DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

2005-11893

$41.00

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$15.00 $11.00 $10.00 $5.00

DESCHUTES COUNTY CLERK

CERTIFICATE PAGE

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NS-1957

ORDINANCE NO. NS-1957

AN ORDINANCE VACATING PORTION OF PROMISE LANE THAT LIES WITHIN N ½ OF THE NW ¼ OF NE ¼ OF SECTION 26, 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 November 17, 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 19th day of January, 2005, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and;

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

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

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

This vacation is hereby made a matter of record.

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

Read for the first time the 19th day of January, 2005.

Read for the second time the 2nd day of February, 2005.

Placed upon its passage the 2nd day of February, 2005.

Yes: 7 No: 0

Authenticated by the Mayor the 2nd day of February, 2005.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

Please record pages 1 through 3 of Ord. NS-1957.
After recording, return to: Deputy Recorder, City of Bend, 710 NW Wall, Bend, OR 97701

Exhibit "A"

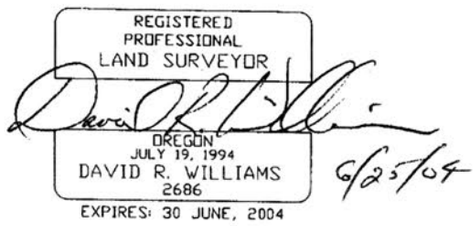
WELLS ACRES ROAD RIGHT OF WAY VACATION

A parcel of land containing 697 square feet, more or less, located in the North One-Half of Northwest One-Quarter of the Northeast One-Quarter of the Northwest One-Quarter (N1/2 NW1/4 NE1/4 NW1/4) of Section 26, Township 17 South, Range 12 East, W.M., City of Bend, Deschutes County, Oregon being more particularly described as follows:

Commencing at the West One-Sixteenth corner common to said Section 26 and Section 23, of said township and range; thence along the west boundary of said N1/2 NW1/4 NE1/4 NW1/4, South 00°02'31" East a distance of 314.91 feet to the north right of way of Wells Acres Road; thence leaving said west boundary along said north right of way, North 89°53'51" East a distance of 286.13 feet; thence 32.84 feet along the arc of a non-tangent curve to the right with a radius of 45.00 feet, the chord of which bears North 20°48'10" East a distance of 32.11 feet to the True Point of Beginning; thence 75.70 feet along the arc of a tangent curve to the right with a radius of 45.00 feet, the chord of which bears North 89°53'51" East a distance of 67.08 feet; thence leaving said north right of way South 89°53'51" West a distance of 67.08 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 drawing entitled "EXHIBIT B" hereby incorporated by reference.

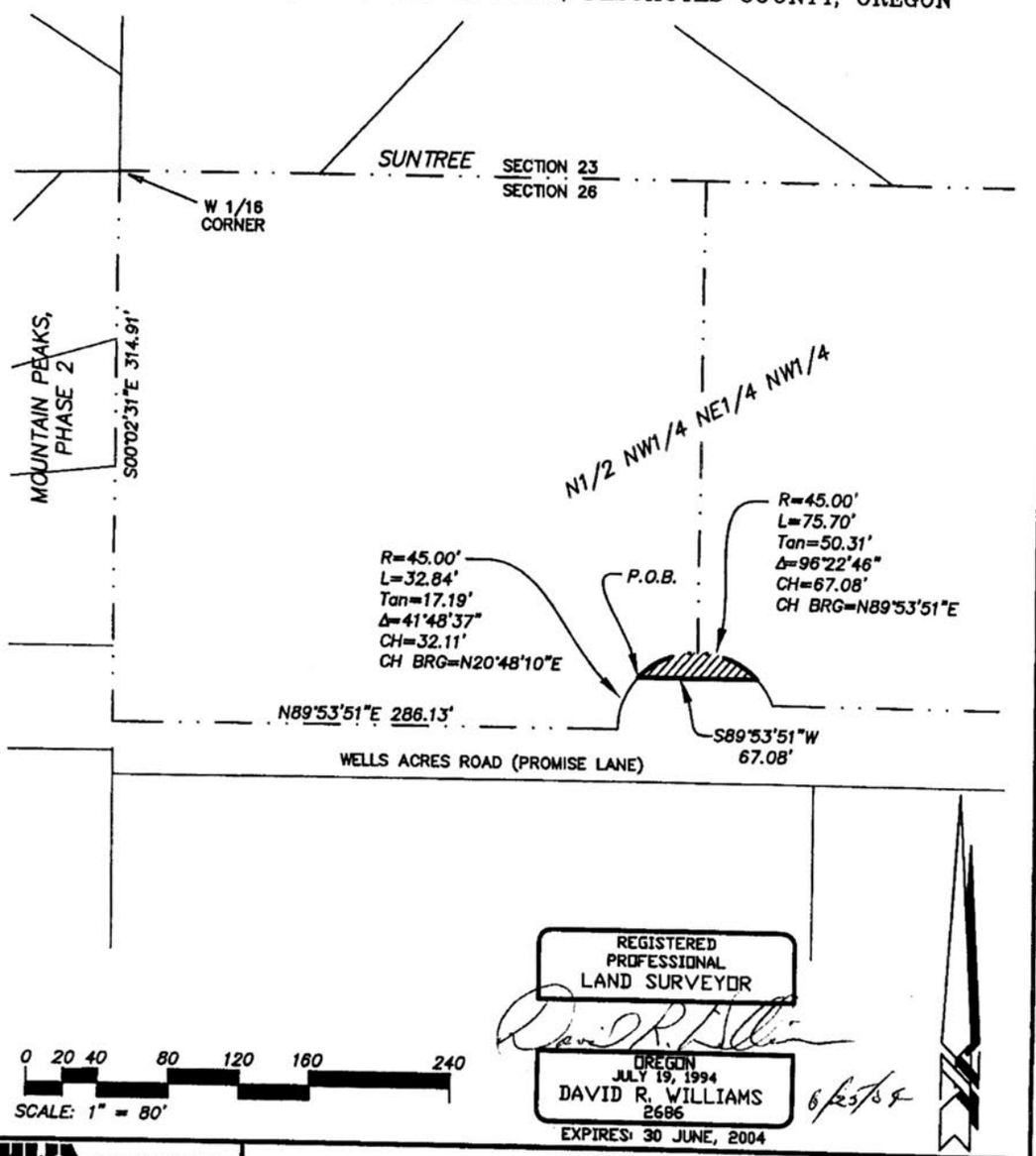


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Page 1 of 1

EXHIBIT 'B'
VACATION EXHIBIT MAP

LOCATED IN THE N1/2 NW1/4 NE1/4 NW1/4 OF SECTION 26, TOWNSHIP 17 SOUTH, RANGE 12 EAST, W.M., CITY OF BEND, DESCHUTES COUNTY, OREGON



REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 19, 1994
DAVID R. WILLIAMS
2686

EXPIRES: 30 JUNE, 2004

6/25/04

HICKMAN, WILLIAMS & ASSOCIATES, INC
SURVEYORS, ENGINEERS & PLANNERS
705 SW BONNETT WAY, SUITE 1D, BEND, OREGON 97702
PHONE: (541) 388-0351 FAX: (541) 388-0418

VACATION				SHEET 1
PROMISE LANE SUBDIVISION				
PROJECT#: 040614	FILE: 040614-VACATION.dwg	DRAWN BY: EF	DATE: 6/24/2004	

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DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

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DESCHUTES COUNTY CLERK

CERTIFICATE PAGE

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Do Not remove from original document.

NS-1958

ORDINANCE NO. NS-1958

AN ORDINANCE VACATING PORTIONS OF MADEIRA COURT THAT LIES WITHIN SW ¼ OF SECTION 25, TOWNSHIP 17 SOUTH, RANGE 11 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on November 17, 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 19th day of January, 2005, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and;

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

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

That the above described portion of street right of ways located in Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities. This reservation of easement is removed with the final platting of the Replat of Lots 43-48, Shevlin Crest (PZ 04-436).

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 19th day of January, 2005.

Read for the second time the 2nd day of February, 2005.

Placed upon its passage the 2nd day of February, 2005.

Yes: 7 No: 0

Authenticated by the Mayor the 2nd day of February, 2005.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

Please record pages 1 through 5 of Ord. NS1958. 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"

LOT 43 OF REPLAT PORTION OF STREET VACATION

A TRACT OF LAND SITUATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 17 SOUTH, RANGE 11 EAST, WILLAMETTE MERIDIAN, CITY OF BEND, DESCHUTES COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 42 PLAT OF "SHEVLIN CREST" AS RECORDED IN THE DESCHUTES COUNTY OFFICIAL RECORDS, SAID POINT BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF NORTHWEST MADEIRA COURT; THENCE LEAVING SAID RIGHT-OF-WAY, ALONG THE ARC OF A 255.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 14°23'27", AN ARC DISTANCE OF 64.05 FEET (THE CHORD OF WHICH BEARS SOUTH 69°03'05" WEST, 63.88 FEET) TO A POINT OF NON-TANGENCY; THENCE NORTH 32°31'12" WEST, 29.08 FEET TO A POINT ON SAID NORTHERLY RIGHT-OF-WAY LINE AND TO A POINT OF NON-TANGENT CURVATURE; THENCE ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 50.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 60°58'06", AN ARC DISTANCE OF 53.20 FEET (THE CHORD OF WHICH BEARS SOUTH 81°06'27" EAST, 50.73 FEET) TO A POINT OF NON-TANGENCY ON SAID RIGHT-OF-WAY; THENCE NORTH 76°14'48" EAST, ALONG SAID RIGHT-OF-WAY LINE, 25.91 FEET TO THE POINT OF BEGINNING. THIS TRACT OF LAND CONTAINS 808 SQUARE FEET.

REGISTERED
PROFESSIONAL
LAND SURVEYOR
Lynn J. Bruno
OREGON
JULY 26, 1988
LYNN J. BRUNO
2335
RENEWAL DATE: 12/31/05

W&H PACIFIC
AN ASCG COMPANY

920 SW Emkay, Suite C100
Bend, Oregon 97702-1041
541.388.4255
Fax 541.388.4229

EXHIBIT "B"

LOT 44 OF REPLAT PORTION OF STREET VACATION

A TRACT OF LAND SITUATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 17 SOUTH, RANGE 11 EAST, WILLAMETTE MERIDIAN, CITY OF BEND, DESCHUTES COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 45 PLAT OF "SHEVLIN CREST" AS RECORDED IN THE DESCHUTES COUNTY OFFICIAL RECORDS, SAID POINT BEING ON THE WESTERLY RIGHT-OF-LINE OF NORTHWEST MADEIRA COURT; THENCE ALONG SAID WESTERLY AND NORTHWESTERLY RIGHT-OF-WAY LINE, ALONG THE ARC OF A 50.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 70°51'32", AN ARC DISTANCE OF 61.84 FEET (THE CHORD OF WHICH BEARS NORTH 32°58'44" EAST, 57.97 FEET) TO A POINT OF NON-TANGENCY; THENCE LEAVING SAID RIGHT-OF-WAY, SOUTH 32°31'12" EAST, 29.08 FEET TO A POINT OF NON-TANGENT CURVATURE; THENCE ALONG THE ARC OF 255.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 12°38'03", AN ARC DISTANCE OF 56.23 FEET (THE CHORD OF WHICH BEARS SOUTH 55°32'20" WEST, 56.12 FEET) TO A POINT OF NON-TANGENT CURVATURE ON SAID WESTERLY RIGHT-OF-WAY LINE; THENCE ALONG THE ARC OF A 50.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 08°49'51", AN ARC DISTANCE OF 7.71 FEET (THE CHORD OF WHICH BEARS NORTH 06°51'58" WEST, 7.70 FEET) TO THE POINT OF BEGINNING. THIS TRACT OF LAND CONTAINS 1,266 SQUARE FEET.

REGISTERED
PROFESSIONAL
LAND SURVEYOR
Lynn J. Bruno
OREGON
JULY 26, 1988
LYNN J. BRUNO
2335
RENEWAL DATE:

W&H PACIFIC
AN ASCG COMPANY

920 SW Emkay, Suite C100
Bend, Oregon 97702-1041
541.388.4255
Fax 541.388.4229

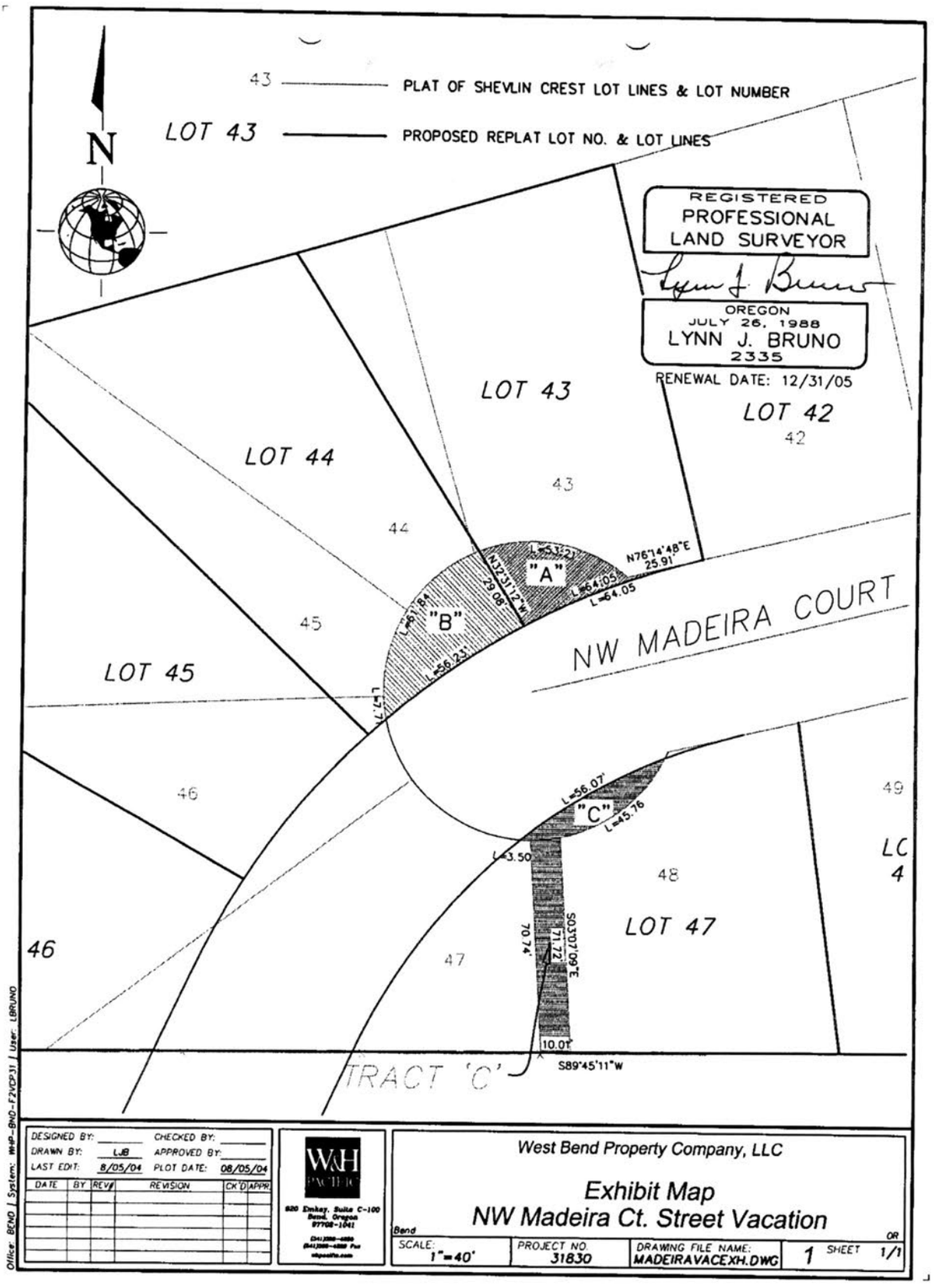
EXHIBIT "C"

LOT 47 OF REPLAT PORTION OF STREET VACATION

A TRACT OF LAND SITUATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 17 SOUTH, RANGE 11 EAST, WILLAMETTE MERIDIAN, CITY OF BEND, DESCHUTES COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF TRACT 'C" PLAT OF "SHEVLIN CREST" AS RECORDED IN DESCHUTES COUNTY RECORDS, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF NORTHWEST MADEIRA COURT; THENCE SOUTH 03°07'09" EAST, ALONG THE EAST LINE OF SAID TRACT "C", 71.72 FEET TO A POINT ON THE SOUTH LINE OF SECTION 25; THENCE SOUTH 89°45'11" WEST, ALONG SAID SOUTH LINE, 10.01 FEET TO THE SOUTHWEST CORNER OF SAID TRACT "C"; THENCE NORTH 03°07'09" WEST, ALONG THE WEST LINE OF SAID TRACT "C", 70.74 FEET TO POINT OF NON-TANGENT CURVATURE ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID NORTHWEST MADEIRA COURT; THENCE ALONG SAID RIGHT-OF-WAY, ALONG THE ARC OF 50.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 04°00'23", AN ARC DISTANCE OF 3.50 FEET (THE CHORD OF WHICH BEARS NORTH 88°06'57" WEST, 3.50 FEET) TO A POINT OF NON-TANGENT CURVATURE; THENCE LEAVING SAID RIGHT-OF-WAY, ALONG AN ARC OF A 195.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 16°28'25", AN ARC DISTANCE OF 56.07 FEET (THE CHORD OF WHICH BEARS NORTH 59°55'08" EAST, 55.87 FEET) TO A POINT OF NON-TANGENT CURVATURE, SAID POINT BEING ON SAID RIGHT-OF-WAY; THENCE ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF A 50.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 52°26'21", AN ARC DISTANCE OF 45.76 FEET (THE CHORD OF WHICH BEARS SOUTH 52°10'12" WEST, 44.18 FEET) TO THE POINT OF BEGINNING. THIS TRACT OF LAND CONTAINS 1,109 SQUARE FEET.

