.

The City addressed these LUBA remanded items, in August 2001, by adopting findings of fact for the remanded items of the appeal of the General Plan [Ordinance NS 1799]. (Note: This action came after the adoption of the Transportation System Plan.) The findings included an item, denoted "K" in the list of findings, designed to address the Arterial Streets Policy 17 issue:

*"**K**. For that segment of NE 27th Street from Forum Drive to Neff Avenue, the City shall place the issue of widening and the design of widening before a hearings officer who will review the widening of that segment consistently with Arterial Streets Policy 17. The hearings officer's decision will be appealable to the City Council."*

The basic purpose of this particular finding was to commit the City to a specific analysis and review process prior to any widening of 27th Street, between Forum Drive and Neff Road, that would address Policy 17 of the General Plan *(the numbering of the policy was subsequently changed, by the adoption of TSP, to Policy 21)*, and make the process subject to review by a hearings officer that could also be appealed to the City Council.

On May 15, 2002, City Council approved proceeding with planning for the 27th Street corridor, "charrette" process, noting that Policy (17) 21 would guide the process and outcome. Subsequently, on October 1, 2003, City Council accepted a Hearings Officer decision that declared that the road project process had fulfilled the necessary consistency with the policy.

C. State of Oregon review of the Transportation System Plan (TSP) Appeal

Periodic Review Task 1, the Bend Urban Area *Transportation System Plan*, was reviewed by the State of Oregon - Department of Land Conservation. This review included input from five (citizen) parties that had "objected" to the City Council approved *Transportation Systems Plan* (adopted on October 11, 2000). On March 1, 2001, DLCD issued an *Action of the Director* letter sustaining some of the objections concerning portions of the plan and *remanded* certain items back to the city for clarification, modification and/or other TSP amendment.

There were about 40 issues, plus many sub parts, identified by the five parties submitting objections. Some 25 of the issues were "sustained" either in whole, or in part, by DLCD for the City to remedy.

In one of the TSP remand items, specifically concerning Policy 21 (TSP: Section 6.9.6.21), DLCD noted, that the TSP had apparent ambiguities and/or conflicts of interpretation of the plan in relation to the policy, also that there were ambiguities of interpreting how to implement the policy. DLCD's review included the following analysis:

TSP Related Citizen Objection

"...designations of five-lane arterials violate the BUATSP policies on major arterials..."* [* BUATSP = Bend Urban Area Transportation System Plan]

DLCD Discussion

"The BUATSP includes a policy to guide the process by which major and minor streets can be widened beyond three lanes. The policy calls for the implementation of transportation demand management (TDM) and transportation system management (TSM) measures prior to widening beyond three lanes. The policy also calls for an evaluation of the consequences that roadway widening may have on adjoining neighborhoods 'as a part of the determination of need' for a road widening project (Policy 6.9.6.21, p. 148).

Simultaneous with the adoption of this policy, the BUATSP has designated several streets as minor or major arterials and plans for these streets to be widened to five lanes. In making these determinations, the alternatives analysis has taken into account the potential for TDM and TSM measures to address congestion issues and, through that analysis, the city has determined that TDM and TSM measures are likely to be insufficient in solving the transportation

corridor problems. However, the BUATSP does not include an evaluation of neighborhood consequences called for in the policy. The BUATSP programs the majority of these widening projects as "far" term priority projects. However, two street links are listed as "near" term priorities and one as an 'intermediate' term priority.

Goal 2 requires comprehensive plans to include implementing measures that are consistent with and adequate to carry out the plan. It appears this policy is some sort of phasing policy that might allow the city to designate a particular street segment as a minor or major arterial now but require the city to conduct a neighborhood impact analysis prior to programming the project in the city's CIP. On the other hand, the policy may only apply to the future designation of major arterials and may not apply to the streets designated as major arterials in the BUATSP.

The policy is somewhat unclear and vague as to how it applies to the designation of certain street segments as minor or major arterials. In addition, it is unclear as to whether this policy applies to streets designated as major arterials in the BUATSP or to the possible designation of major arterials that may occur at some point in the future. Since the policy can be interpreted several ways, the city has an obligation to explain how and when this policy applies, and to what kind of projects it applies. 660-12-0045(1). The policy should specify whether the city can rely on a planning level of detail in terms of TDM and TSM efforts through a modeling effort, or whether the city must actually implement certain types or amounts of TDM and TSM programs prior to widening a street. The policy should also be clear as to what needs to be done before a street is designated as a minor or major arterial versus what needs to be done before a project is programmed for construction. To the extent the neighborhood impact analysis called for in this policy concerns the application of a comprehensive plan or land use regulation and is subject to standards that require interpretation or the exercise of factual, policy or legal judgment, the city is required to provide a review and approval process that is consistent with the project development process outlined in 660-012-0050."

DLCD Conclusion: The department agreed with the objection.

D. Subsequent Policy 21 discussion and actions by the city of Bend

A brief chronological synopsis of previous Bend City Council and Planning Commission discussions/actions on Policy 21 (and the inter-related 27th Street Improvement topic):

1. April 17, 2002
City Council Work Session:
City Council first discussed whether the Street Policy 21 discussion should be a part of the 27th Street Design Charrette topic. Some Councilors wanted to clarify the meaning of the policy *prior* to the beginning of the proposed charrette process. There was considerable discussion regarding the application of the policy relative to the charrette process. There was no closure on the topic at this work session although, there appeared to be some consensus forming over proceeding on two separate *time tracks*; one, moving ahead with the charrette and two, modifying the policy separate from the charrette.

2. May 1, 2002

City Council Work Session:

Discussion continued on both the topic of 27th Street widening and TSP Policy 21. City Council had a lengthy discussion of the intent of the policy as it related to the "implementation" of TDM. Council expressed various interpretations of the degree of TDM implementation intended by the policy. Legal staff advised the City Council that the DLCD Remand (on the TSP) instructed the City to "clarify what was intended by Policy 21". The City Traffic Engineer also provided Council with a summary of TDM measure examples and the steps that the City had taken to implement these measures along the 27th Street corridor. The time ran out at the work session and prevented further discussion on the Policy.

City Council Regular Meeting:

The topic was also on the regular City Council agenda but due to time overruns, it was continued until the next meeting.

3. May 15, 2002

City Council Regular Meeting:

(a) *27th Street Design Charrette*: City Council had a long discussion concerning the relationship of the charrette and the various interpretations of *implementation* called for in Policy 21. No specific action was taken by Council as it relates to interconnecting the two topics. Legal staff indicated that the charrette could proceed without a clarification of the policy. Council also asked about the legal process of amending the TSP and the public process required. Legal staff advised that the TSP must be amended by an Ordinance procedure. Legal staff indicated that there is flexibility in the public process – noting that the issue could be referred to the Planning Commission but it is not necessary. Legal staff also indicated that implementation does not prohibit considering transportation computer modeling. City Council approved the 27th Street charrette project, noting that it should be clear that Policy 21 would guide the process. [City Council later awarded a contract for Facilitation of the 27th Street design charrette, at their 10/2/02 regular meeting.]

(b) *Policy 21*: Legal staff also presented the City Council with the *original policy* AND three possible *rewording alternatives*. City Council, once again, had a long discussion about the meaning of the policy and how the alternatives would address their individual concerns. This agenda item concluded with Council directing staff to proceed with a text amendment to revise Policy 21 per the "Alternative 1" language (presented by legal staff).

4. June 5, 2002

City Council Regular Meeting:

TSP amendment schedule update: Staff noted that the Policy 21 would be separated from the rest of the TSP Remand items and a separate public hearing had been scheduled for the next City Council meeting to make the requested changes to the policy.

5. June 19, 2002

City Council Regular Meeting:

(a) PUBLIC HEARING: On a text amendment to revise the TSP Policy and replace it with the language of "Alternative 1". Public testimony urged the Council to get further input from the Planning Commission. City Council ***continued*** the public hearing until the next meeting.

(b) FIRST READING OF AN ORDINANCE to make the change: Since this item was continued, a First Reading was not held.

6. July 17, 2002

City Council Regular Meeting:

(a) The PUBLIC HEARING was continued and closed. Many testifying urged the City Council to refer this item back to the Planning Commission for more work on refining the text. Legal staff advised Council that the Remand item from DLCD does not require that

it go back to the Planning Commission. Council had a significant amount of discussion on how the policy could be amended. Council passed a motion to remove just the word "major (arterial)" from the policy and directed staff to hold a hearing and first Ordinance reading at the next Council meeting.

(b) FIRST READING OF AN ORDINANCE to make the change. This action did not take place at this meeting and was held over until the next meeting.

7. August 7, 2002
City Council Regular Meeting:
(a) The PUBLIC HEARING was held on the revised policy language (discussed at the last meeting) and the Public Hearing was closed. A long City Council discussion followed concerning policy phrasing and the effect of possible text changes. Two different motions were made by members of the Council and later withdrawn. Legal staff advised the Council that the Ordinance adopted a year ago (in 2001), as a part of the settlement agreement with the Volneys, provided the stipulation that a public process be conducted, prior to widening improvements being completed on 27th Street. Legal staff also noted that Policy 21, as written in the adoption of the 1998 General Plan (then Policy 17), would need to be applied to the 27th Street Project. City Council was divided in their opinions on how to proceed, and as they were unable to reach a consensus on policy wordage revisions, passed a motion that referred the issue back to the Planning Commission for guidance on the DLCD – TSP Remand related to the policy.

(b) FIRST READING OF THE ORDINANCE to make the change: A first reading was not held as a result of referring the item back to the Planning Commission.

8. April 2, 2003
City Council Regular Meeting:
The Policy 21 subject was discussed again. City Council wanted some clarification of the difference between *major* and *minor* arterials. There was continued interest in just removing the term "major" (arterial) from the policy. There was also discussion on 'how and when' TDM and TSM measures are implemented that would be consistent with the intent of the policy. Council passed two separate motions asking that changes be made to the policy; one, to delete the word "major", and two, to add the phrase "or model".

9. October 1, 2003
City Council Regular Meeting:
Hearings Officer Decision: The City Council *accepted* the Hearings Officer Recommendation of Policy 21 *compliance* with respect to the 27th Street project design permitting staff to proceed with the design and construction of the street widening project, from Neff Road to Forum Drive.