REGISTERED
PROFESSIONAL
LAND SURVEYOR
Lynn J. Bruno
OREGON
JULY 28, 1988
LYNN J. BRUNO
2335
RENEWAL DATE:


43 PLAT OF SHEVLIN CREST LOT LINES & LOT NUMBER
LOT 43 PROPOSED REPLAT LOT NO. & LOT LINES
N
REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON JULY 26, 1988 LYNN J. BRUNO 2335
RENEWAL DATE: 12/31/05
LOT 43
LOT 42
42
LOT 44
43
44
"A"
"B"
"C"
L=5.12'
N76°14'48"E 25.91'
L=64.05'
L=64.05
N12°31'12"W 29.08'
L=61.84'
L=56.23'
45
LOT 45
NW MADEIRA COURT
46
L=56.07'
L=45.76'
L=43.50'
49
LC 4
48
LOT 47
S03°07'09"E 71.72'
70.74'
47
46
10.01'
S89°45'11"W
TRACT 'C'
DESIGNED BY: CHECKED BY:
DRAWN BY: LJB APPROVED BY:
LAST EDIT: 8/05/04 PLOT DATE: 08/05/04
DATE BY REV# REVISION CK'D APPR
W&H PACIFIC
820 Emkay, Suite C-100 Bend, Oregon 97702-1041
West Bend Property Company, LLC
Exhibit Map
NW Madeira Ct. Street Vacation
Bend OR
SCALE: 1"=40'
PROJECT NO. 31830
DRAWING FILE NAME: MADEIRAVACEXH.DWG
SHEET 1 1/1
Office: BEND | System: IWP-BND-F2\CP31 | User: LBRUNO

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DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

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DESCHUTES COUNTY CLERK

CERTIFICATE PAGE

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NS-1959

ORDINANCE NO. NS-1959

AN ORDINANCE VACATING PORTION OF ALLEY IN BLOCK 15, OF THE PLAT OF BEND, THAT LIES WITHIN NW ¼ OF SE ¼ OF SECTION 32, TOWNSHIP 17 SOUTH, RANGE 12 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

The Bend City Council on December 1, 2004 initiated vacation proceedings authorized by ORS 271.080 that the following described area be vacated:

SEE EXHIBIT "A"

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

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

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

The City Council of the City of Bend having fixed the 19th day of January, 2005, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and;

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

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

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

This vacation is hereby made a matter of record.

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

Read for the first time the 19th day of January, 2005.

Read for the second time the 2nd day of February, 2005.

Placed upon its passage the 2nd day of February, 2005.

Yes: 7 No: 0

Authenticated by the Mayor the 2nd day of February, 2005.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

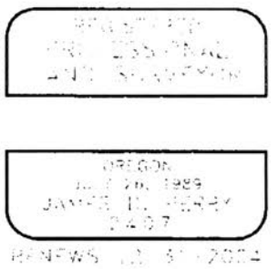
Please Record pages 1 through 3 of Ordinance NS-1959. After recording return to: Deputy Recorder, City of Bend, 710 NW Wall, Bend, OR 97701

ALLEY VACATION

OREGON STREET MALL

An alley to be vacated in Block 15 of the Plat of Bend, located in the northwest one-quarter of the southeast one-quarter of Section 32, Township 17 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, as shown on the attached map and fully described as follows:

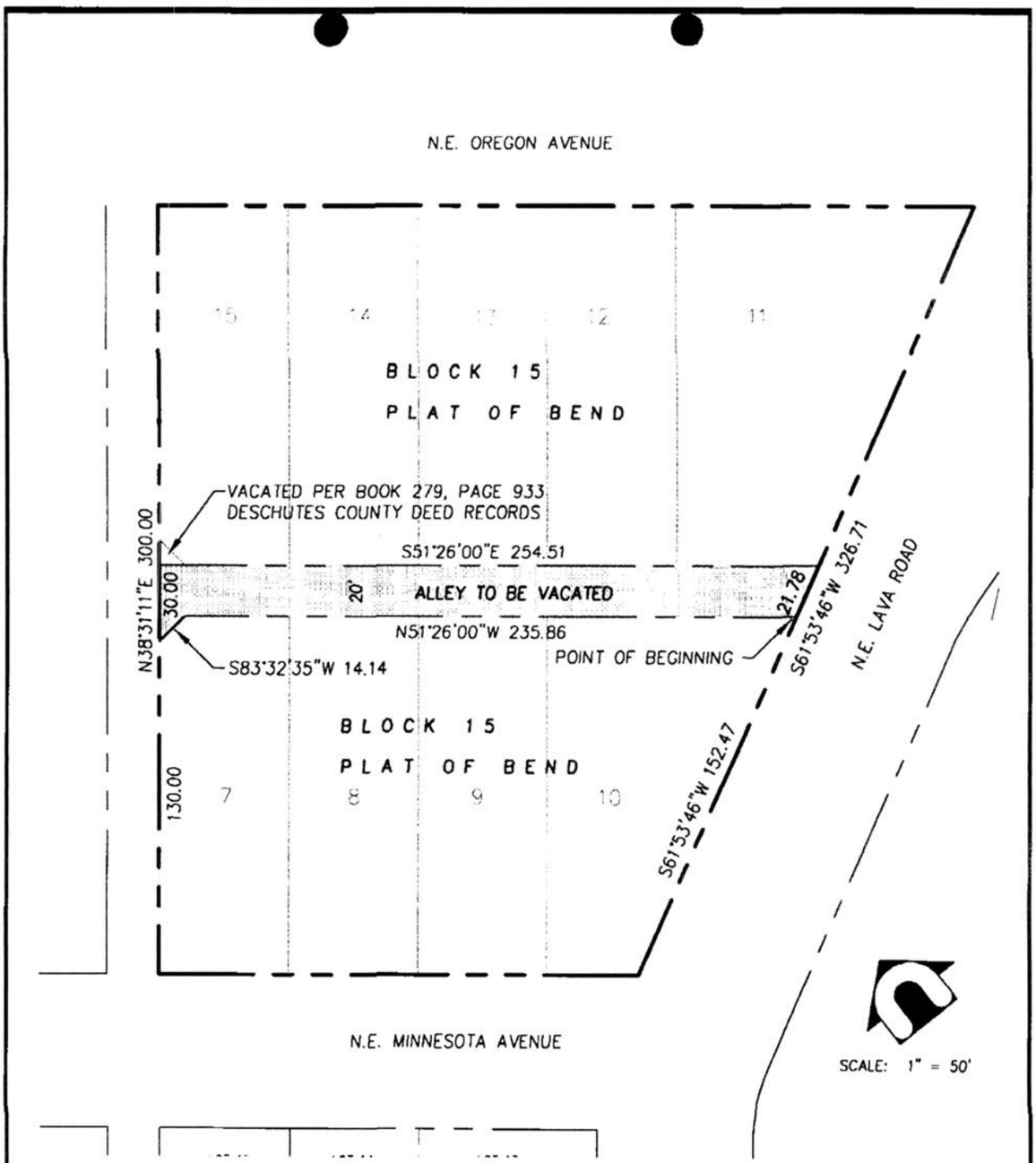
Beginning at the easterly-most corner of Lot 10 of said Block 15, said point being on the southwesterly boundary of the alley to be vacated; thence along said southwesterly boundary, North 51°26'00" West 235.86 feet; thence South 83°32'35" West 14.14 feet to the southeasterly boundary of a 20.00-foot wide alley along the northwesterly boundary of Lots 7 and 15 of said Block 15; thence along said southeasterly boundary, North 38°31'11" East 30.00 feet to the westerly-most corner of the property vacated in Book 279, Page 933 of Deschutes County Deed Records, said point also being on the extension of the northeasterly boundary of the alley to be vacated; thence leaving said southeasterly boundary and along said northeasterly boundary, South 51°26'00" East 254.51 feet to the northerly right-of-way of Lava Road; thence leaving said northeasterly boundary and along said right-of-way, South 61°53'46" West 21.78 feet to the point of beginning. Contains 5054 square feet.



November 19, 2004

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709 Northwest Wall Street, Suite 102, Bend, Oregon 97701, (541) 388-7624, Facsimile 541 389-7624



scale 1" = 50' design
date 11-16-04 drawn jdp
file TVAX0008-ALLEY-VAC.dwg

DAVID EVANS AND ASSOCIATES INC.
709 NW Wall Street, Suite 102
Bend, Oregon 97701 (541) 389-7814

ALLEY VACATION

LOCATED IN THE NW 1/4 OF THE SE 1/4 OF SEC. 32, T.17S., R.12E., W.M., DESCHUTES COUNTY, OREGON

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ORDINANCE NO. NS-1960

AN ORDINANCE AMENDING THE BEND CODE RELATING TO PROCEDURES FOR PUBLIC CONTRACTING AND DECLARING AN EMERGENCY

WHEREAS: The Oregon Legislature adopted HB 2341 (2003 Oregon Laws, Chapter 794) ("The Public Contracting Code"), which was signed by the Governor, and has an operative date of March 1, 2005, and

WHEREAS: The Public Contracting Code requires the City of Bend to designate a Local Contract Review Board, and to adopt contracting rules in areas not covered by the Public Contracting Code or "Model Rules" adopted by the Attorney General, and

WHEREAS, The Public Contracting Code divides powers and duties for contracting into two categories: those that must be performed by the local "Contract Review Board"; and those that must be performed by the city's "Contracting Agency."

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code Sections 1.550 through 1.590 is repealed and re-adopted to read as follows:

PUBLIC CONTRACTS

1.550 The Bend City Council is designated as the local Contract Review Board under the State of Oregon Public Contracting Code.

(a) The Contract Review Board may, from time to time, and in addition to delegations made under this ordinance, delegate its powers and responsibilities consistent with the Oregon Public Contracting Code, the Model Rules, or the Bend Code.

(b) The City Manager, or his/her designated purchasing agent, and the Purchasing Division of the City of Bend Finance Department are designated as the city's "Contracting Agency" for purposes of contracting powers and duties assigned to the City of Bend as a "Contracting Agency" under the State of Oregon Public Contracting Code or the Model Rules.

(c) Except as provided in these rules, and as may be determined by future delegations of authority, the powers and duties of the Contract Review Board shall be exercised by the Contract Review Board, and all powers and duties given or assigned to the Contracting Agency shall be exercised or performed by the Contracting Agency.

1.551 Except as specifically provided herein, Public contracts shall be let by the City of Bend according to the State of Oregon Public Contracting Code, including the Model Rules adopted by the Oregon Attorney General as they now exist and as they may be amended in the future, and the Bend Code. Definitions provided by the State of Oregon Public Contracting Code or the Model Rules shall apply to City of Bend procurements, except as may be specifically provided herein.

1.552 The following classes of public contracts are hereby exempted from competitive procurement:

(a) Any contract exempted by the State of Oregon Public Contracting Code or Model Rules;

(b) Contracts under $5,000, which may be entered into by direct award under rules and procedures adopted by the Contracting Agency.

(c) Contracts for the purchase of computer equipment and software, which may be by requests for quotations, under the procedures in Bend Code Section 1.555(a) and (b).

(d) Purchases through federal programs, pursuant to ORS 279A.180.

(e) An emergency contract, provided that the Contracting Agency adheres to the requirements of ORS 279B.080 or 279C.335(5) and the Model Rules.

(f) A Public Facility Improvement Agreement entered into between the City of Bend and a person responsible for carrying out conditions of approval of a land use decision of the City of Bend. The term "Land Use Decision" has the meaning provided by ORS 197.015.

(g) Any other contract (including sole source and brand name specification contracts) where the public interest would be promoted by exempting the contract from the competitive bidding process, provided that the City of Bend adheres to the Public Contracting Code and the Model Rules in making the exemption.

1.553 Administrative staff and departments have contracting authority and responsibilities as follows:

(1) The City Manager (or designee) is authorized to enter into city contracts not to exceed the limits of the Public Contracting Code and Model Rules without additional authorization of the Contract Review Board, provided that funds for such contract are in the current year budget.

(2) The Contracting Agency shall, consistent with the Bend Code, adopt forms, computer software, procedures, and administrative policies for all city purchases. In addition, the Contracting Agency may adopt purchasing limits and procedures for City Departments and rules establishing change order authority, provided that such rules are consistent with the Public Contract Code and Model Rules.

(3) The City of Bend Department of Finance, Purchasing Division (referred to as the "Purchasing Division"), shall have the authority to enter into city contracts not to exceed $20,000 without obtaining additional authority from the City Manager, provided that funds for such contract are in the current year budget.

(4) Purchases of goods from city employees, or sale of goods to city employees, shall require authorization of the City Manager or designee. Provision of services by city personnel shall be in accordance with the City Personnel Policies in Chapter 5 of the City Policy Manual, and other applicable law.

(5) Each department shall operate within its budget, or seek supplemental budgetary authority from City Council with respect to any contract that is not within the adopted budget for such department for the current year.

1.554 Notice of public improvement contracts may be published electronically where the Contracting Agency finds that such publication is likely to be cost effective, as provided in ORS 279C.360.

1.555 Public improvement contracts estimated by the Contracting Agency not to exceed $100,000 (or $50,000 in the case of transportation projects) may be let by competitive quote under the following procedures:

(a) The Contracting Agency shall informally solicit at least three price quotes from prospective contractors. If three prospective contractors are not available, then fewer quotes may be solicited, and the Contracting Agency shall maintain records of the attempts to obtain quotes.

(b) The Contracting Agency shall award the contract to the prospective contractor whose quote will best serve the interests of the City of Bend, taking into account price and other applicable factors, such as experience, specific expertise,

availability, project understanding, contractor capacity, and contractor responsibility. If the contract is not awarded on the basis of the lowest price, the Contracting Agency shall make a written record of the basis for the award.

(c) A procurement may not be artificially divided or fragmented to qualify for the informal contract award procedures provided by this section.

1.556 Personal services contracts are subject to the rules established by this section:

(a) Personal service contracts will be used to retain the services of independent contractors. Nothing in this section shall apply to the employment of regular city employees.

(b) Unless otherwise approved by the City Manager, all personal service contracts shall require the contractor to defend, indemnify, and hold harmless the city, its officers, agents and employees against and from any and all claims or demands for damages of any kind arising out of or connected in any way with the contractor's performance thereunder and shall include a waiver of contractor's right to ORS 30.285 and ORS 30.287 indemnification and defense.

(c) Unless otherwise approved by the City Manager, city personal service contracts shall contain a provision requiring the person or entity providing the service to obtain and maintain liability insurance coverage in at least the amount of the city's tort liability limits, naming the city as an additional named insured, during the life of the contract.

(d) All city personal service contracts shall contain all contract provisions mandated by State law. These provisions may be incorporated in the personal service contract by reference to State law, unless State law provides otherwise. The Contracting Agency will prepare model contract provisions for use in city personal service contracts.

(e) The following procedure shall be observed in the selection of personal service contractors:

(1) For personal service contracts involving an anticipated fee of $10,000 or less per annum, the City Manager or his or her designated officer may negotiate a contract for such services with any qualified contractor of his or her selection.

(2) For personal service contracts involving an anticipated fee of more than $10,000 per annum, the City Manager or his or her designated officer shall solicit at least three (3) prospective contractors who shall appear to have at least minimum qualifications for the proposed assignment, notify each prospective contractor in reasonable detail of the proposed assignment, and determine the prospective contractor's interest and ability to perform the proposed assignment.

(3) The City Manager or his or her designated officer may arrange for any or all interested prospective contractors to be interviewed for the assignment by an appropriate city employee or by an interview committee.

(4) Following a review of the qualifications and interview, where conducted, of the interested prospective contractors, the City Manager or his or her designated officer shall select the prospective contractor, and shall prepare a personal service contract.

(f) The above provisions regarding selection procedures do not apply to amendments, modifications or supplements to executed personal service contracts.

(g) The following criteria shall be considered in the evaluation and selection of a personal service contractor:

(1) Specialized experience in the type of work to be performed.

(2) Capacity and capability to perform the work, including any specialized services within the time limitations for the work.

(3) Educational and professional record, including past record of performance on contracts with governmental agencies and private parties with respect to cost control, quality of work, ability to meet schedules, and contract administration, where applicable; and

(4) Availability to perform the assignment and familiarity with the area in which the specific work is located, including knowledge of design or techniques peculiar to it, where applicable.

(5) Any other factors relevant to the particular contract.

(h) The selection procedures described in this section may be waived by the City Manager, at his or her discretion where an emergency exists that could not have been reasonably foreseen and requires such prompt execution of a contract to remedy the situation that there is not sufficient time to permit utilization of the selection procedures.

(i) The City Manager is delegated the authority to sign all personal service contracts.

(j) Nothing contained in this section shall preclude the city from complying with provisions of Federal or State law that require the city to utilize a different selection or contracting procedure, including circumstances where applicable rules require a different procedure for selecting architects, engineers and land surveyors.

1.557 Disposition of surplus personal property may be made, at the discretion of the City Manager or his/her designee, under provisions of the State of Oregon Public Contracting Code, or the Model Rules, or under the provisions of this section:

(a) From time to time and after personal property owned by the City of Bend is determined by the City Manager or his/her designee to be surplus to the needs of the city, the city may sell the property at public auction. The city may utilize a contracting firm, approved by the Contract Review Board, for disposition of the property on terms and conditions contained in a contract approved by the Contract Review Board. The city shall give notice of the public auction by posting notice of the means by which the property will be disposed of on the City of Bend Internet Website, or by advertisement in a newspaper of general circulation.

(b) Auction sales may be (but are not required to be) conducted entirely on the internet. 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 Contract Review Board between the City of Bend and a firm (if any) selected to conduct the auction.

(c) All personal property sold pursuant to this section 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 person or company conducting the auction shall execute an appropriate bill of sale or receipt, which shall recite that the sale is without warranty, as provided in this sub-section.

1.558 If bids are solicited for a public improvement contract, and all bids exceed the budget for the project, the Contracting Agency may, prior to contract award, negotiate for a price within the project budget under the following procedures:

(a) Negotiations will begin with the lowest, responsive and responsible bidder. If negotiations are not successful, then the Contracting Agency may begin negotiations with the second lowest responsive, responsible bidder, and so on.

(b) Negotiations may include the inclusion of value engineering and other options to attempt to bring the project cost within the budgeted amount.

(c) A contract may not be awarded under this section if the scope of the project is significantly changed from the description in the original bid documents.

(d) The Contracting Agency will adhere to the provisions of ORS 279C.340 in applying this section.

1.559 The Contracting Agency shall adopt appropriate purchasing policies dealing with ethics, environmental considerations and the like, subject to review and modification by the Contract Review Board.

1.560 In the event of a conflict between any provision of the State of Oregon Public Contracting Code or the Model Rules and this chapter of the Bend Code, the provisions of the State of Oregon Contracting Code or the Model Rules shall control.

Section 2. Emergency declared to exist. Because the revised State Public Contracting Code takes effect on March 1, 2005, the public fiscal welfare requires that this ordinance take effect immediately upon its passage.

Section 3. Council Policy 2-8 relating to Personal Services Contracts is hereby repealed.

Section 4. Council Policy 2-13 relating to Purchasing and Procurement is hereby repealed.

Read for the first time the 2nd day of February, 2005.

Read for the second time this 16th day of February, 2005.

Placed upon its passage this 16th day of February, 2005.

YES: 7 NO: 0

Authenticated by the Mayor this 16th day of February, 2005.

Bill Friedman, MAYOR

ATTEST:

Patty Snell, City Recorder

ORDINANCE NO. NS-1961

AN ORDINANCE REPEALING ORDINANCE NUMBER NS-1443, WHICH ESTABLISHED A MULTI-AGENCY "DESCHUTES BASIN RESOURCE COMMITTEE"

WHEREAS: Ordinance No. 1443, adopted on July 16, 1986, established a multi-agency "Deschutes Basin Resource Committee," and

WHEREAS: The structure of governmental and quasi-governmental organizations that study and manage Deschutes Basin water resources have changed in significant ways since 1986, such that the Deschutes Basin Resource Committee established by Ordinance No. 1443 is no longer useful to the City of Bend.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. City of Bend Ordinance No. 1443, adopted July 16, 1986, is hereby repealed.

Read for the first time the 2nd day of February, 2005.

Read for the second time the 16th day of February, 2005.

Placed upon its passage the 16th day of February, 2005.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 16th day of February, 2005.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1962

AN ORDINANCE TO ANNEX APPROXIMATELY 520 ACRES OF THE JUNIPER RIDGE PROPERTY INTO THE CITY

WHEREAS, ORS 222.170 (2) provides for annexation of real property to cities when property owners of more than half of the land and a majority of electors registered in the territory proposed to be annexed consent to said annexation; and

WHEREAS, the City Council finds that the City is the sole property owner within the area to be annexed and it has filed a statement of consent to this annexation; and

WHEREAS, the City Council has determined that there are no registered electors within the below described territory; and

WHEREAS, the Council has elected to dispense with submitting the question of the proposed annexation of the below described territory to the electors of the City; and

WHEREAS, the Council held a public hearing on February 16, 2005 to enable the public to appear and be heard on the question of annexation;

WHEREAS, notice of the above hearing was published once each week for two successive weeks prior to the day of the hearing, in the Bulletin, a newspaper of general circulation in the City of Bend and notices of the hearing were posted in at least four public places in the City for a like period; and

WHEREAS, the below described territory is contiguous to the City limits of the City of Bend; and

WHEREAS, the subject property was brought into the City's Urban Growth Boundary pursuant to ordinances adopted by the City Council, and by the Deschutes and those ordinances were acknowledged by the Department of Land Conservation and Development on December 29, 2004; and

WHEREAS, a portion of the below described territory is located within the Deschutes County Rural Fire Protection District No. 2, hereinafter referred to as "District"; and

WHEREAS, the City has determined that the portion of the territory to be annexed to the City that is currently located within the District should be withdrawn from the District; now therefore

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. That the following described territory containing 519.72 acres of land, which is depicted on the attached map, is hereby declared to be annexed to the City of Bend:

See Legal Description

SECTION 2. That the above described property is hereby withdrawn from the Deschutes County Rural Fire District upon the effective date of this ordinance.

SECTION 3. That the City hereby elects to assume those obligations of the District that are specified in ORS 222.520 (2)(b).

Read for the first time the 16th day of February, 2005.

Read for the second time the 2nd day of March, 2005.

Placed upon its passage the 2nd day of March, 2005.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 2nd day of March, 2005.

Bill Friedman, Mayor

Attest:

~~Patricia Stell~~, City Recorder
Kim Meyers, Deputy

STATEMENT OF CONSENT TO ANNEXATION

Pursuant to ORS 222.170, the City of Bend consents to the annexation of land it owns which consists of approximately 500 acres more particularly described in the foregoing ordinance.

/s/ Harold A. Anderson
City Manager

Date: February 16, 2005

EXHIBIT A

A parcel of land containing 519.72 acres, more or less, located in a portion of the Default of Section 10, Township 17 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the North 1/4 corner of said Section 10; thence along the north boundary of said Section 10 North 89°50'30" East a distance of 490.28 feet to a point on the east sideline of the 20.00 foot wide access road easement along the east side of the Pilot Butte Canal; thence along said easement sideline the following fifty-three (53) courses:

South 03°21'01" West a distance of 113.44 feet;
South 20°27'09" West a distance of 55.30 feet;
South 33°15'36" West a distance of 68.87 feet;
South 17°43'05" West a distance of 14.66 feet;
South 02°39'22" West a distance of 46.52 feet;
South 25°13'29" East a distance of 33.02 feet;
South 46°47'36" East a distance of 54.20 feet;
South 38°25'10" East a distance of 111.44 feet;
South 45°18'20" East a distance of 362.20 feet;
South 39°53'59" East a distance of 501.81 feet;
South 24°54'31" East a distance of 198.80 feet;
South 18°59'52" East a distance of 232.98 feet;
South 01°12'26" West a distance of 107.89 feet;
South 11°19'19" East a distance of 20.91 feet;
South 45°01'50" East a distance of 11.25 feet;
South 78°50'48" East a distance of 54.31 feet;
North 87°12'37" East a distance of 85.50 feet;
South 84°48'39" East a distance of 58.79 feet;
South 56°06'00" East a distance of 81.39 feet;
South 40°53'09" East a distance of 73.88 feet;
South 22°21'00" East a distance of 495.66 feet;
South 30°05'42" East a distance of 38.65 feet;
South 37°04'19" East a distance of 66.46 feet;
South 39°16'28" East a distance of 485.68 feet;
South 62°37'03" East a distance of 125.42 feet;
South 49°57'27" East a distance of 89.27 feet;
South 62°48'31" East a distance of 52.22 feet;
South 34°56'57" East a distance of 88.38 feet;
South 49°39'56" East a distance of 59.95 feet;
South 30°13'48" East a distance of 111.15 feet;
South 06°00'55" East a distance of 64.46 feet;
South 06°59'19" West a distance of 66.93 feet;
South 15°47'17" West a distance of 173.18 feet;

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South 29°08'45" West a distance of 117.18 feet;
South 34°14'47" West a distance of 324.27 feet;
South 30°35'37" West a distance of 196.22 feet;
South 40°25'49" West a distance of 196.90 feet;
South 23°59'06" West a distance of 49.96 feet;
South 34°48'31" West a distance of 97.48 feet;
South 39°43'01" West a distance of 228.36 feet;
South 60°37'09" West a distance of 67.23 feet;
South 26°05'38" West a distance of 34.90 feet;
South 05°58'55" East a distance of 190.16 feet;
South 04°21'39" West a distance of 128.19 feet;
South 02°09'46" East a distance of 119.35 feet;
South 14°27'33" East a distance of 70.65 feet;
South 24°06'07" East a distance of 33.32 feet;
South 53°22'27" East a distance of 55.82 feet;
South 40°27'12" East a distance of 61.72 feet;
South 24°10'18" East a distance of 65.40 feet;
South 01°50'56" West a distance of 73.58 feet;
South 32°25'42" West a distance of 161.21 feet;
South 16°15'33" West a distance of 51.64 feet to a point on the south boundary of said Section 10;

Thence along said south boundary South 89°43'46" West a distance of 1779.76 feet to the South 1/4 corner of said Section 10; thence continuing along said south boundary South 89°36'02" West a distance of 2624.03 feet to the Southwest corner of said Section 10; thence along the west boundary of said Section 10 North 00°01'27" East a distance of 2644.32 feet to the W 1/4 corner of said Section 10; thence continuing along said west boundary North 00°01'07" East a distance of 2644.29 feet to the Northwest corner of said Section 10; thence along the north boundary of said Section 10 North 89°37'43" East a distance of 2620.61 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.

Bearings are Central Coordinate System grid bearings based on the bearing of the line between Central Oregon Control Points '17120304' and '17120200' (being respectively the N 1/4 corner and Northeast corner of said Section 10) as being North 89°50'30" East as computed from their published coordinates.

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

2-10-05

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 17, 1986
PETER A. MANLEY
2214

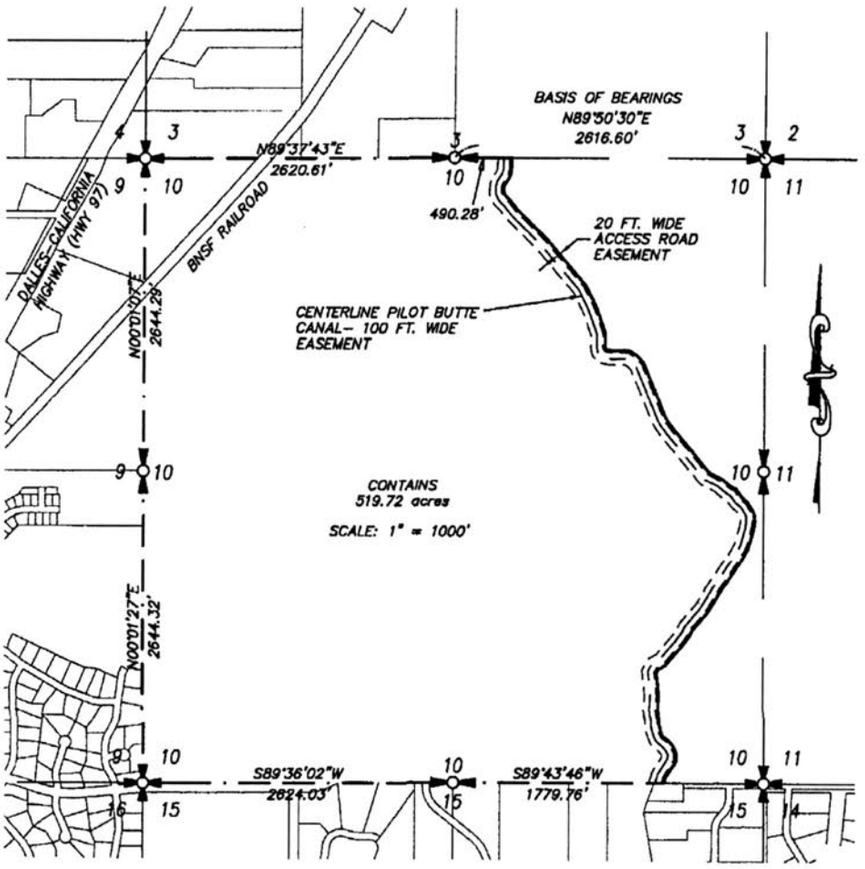
RENEWAL DATE: 12/31/06

February 10, 2005
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Page 2 of 2

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EXHIBIT B

LOCATED IN SECTION 10, TOWNSHIP 17 SOUTH, RANGE 12 EAST, W.M., 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

2-10-05

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 17, 1986
PETER A. MANLEY
2214

RENEWAL DATE: 12/31/06

COB64512xbndy.dwg
2/15/04

ORDINANCE NO. NS-1963

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

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated January 20, 2005, file number PZ-04-690.

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

Read for the first time the 2nd day of March, 2005.

Read for the second time the 16th day of March, 2005.

Placed upon its passage the 16th day of March, 2005.

YES: 6 NO: 0

Authenticated by the Mayor the 16th day of March, 2005.