10. July 12, 2004
Planning Commission Work Session
Staff provided the Planning Commission with a "rewrite" of Policy 21. As worded, the rewrite is intended to blend both the changes expressed by City Council and *other* staff generated changes that were crafted to help address some of the issues raised by the DLCD Remand of the TSP. Staff advised the Planning Commission that a range of amendment possibilities existed, from simply deleting the policy, to a making simple word changes to a more thorough rewriting of the Policy (per the staff preferred alternative presented to the Commission). It was the consensus of the Planning Commission that *some form* of the policy should be retained in the TSP (as opposed to deleting it altogether) and the only concern that they expressed over the proposed rewrite of the policy was in the last sentence; "that exempts intersections from application of the policy". The Commission's primary concern with this last issue was; the allowance of widening at intersections may automatically set the stage for widening of the roadway link "in-between" widened intersections without consideration of TDM & TSM. Staff advised that the Policy would still apply to the road link in-between the intersections.

11. August 4, 2004

City Council Work Session

Staff provided City Council with an update of the Planning Commission comments (from the July 12, 2004, P.C. meeting) on the latest version of rewording of TSP Policy 21. In brief, the Council generally expressed satisfaction with the Policy, as written, and asked that language be added to strengthen the need to implement those TDM and TSM measures that were determined to be reasonable [the post City Council version of the Policy appears as Exhibit 1.]. City Council was again advised by legal staff that "Periodic Review" items, such as this, did not need to go back before the Planning Commission. In consideration of this advice, City Council asked if staff could schedule a "joint" Planning Commission and City Council public hearing to be held on a final amendment of the Policy that incorporates Council's suggested revisions. Specifically, it was Council's desire to make Policy 21 amendments in advance of the other TSP Remand items.

12. October 20, 2004

City Council Work Session

City Council held a joint work session with the Planning Commission. The Council and Planning Commission had various questions about how the revised policy responds to elements of the TSP Remand and whether, or not, elements of the ULTRA Study had been incorporated into the revised policy language. There was some sentiment that minor arterials should remain no greater than three lanes wide. Council asked for clarification of the Capital Improvement Plan that would imply widening beyond three lanes.

City Council Regular Meeting

(a) A PUBLIC HEARING was held on the revised policy language and the Public Hearing was closed. City Council appointed a sub committee of the Council to work with staff and refine the wording as a result of input received from citizens and come back with a recommendation.

(b) FIRST READING OF AN ORDINANCE to make the change: Since this item would be the subject of a subcommittee discussion with recommendations to follow, a First Reading was not held.

13. November 3, 2004

City Council Regular Meeting

City Council received a report from the Council sub committee regarding the policy. Council had a discussion about the purpose of the policy and a desire to improve the TSP as it relates to minor arterials that would better inform the public about planned widening projects. Council emphasized the desire of identifying three categories of minor arterials; a) not authorized for widening, b) *possible* lane expansion and c) *probable* lane expansion. Council understood that it may be difficult to generate these lists quickly but asked for a list in the TSP that would comply with the first category. It was also understood that the "a" list may be very short, at this point in time. Other more complete lists of minor arterial streets would be identified in the CIP when more time and information would be available to generate a more comprehensive recommendation.

14. November 17, 2004

City Council Regular Meeting

City Council reviewed material regarding the latest series of modifications to the proposed Ordinance. Council was in agreement with the present form of the Policy. A new public hearing would be scheduled on at the next meeting, December 1st, to take testimony on the revised policy and to consider a first reading of the Ordinance.

II. ANALYSIS

A. LOCATION: Proposed amendments to Policy 21 of the General Plan and

Transportation System Plan will generally affect only streets classified as major or minor arterials.

B. PUBLIC NOTICE AND COMMENTS: A notice of the public hearing was published in *The Bend Bulletin* on October 10 and November 21, 2004. Notice was also sent to those parties who had submitted comments to DLCD concerning adoption of the TSP.

C. PROPOSAL DESCRIPTION: To clarify the General Plan text for Chapter 7 – Policy as required by a remand order from the Oregon Department of Land Conservation and Development (DLCD) of the City's *Transportation System Plan* (TSP). Specifically, the amendment includes modification of the text in Section 6.5.1.4 and Street Policy 21 (TSP Section 6.9.6.21) of the TSP which the City Council had earlier adopted as a part of Periodic Review.

D. APPLICABLE CRITERIA:

1. <u>The Bend Area General Plan</u>

Future plan Updates – General Plan Preface: *"The General Plan is a document that changes over time to reflect new information and new directions for the future. Amendments or additions to the General Plan text, exhibits, and policies go through a public hearing and review process before being adopted by the governing bodies. Changes and updates can be generated in at least six ways:*

(Third item) Evaluation of land use topics required to be reviewed under the Oregon Land Conservation and Development Commissions periodic review of the General Plan. The state requires all local plans to be updated periodically to comply with applicable new state laws, administrative rules, or to incorporate new data available to the state."

Finding:
An amendment has been prepared as part of Bend's periodic review of the General Plan, as required by state law. Task 1 of the Periodic Review work program, adopted by the City in October 2000, and later remanded to the City (Remand Order No. 001291), in March 2001, that required the City to review specific elements of the TSP for refinement, amendment and/or clarification. The review of the remanded items <u>related to TSP Policy 21</u> has been carried out and the modified text is summarized in Exhibit A. Adoption of these amendments will complete part of the DLCD remanded issue concerning Task 1 of the Periodic Review Work Program, as it relates to Policy 21, and brings the City into conformance with state statutes and administrative rules as applicable to this issue. (*The other remand issues will be addressed in upcoming General Plan and Transportation System Plan amendments that will be brought to City Council consideration at a later date.*)

2. <u>Bend Urban Area Transportation System Plan</u>

6.9.2 TRANSPORTATION SYSTEM MANAGEMENT
<u>Objectives:</u>
- Provide cost effective transportation improvements and implement strategies that will improve the efficiency and function of existing roadways

6.9.3 TRANSPORTATION DEMAND MANAGEMENT
<u>Objectives:</u>
- To reduce peak hour traffic loading on the roadway system
- To reduce single occupant vehicle travel
- Implementation of a TDM Plan (Central Oregon Commute Options Program) for the City of Bend

Finding:

The Text and Policy revisions will remain consistent with the Transportation System Plan - *Objectives* for Transportation System and Demand Management (TSP SECTIONS 6.9.2 & 6.9.3). It does not diminish City wide TSM or TDM effort rather it reinforces the Plan objectives by requiring more detailed analysis of the affect of implementing these transportation strategies prior to, or in conjunction with, widening of minor arterial roadways.

6.9.6 Street System
Objectives:
- To provide a practical and convenient means of moving people and goods within the urban area that accommodates various transportation modes
- To provide a safe and efficient means to access all parts of the community

General Street Policies
#1 Streets shall be located, designed and constructed to meet their planned function and provide space for adequate planting strips, sidewalks, motor vehicle travel and bike lanes (where appropriate). Specific effort should be made to improve and enhance east-west circulation patterns for all modes of travel throughout the community.

#3 Streets shall be classified and generally located according to the Bend Urban Area - Roadway System Plan (Map Exhibit B), the Street Functional Classification (Table 12), and the Street Grid System (Figure 29). Street right-of-ways and improvements standards shall be developed to meet the needs of the Transportation Plan and Functional Classification System.

Finding:
The revised policy remains consistent with the Street System *Objectives* and General Street *Policies*: #1 & #3 of the Plan (TSP Section 6.9.6 STREET SYSTEM). It excludes certain minor arterial streets from widening and it requires the analysis of contemplated roadway widening (beyond the existing street width) impacts on all modes of travel, affected corridors and properties, including both an evaluation of the consequences and benefits of the roadway widening. Also, this analysis is required to go before the City Council prior to a stipulated road widening project moving forward for improvement.

3. State of Oregon – Transportation Planning Rule (OAR: 660-012)

The State Department of Land Use, Conservation and Development (DLCD) reviewed the City adopted Transportation System Plan for consistency with the Transportation Planning Rule and "remanded" certain items back to the City for additional clarification and amendment.

DLCD Remand Areas of Concern

The following is a detail of the TSP Remand specifically related to Policy 21 which has been divided into sub parts. Each sub part citation from the Remand [*denoted in boxes*] is followed by an analysis of how this amendment addresses the particular issue:

E. Designation of Major Arterials

1. Amend Policy 6.9.6.21 to clarify applicability to streets designated as major arterials in the BUATSP.

a) Provide an evaluation of *neighborhood consequences* called for in the policy (#21).

The policy has been rewritten, and as revised, it no longer requires an *itemized* evaluation of "consequences", rather it calls for an "*analysis of impacts"* report that will be reviewed and considered by City Council prior to authorizing roadway widening beyond the existing street width, with exceptions, as noted in the policy. The purpose of the analysis of impacts of a roadway design is to develop a design that will occur in a sensitive manner that considers all of the impacts associated with a road widening project.

b.1) Clarify Policy #21 and indicate how it applies to the designation of certain street segments as minor or major arterials.

The Policy has been rewritten, and as revised, it no longer applies to MAJOR arterial roadways. As it relates to the designation any arterial street, it is not the intent of *this* policy to determine the location or functional classification designations – other portions of the TSP make these determinations /designations. (If it is determined by future analysis that other arterials need to be designated in the plan, or there is a need to reclassify other roadways, then appropriate amendments to the TSP would be generated.) Also, a specific list of minor arterial streets has been identified in the TSP "*as not authorized for lane expansion*".

b.2) In addition, provide clarity as to whether this policy applies to streets designated as major arterials in the BUATSP or to the possible designation of major arterials that may occur at some point in the future.

The Policy has been rewritten, and as revised, it no longer applies to MAJOR arterial roadways. Policy 21 does not apply to, or regulate, the designation or the determination of the functional classification of other arterial streets. Also, if future arterial streets are deemed necessary, other portions of the TSP provide direction as to the classification or characteristics of roadways and appropriate TSP amendments would be generated to include these subject arterial roadways or designation changes. Policy 21 provides an analytical framework for the decision to widen already designated minor arterial roadways.

b.3) Since the policy can be interpreted several ways, the city has an obligation to explain how and when this policy applies, and to what kind of projects it applies.

The text and Policy have been rewritten to provide clearer interpretation of the meaning as to *how and when* the policy applies, and to *what kind* of projects that it applies.