Bill Freedman, Mayor

ATTEST:

Kim Meyers

~~Patricia Stell~~, City of Bend Recorder

Deputy

AmeriTitle
Part Of The JELD-WEN Family

EXHIBIT A
File PZ-05-690
City of Bend

PRELIMINARY TITLE REPORT

SUN COUNTRY ENGINEERING AND SURVEYING
920 SE ARMOUR ROAD
BEND, OR 97702

Attn: MICK TYE

September 23, 2004
Report #1
Title Number : 069814
Title Officer : AQUILA CRUME

SUBDIVISION REPORT

We are prepared to issue 1992 ALTA title insurance policy(ies) of CHICAGO TITLE INSURANCE COMPANY of OREGON, in the usual form insuring the title to the land described as follows:

That portion of Tract Fourteen (14) BLAKLEY HEIGHTS, Deschutes County, Oregon, described as follows: Beginning at the Southeast corner of said Tract 14; thence North along the East line of Tract 14 208 feet; thence West 208 feet; thence South 208 feet to the South line of Tract 14; thence East along said South line 208 feet to the point of beginning

Vestee:

BURT L. BURTON, JR.

Dated as of September 16, 2004 at 7:30 a.m.

Schedule B of the policy(ies) to be issued will contain the following general and special exceptions unless removed prior to issuance:

GENERAL EXCEPTIONS:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.

2. Easements, liens, encumbrances, interests or claims thereof which are not shown by the public records. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.

3. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.

4. (a) Unpatented mining claims; (b) Reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) Water rights, claims or title to water whether or not the matters excepted under (a), (b), or (c) are shown by the public records.

5. Any lien or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law not shown by the public records.

Order No 069814
Page 2

SPECIAL EXCEPTIONS:

Taxes assessed under Code No. 1-001 Map and Tax Lot Number 18 12 08cb 00400
Account No 125116

6. The 2003-2004 Taxes: $1,045.40, plus interest, UNPAID.

7. The 2004-2005 Taxes: A lien not yet due or payable.

8. City Liens, if any, of the City of Bend (No inquiry has been made, and if search is requested, a charge of $30.00 will be added).

9. Regulations, including levies, assessments, water and irrigation rights and easements for ditches and canals of Arnold Irrigation District.

10. Agreement, including the terms and provisions thereof, between Adam Repnock and Ruth Repnock, Husband and Wife, and C.M Rusmussen, regarding the use and maintenance of flume along the South boundary, as recorded June 22, 1953, in Book 104, Page 285, Deed Records.

11. Deed of Trust, including the terms and provisions thereof, to secure an indebtedness of the amount herein stated.
Amount: $128,000.00
Dated: August 6, 2003
Recorded: August 15, 2003
Volume/Page: 2003/55939, Deschutes County Records
Grantor: Burt L. Burton, Jr.
Trustee: First American Title Insurance Company of Oregon
Beneficiary: Option One Mortgage Corporation, a California Corporation

12. Pending dissolution of marriage proceedings in the State Circuit Court for Deschutes County, Oregon.
Case No.: 04DS0604MS
Filed: August 26, 2004
Petitioner: Nancy S. Burton
Respondent: Burt L. Burton, Jr.

13. Any right, title and interest of Nancy S. Burton, as disclosed by Pending Dissolution, case no. 04DS0604MS, filed August 26, 2004.

NOTE: The property address as shown on the Assessor's Roll is:
61351 Blakely Road, Bend, Oregon 97702

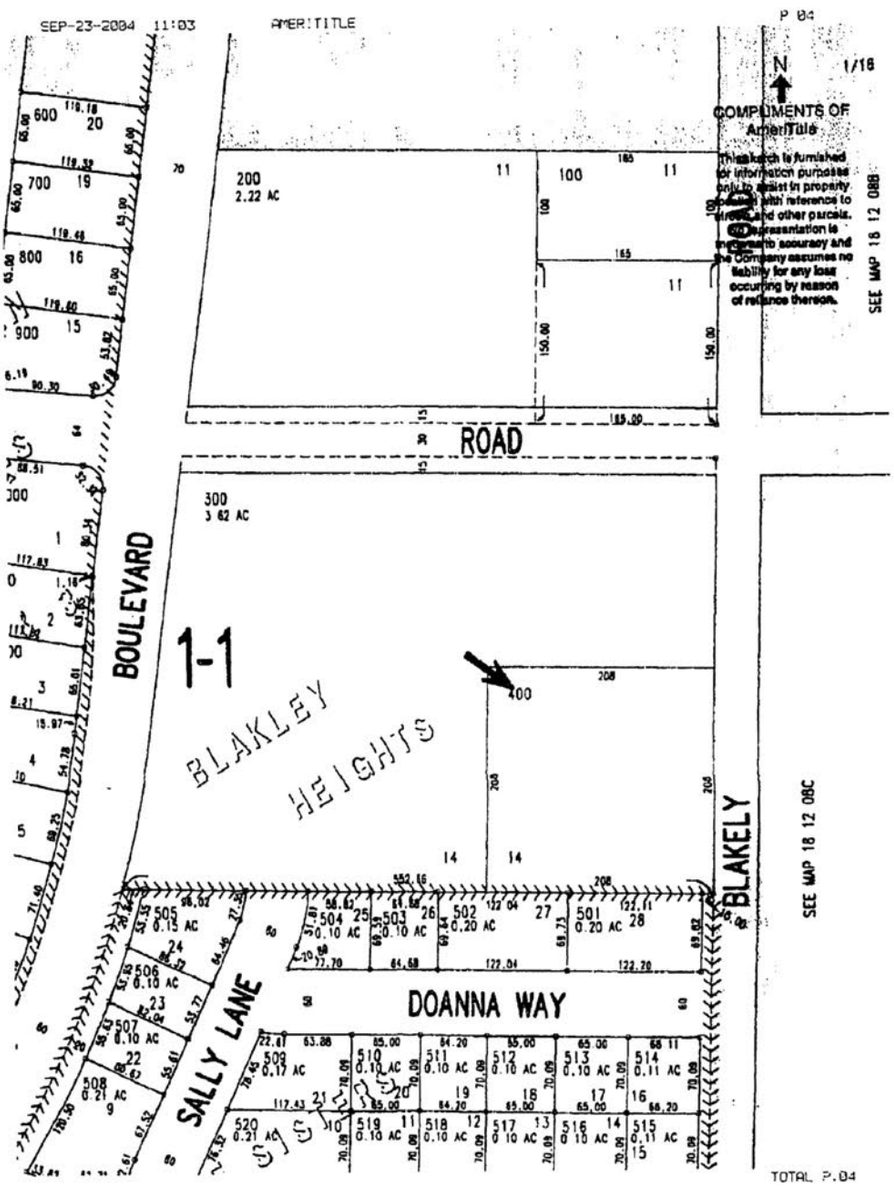
NOTE: As of the date hereof, there are no matters against Burt L. Burton, Jr. which would appear as exceptions in the policy to issue, except as shown herein

This report is preliminary to the issuance of a policy of title insurance and shall become null and void unless a policy is issued and the full premium paid.

AmeriTitle

By: Aquida Crume
Aquida Crume, Title Examiner
AC:kg

"Superior Service with Commitment and Respect for Customers and Employees"


SEP-23-2004 11:03
AMERITITLE
P.04
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1/16
COMPLIMENTS OF
AmeriTitle
This sketch is furnished for information purposes only to assist in property location with reference to streets and other parcels. No representation is made as to accuracy and the Company assumes no liability for any loss occurring by reason of reliance thereon.
SEE MAP 18 12 08B
ROAD
BOULEVARD
1-1
BLAKLEY HEIGHTS
BLAKELY
SEE MAP 18 12 08C
DOANNA WAY
SALLY LANE
TOTAL P.04

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Bold text is added from draft considered on 2-16-05;

ORDINANCE NO. NS-1964

AN ORDINANCE ESTABLISHING PROCEDURES FOR VACATIONS OF PUBLIC RIGHTS-OF-WAY AND PROVIDING FOR ASSESSMENTS AGAINST REAL PROPERTY BENEFITED BY THE VACATION

WHEREAS: ORS 271.120 provides that right-of-way vacations shall only occur when the city finds the vacation does not prejudice the public interest, and

WHEREAS: Public rights-of-way are held by the City of Bend for the benefit of all members of the public, and

WHEREAS: Because rights-of-way are held for use by the public, and are in the nature of public property, the public interest requires assessment for the benefit of the public treasury when public property is vacated and where such vacation benefits individual property owner. The Bend City Council finds that an assessment against the benefited property is in the public interest so that the individual property owner will not benefit financially at the expense of other members of the public who benefited from public ownership of public rights-of-way, and

WHEREAS: The City of Bend finds that this ordinance providing for an assessment of money against properties benefited from vacations of public rights-of-way, to the extent of the benefit, serves the public health, safety and welfare of the City of Bend.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. The Bend Code is hereby amended to add a new Chapter 10-18 as follows:

10-18.1 Purpose and Policy:

(a) The purpose of this Section of the Bend Code pertaining to vacation of rights-of-way shall be to provide persons who propose vacations and to those who must review the proposal with a guideline for review and a method and process of handling vacation petitions.

(b) Vacation of public rights-of-way are not favored by the City of Bend and a person proposing a vacation has the burden of showing the vacation will serve the public interest.

(c) Vacation of a publicly owned right-of-way may not be in the public interest if a property owner is financially benefited by the vacation, which comes as the result of the public relinquishing an interest in property, unless the private property owner agrees to pay an assessment to compensate the public for the relinquishment of the property interest. The determination of public interest may include consideration of the nature of the benefited property, such as whether the vacation would benefit a private property owner, or whether it would provide a public benefit, such as a benefit to a charitable organization or a governmental entity.

10-18.2 Vacation Petitions:

(a) Whenever any person interested in any real property in the City of Bend desires to vacate all or part of any street, avenue, boulevard, alley, plat, public square or other public place, such person may file a petition therefor with the City Recorder setting forth a description of the ground proposed to be vacated, the purpose for which the ground is proposed to be used and the reason for such vacation.

(b) The person presenting a petition to vacate a public right-of-way shall deposit with the recorder the sum as prescribed by resolution of the council from which the recorder shall deduct the cost of publishing and posting notices of the proposed vacation and such other expenses as are incurred. In case the actual cost exceeds the amount of the deposit, an additional sum, sufficient to cover such deficiency, shall be collected by the recorder before the vacation is completed. In case the actual costs are less than the amount deposited, any excess or balance shall be refunded.

(c) The petition and appendages shall contain such information as is required by ORS 271.080 together with:

(1) A title report verifying ownership of the property abutting the area proposed to be vacated and in the affected area; and

(2) A tax map showing the area proposed to be vacated and the area encompassing the affected area.

(d) Where the city is the owner of property abutting the area proposed to be vacated the city manager shall have the authority to give consent or withhold consent of initiating the vacation.

(e) In addition to the above procedures, the Bend City Council may initiate a vacation according to the procedures in ORS 271.130.

10-18.3 Section 3. Review of Petition at the City Council Level:

(a) After the petition is received by the City Recorder, the petition shall be placed on the agenda for the next City Council meeting, to be received by the City Council.

(b) After receipt of the petition by the City Council, the petition shall be forwarded to the Bend Urban Area Planning Commission for consideration and a recommendation on the land use implications of the vacation. The petition shall also be reviewed by city staff for a determination of whether an assessment against the benefited property(s) is appropriate to service the public interest, and if so, the amount of the assessment.

(c) Upon receipt of a copy of a petition for vacation, the Planning Commission shall notify all affected public utility companies of such petition. Responses from the utility companies shall be included in the Planning Commission's recommendation to council.

(d) The recommendation from the Bend Urban Area Planning Commission shall be based upon the criteria outlined in Section 18-3.4 of this chapter.

(e) The Bend Urban Area Planning Commission shall return the petition for vacation to the City Council for a public hearing before the City Council. The Urban Area Planning Commission will also submit a report making recommendation to the City Council regarding the proposed vacation, which report shall focus on the land use issues involved in the vacation decision.

(f) The Planning Commission's report shall be provided to the affected owner(s) within 10 days of the Planning Commission decision.

(g) After the vacation petition is received, and prior to consideration of the vacation petition by the Bend City Council, staff shall, through consultation with an appraiser or qualified members of city staff, determine the value of the vacation to the affected property(s). Staff shall notify the affected owner(s) of staff's determination of the value sufficiently in advance of the public hearing conducted by the Bend City Council to allow the affected owner(s) to obtain their own valuation data. Staff shall meet with the affected owner(s) in advance of the city council's public hearing to attempt to reach mutual agreement as to the value of

the benefit to the affected property if the vacation is approved. If staff and the affected Property owner(s) are able to agree on a value to be assessed against the property benefited by the vacation, then the affected property owner(s) shall sign a written acknowledgement that they will not protest the assessment, and the agreement shall be presented to the council for its consideration at the public hearing conducted prior to adoption of a vacation ordinance.

18-3.4 Guidelines: The guidelines set forth here are intended to assist the staff and Council in reviewing proposed vacations. They are not intended to be exclusive. The City Council, in its sole discretion, must still determine whether or not a proposed vacation would prejudice the public interest (ORS 271.120). Staff, the Planning Commission and the City Council shall consider the following:

(a) Whether there is a public use of the right-of-way at the time the proposal is submitted.

(b) Whether any reasonable use of the right-of-way could exist in the future. Reasonable use includes, but is not limited to:

(1) streets;

(2) bike paths;

(3) jogging trails;

(4) drainage areas.

(c) If utilities are located within the proposed right-of-way and no other reasonable use could be made of the right-of-way, the City may vacate the right-of-way with a reservation for utility easements.

(d) **When determining whether it is in the public interest to make an assessment against property benefited by the vacation, and if so, the amount of such assessment, the City Staff and the City Council may consider the means by which the City of Bend acquired the property interest subject to the vacation petition, including any consideration paid at the time of acquisition, and any other factors involved in the proposed vacation that the council deems relevant.**

18-3.5 Grant or Denial; Assessments.

(a) If the vacation proposal meets the guidelines set forth above and no person with standing to do so makes a valid objection to the proposed vacation, the City Council may vacate the right-of-way or a portion of the right-of-way if it finds the public interest will not be prejudiced.

(b) The council shall conduct a public hearing on the question of whether a petition for the vacation of a street, alley, plat, or other public place, or any part thereof, is in the public interest and should be granted. At the hearing, the affected property owner(s) may present evidence regarding any aspect of the vacation, including the recommended assessment. The council shall hear all other evidence relevant to its determination. If the council or the affected property owner(s) disagree with the staff recommendation as to the value of the benefit to the affected property(s) as a result of the vacation, then the city council and the affected owner(s) shall attempt to reach agreement during the public hearing. And such agreement shall be reduced to writing following the public hearing, and signed by the affected property owner(s). If the council agrees with the proposed valuation of the benefit to the affected property(s) previously reached between staff and the affected owner(s) (if such agreement was reached), then council may approve the amount of the benefit assessment. Thereafter, the council may, if it finds that the vacation would not prejudice the public interest, hold a first reading of an ordinance granting the vacation in whole or in part, or may, by resolution, deny the same in whole or in part, or may, by ordinance, grant the same with such conditions or reservations as would appear to be for the public interest, including

reservations pertaining to the maintenance and use of underground public utilities in the portion vacated, and may make an assessment and provide for the payment to the city of such sum of money as the council may find to be just and equitable as an assessment of special benefit upon the real property abutting upon the vacated area, and the costs of curbs, drainage, paving, sewer or other local improvement already completed or to be constructed upon the area vacated. The assessments, together with all costs shall not exceed the amount of special benefit resulting or inuring to the abutting property by reason of such vacation. In lieu of paying the assessment, the owner may make application to pay the sum of money due in installments, as provided in the Bancroft Bonding Act in the same manner as other assessment liens in the city. In such case, the city shall have a lien against the benefited property in the amount of the assessment, plus interest in the amount then charged for Bancroft Bond assessments. The council shall include in the vacation ordinance the amount of the assessment and the Finance Department shall enter such assessment in the docket of city liens.

(c) In the event any such petition is wholly denied, only the cost of publishing and posting occasioned by the petition shall be retained. Any moneys retained, and any sum assessed and collected as benefits, shall be paid into the city's general fund.

(d) The council's action in granting a petition for vacation shall be by ordinance. The council's action denying a petition shall be by resolution. Any action taken shall conform with the Bend Urban Area General Plan.

18-3.6 Satisfaction of Conditions Attached to Vacation.

(a) Where conditions have been attached by council to the vacation approval, petitioners shall, prior to council's consideration of the vacation ordinance, file with the Recorder a document accepting the terms and conditions of the approval.

(b) Satisfaction of a condition may be delayed if:

(1) The petitioner posts a performance bond in the amount of the project cost as estimated by the director of public works;

(2) It is agreed in writing that the work will be completed within one year; and

(3) The petitioner grants to the city a right of access to the property and a right to complete the improvement in the form of covenants which shall be recorded with the county.

18-3.7 Recordation of Ordinance.

(a) A certified copy of the ordinance vacating any street, alley, plat, or other public place and any map, plat or other record in regard thereto which may be required or provided by law, shall be filed for record with the county clerk by the city recorder. The recorder shall also file a certified copy of any such ordinance with the county assessor, county surveyor and each affected public utility.

(b) No vacation shall be effective until the ordinance vacating the property is recorded by the city recorder with the county clerk, assessor and surveyor.

(c) No vacation shall be recorded until:

(1) All assessments have been paid or an application to pay said assessments has been properly filed;

(2) All required legal documents have been signed and filed; and

(3) The petitioners have complied with all of the applicable conditions attached to the vacation approval as provided pursuant to the provisions of this chapter.

18-3.8 Procedures are Supplemental to State Law. The procedures in this chapter are in addition to the provisions of ORS 271.080 through 271.230, but do not supercede them.

Section 2. Council Policy No. 4-4 "Petitions for Vacation of Public Rights-of-Way is hereby repealed.

Read for the first time the 2nd day of March, 2005.

Read for the second time the 16th day of March, 2005.

Placed upon its passage the 16th day of March, 2005.

YES: 6 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 16th day of March, 2005.

Bill Friedman, Mayor

Attest:

Patty Stell, City Recorder

ORDINANCE NO. NS-1965

AN ORDINANCE PROHIBITING SALE, POSSESSION
AND USE OF FIREWORKS IN BEND BY ANY PERSON
UNDER THE AGE OF 18 YEARS

WHEREAS, The City Council finds that use of fireworks in Bend by individuals under the age of 18, constitutes an unreasonable risk to the health, safety and welfare of the people of Bend, and

WHEREAS, The Oregon Fireworks Law, ORS 480.110 through ORS 480.165 permits Cities to regulate fireworks,

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code Chapter 5 is amended by adding a new section to read as follows:

5.080 Prohibition of Possession of Fireworks by Persons Under the Age of 18.

(1) "Fireworks" shall have the meaning provided in ORS 480.110(1).

(2) It is unlawful for a person under the age of 18 years to sell, keep or offer for sale, expose for sale, possess, use, explode or have exploded any fireworks within the City, except as specified by ORS 480.120.

(3) For the purpose of this Section, the Fire Chief of the City (or designee) is recognized as an ex-officio Deputy State Fire Marshal as provided by the Oregon Fireworks Law, ORS 480.160(2)

(4) In addition to the enforcement provisions and penalties provided in the Bend Code and other provisions of law, the City may confiscate, remove, or have removed at the owner's expense, all stocks of fireworks or other combustibles exposed for sale or held in stock in violation of this Section, and may destroy same, when necessary for the preservation of the public safety.

(5) Violation of this section is a Class A Civil Infraction.

Read for the first time the 2nd day of March, 2005.

Read for the second time the 16th day of March, 2005.

Placed upon its passage the 16th day of March, 2005.

YES: 4 NO: 2 ABSTAIN: 0

Authenticated by the Mayor the 16th day of March, 2005.

Bill Friedman, Mayor

Attest:

Patty Stell, City Recorder

Text in ~~struckthrough~~ typeface is deleted;
Text in underlined typeface is added

ORDINANCE NO. NS-1966

AN ORDINANCE AMENDING ORDINANCE NO. 1950 WHICH ESTABLISHED 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"

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, On December 1, 2004, the Bend City Council adopted Ordinance No. 1950, establishing Section 1.950 of the Bend Code to provide for review of demands under Measure 37; and

Whereas, Good cause exists to amend Ordinance No. 1950.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Section 1.950 of the Bend Code is amended 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 enactment, enforcement or application of a land use regulation and the value with enactment, enforcement or application of a land use regulation, <u>at the time the Measure 37 Demand is made.</u>

(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. Except as provided in Section 1.950(4)(c)(17), a ~~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 Demand, 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) 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 after the date of the acquisition of the Property by the Owner, or after acquisition by a Family Member of the Owner who owned the subject Property prior to 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].

(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.

(17) For purposes of discussing settlement of a Demand, the Manager may proceed to negotiate a Demand or schedule a public hearing before the City Council, even if the Demand lacks one or more of the items listed in Section 1.950(4)(c)(1-16), if the missing item(s) are clearly not necessary for the purpose of discussing settlement of the Measure 37 Demand. The Manager's determination of whether a Demand is complete for purposes of settlement discussions shall be subject to Oregon Evidence Rule 408 as it is part of the conduct or statement of the parties made in negotiations to compromise a disputed claim. The Manger's determination to go forward with settlement discussions, even if a Demand is not complete, shall therefore not be admissible against the City of Bend in any court proceeding as an admission or otherwise on the question of whether the Demand was complete. The City Council may elect to conduct a hearing on an incomplete Demand application, but the decision to hold a hearing is not an admission that the Demand is complete, or that the Owner has met the burden of proof on any item required under Section 1.950(4)(c)(1-16). A decision to approve a Demand following negotiations or a public hearing shall not be considered an admission by the City of Bend that the Demand is complete, and shall not abrogate an Owner's burden of proof in a subsequent court proceeding on any element of the Measure 37 claim.

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~~ not apply 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. Upon completion of a development in a case where the city elected to not apply a land use regulation, the new use shall be a nonconforming use under the City of Bend Zoning or Development Ordinance. A decision to remove, modify or not apply a land use regulation allows the current owner to use the property only for use(s) permitted at the time the owner acquired the property.

(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, not applying 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.

1.950(9) Availability of Funds to Pay Demands. 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. This ordinance shall apply retroactively to December 2, 2004.

Read for the first time the 6th day of April, 2005.

Read for the second time the 20th day of April, 2005.

Placed upon its passage the 20th day of April, 2005.

YES: 5 NO: 2 ABSTAIN: 0

Authenticated by the Mayor the 20th day of April, 2005.

Bill Friedman, Mayor

ATTEST:

Deputy Recorder of the City of Bend

ORDINANCE NO. NS-1967

AN ORDINANCE AMENDING BEND CODE, CHAPTER 5 RELATED TO CONSTRUCTION WORK AND CITY MANAGER PERMITS ISSUED FOR WORK BETWEEN THE HOURS OF 10:00 P.M. AND 7:00 A.M.

Whereas, The Bend City Council enacted Ordinance NS-1362 in August, 1982 to update several areas of the Bend Code, Chapter 5 – Offenses; and,

Whereas, Ordinance NS-1362 provided that in circumstances of special need, the City Manager can issue a special permit that allows for construction activities outside of the prohibited hours of 10:00 P.M. to 700 A.M.; and,

Whereas, Ordinance NS-1362 allowed such permits to consist of no more than three days at a time, yet allowed for multiple permits by the City Manager to allow for consecutive nights of work; and,

Whereas, the current growth and industry in Bend make it more difficult for some construction activities to occur during regular hours and still provide for the safety and well being of community members and others; and

Whereas, the practice of issuing consecutive permits has become a burdensome practice; now, therefore:

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Ordinance No. NS-1362 enacted by the City of Bend in August, 1982 is amended as follows:

Unreasonably Loud or Raucous Noise:

(a) Motor vehicles. Motor vehicle noise louder or heard for a longer period than that produced by reasonable use by motor vehicles with mufflers and that disturbs, injures, or endangers safety of persons 30 or more feet away, if the noise is not emitted in order to make the motor vehicle move up to the maximum speed limit on public streets, roads or highways for the purpose of direct transportation.

(b) Motorcycles. Using a motorcycle outside of public rights-of-way where the use disturbs the sleep, peace, quiet, comfort or repose of persons 30 or more feet away. If the user has a permit issued under subsection (4) of this section allowing a person to operate a motorcycle outside of public rights-of-way within the terms of the permit.

(c) Horns, signaling devices, etc. Sounding horn or signaling device on an automobile, motorcycle, bus, or other vehicle except as a reasonable signal required by the exigencies of vehicular or pedestrian traffic; creating by a signaling device a sound which disturbs the sleep, peace, quiet, comfort or repose of other persons; sounding such device for an unnecessary or unreasonable period of time.

(d) Radios, phonographs, etc. Playing, using, or operating a radio musical instrument, phonograph, television set, tape recorder or other machine or device for producing or reproducing sound in a manner that disturbs the sleep, peace, quiet, comfort or repose of other persons, or using the machine or device with louder volume than is necessary for convenient hearing by the person or persons who are in the room, vehicle, or chamber in which the machine is operated and others who are voluntary listeners. The operation of a machine audible to a peace officer at a distance of 50 feet from the building, room, structure, or vehicle in

which it is located shall be prima facie proof of a violation of this section.

(e) Loud speakers, amplifiers, etc. Using, operating or permitting to be used or operated a mechanical or electrical loud speaker or sound amplifier, either stationary or mobile, for producing or reproducing sound that is cast on the public streets or other public property if it disturbs the sleep, peace, quiet, comfort or repose of persons more than 30 feet away. This subpart does not prohibit the reasonable use of mechanical loud speakers or sound amplifiers as authorized by the commission or emergency announcements required by public safety. However, repetitive mechanically or electrically amplified political advertising shall not be allowed in zoned residential neighborhoods between 10:00 p.m. and 7:00 a.m.

(f) Yelling, shouting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place that disturbs the sleep, peace, comfort, or repose of persons more than 30 feet away. This section shall not apply to applause and cheering at public meetings, lectures, sports events and shows held at schools, stadiums, auditoriums, churches, meeting halls, public parks and public playgrounds.

(g) Steam Whistles. Blowing a steam whistle attached to a stationary boiler, except to give notice of the time, to begin or stop work, as a warning of fire or danger, or on request of proper authorities.

(h) Exhausts. Discharging into the open air the exhaust of a steam engine, stationary internal combustion engine, motor boat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises.

(i) Defect in vehicle or load. Using an automobile, motorcycle or other vehicle so out of repair, so loaded or in such a manner as to disturb the sleep, peace, quiet, comfort or repose of persons more than 30 feet away.

(j) Unloading, loading, opening boxes. Loading or unloading a vehicle, or opening, closing or destroying bales, boxes, crates and containers so as to disturb the sleep, peace, comfort or repose of persons more than 30 feet away.

(k) Constructing or repairing buildings, streets, etc. Constructing (including excavating), demolishing, altering or repairing a building, street, sidewalk, driveway, sewer or utility line between the hours of 10:00 p.m. and 7:00 a.m., except as provided in subsection (4).

(l) Schools, courts, churches, hospitals. Creating a sound on a street adjacent to a school, institution of learning, church or court while in use, or an institution for the care of the sick or infirm, that would tend to unreasonably interfere with the operations of the institution, or disturb the sleep, peace, quiet, comfort or repose of persons more than 30 feet away. "Adjacent" means within 500 feet of an institutional building.

(m) Environmental Quality Standards. Noise that violates the standards of the Environmental Quality Commission adopted pursuant to ORS 467.030 and that is not exempt under ORS 467.035 or permitted by a variance issued under ORS 467.060.

(n) Blowers and compressors. Operating a blower, power fan, internal combustion engine, electric motor or compressor, or the compression

of air, unless the sound from each machine is sufficiently muffled so as not to disturb the sleep, peace, quiet, comfort or repose of persons more than 30 feet away.

[Section 5.385(2) amended by ORD. No. NS-1689, passed 9-17-97]

(3) Acts Prohibited. Except as permitted by subsection (4), no person within the boundaries of the city shall make an unreasonably loud or raucous noise that disturbs, injures or endangers the comfort, repose, health, peace or safety of others. A violation of this section is a Class A Civil Infraction.

[Section 5.385(3) amended by ORD. No. NS-1365, passed 10-20-82]

(4) Permits.

(a) In cases of emergency or other ~~urgent~~ public necessity, the City Manager may issue a permit allowing activities described in subsection (2)(k) to take place at any hour. **The permit may be for the duration of the permitted activity.** ~~Emergency permits may not be issued for a period exceeding three days, but may be renewed for successive periods not exceeding three days each for as long as the emergency continues~~.

(b) The City Manager may also issue a permit for a concert or similar event allowing activities described in subsection (2)(e) provided such concert or event is permitted under the applicable provisions of this code.

(c) Denial of permits by the City Manager may be appealed to the commission within 15 days after denial. The date of a denial shall be the date a permit is orally denied or the date a written denial is made, whichever is later. Granting the permit may be appealed at any time by a person who resides or works within hearing of the noise generated as a result of the granting of the permit.

(d) Permits may include such restrictions or conditions necessary to safeguard the public peace.

(e) This subsection shall not apply to emergency work performed on public improvements and public utilities. Such activities may be conducted without restriction.

Read for the first time the 6th day of April, 2005.

Read for the second time the 20th day of April, 2005.

Placed upon its passage the 20th day of April, 2005.

YES: 7 NO: 0

Authenticated by the Mayor the 20th day of April, 2005.

Bill Friedman, Mayor

ATTEST:

Deputy City Recorder

(New text is in bold typeface and underlined)
(Section 22D Figures 2, 3, 4, 5, 6, 10 and 11, Table A, Residential Cluster Overlay District Map, Figures 12, 13 and Table B have been updated and Figure 14 was added to reflect the new Residential Cluster Overlay District Zone.)

ORDINANCE NO. NS-1968

AN ORDINANCE AMENDING THE BEND URBAN AREA GENERAL PLAN MAP TO CHANGE 45 ACRES OF LAND DESIGNATED AS INDUSTRIAL TO 33.7 ACRES OF RESIDENTIAL URBAN STANDARD DENSITY AND 11.3 ACRES OF MIXED USE AND AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, CITY OF BEND ZONING ORDINANCE SECTION 22D NORTHWEST CROSSING OVERLAY ZONE TO ADD A NEW NORTHWEST CROSSING RESIDENTIAL CLUSTER OVERLAY DISTRICT ZONE, AMENDING 45 ACRES ZONED INDUSTRIAL PARK (IP) TO 33.7 ACRES OF URBAN STANDARD RESIDENTIAL WITH VARIOUS NORTHWEST CROSSING RESIDENTIAL OVERLAY ZONES AND 11.3 ACRES OF MIXED EMPLOYMENT WITH THE NORTHWEST CROSSING COMMERCIAL/MIXED EMPLOYMENT OVERLAY DISTRICT ZONE, AND A ZONE CHANGE TO ADJUST THE LOCATION OF NORTHWEST CROSSING RESIDENTIAL OVERLAY DISTRICTS TO CONFORM WITH THE REDESIGN OF DISCOVERY PARK AREA STREETS.

WHEREAS, the City of Bend adopted Ordinance NS-1781 NorthWest Crossing to amend the City of Bend General Plan in order to add NorthWest Crossing text and policies and map designations to the General Plan and accompanying map; and

WHEREAS, the City of Bend adopted Ordinance No. NS-1782 Section 22D NorthWest Crossing Overlay Zone in 2001 in order to create the NorthWest Crossing Overlay Zone; and

WHEREAS, the City of Bend has subsequently modified Section 22D NorthWest Crossing Overlay Zone; and

WHEREAS, Ordinance No. NS-1782 has been codified as Section 22D of the City of Bend Zoning Ordinance, now therefore,

WHEREAS, The Bend City Council has held a public hearing, considering the Planning Commission's Decision and Recommendation, and has found that there is a public need and benefit for the proposed changes. The Bend City Council adopts the Decision and Recommendation of the Planning Commission dated March 18, 2005, File Number PZ-04-551 and changes the General Plan and zoning designation of the property identified in Exhibit "A" and in Exhibit "B"; and changes the NorthWest Crossing text as identified in Exhibit "C".

Read for the first time the 20th day of April, 2005.

Read for the second time the 4th day of May, 2005.

Placed upon its passage the 4th day of May, 2005.