B.4) The policy should specify whether the city can rely on a planning level of detail in terms of TDM and TSM efforts through a modeling effort, or whether the city must actually implement certain types or amounts of TDM and TSM programs prior to widening a street.

The Policy has been rewritten to provide a clearer interpretation of the meaning as to whether or not the City can rely on a *planning level of detail,* as "computer modeling" is specifically called out as an example of an acceptable planning analysis tool to determine TSM and/or TDM effectiveness.

b.5) The policy should also be clear as to what needs to be done before a street is designated as a minor or major arterial versus what needs to be done before a project is programmed for construction

The Policy has been rewritten and no longer applies to MAJOR arterial roadways. As it relates to the designation of additional system arterials that may be determined necessary, it is not the intent of this policy to provide the direction of the functional classification designations of arterial streets, also it requires that an analysis report be reviewed and considered by City Council prior to roadway widening being authorized beyond the existing street width, with exceptions, as noted.

Finding:
The revised policy has addressed all of the pertinent issues raised in the DLCD Remand of the Bend Urban Area Transportation System Plan; it has provided clarification of the policy by restructured the text and policy to eliminate ambiguities, and it has been revised to apply only to streets classified as minor arterials. It requires the analysis of roadway widening design (beyond the existing street width); the impact on all modes of travel, affected corridors and properties, including both an evaluation of the consequences and benefits of the roadway widening design. Also, a design analysis report is required to go before the City Council for consideration prior to a stipulated roadway project being authorized for widening.

III. CONCLUSION

Based on the Findings of Fact, staff finds that this proposed action satisfies all applicable criteria for amendment of the Bend Area General Plan/Transportation System Plan, and resolves the pertinent elements of the DLCD Remand of the BUATSP regarding Policy 21.

IV. RECOMMENDATION

Staff recommends that the proposed amendments to the BAGP/TSP, Text and Policy 21, as described in, and incorporated within, the Ordinance, attached as Exhibit A, be adopted by the Bend City Council.

SECTION THREE

The City Council adopts this Staff Report and the analysis contained therein.

Read for the first time the 1st day of December, 2004.

Read for the second time the 15th day of December, 2004.

Placed upon its passage the 15th day of December, 2004.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 15TH day of December, 2004.

Oran Teater, Mayor

ATTEST:

~~Patricia Stell~~, City Recorder
Kim Meyers Deputy

ORDINANCE NO. NS-1954

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 (ZONING MAP), BY CHANGING THE ZONING DESIGNATION OF A PARCELS OF LAND AS SHOWN IN EXHIBIT "A" FROM RS, URBAN STANDARD RESIDENTIAL DENSITY, TO RM, URBAN MEDIUM DENSITY AND CH, HIGHWAY COMMERCIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated November 17, 2004 file number PZ-05-483/490.

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 Assessor's Map 18-12-08AB, Tax Lots 301 and 403. as shown in Exhibit "A". The change will be from Urban Standard Residential Density (RS) to Urban Medium Density (RM) and Highway Commercial (CH).

Read for the first time the 15th day of December, 2004.

Read for the second time the 3rd day of January, 2005.

Placed upon its passage the 3rd day of January, 2005.

YES: 7 NO: 0

Authenticated by the Mayor the 3rd day of January, 2005.

Oran Teater, Mayor

ATTEST:

~~Patricia Stell~~, City of Bend Recorder

Kim Meyers Deputy

DO NOT RECORD THIS PAGE

ORDINANCE NO. NS-1955

AN ORDINANCE VACATING PORTIONS OF THURSTON AVENUE, LAKESIDE PLACE AND THE ALLEY IN BLOCK 55 OF THE FIRST ADDITION TO RIVERSIDE THAT LIES WITHIN SW ¼ OF SE ¼ OF SECTION 29, TOWNSHIP 17 SOUTH, RANGE 12 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on May 21, 2003 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 15th day of December, 2004, 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 subject to the following:

That the petitioner's development Harriman Street PUD (PZ 04-170) satisfies the Hearings Officer conditions of approval to allow the vacation to be concurrent with the replat of the development.

This vacation is hereby made a matter of record.

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

Read for the first time the 15th day of December, 2004.

Read for the second time the ~~19th~~ 3rd day of January, 2005.

Placed upon its passage the ~~19th~~ 3rd day of January, 2005.

Yes: 7 No: 0

Authenticated by the Mayor the 19th day of January, 2004.

Oran Teater, Mayor

ATTEST:

~~Patricia Stell,~~ City Recorder
Kim Meyers, Deputy

Please record pages 1 through 8 of Ordinance NS-1955.
After recording return to: Deputy Recorder, City of Bend, 710 NW Wall
Bend, OR 97701

DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

2005-03740

$66.00

00334335200500037400090097

01/21/2005 02:35:31 PM

D-IPPS Cnt=1 Stn=4
$40.00 $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"

DAVID EVANS
AND ASSOCIATES INC.

RIGHT-OF-WAY VACATION

LAKESIDE PLACE / THURSTON AVENUE

A portion of Lakeside Place and Thurston Avenue to be vacated, located in the southwest one-quarter of the southeast one-quarter of Section 29, Township 17 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, as shown on the attached map and fully described as follows:

Commencing at the northeast corner of said southwest one-quarter of the southeast one-quarter of Section 29; thence along the east boundary of said southeast one-quarter of the southeast one-quarter, South 00°13'00" West 39.02 feet to the northeast corner of Block 56 of the plat of FIRST ADDITION TO RIVERSIDE, said point also being on the south right-of-way of Thurston Avenue; thence leaving said east boundary and along said south right-of-way, West 348.38 feet to a point on the west right-of-way of Harriman Street, and the point of beginning; thence continuing West 51.98 feet to the intersection of said south right-of-way and the southeasterly right-of-way of Lakeside Place; thence leaving said south right-of-way and along said southeasterly right-of-way, 195.57 feet along the arc of a 146.93 foot radius curve left (the long chord of which bears South 51°52'05" West 181.45 feet); thence 283.86 feet along the arc of a 1000.00 foot radius curve right (the long chord of which bears South 21°52'05" West 282.91 feet); thence 58.31 feet along the arc of a 111.36 foot radius curve left (the long chord of which bears South 15°00'00" West 57.64 feet); thence South 7.28 feet to the southwest corner of Block 55 of said FIRST ADDITION TO RIVERSIDE plat; thence leaving said southeasterly right-of-way and along the south boundary of said plat , North 89°58'12" West 60.00 feet to the southeast corner of Block 54 of said plat, said point also being on the northwesterly right-of-way of Lakeside Place; thence leaving said south boundary and along said northwesterly right-of-way, North 7.25 feet; thence 89.72 feet along the arc of a 171.36 foot radius curve right (the long chord of which bears North 15°00'00" East 88.70 feet); thence 405.48 feet along the arc of a 940.00 foot radius curve left (the long chord of which bears North 17°38'33" East 402.34 feet) to a point on the north boundary of said FIRST ADDITION TO RIVERSIDE plat, thence along said north boundary, North 89°58'50" East 68.66 feet to a point on the boundary of the property vacated and described in Volume 210, Page 645 of the Deschutes County Official Records; thence leaving said north boundary and along said 210-R-645 boundary, 9.42 feet along the arc of a 174.13 foot radius curve left (the long chord of which bears South 52°29'12" East 9.41 feet); thence 106.66 feet along the arc of a 206.93 foot radius nontangent curve right (the long chord of which bears North 75°14'00" East 105.48 feet) to a point on the north right-of-way of Thurston Avenue; thence leaving said 210-R-645 boundary and along said north right-of-way, East 51.98 feet; thence South 60.00 feet to the point of beginning. Contains 41,999 square feet.

REGISTERED
PROFESSIONAL
LAND SURVEYOR
James D. Perry
OREGON
JULY 26, 1989
JAMES D. PERRY
2407
RENEWS 12-31-2004

May 2, 2003
P:\CADDPROJ\JAYA0001\LAKE-VAC.doc

Twenty-five years

709 Northwest Wall Street, Suite 102, Bend, Oregon 97701, Telephone: 541.389.7614, Facsimile: 541.389.7620

Exhibit "A"

DAVID EVANS
AND ASSOCIATES INC.

RIGHT-OF-WAY VACATION

15-FOOT WIDE ALLEY

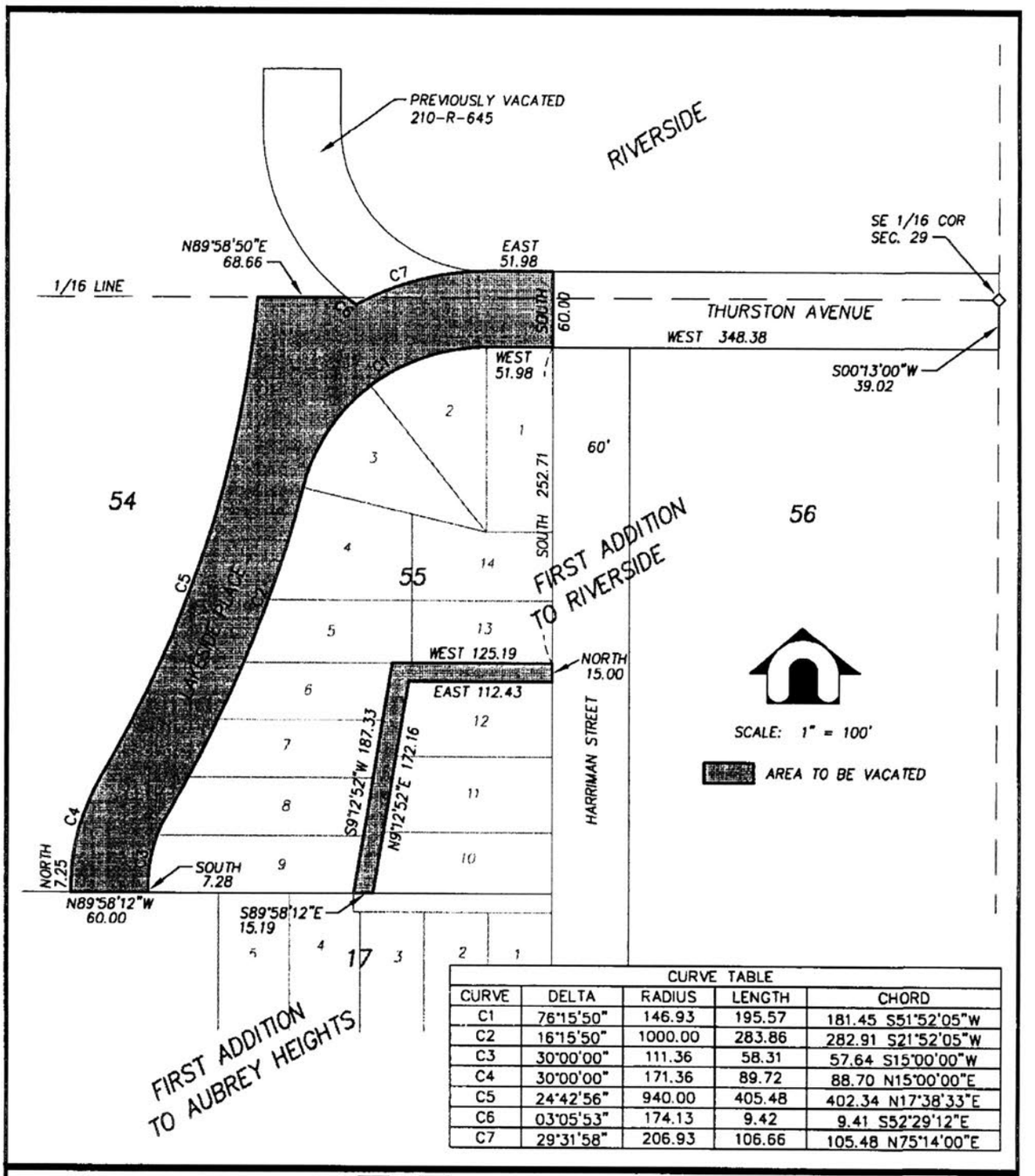
A 15.00-foot wide alley to be vacated, located in the southwest one-quarter of the southeast one-quarter of Section 29, Township 17 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, as shown on the attached map and fully described as follows:

Commencing at the northeast corner of said southwest one-quarter of the southeast one-quarter of Section 29; thence along the east boundary of said southeast one-quarter of the southeast one-quarter, South 00°13'00" West 39.02 feet to the northeast corner of Block 56 of the plat of FIRST ADDITION TO RIVERSIDE, said point also being on the south right-of-way of Thurston Avenue; thence leaving said east boundary and along said south right-of-way, West 348.38 feet to a point on the west right-of-way of Harriman Street; thence leaving said south right-of-way and along said west right-of-way, South 252.71 feet to the north boundary of a 15.00-foot wide alley, as platted in FIRST ADDITION TO RIVERSIDE, and the point of beginning; thence leaving said west right-of-way and along said alley boundary, West 125.19 feet; thence South 09°12'52" West 187.33 feet to a point on the south boundary of said plat, said point also being at the northwest corner of a 15.00-foot wide alley in the plat of FIRST ADDITION TO AUBREY HEIGHTS; thence along said FIRST ADDITION TO AUBREY HEIGHTS alley boundary, South 15.00 feet; thence South 89°58'12" East 155.19 feet to said Harriman Street west right-of-way; thence along said west right-of-way, North 15.00 feet to said FIRST ADDITION TO RIVERSIDE south boundary; thence leaving said west right-of-way and along said south boundary, North 89°58'12" West 140.00 feet to a point on the boundary of said 15.00-foot wide alley in FIRST ADDITION TO RIVERSIDE plat; thence leaving said south boundary and said FIRST ADDITION TO AUBREY HEIGHTS alley boundary, and along said FIRST ADDITION TO RIVERSIDE alley boundary, North 09°12'52" East 172.16 feet; thence East 112.43 feet to said Harriman Street west right-of-way; thence North 15.00 feet to the point of beginning. Contains 6,806 square feet.

REGISTERED
PROFESSIONAL
LAND SURVEYOR
James D Perry
OREGON
JULY 26, 1989
JAMES D. PERRY
2407
RENEWS 12-31-2004

May 2, 2003

\\BND1\VOL1\PROJECT\CADDPROJ\JAYA0001\ALLEY-VAC.doc



CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	CHORD
C1	76°15'50"	146.93	195.57	181.45 S51°52'05"W
C2	16°15'50"	1000.00	283.86	282.91 S21°52'05"W
C3	30°00'00"	111.36	58.31	57.64 S15°00'00"W
C4	30°00'00"	171.36	89.72	88.70 N15°00'00"E
C5	24°42'56"	940.00	405.48	402.34 N17°38'33"E
C6	03°05'53"	174.13	9.42	9.41 S52°29'12"E
C7	29°31'58"	206.93	106.66	105.48 N75°14'00"E

scale 1" = 100' design
date 5-02-03 drawn JDP
file P: JAYA0001 - VACA-EXBT.dwg

DAVID EVANS AND ASSOCIATES INC.
709 NW Wall Street, Suite 102
Bend, Oregon 97701 (541) 389-7614

LAKESIDE PLACE, THURSTON AVENUE AND ALLEY VACATION

LOCATED IN "FIRST ADDITION TO RIVERSIDE", AND "FIRST ADDITION TO AUBREY HEIGHTS"

DOCUMENT POOR QUALITY
AT TIME OF RECORDING.

RIGHT-OF-WAY VACATION

LAKESIDE PLACE

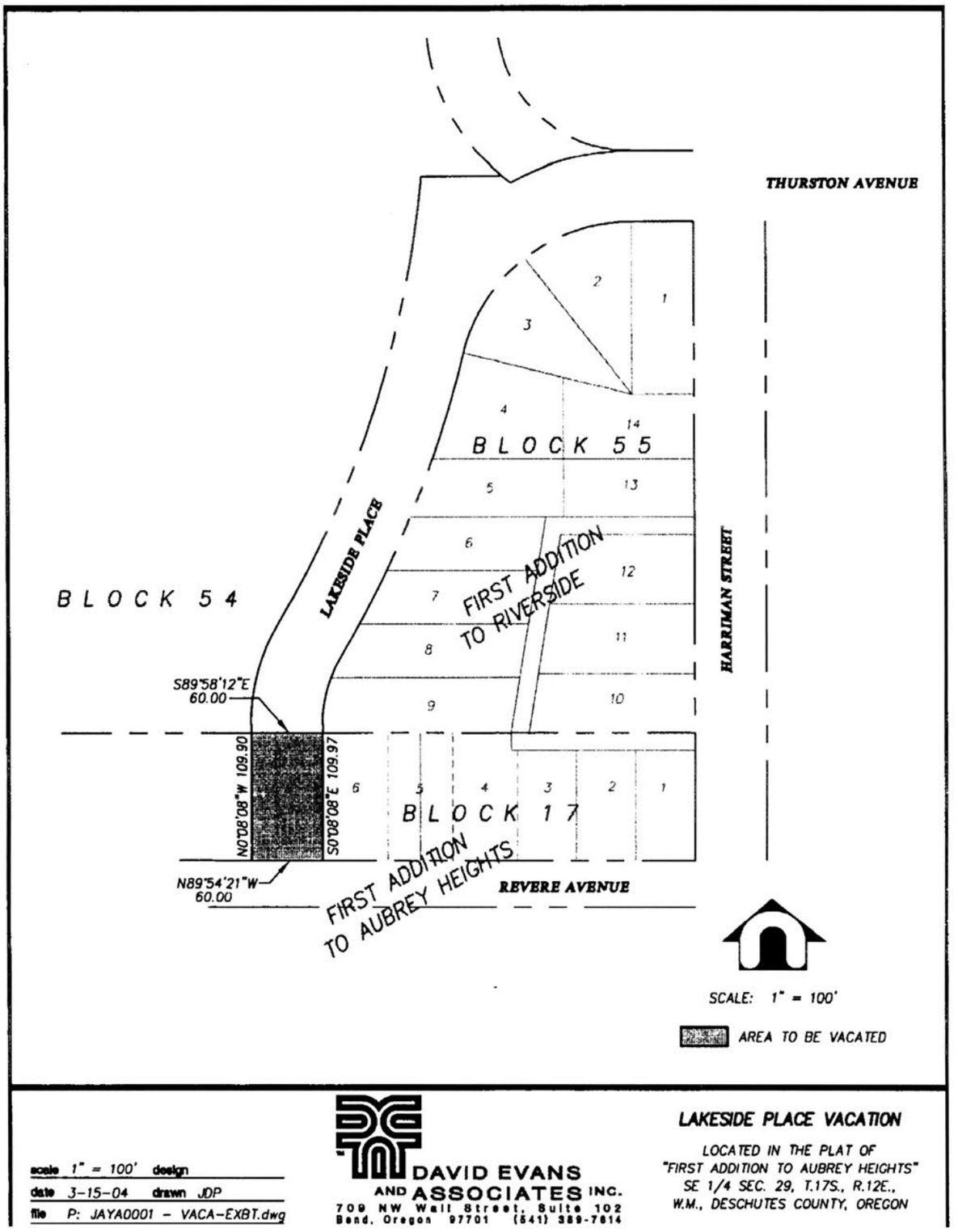
A portion of Lakeside Place to be vacated, located in the plat of **FIRST ADDITION TO AUBREY HEIGHTS**, in the southeast one-quarter of Section 29, Township 17 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, as shown on the attached map and fully described as follows:

Beginning at the northwest corner of Lot 6 of Block 17 of said plat of **FIRST ADDITION TO AUBREY HEIGHTS**, said point also being on the easterly right-of-way of Lakeside Place; thence along said easterly right-of-way, South 00°08'08" East 109.97 feet to the northerly right-of-way of Revere Avenue; thence leaving said easterly right-of-way and along said northerly right-of-way, North 89°54'21 West 60.00 feet to the westerly right-of-way of Lakeside Place; thence leaving said northerly right-of-way and along said westerly right-of-way, North 00°08'08" West 109.90 feet to the north boundary of said **FIRST ADDITION TO AUBREY HEIGHTS** subdivision; thence leaving said westerly right-of-way and along said north boundary, South 89°58'12" East 60.00 feet to the point of beginning. Contains 6,596 square feet.



March 19, 2004

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scale 1" = 100' design
date 3-15-04 drawn JDP
file P: JAYA0001 - VACA-EXBT.dwg

DAVID EVANS AND ASSOCIATES INC.
709 NW Wall Street, Suite 102
Bend, Oregon 97701 (541) 389-7614

LAKESIDE PLACE VACATION

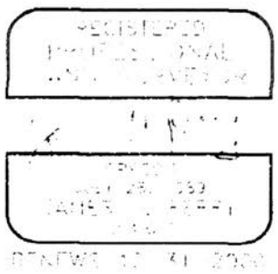
LOCATED IN THE PLAT OF
"FIRST ADDITION TO AUBREY HEIGHTS"
SE 1/4 SEC. 29, T.17S., R.12E.,
W.M., DESCHUTES COUNTY, OREGON

RIGHT-OF-WAY VACATION

15-FOOT WIDE ALLEY

A 15.00-foot wide alley to be vacated, located in the southwest one-quarter of the southeast one-quarter of Section 29, Township 17 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, as shown on the attached map and fully described as follows:

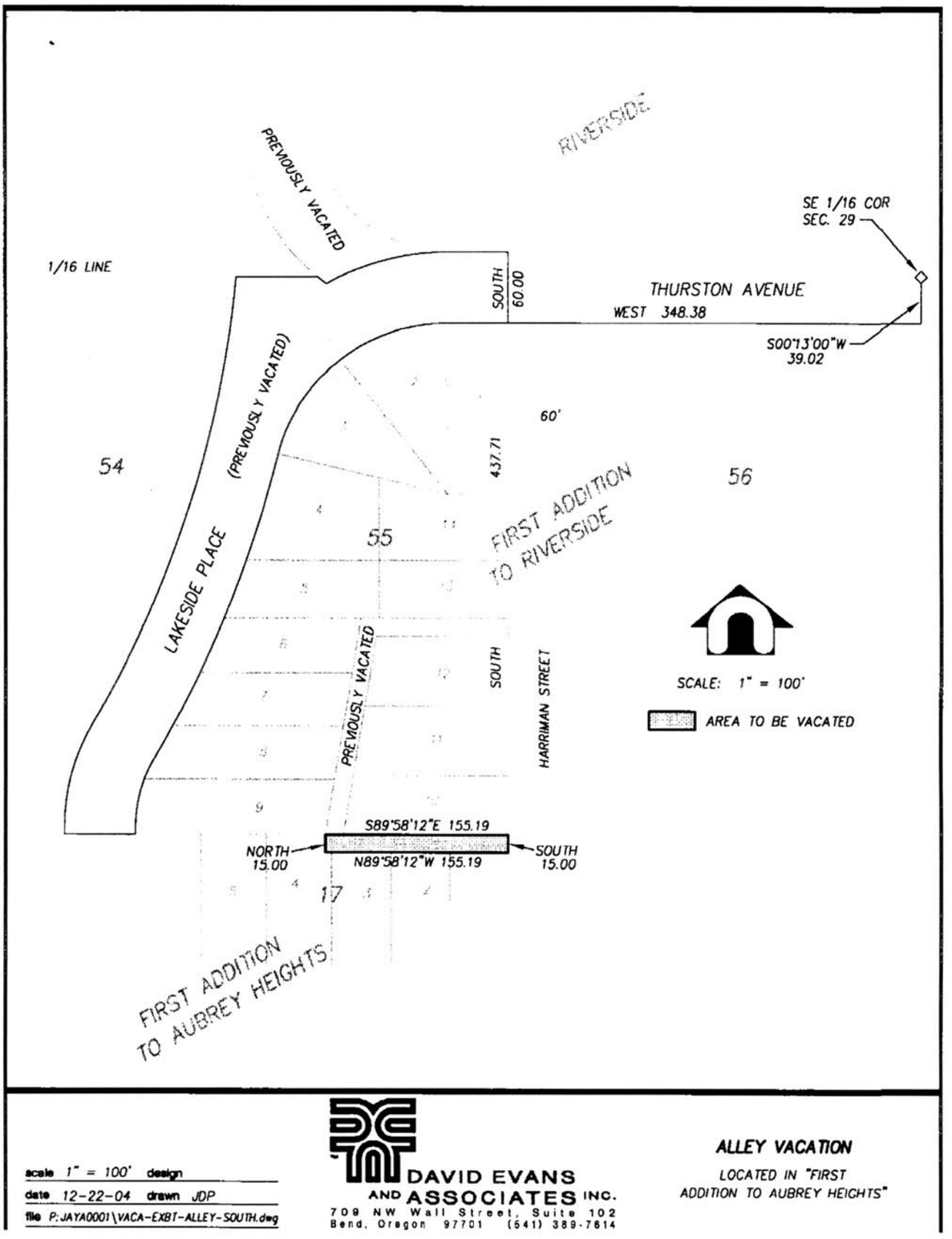
Commencing at the northeast corner of said southwest one-quarter of the southeast one-quarter of Section 29; thence along the east boundary of said southwest one-quarter of the southeast one-quarter, South 00°13'00" West 39.02 feet to the northeast corner of Block 56 of the plat of FIRST ADDITION TO RIVERSIDE, said point also being on the south right-of-way of Thurston Avenue; thence leaving said east boundary and along said south right-of-way, West 348.38 feet to a point on the west right-of-way of Harriman Street; thence leaving said south right-of-way and along said west right-of-way, South 437.71 feet to the northeast corner of a 15.00-foot wide alley, as platted in FIRST ADDITION TO AUBREY HEIGHTS, and the point of beginning; thence continuing South 15.00 feet; thence leaving said west right-of-way and along the south boundary of said alley, North 89°58'12" West 155.19 feet; thence North 15.00 feet; thence South 89°58'12" East 155.19 feet to the point of beginning. Contains 2,328 square feet.



December 22, 2004

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[illegible]


RIVERSIDE
PREVIOUSLY VACATED
SE 1/16 COR
SEC. 29
1/16 LINE
SOUTH
60.00
THURSTON AVENUE
WEST 348.38
S00°13'00"W
39.02
60'
437.71
54
56
55
(PREVIOUSLY VACATED)
LAKESIDE PLACE
FIRST ADDITION
TO RIVERSIDE
SOUTH
HARRIMAN STREET
PREVIOUSLY VACATED
SCALE: 1" = 100'
AREA TO BE VACATED
S89°58'12"E 155.19
NORTH
15.00
N89°58'12"W 155.19
SOUTH
15.00
17
FIRST ADDITION
TO AUBREY HEIGHTS
scale 1" = 100' design
date 12-22-04 drawn JDP
file P:\JAYA0001\VACA-EXBT-ALLEY-SOUTH.dwg
DAVID EVANS
AND ASSOCIATES INC.
709 NW Wall Street, Suite 102
Bend, Oregon 97701 (541) 389-7614
ALLEY VACATION
LOCATED IN "FIRST
ADDITION TO AUBREY HEIGHTS"

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ORDINANCE NO. NS-1956

AN ORDINANCE APPROVING A STATUTORY DEVELOPMENT AGREEMENT PURSUANT TO ORS 94.504-528 RELATING TO ACQUISITION OF RIGHT-OF-WAY FOR THE EXTENSION OF EMPIRE BOULEVARD, IN EXCHANGE FOR TRANSPORTATION RELATED DEVELOPMENT CREDITS

Whereas, The Bend City Council has held a public hearing, considered the city staff recommendations and issue summary, and has found that there is a public need and benefit associated with the Development Agreement between the City of Bend and Bend-Gem Limited Partnership relating to dedication of right-of-way for the extension of Empire Boulevard along the southern edge of the property owned by Bend-Gem Limited Partnership, together with the easements, as shown on the exhibits attached hereto.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The City of Bend adopts the Development Agreement and Findings (together with exhibits attached thereto) attached to this Ordinance as Exhibit 1.

Read for the first time the 15th day of December, 2004

Read for the second time the 3rd day of January, 2005

Placed upon its passage the 3rd day of January, 2005

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor this 3rd day of January, 2005

Oran Teater, Mayor, City of Bend

Attest: Kim Meyers
~~Patty Stell~~, City Recorder
Kim Meyers, Deputy

After recording, return to:
City of Bend Community Development Department
P.O. Box 431
Bend, OR 97701

EXHIBIT 1

DEVELOPMENT AGREEMENT BETWEEN CITY OF BEND
AND BEND-GEM LIMITED PARTNERSHIP

This Development Agreement ("Agreement") is dated as of the __ day of _____, 2005, by and between BEND-GEM LIMITED PARTNERSHIP ("BGLP"), and THE CITY OF BEND, an Oregon municipal corporation (the "City"). Each of BGLP and the City is hereinafter referred to as a "Party" and collectively as the "Parties."

1. Definitions:

1.1 "Property" means the parcel of property owned by BGLP on which the City acquires right-of-way under this Agreement. The Property is more particularly described on attached Exhibit A.

1.3 "Sewer Easement" means that sewer easement described in Exhibit B.

1.4 "Easement" means the 10 foot strip of land conveyed by this agreement for utilities and other public facilities adjacent to and north of the Right-of-Way conveyed by this Agreement, described in Exhibit C.

1.5 Right-of-Way (or "ROW") means that 40 foot strip of land conveyed under this Agreement across the southern boundary of the Property, described in Exhibit D.

1.6 "Agreement" means this development agreement, entered into pursuant to ORS 94.504.

2. Recitals, findings and terms of Agreement:

2.1 Under the City of Bend General Plan and land use regulations, new development must be supported by adequate public facilities. The City's General Plan provides that if the public facilities are not adequate, new development must either wait for the installation of the required facilities by the City or pay the cost if it occurs ahead of the City's capital improvement plan.

2.2 The City wishes to acquire the ROW and Easement for the purpose of extending Empire Boulevard. The City intends to combine the ROW and Easement with an adjacent 40 foot wide right-of-way strip across the northern boundary of the property immediately to the south of the ROW and Easement to form a single right-of-way 80 feet in width (not including the Easement) for construction of Empire Blvd. extension. This

Agreement provides for dedication of 52,680 square feet of property for ROW.

2.3 BGLP intends to develop the Property at some unknown time in the future, and has no current, specific plan for the development when it occurs. BGLP, however, anticipates that the development will generate vehicle trips, and that the impact of these trips will require mitigation if the development application is to be eligible for approval under the City's land use regulations and General Plan.