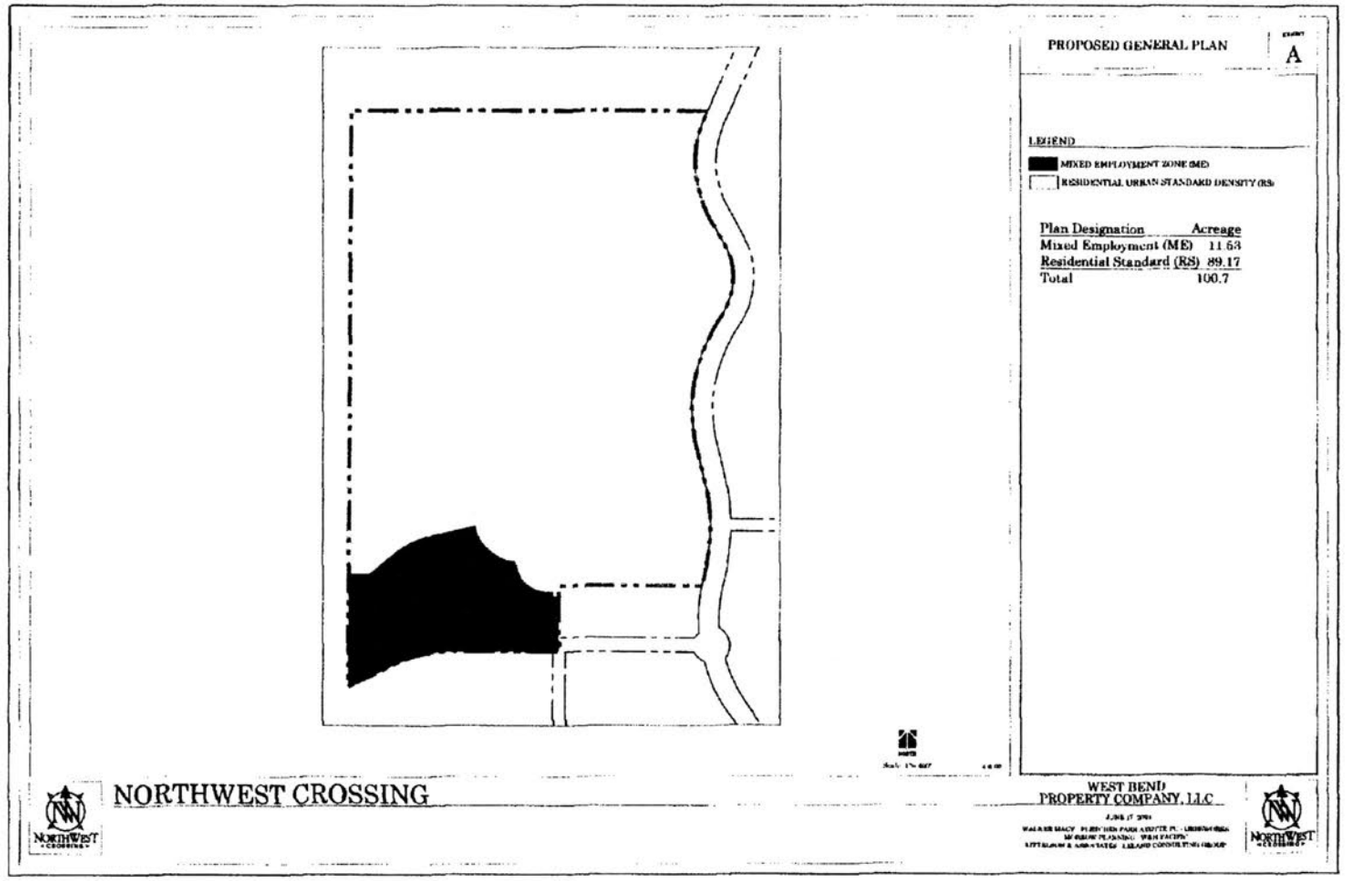
Yes: 6 No: 0 Abstain: 0

Authenticated by the Mayor the 4th day of May 2005.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder


PROPOSED GENERAL PLAN
A
LEGEND
MIXED EMPLOYMENT ZONE (ME)
RESIDENTIAL URBAN STANDARD DENSITY (RS)
Plan Designation Acreage
Mixed Employment (ME) 11.53
Residential Standard (RS) 89.17
Total 100.7
NORTHWEST CROSSING
WEST BEND PROPERTY COMPANY, LLC

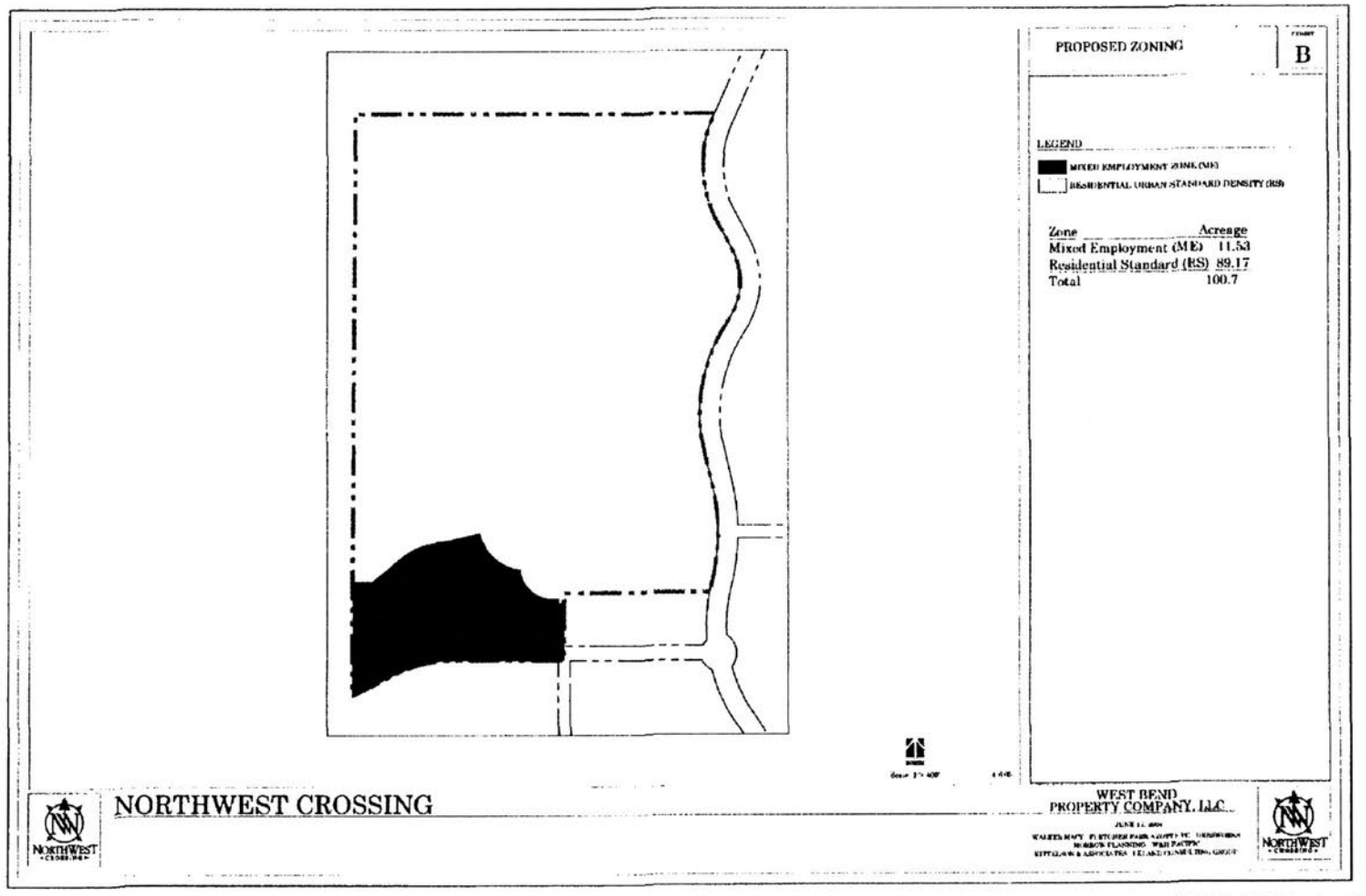

PROPOSED ZONING
B
LEGEND
MIXED EMPLOYMENT ZONE (ME)
RESIDENTIAL URBAN STANDARD DENSITY (RSS)
Zone Acreage
Mixed Employment (ME) 11.53
Residential Standard (RS) 89.17
Total 100.7
NORTHWEST CROSSING
WEST BEND PROPERTY COMPANY, LLC

EXHIBIT C

Section 22D. NorthWest Crossing Overlay Zone

1. Purpose. The purpose of the NorthWest Crossing Overlay Zone is to implement NorthWest Crossing Master Development Plan and the Bend Urban Area General Plan policies regarding the NorthWest Crossing property, and to create overlay zoning standards for the residential, commercial and industrial districts within the NorthWest Crossing Master Development Plan boundaries. The overlay zone standards will:

   (a) Provide a variety of employment opportunities and housing types.

   (b) Locate higher density housing adjacent to collector and arterial streets or public parks.

   (c) Create opportunities for community commercial and small scale businesses in selected locations to foster a mixed-use residential neighborhood.

   (d) Promote pedestrian and other multi-modal transportation options.

   (e) Ensure compatiblity of uses within the development and with the surrounding area.

   (f) Create an interconnected system of streets with standards appropriate to the intensity and type of adjacent use.

   (g) Create safe and attractive street scapes that will meet emergency access requirements and enhance pedestrian and bicycle access.

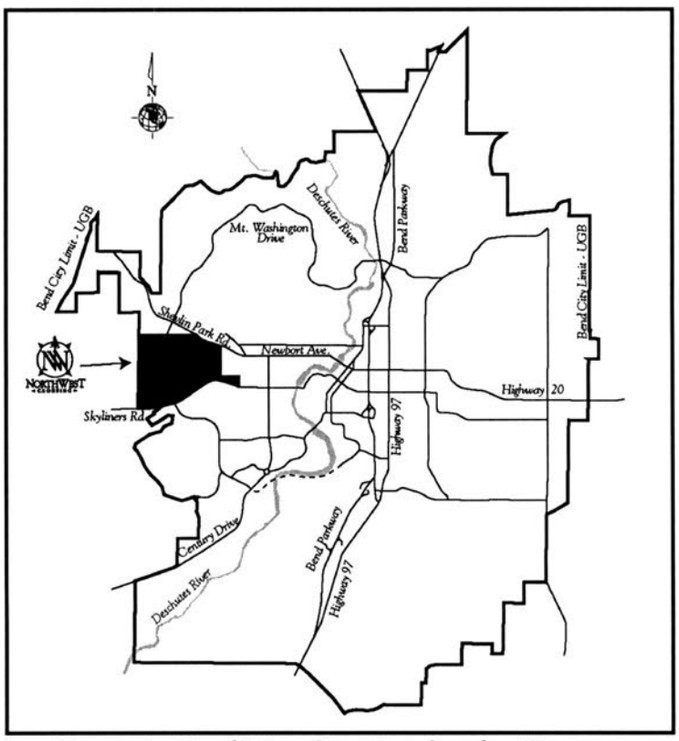


Figure 1. NorthWest Crossing Overlay Zone

2. Definitions. The following definitions apply to uses, building types and standards that are specific to the NorthWest Crossing Overlay Zone.

(a) Accessory Dwelling. A separate, complete dwelling unit, either attached to or separate from the primary dwelling unit. An accessory dwelling may be no larger than 33% of the living area, excluding the garage, of the primary dwelling, or 800 square feet, whichever is less. Maximum height for a detached accessory dwelling is 24 feet. Accessory dwelling units must meet the setbacks for the City of Bend Urban Standard Residential Zone (RS). Accessory dwellings may be permitted on any RS lot in accordance the provisions of the RS Zone.

(b) Community Commercial. A building not exceeding a total of 2,000 square feet of gross floor area containing a retail, service, office, or food service establishment, excluding drive-through. A community commercial building is a stand-alone commercial use to serve neighborhood needs. It is not intended to draw large numbers of patrons from outside of the neighborhood. The design of the building shall be residential in scale and character. Off-street parking is limited to a maximum of one space per 500 square feet of building. Off-street parking must be located at the side or rear of the building. The public entrance to the building shall be on the primary street frontage.

(c) Live/work Dwelling. A dwelling in which a business may be operated on the ground floor. The ground floor commercial or office space has visibility, signage and access from the primary street. To preserve the pedestrian orientation of the commercial or office space, alley access is required to provide trash service and residential parking. A live/work dwelling is allowed instead of, or in addition to, home occupation as defined by this Code. The location of lots where live/work dwellings may be sited shall be specified on the subdivision plat. The permitted live/work housing types are defined below:

i. Live/work House: A single-family detached house with no more than 50 percent of the first story of the building available as commercial or office space.

ii. Live/work Townhome: A residential, fee simple townhome unit in which a business may be operated. The commercial or office portion of the building shall be limited to the ground floor and may not exceed 50 percent of the square footage of the entire building, excluding the garage.

iii. Live/work Apartment: A primarily residential multi-story, multi-unit building with a maximum of 50 percent of the building ground floor square footage used as commercial or office space. Residential units may be for rent or for sale in condominium or cooperative ownership.

(d) Parking District. The area designated for common parking lots or facilities in the two NorthWest Crossing Commercial/Mixed Employment Districts. Each Commercial/Mixed Employment District has areas designated for common off-street parking lots or facilities designed to serve the minimum parking needs for permitted uses in the Commercial Limited and Mixed Employment zoned Districts. The designated parking areas will be located behind or at the side of buildings permitted in the District, or on private streets within the District. The designated common parking areas will allow all buildings to be close to the street to create a lively pedestrian oriented commercial streetscape. A public entrance to all buildings shall be on the primary street frontage

(e) Primary Street Frontage. The location along a street in the Residential Mixed-use District where live/work housing or community commercial uses may be located. Table "A" in Section 3(c) (G) of this code identifies areas and limits the maximum lot frontage along the Primary Street Frontage that may be used for live/work housing or community commercial uses in each area. The primary entrance to the office or commercial portion of live/work housing or a community commercial building must be located on the Primary Street Frontage.

(f) Townhome. A single-family dwelling type with common walls on one or both side lot lines and continuous front facades. Townhomes are the highest density housing type in NorthWest Crossing that provides yards and fee simple ownership. Townhomes may be located on lots with detached garages and accessory dwellings. Alleys, to the rear of the building, provide parking and service access.

(g) Cottage. A cottage is a small, detached dwelling unit, not greater than 1,200 square feet in total floor area defined in section 3(h)(D)(ii)(b) of this chapter that is developed at a density greater than the underlying zone.

(h) Cluster Housing Development. A cluster housing development is detached single family cottages in a cluster around a central shared open space and has the following characteristics:

i. Each cottage is of a size and function suitable for a single person or very small family;

ii. Each cottage has the construction characteristics of a single-family house;

iii. Cottages may be located on platted lots or as units in a condominium development and may share use of common facilities such as a party room, tool shed, garden, workshop and parking area.

iv. The site is designed with a coherent concept in mind, including: shared functional open space, off-street parking areas, access within the site and from the site, and consistent landscaping.

v. Each tentative plat or condominium plat for a cluster housing development within the Northwest Crossing Cluster Housing Overlay District shall be reviewed against the regulations of this zoning district.

vi. A cluster housing development shall have a homeowner's association for the ownership and management of shared open space, common parking areas.

3. Districts.

(a) Applicability. The special standards of the NorthWest Crossing overlay districts shall supercede the standards of the underlying zone. Where no special standards are provided, the applicable standards of the underlying zone shall apply.

(b) Urban Standard Residential District

A. Purpose. The purpose of the Urban Standard Residential District is to implement the Urban Standard Residential Zone with flexibility to allow greater lot coverage to accommodate single-family houses on small lots. The Urban Standard Residential District in Northwest Crossing also is the base zone for the Residential Overlay Districts described in Sections b, c and d.