2.4 City and BGLP agree that an appropriate means of exchange for the conveyance of the ROW, Easement and Sewer Easement to City is for City to grant BGLP a credit for a certain number of vehicle trips, to offset (in whole or in part) any exaction that would be required of BGLP at the time BGLP, its successors or assigns files a land use application.

2.5 A City sewer line runs across the Property in the location described in Exhibit B. There is doubt as to the status of the conveyance of an easement for this sewer line, and the Parties intend to remove all doubt, uncertainty or ambiguity as to the status of the conveyance of an easement for the sewer line. To that end, BGLP agrees to convey the Sewer Easement to City by executing Exhibit B upon the effective date of the Agreement.

2.6 Documents to accomplish the conveyance of the ROW, the Easement and the Sewer Easement under this Agreement are attached hereto as Exhibits B, C and D. As a pre-condition to the effectiveness of this Agreement, BGLP shall execute these conveyancing documents upon the effective date of this Agreement.

2.7 BGLP conveys the ROW, Easement and Sewer Easement to the City in exchange for trip credits to be calculated under Section 2.8. The trips will be calculated using a basis price for the ROW of $421,440 (52,680 square feet of ROW at $8 per square foot = $421,440.)

2.8 When BGLP files a land use application for the Property, BGLP will provide the City with a traffic impact analysis ("TIA"), which will provide data on the number of vehicle trips that the development will generate. (The City reserves its right to contest the results of the TIA according to standard City policies.) The Parties agree that trip credits provided under this agreement will be calculated as follows:

2.5.1 First, the number of trips generated by the Development will be calculated in the TIA.

2.8.1 Next, the total number of trips will be divided by 10, the standard number of trips for a dwelling unit equivalent ("DUE").

2.8.2 Each DUE is worth $3, 931, as calculated by the City's current transportation system development charge.

2.8.3 Next, $421,440 divided by $3,931 = 107.209. BGLP is therefore entitled to trip credits equal to 107.209 DUEs. Each DUE is calculated to generate 10 daily vehicle trips, including one p.m. peak vehicle trip. BGLP shall therefore, in exchange for the ROW, Easement and Sewer Easement conveyed under this Agreement, receive 1,072 daily vehicle trip credits (107.209 DUEs x 10 daily vehicle trips per DUE = 1,072 daily trip credits). The 1,072 trip credits are daily vehicle trip credits, and include 107.2 p.m. peak hour trip credits.

2.9 The trip credits will be applied to the development of the Property as follows:

2.9.1 If the total number of credits exceeds the number of vehicle trips calculated under the TIA, then BGLP will be deemed to have met its obligation to provide off-site traffic impact mitigation under *Dolan v. City of Tigard* exaction analysis.

2.9.2 If the number of vehicle trips calculated by the TIA is more than the number of trip credits obtained under this agreement, then BGLP will not be deemed to have met its off-site traffic impact mitigation for its development, and the City may make appropriate additional exactions under the proportionality rule in *Dolan v. City of Tigard*, after applying the credit for the 1,072 daily vehicle trips calculated in Section 2.8.3 (which includes 107.2 p.m. peak hour trips).

2.9.3 In the event that BGLP has more mitigation credits than she would otherwise be required to provide, the City shall have no further obligation with regard to such credits.

2.9.4 The credits acquired under this Agreement are not transferable to other property, and may only be applied only to BGLP's Property, as defined under this Agreement.

2.10 ORS 94.504 authorizes cities to enter into development agreements with private parties who own or otherwise have a legal interest in property in connection with the development of that property. Such development agreements may have a duration up to seven years and may establish each of the parties' rights and obligations in connection with certain aspects of the proposed developments.

2.11 This agreement anticipates that the City will pay for the cost of improvement of Empire Boulevard, to the extent that such improvement exceeds the cost of the ROW, as such ROW cost is established by this Agreement.

2.12 There shall be no reimbursement to BGLP for the cost of the ROW granted to the City under this Agreement, except as specifically provided herein.

2.13 BGLP, on its own behalf and on behalf of its successors and assigns, covenants that it will provide actual notice of this Agreement and a copy of this Agreement to any buyer of the Property.

3 Effective Date; Term of Agreement: This Agreement shall be effective upon adoption of the City ordinance approving this Agreement pursuant to ORS 94.508. The term of this Agreement shall commence on the Effective Date and shall continue for a period of seven years unless terminated sooner in accordance with the provisions contained herein. The trip credits conveyed under this Agreement must be used within seven years, or they shall lapse, with no obligation of the City to compensate BGLP or its successors for them if they lapse.

4 Fees and Charges

4.8 When the Property is developed, the City shall collect System Development Charges within the Property according to the SDC resolution in effect at the time, when such Property is developed.

4.9 Except as specifically provided herein, BGLP shall pay all fees and costs then in effect for land use applications and approvals for development of the Property.

5 Assumptions Relating to City's Ability to Serve Development; Continuing Effect of Agreement

5.8 ORS Section 94.504(6) requires that a Development Agreement "state the assumptions underlying the agreement that relate to the ability of the city...to serve the development."

5.9 The facts set forth in the Recitals are included in the assumptions underlying this Agreement.

5.10 In the case of any change in regional policy or federal or state law or other change in circumstance which renders compliance with the Agreement impossible or unlawful, the Parties will attempt to give effect to the remainder of the Agreement, but only if the purposes set out in the recitals can be accomplished and such effect does not prejudice the substantial rights of either Party under the Agreement.

5.11 Assignability of Agreement. The trip credits obtained by BGLP under this Agreement shall not be transferable or assignable to any development outside of the Property. The trip credits shall, however, inure to the benefit of any successor owner of the Property.

6 Notices. Any notice, demand, request, approval, consent, or other communication (collectively referred to as a "Notice") concerning this Agreement or any matter arising in connection with this Agreement shall be in writing and addressed to the other Party at the address set forth below. Any Notice shall be given by either: (i) personal delivery in which event it shall be deemed given on the date of delivery; or (ii) certified mail return receipt requested in which event it shall be deemed given three (3) business days after the date deposited in any post office, branch post office, or official depository. Any Party may change any address for the delivery of Notice to such Party, by giving Notice in accordance with the provisions of this Section. The attorneys for the Parties may give any Notice.

Notices Addresses:

If to BGLP: _____

_____

Bend, OR 9770__

If to City: Public Works Director
City of Bend Public Works
575 NE 15th St., Bend, OR 97701
Attn: Ben Fuller

7 Miscellaneous

7.8 Waivers. No covenant, term or condition of this Agreement shall be deemed to have been waived by any Party, unless such waiver is in writing signed by the Party charged with such waiver. Any waiver of any provision of this Agreement, or any right or remedy, given on any one or more occasions shall not be deemed a waiver with respect to any other occasion.

7.9 Entire Agreement/Modifications. This Agreement constitutes the entire agreement between and among the Parties with respect to the subject matter herein contained and all prior negotiations, discussions, writings and agreements between the Parties with respect to the subject matter herein contained are superseded and of no further force and effect. This Agreement cannot be amended or modified without a writing signed by all of the Parties hereto.

7.10 Captions. The captions contained in this Agreement were inserted for the convenience of reference only. They do not in any manner define, limit, or describe the provisions of this Agreement or the intentions of the Parties.

7.11 Gender/Singular/Plural. Whenever masculine, feminine, neuter, singular, plural, conjunctive, or disjunctive terms are used in this Agreement, they shall be construed to read in whatever form is appropriate to make this Agreement

applicable to all the Parties and all circumstances, except where the context of this Agreement clearly dictates otherwise.

7.12 Severability. The un-enforceability or invalidity of any provisions hereof shall not render any other provision herein contained unenforceable or invalid.

7.13 Time of Essence. Time is of the essence of this Agreement.

7.14 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.

IN WITNESS WHEREOF, the Parties have signed this Agreement as of the date set forth in the first paragraph of this Agreement.

BEND-GEM LIMITED PARTNERSHIP

By: Geraldine E Silva
Name: Bend-GEM Limited
Title: General Partner

CITY OF BEND, an Oregon Municipal Corporation,

By: _____
Name: _____
Title: _____

STATE OF OREGON)
)ss.
COUNTY OF Deschutes)

This instrument was acknowledged before me on January 4, 2005 by BEND-GEM LIMITED PARTNERSHIP, by: Geraldine E Silva, its General Partner.

Signature of Notarial Officer
My Commission Expires: 11/9/05

OFFICIAL SEAL
DANA BILLINGSLEY
NOTARY PUBLIC-OREGON
COMMISSION NO. 350514
MY COMMISSION EXPIRES NOV. 9, 2005

STATE OF OREGON)
)ss.
COUNTY OF Deschutes)

This instrument was acknowledged before me on January 10th 2005 by Jeffrey D. Hunt as City Manager of the City of Bend.

Signature of Notarial Officer
My Commission Expires: March 19, 2007

OFFICIAL SEAL
KELLEY SCHWARTZ
NOTARY PUBLIC-OREGON
COMMISSION NO. 366766
MY COMMISSION EXPIRES MAR. 19, 2007

EXHIBIT "A"

PROPERTY DESCRIPTION
BEND-GEM LIMITED PARTNERSHIP

The Northeast One-quarter of the Northeast One-quarter (NE ¼ NE ¼) of Section 21, Township 17 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon.

EXHIBIT "B"

SEWER EASEMENT DEED

BEND-GEM LIMITED PARTNERSHIP, Grantor, conveys and warrants to the **CITY OF BEND**, an Oregon municipal corporation, Grantee, the following sewer facilities easement free of encumbrances except as specifically set forth herein:

See Exhibit B-1

This easement is granted on the following terms and conditions:

1. The easement shall be a permanent, perpetual and exclusive right to construct, install, maintain and operate a sewer line and all related facilities on the surface and within the subsurface of the easement. City shall have the right to immediate possession of the property described in this easement.

2. The City of Bend shall hold Grantor harmless from any liability caused by City's work within the easement or the operation and maintenance of the sewer line.

3. Grantor shall not erect any structures on the easement, but may use the surface of the easement provided such use does not interfere with City's construction, installation, operation and maintenance of its sewer system.

4. Any future subdivision of Grantor's property will require:

   1) The future plat will be designed in a manner that facilitates the entire sewer line described in Exhibit B-1 falling within the proposed street system.