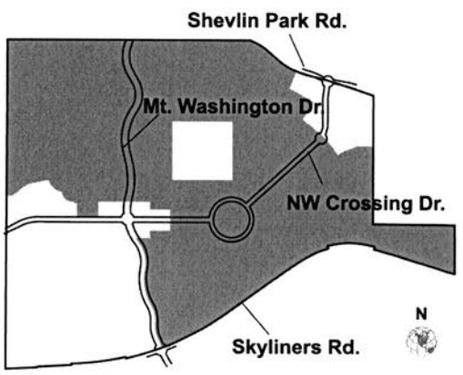


Figure 2. Urban Standard Residential District

B. Application of Residential Overlay Districts. The standards of the Urban Standard Residential Zone, as provided for in this section, shall apply to the land zoned as Urban Standard Residential. Where a Residential Overlay District is shown, the special standards of the Overlay District shall apply to uses permitted by the Overlay District.

C. Uses Permitted.
   i. All uses permitted in the Urban Standard Residential Zone.
   ii. Duplex on a lot identified as a duplex lot on an approved subdivision plat, subject to RS minimum lot size for a duplex

D. Conditional Uses.
   i. Except for duplexes, which are allowed only on identified duplex lots on approved subdivision plats, conditional uses permitted in the underlying Urban Standard Residential Zone are subject to a Conditional Use Permit and the provisions of Section 29.

E. Height Standards
   i. No building shall be erected, enlarged or structurally altered to exceed 30 feet in height without a Conditional Use Permit.

F. Lot Requirements.
   i. The lot requirements of the RS Zone shall apply to all permitted and conditional uses.
   ii. Setbacks. The setback requirements of the RS Zone shall apply to all permitted and conditional uses.
   iii. Lot Coverage. On lots 6,000 square feet or greater the maximum lot coverage shall be 35 percent.
   iv. On lots that are less than 6,000 square feet, the maximum lot coverage by buildings shall be 50 percent.

G. Site Plan Review. A duplex located on a lot approved as a duplex lot on an approved subdivision plat is not subject to site plan review under Section 23 of this code.

(c) Residential Townhome Overlay District.

A. Purpose. The purpose of the Townhome Overlay District is to permit townhomes along collector streets, adjacent to public parks or a Multiple-Family District. The Townhome District will allow a diversity of housing types and a mix of residential density within NorthWest Crossing.

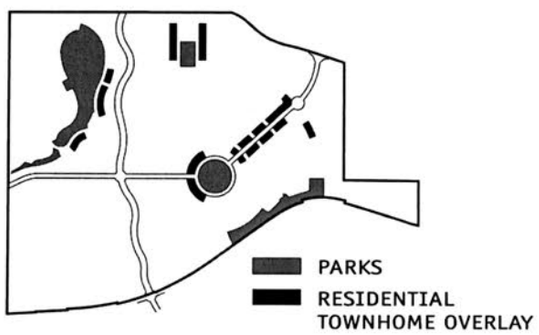


Figure 3. Residential Townhome Overlay District

B. Uses Permitted.
   i. All uses permitted in the Urban Standard Residential Zone.
   ii. Townhomes.
   iii. Duplex on a lot identified as a duplex lot on an approved subdivision plat, subject to RS minimum lot size for a duplex.

C. Conditional Uses.
   i. Except for duplexes, which are allowed only on identified duplex lots on approved subdivision plats, all conditional uses permitted in the underlying Urban Standard Residential Zone, subject to a Conditional Use Permit and provisions of Section 29.

D. Height Standards
   i. No building shall be erected, enlarged or structurally altered to exceed 35 feet in height without a Conditional Use Permit.

E. Lot Requirements.
   i. The lot requirements of the RS Zone shall apply to all permitted and conditional uses except townhomes.
   ii. Except as specified in this section, the lot requirements of the RM Zone shall apply to townhomes.
   iii. Setbacks. For townhomes the front yard setback is a minimum of 5 feet and the side yard setback may be 0 feet.
   iv. Lot Coverage. There is no maximum lot coverage standard for townhomes and accessory structures on a townhome lot.

F. Maximum Density. The maximum density in the Townhome District is 12 units per net acre.

G. Site Plan Review. Townhomes, and duplexes on a lot approved as a duplex lots on a subdivision plat are not subject to site plan review under Section 23 of this code.

(d) Residential Multiple-family Overlay District

A. Purpose. The Residential Multiple-family Overlay District is applied in specific locations adjacent to arterial or collector streets, public parks or commercial areas. The purpose is to provide a diversity of housing types in the Urban Standard Residential Zone at the edges of single-family neighborhoods and to locate higher density housing adjacent to commercial services and open space.

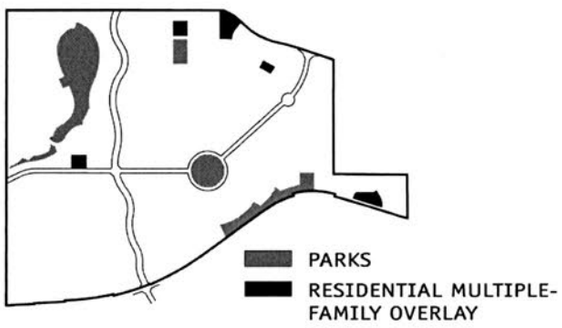


Figure 4. Residential Multiple-family District

B. Uses Permitted.
   i. All uses permitted in the Urban Standard Residential Zone.
   ii. Multiple-family housing.

C. Conditional Uses.
   i. Conditional uses permitted in the underlying Urban Standard Residential Zone subject to a Conditional Use Permit and the provisions of Section 29.

D. Height Standards.
   i. No building, except multiple-family housing, shall be erected, enlarged or structurally altered to exceed 30 feet in height without a Conditional Use Permit.
   ii. The maximum height for multiple-family housing is 45 feet unless a greater height is approved through a conditional use permit.

E. Lot Requirements.
   i. The lot requirements of the RS Zone shall apply to all permitted and conditional uses except multiple-family housing.
   ii. Except as specified in this section, the lot requirements of the RH Zone shall apply to multiple-family housing.
   iii. Lot Coverage. There is no maximum lot coverage standard for multiple-family housing.

F. Maximum Density. The maximum density in the Multiple-family District is 19 units per net acre.

G. Site Plan Review. Multiple-family housing shall be subject to the provisions of Section 23 of this code.

(e) Residential Mixed-use Overlay District.

A. Purpose. The Residential Mixed-use Overlay District is applied in locations adjacent to collector streets or public parks to allow higher density residential uses, live/work housing and community commercial uses in the Urban Standard Residential Zone. The purpose is to create small areas of mixed-use at specific locations within the neighborhood.

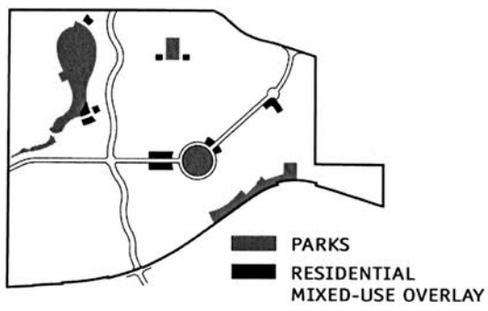


Figure 5. Residential Mixed-use Overlay District

B. Uses Permitted.
1. All uses permitted in the Urban Standard Residential Zone.
2. Multiple-family housing.
3. Townhome.
4. Live/work single-family house subject to the provisions of this District.
5. Live/work townhome subject to the provisions of this District.
6. Live/work apartment subject to the provisions this District.
7. Community Commercial subject to the provisions of this District.

C. Conditional Uses. Conditional uses permitted in the underlying Urban Standard Residential Zone subject to a Conditional Use Permit and the provisions of Section 29.

D. Site Plan Review.
i. Townhomes, live/work house and live/work townhomes are not subject to site plan approval provisions of this code.
ii. Live/work apartments and community commercial uses are subject to site plan approval according to Section 23 of this code, except that where special standards of the Residential Mixed-use District conflict with standards within the code, the standards of the Residential Mixed-use District shall apply.

E. Height Standards.
i. No building except town homes, live/work townhome, multi-family or live/work apartment housing shall be erected enlarged or structurally altered to exceed 30 feet in height without a Conditional Use Permit.
ii. The maximum height for multiple-family housing or live/work apartment is 45 feet unless a greater height is approved through a Conditional Use Permit.

iii. The maximum height for a townhome or live/work townhome is 35 feet unless a greater height is approved through a Conditional Use Permit.

F. Lot Requirements.
i. The lot requirements of the RS Zone shall apply to all permitted and conditional uses except multiple-family housing, townhomes, live/work townhomes, live/work apartments and community commercial.
ii. The lot requirements of the RH Zone shall apply to multiple-family housing and live/work apartments except that the minimum front yard setback is 5 feet and the minimum side yard setback is 0 feet.
iii. The lot requirements of the RM Zone shall apply to townhomes and live/work townhomes, except that the minimum front yard setback is 5 feet, the minimum side yard setback is 0 feet, and the minimum lot width is 24 feet.
iv. The lot requirements of the CN zone shall apply to community commercial except that the minimum front yard setback is 5 feet.

v. There is no maximum lot coverage standard for townhomes, live/work townhomes live/work apartments or multiple-family housing.

G. Density. The density in the Residential Mixed-use District is a maximum of 19 units per net acre.

H. Primary Street Frontage. Live/work housing and community commercial uses may only be located along primary street frontage identified in the four area maps below (*Figures 6, 7, 8 and 9*). The amount of live/work housing and community commercial is further limited to the maximum lot frontage identified in Table "A" below.

Table A. Residential Mixed-use District – Maximum Allowable Live/work Housing and Community Commercial by Area.

Area	Linear feet of primary frontage in District	Maximum Primary Street Frontage for Live/work Housing Lots	Maximum Primary Street Frontage for Community Commercial Lots
1. Discovery Park	650	325 linear feet	200 linear feet
2. Lewis & Clark Park	200	200 linear feet	50 linear feet
3. Compass Park	1000	800 linear feet	100 linear feet
4. Lemhi Pass/ NW Crossing	500	500 linear feet	Not permitted

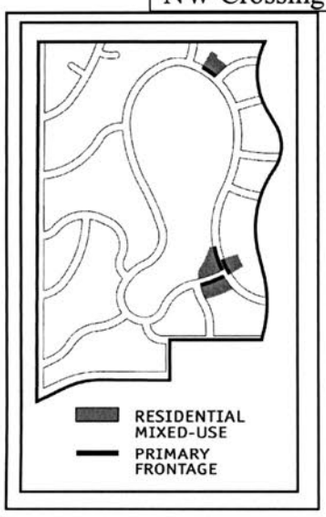


Figure 6. Discovery Park Area

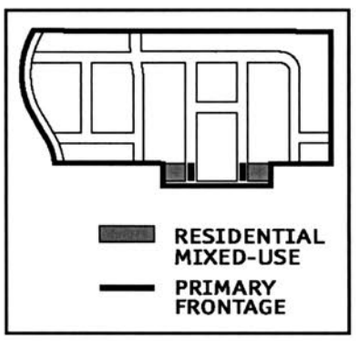


Figure 7. Lewis And Clark Park Area

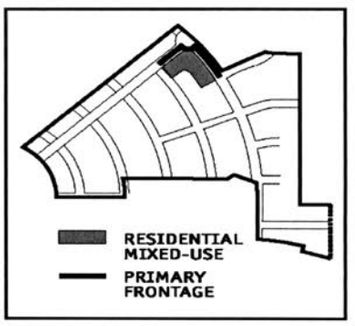


Figure 8. Lemhi Pass/NW Crossing Area

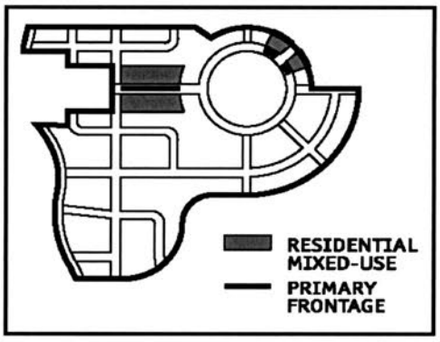


Figure 9. Compass Park Area

I. Platting Lots for Live/work Housing and Community Commercial Uses.

i. The final plat for a subdivision in the Residential Mixed-use Overlay District shall specify the lots where live/work housing or community commercial uses will be permitted.
ii. A deed restriction shall be recorded with each lot identified on the final plat as a live/work housing or community commercial.
iii. The number of lots in the Residential Mixed-use Overlay District shall be limited to a maximum amount of linear primary street frontage.

J. Sign Standards.
i. Each live/work house or live/work townhome may have non-illuminated sign(s) not exceeding a combined maximum area of 16 square feet. Signs shall be attached to the building.
ii. Each live/work apartment or community commercial building may have one non-illuminated monument sign and/or one building mounted sign not exceeding a combined maximum area of 32 square feet.
iii. Individual businesses in live/work apartment buildings may have additional non-illuminated sign(s) mounted on the building not exceeding a combined maximum of 8 square feet in size.

K. Off-street Parking Standards.
i. Each live/work house or live/work townhome may have no more than two off-street spaces in addition to the two spaces required by Section 10.10.24(4) of this code.
ii. The off-street parking standards in Section 10.10.24 shall apply to a work use in a live/work apartment building.
iii. Community commercial uses shall have a minimum of one off-street vehicle parking space for each 500 square feet of floor area and a minimum of 4 covered bicycle parking spaces. The maximum number of off-street parking spaces for a community commercial building is 5, including one handicapped accessible space, if required.

L. Special Standards For Live/work Townhomes and Live/work Houses.
i. The area dedicated to the work use in the live/work unit shall not exceed the size requirement in the applicable definition of live/work house or live/work townhome in Section X .2 (f) (I) or (ii) of this code.
ii. The work use shall not generate noise exceeding 55-decibel level as measured at the lot line of the lot containing the live/work house or live/work townhome.
iii. No outside storage of materials or goods related to the work occupation or business shall be permitted.
iv. No dust or noxious odor shall be evident off the premises.

v. Employees of the work occupation or business may not occupy more than 2 on-street parking spaces at any time.

vi. If the business is open to the public, public access must be through the front door and the business may not be open to clients or the public before 7:00 a.m. or after 7:00 p.m.

(f) Commercial/Mixed Employment Overlay District

A. Purpose. The purpose of this District is to allow a special front yard setback that is not permitted in the underlying Commercial Limited and Mixed Employment Zones and to create parking districts. The purpose of the parking districts is to allow minimum parking needs to be met in commmon, shared, off-site parking lots. The special setback and parking districts will create a pedestain friendly, mainstreet environment.

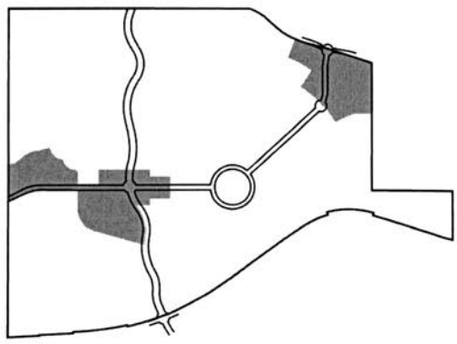


Figure 10. Commercial/Mixed Employment District

B. Uses permitted.

i. The permitted uses allowed in the underlying Commercial Limited and Mixed Employment Zones shall be allowed.

C. Conditional Uses.

i. Conditional uses permitted in the underlying Commercial Limited and Mixed Employment Zones subject to a Conditional Use Permit and the provisions of Section 29.

D. Height Standards.

i. The height standards of the underlying Commercial Limited or Mixed Employment Zone shall apply.

E. Lot Requirements. None.

F. Lot Coverage. There is no maximum lot coverage standard.

H. Front Yard Setback.

i. No front yard setback is required when an entrance to the building is located at the front lot line and the building is adjacent to a sidewalk 10 feet or wider in a public or private street right of way.

I. Site Plan Review and Design Review. The provisions of Section 23, Site Plan Review, shall apply in the Commercial/Mixed Employment District. The provisions of Section 23A of this code pertaining to design review shall not apply in the Commercial/Mixed Employment District provided that West Bend Property Company maintains design review standards and process consistent with the May 2003 North West Crossing Commercial Rules and Design Guidelines.