   2) An alternative plan may be considered by the City Engineer at the time of platting if said plan facilitates all aspects of the operation and maintenance of the sewer line. Said plan must include surfaced, unobstructed roadways to all manholes.

5. Grantor warrants and represents that the property subject to this easement is free and clear of all liens and encumbrances and that Grantor has the right to grant this sewer easement.

6. There is no consideration for this easement.

DATED this _____ day of _____, 2004.

_____
Grantor

After Recording Return To:
City of Bend Engineering

STATE OF OREGON
County of Deschutes

This instrument was acknowledged before me on _____, 200__

by_____ as _____ ___ of Bend-Gem Limited Partnership.

_____
NOTARY PUBLIC FOR OREGON
My Commission Expires:_____ _____

Accepted by City of Bend

Harold A. Anderson
City Manager

STATE OF OREGON
County of Deschutes

This instrument was acknowledged before me on 1/10/05,

by Harold A Anderson.

_____
NOTARY PUBLIC FOR OREGON
My Commission Expires 1/6/08

OFFICIAL SEAL
KIM PARSONS
NOTARY PUBLIC-OREGON
COMMISSION NO. 375857
MY COMMISSION EXPIRES JAN 6, 2008

After Recording Return To:
City of Bend Engineering
PO Box 431 Bend OR 97709

EXHIBIT B-1

A 20.00 foot wide strip of land located in a portion of the Northeast One-quarter of the Northeast One-quarter (NE1/4 NE1/4) of Section 21, Township 17 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, lying 10.00 feet on each side of the following described centerline:

Beginning at a point on the west boundary of the plat of Empire Village, Phases I, II, and III as recorded on September 10, 2002 in plat cabinet F, page 265 in the office of the Deschutes County Clerk which bears South 00°04'51" East a distance of 291.76 feet from the northeast corner of said Section 21, said beginning point also being a point on the east boundary of said Section 21; thence leaving said plat boundary North 56°31'00" West a distance of 94.12 feet; thence South 74°36'13" West a distance of 475.36 feet; thence North 32°16'45" West a distance of 430.73 feet; thence North 89°56'46" West a distance of 163.09 feet; thence North 27°48'44" West a distance of 2.94 feet to the southwest corner Lot 1 Phase V of the plat of Wishing Well, Phases V & VI as recorded on June 15, 1995 in plat cabinet D, page 131 in the office of the Deschutes County Clerk, the terminus of this description. Said point of termination also being a point on the north boundary of said Section 21 which bears North 89°56'46" West a distance of 930.88 feet from the northeast corner of said Section 21.

Sidelines of said 20.00 foot wide easement to be extended or shortened to meet at angle points and to terminate at said north and east boundaries of said Section 21.

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

See attached map titled "EXHIBIT B-2", hereby incorporated by reference.

11-04-04

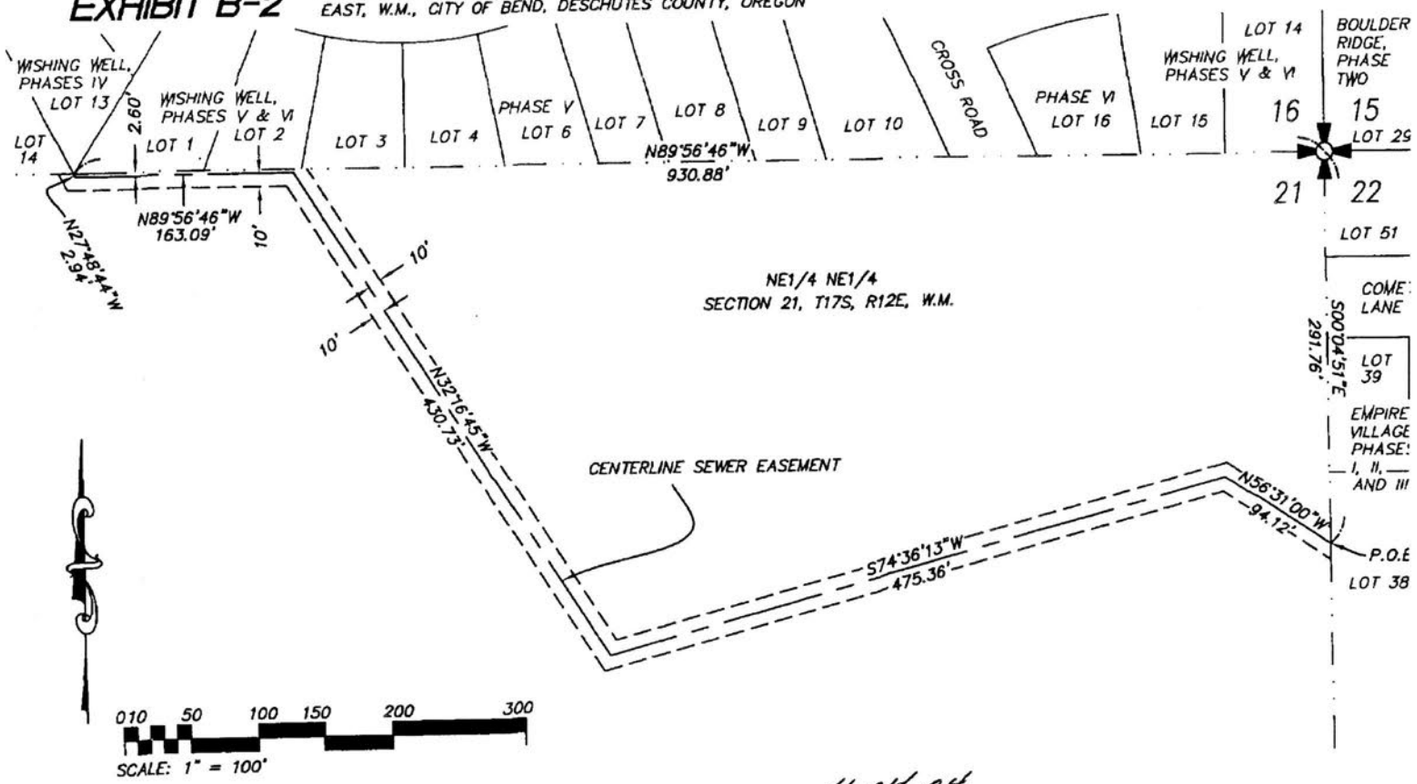
REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 17, 1986
PETER A. MANLEY
2214
RENEWAL DATE: 12/31/04

November 04, 2004
S:\Land Projects\041015 Bend-Gem Legals\docs\Sewer Easement.doc
Page 1 of 1

EXHIBIT B-2

LOCATED IN THE NE1/4 NE1/4 OF SECTION 21, TOWNSHIP 17 SOUTH, RANGE 12 EAST, 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, OREGON 97702
PHONE (541) 389-9351

11-04-04

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 17, 1988
PETER A. MANLEY
2214

RENEWAL DATE: 12/31/04

041015-Gem Legals/sewer easement.dwg
11/04/04

EXHIBIT "C"

UTILITY AND PUBLIC FACILITIES EASEMENT

BEND-GEM LIMITED PARTNERSHIP, Grantor, conveys and warrants to the **CITY OF BEND**, an Oregon municipal corporation, Grantee, the following utility and public facilities easement over the property described in:

See Exhibit C-1

This easement is granted on the following terms and conditions:

1. The easement shall be a permanent, perpetual and exclusive right to construct, install and maintain public and private utilities and facilities on the surface and within the sub-surface of the easement. City shall have the right to immediate possession of the property described in this easement.

2. Grantor shall not erect any structures on the easement, but may use the surface of the easement provided such use does not interfere with City's access.

3. Grantor acknowledges that other private utility companies may use the easement for the purpose of installation and maintenance of their facilities.

4. There is no consideration for this easement.

5. Grantor warrants and represents that the property subject to this easement is free and clear of all liens and encumbrances and that Grantor has the right to grant this access easement.

DATED this _____ day of _____, 2004.

_____
Grantor

STATE OF OREGON
County of Deschutes

This instrument was acknowledged before me on _____, 200__

by_____ as _____ of Bend-Gem Limited Partnership.

_____
NOTARY PUBLIC FOR OREGON
My Commission Expires:_____

After Recording Return To:
City of Bend Engineering
PO Box 431 Bend OR 97709

Accepted by City of Bend

Harold A Anderson
City Manager

STATE OF OREGON
County of Deschutes

This instrument was acknowledged before me on 1/10, 2005

by Harold A Anderson.

Kim Parsons
NOTARY PUBLIC FOR OREGON
My Commission Expires 1/6/08

OFFICIAL SEAL
KIM PARSONS
NOTARY PUBLIC-OREGON
COMMISSION NO. 375857
MY COMMISSION EXPIRES JAN. 6, 2008

After Recording Return To:
City of Bend Engineering
PO Box 431, Bend OR 97709

EXHIBIT C-1

A 10.00 foot wide strip of land located in located in a portion of the Northeast One-quarter of the Northeast One-quarter (NE1/4 NE1/4) of Section 21, Township 17 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at a point on the east boundary of said Section 21 which bears North 00°04'51" West a distance of 40.00 feet from the N1/16th corner between Sections 21 and 22 of said Township and Range; thence along said east boundary North 00°04'51" West a distance of 10.00 feet; thence leaving said east boundary North 89°51'36" West a distance of 1072.80 feet; thence 249.51 feet along the arc of a tangent curve to the left with a radius of 750.00 feet, the chord of which bears South 80°36'33" West for a distance of 248.36 feet to a point on the west boundary of said NE1/4 NE1/4; thence along said west boundary South 00°04'33" West a distance of 8.88 feet to the NE1/16th corner of said Section 21; thence along the south boundary of said NE1/4 NE1/4 South 89°51'36" East a distance of 4.93 feet; thence leaving said south boundary 244.42 feet along a non-tangent curve to the right with a radius of 740.00 feet, the chord of which bears North 80°40'39" East a distance of 243.31 feet; thence South 89°51'36" East a distance of 1072.84 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.

See attached map titled "EXHIBIT C-2", hereby incorporated by reference.

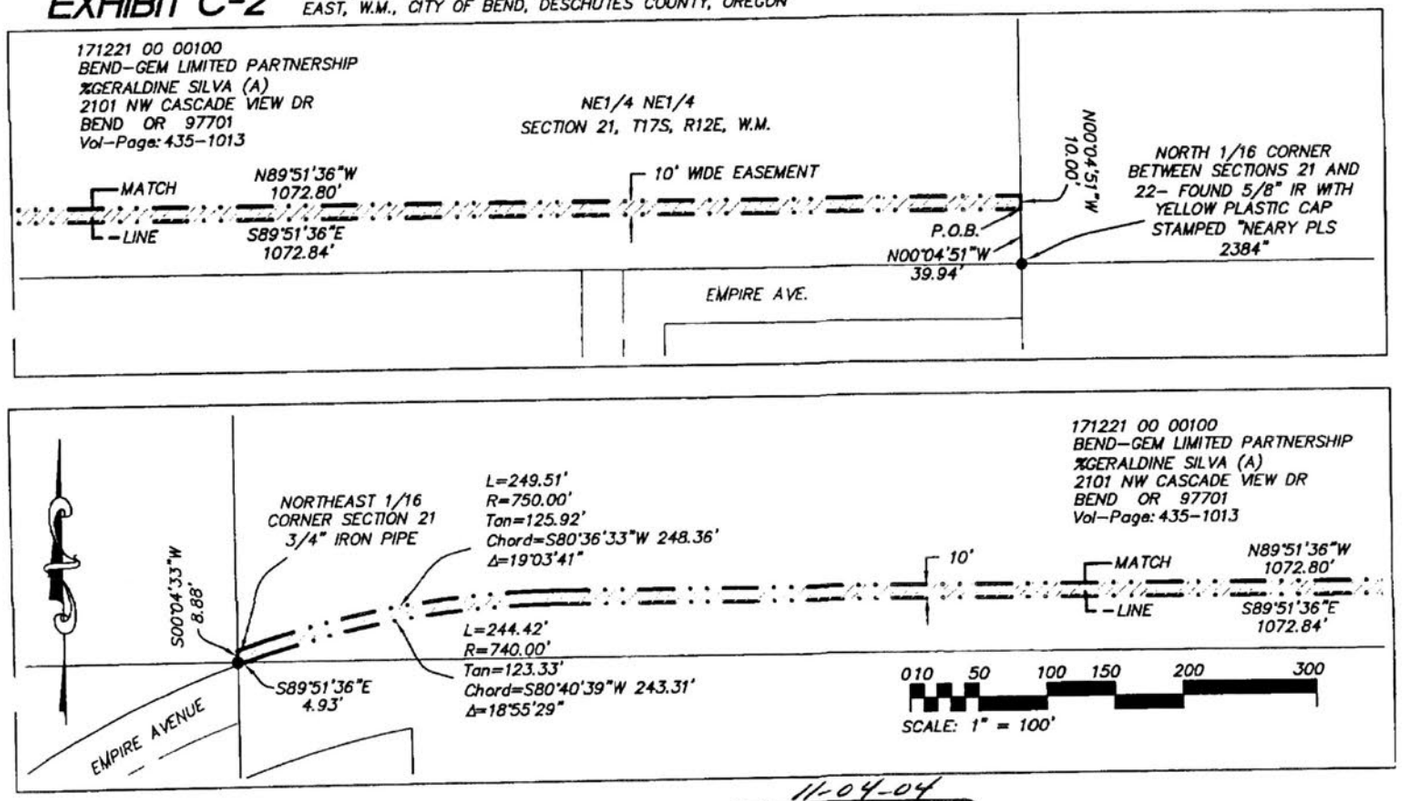
11-04-04
REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 17, 1986
PETER A. MANLEY
2214
RENEWAL DATE: 12/31/04

November 04, 2004
S:\Land Projects\041015 Bend-Gem Legals\docs\Utility Easement.doc
Page 1 of 1

EXHIBIT C-2

LOCATED IN THE NE1/4 NE 1/4 OF SECTION 21, TOWNSHIP 17 SOUTH, RANGE 12 EAST, 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, OREGON 97702
PHONE (541) 389-9351

11-04-04

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 17, 1986
PETER A. MANLEY
2214

RENEWAL DATE: 12/31/04

Empire-Bend-Gem Legals/easement.dwg
11/04/04

EXHIBIT "D"

DEDICATION WARRANTY DEED

BEND-GEM LIMITED PARTNERSHIP, GRANTORS, conveys to the **CITY OF BEND**, an Oregon municipal corporation, GRANTEE, the following described property for RIGHT OF WAY PURPOSES, and warrants that it is free and clear of all liens and encumbrances:

See Exhibit D-1

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

There is no consideration for this conveyance.

Dated this _____ day of _____, 2004.

_____
Grantor

State of Oregon
County of Deschutes

This instrument was acknowledged before me on 1/12/2005, ~~2004,~~

by _____ as _____ of Bend-Gem Limited Partnership .

_____
NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

Accepted by the City of Bend

By: _____
City Manager

State of Oregon
County of Deschutes

This instrument was acknowledged before me on 1/12/2005, ~~2004,~~

by Harold A Anderson.

_____
NOTARY PUBLIC FOR OREGON
My Commission Expires: 1/6/08

OFFICIAL SEAL
KIM PARSONS
NOTARY PUBLIC-OREGON
COMMISSION NO. 375857
MY COMMISSION EXPIRES JAN. 6, 2008

~~Tax Statement: no change~~

After Recording Return to:
City of Bend Engineering
PO Box 431, Bend OR 97709

Page 1 of 2

EXHIBIT D-1

A parcel of land containing 1.13 acres, more or less, located in a portion of the Northeast One-quarter of the Northeast One-quarter (NE1/4 NE1/4) of Section 21, Township 17 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the N1/16th corner between Sections 21 and 22 of said Township and Range; thence along the east boundary of said Section 21 North 00°04'51" West a distance of 40.00 feet; thence leaving said east boundary North 89°51'36" West a distance of 1072.84 feet; thence 244.42 feet along the arc of a tangent curve to the left with a radius of 740.00 feet, the chord of which bears South 80°40'39" West for a distance of 243.31 feet to a point on the south boundary of said NE1/4 NE1/4 which bears South 89°51'36" East a distance of 4.93 feet from the NE1/16th corner of said Section 21; thence along said south boundary South 89°51'36" East a distance of 1312.99 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.

See attached map titled "EXHIBIT D-2", hereby incorporated by reference.

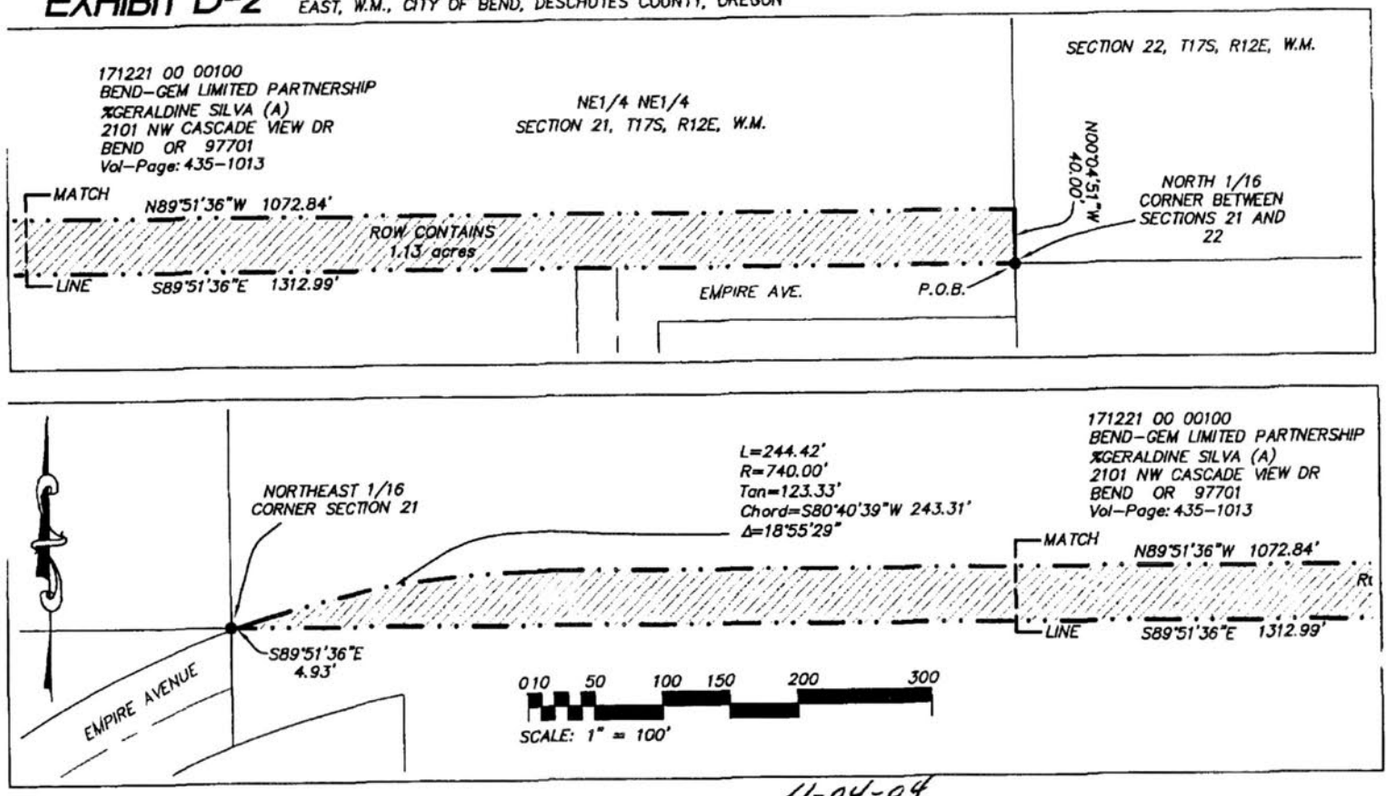
11-04-04
REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 17, 1986
PETER A. MANLEY
2214
RENEWAL DATE: 12/31/04

November 04, 2004
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Page 1 of 1

EXHIBIT D-2

LOCATED IN THE NE1/4 NE 1/4 OF SECTION 21, TOWNSHIP 17 SOUTH, RANGE 12 EAST, 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, OREGON 97702
PHONE (541) 389-9351

11-04-04

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 17, 1986
PETER A. MANLEY
2214

RENEWAL DATE: 12/31/04

041015 Bend-Gem Legals/row.dwg
11/04/04