J. Parking District Standards

i. Each Commercial/Mixed Employment District will have areas designated for common off-street parking lots and streets designed to serve the minimum parking needs for permitted and conditional uses in the Commercial Limited and Mixed Employment Zones.

ii. Buildings shall be located on and oriented to the streets and the parking lots will be located in the interior of the site or at the sides of buildings. The designated common parking areas will allow all buildings to be close to the street to create a pedestrian scale street environment.

iii. When uses are approved under the City Zoning Code in the Commercial Limited and Mixed Employment Zones, the minimum off-street parking requirements may be met in off-site, common parking lots or facilities, or in on-street parking on designated streets conveniently located to serve the commercial, office and industrial uses.

iv. City approval of a use in the Commercial/Mixed Employment District shall be conditioned on evidence that the city minimum parking requirements for a proposed use are met by:

a. A deed, lease, contract or other legal agreement assuring reservation of the required minimum number of spaces in a common District parking lot or facility, or in on-street parking on private streets; or,

b. City approval of a shared or joint use agreement evidenced by a deed, lease, contract or other legal agreement.

v. Any parking desired over the minimum city standard shall be met with on-street or shared parking within the Commercial Districts.

vi. Designated pedestrian access from the common District parking areas to the street and entrances to the commercial uses shall be provided.

vii. All buildings must have at least one primary entrance directly fronting a public or private street.

viii. The Parking District facilities shall be managed and maintained by an association of building owners in the Commercial/Mixed Employment Districts.

ix. Parking for any secondary, second story residential use shall be provided in assigned and reserved parking spaces, or through city approval of a shared or joint use agreement evidenced by a deed, lease, contract or other legal agreement. Reserved residential parking spaces shall not exceed the minimum city standard.

x. Parking lot landscaping will meet or exceed minimum city standards.

(g) Industrial Park Overlay District

A. Purpose. The purpose of the Industrial Park Overlay District is to permit lumber and building material retail sales in addition to all uses allowed in the Industrial Park Zone.

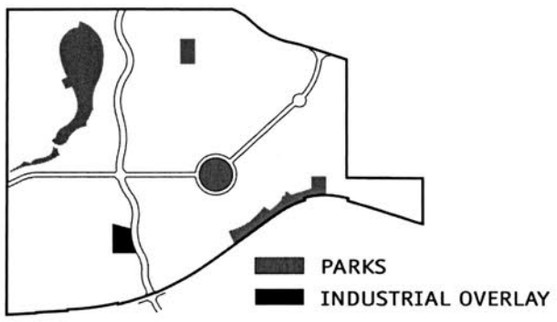


Figure 11. Industrial Park Overlay District

B. Uses permitted.

i. All uses permitted in the Industrial Park Zone.

ii. Retail or combination retail/wholesale lumber and building material yard, not including concrete mixing.

C. Conditional Uses.

i. Conditional uses permitted in the Industrial Park Zone subject to a Conditional Use Permit and the provisions of Section 29.

D. Height Standards.

i. Height standards shall be the same as in the Industrial Park Zone.

E. Lot requirements.

i. Lot requirements shall be the same as the in Industrial Park Zone.

F. Site Plan Review and Design Review. The provisions of Section 23, Site Plan Review, shall apply in the Industrial Park Overlay District. The provisions of Section 23A of this code pertaining to design review shall not apply in the Industrial Park Overlay District provided that West Bend Property Company maintains design review standards and process consistent with the May 2003 NorthWest Crossing Commercial Rules and Design Guidelines.

(h) NorthWest Crossing Residential Cluster Overlay District

A. Purpose. The purpose of this section is to:

i. Provide a housing type that responds to changing household sizes and ages (e.g., retirees, small families, single person households);

ii. Provide opportunities for ownership of small, detached dwelling units within the Northwest Crossing neighborhood;

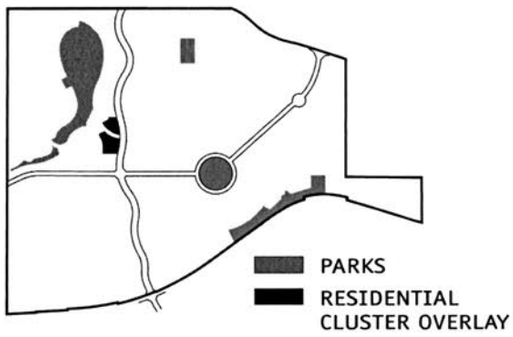


Figure 14. Residential Cluster Overlay District

iii. Encourage creation of more usable open space for residents of the development through flexibility in density and lot standards;

iv. Support the growth management goal of more efficient use of urban residential land;

v. Provide development standards to ensure compatibility with surrounding land uses; and

vi. Create a small area of higher density residential development than the urban standard residential district yet provide detached dwellings with private and shared open space.

B. Uses Permitted.

i. All uses permitted in the Urban Standard Residential (RS) Zone.

ii. Cluster housing developments subject to the development standards in subsection D of this overlay district. Buildings that are accessory to the cottages are subject to the development standards in subsection D.

iii. Community Buildings in a Cluster housing development. Community buildings shall be incidental in use and size to the cottage housing and shall be commonly owned by the residents.

C. Conditional Uses. Conditional uses permitted in the underlying Urban Standard Residential Zone (RS) are subject to a Conditional Use Permit and the provisions of Section 29.

D. Development Standards and Site Requirements for Cluster Housing Developments.

i. Site Requirements:

(a). Permitted density within the Northwest Crossing Cluster Housing Overlay District is 12 units per acre.

(b) Minimum lot size within the Northwest Crossing Cluster Housing Overlay District is 2,000 square feet.

(c) Cottages adjacent to property lines fronting a public street shall be setback a minimum of 10 feet and a maximum of 20 feet.

(d) Accessory structures, garages or carports shall be setback a minimum of 20 feet from property lines fronting a public street.

(e) Rear yard setbacks shall be a minimum of ten (10) feet.

(f) Interior separation. There shall be a minimum separation of ten (10) feet between all buildings.

(g) All structures in the cluster development shall have pitched roofs.

(h) Maximum height for structures within the Northwest Crossing Cluster Housing Overlay District is 25 feet.

ii. Cottage Development Standards. The design standards and floor area requirements ensure that the overall size and scale, including bulk and mass of cottage structures remains smaller and incur less visual impact than standard sized single-family dwellings, particularly given the allowed density of the cluster housing development.

(a) The total floor area of each cottage shall not exceed 1,200 square feet or 1.5 times the area of the main floor, whichever is less. Attached garages shall be included in the calculation of total floor area.

(b) Cottage areas that do not count toward the total floor area calculation are:

1. Unheated storage space located under the main floor of the cottage.
2. Architectural projections, such as bay windows or fireplaces.
3. Attached roofed porches.
4. Detached garages or carports.
5. Spaces with a ceiling height of six feet or less measured to the exterior walls, such as in a second floor area under the slope of the roof.

(c) The maximum main floor area for cottages is 1000 square feet including attached garages. For the purposes of this calculation, the area of interior stairway may be allocated between floors served.

(d) Cottages shall have a roofed porch at least 80 square feet in size with a minimum dimension of eight feet on any side.

(e) The total square foot area of a cottage may not be increased. A deed restriction shall be placed on the title to the property for the purpose of notifying future property owners that any increase in the total square footage of a cottage is prohibited for the life of the cottage or duration of Northwest Crossing Cluster Housing Overlay District regulations.

(f) All proposed cottages and accessory buildings are subject to review and approval by the Northwest Crossing Architectural Review Committee.

iii. Required Open Space.

(a) Shared Open Space:

1. Shall provide a centrally located, focal area for the cluster housing development.
2. Shall total a minimum of 500 square feet per cottage when all shared open space areas are combined.
3. Shall abut at least 50 percent of the cottages.
4. Shall have 75% of the open space area abut structures on at least two sides.
5. Shall be within 75 feet walking distance of each cottage.
6. Common parking areas are not counted in the shared open space area requirements.

(b) Private open space:

1. **Shall be a minimum of 300 square feet of private, contiguous, usable open space with no dimension less than 10 feet adjacent to each dwelling unit, for the exclusive use of the cottage resident.**
2. **Shall be located on slopes of less than 10 percent**

iv. Parking Location and Screening. The parking location and screening standards are designed to ensure minimal visual impact from vehicular use and parking areas for residents of the Northwest Crossing Cluster Housing Overlay District and adjacent properties, and to maintain a single-family character along public streets.

(a) A minimum of one parking space and a maximum of two parking spaces is required for each cottage.

(b) A parking area is a location for two or more contiguous vehicle spaces, which are required to meet the minimum parking requirements, and are not within a garage or carport. Parking areas:

1. **May be on lots created for shared parking for the Cluster Housing Development.**
2. **Shall be located in the Cluster Housing Development.**
3. **Shall be screened from public streets and cottages by landscaping, fencing or buildings.**
4. **Shall be prohibited within 20 feet of a public street.**
5. **Shall have access via an alley**

4. NorthWest Crossing Special Street Standards

(a) Figure 12 depicts the street type, tentative street location and alignment in NorthWest Crossing. Table B defines the standards to correspond to the street type shown in Figure 12. The precise street alignment shall be determined as tentative subdivsion plans are submitted and approved. The NorthWest Crossing Street Type Plan, Figure 12, and the NorthWest Crossing Street Standards, Table B, shall be applied to the NorthWest Crossing development as illustrated except when an alternate standard is permtted under Section (b) or through the tentative plan approval process.

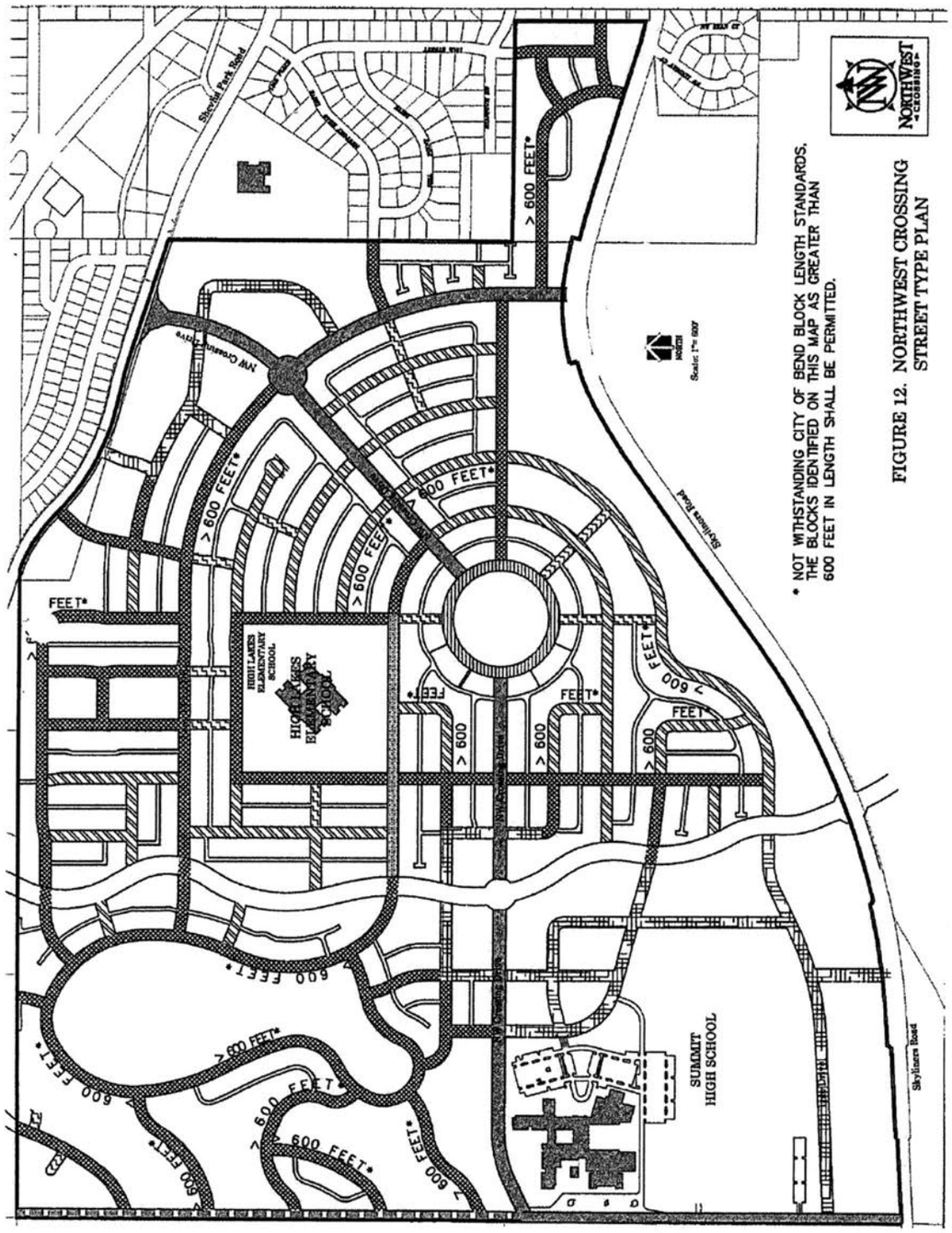
(b) Any city street standard adopted after the effective date of this chapter, which permits a lesser street standard may be applied to NorthWest Crossing in conformance with the provisions of the new standard.

(c) Clear Vision Area. At local/local, stop-controlled street intersections, the clear vision area shall consist of a triangular area two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance of 20 feet.

(d) Performance Standards for Local Residential Street "B":

A. Average daily traffic volumes on the local "B" street does not exceed 300 ADT.
B. The street is connected to a grid street pattern at both block ends.
C. Blocks shall have dedicated public alley access constructed to City standards.
D. "No Parking" zones are established 55 feet from the centerline of intersecting local streets.
E. For block lengths exceeding 300 feet, "No Parking" zones shall be established on both sides of the street spaced no greater than 250 feet apart. The "No Parking" zones shall be a minimum of 30 feet in length.

Figure 12. NorthWest Crossing Street Type Plan



NORTHWEST CROSSING

STREET LEGEND AND SPECIFICATIONS: TYPE	RIGHT-OF-WAY	PAVEMENT WIDTH	TRAVEL LANE	BIKE LANE	PARKING WIDTH	LANDSCAPE WIDTH	SIDEWALK WIDTH
ARTERIAL STANDARD LEFT TURN LANE) (WITH 14' CENTER MEDIAN/	100'	50' WITH NO PARKING (14' MEDIAN)	12'	6'	0	14' ISLAND*	6.5'
COLLECTOR STANDARD	70'	44' WITH PARKING BOTH SIDES	10'	5'	7'	7'**	6.5'**
COLLECTOR ONEWAY STANDARD	60'	32' ONEWAY WITH PARKING BOTH SIDES	12'	1 @ 6'	2 @ 7'	7'	6.5'
LOCAL INDUSTRIAL/ COMMERCIAL STANDARD	60'***	36' WITH PARKING BOTH SIDES	10'	0	8'	6.5'	5'
LOCAL RESIDENTIAL STANDARD A	60'***	32' WITH PARKING BOTH SIDES	9'	0	7'	8.5'	5'
LOCAL RESIDENTIAL STANDARD B	60'	28' WITH PARKING ON BOTH SIDES	10'	0	8'	10.5'	5'
LOCAL RESIDENTIAL STANDARD C	50'	20' WITH NO PARKING	10'	0	0	9.5'	5'
LOCAL ELEMENTARY SCHOOL STANDARD	60'	32' WITH PARKING ONESIDE	12'	0	8'	7'	6.5'
ALLEY	20'	15'	15'	0	0	0	0
PROPOSED COLLECTOR****							

FULL MOVEMENT INTERSECTION

R.O.W. TO BE HELD IN PRIVATE OWNERSHIP

*SIDE LANDSCAPE VARIES WITH MEANDERING SIDEWALK 5' TO 18.5'

**(IN COMMERCIAL, SIDEWALK IS 12' OR 13' w/ TREES IN TREE WELLS)

***65' RIGHT-OF-WAY WITH MULTI-USE TRAIL

****THE ALIGNMENT FOR THE PROPOSED COLLECTOR DEPICTS A GENERALIZED CORRIDOR AND PRECISE ALIGNMENT OF THE FUTURE COLLECTOR WILL BE DETERMINED AFTER FURTHER STUDY AND ENGINEERING ANALYSIS.

*****SUBJECT TO STANDARDS IN SECTION 4(c)

TABLE B. NORTHWEST CROSSING
STREET STANDARDS

Figure 13. NorthWest Crossing Overlay Districts

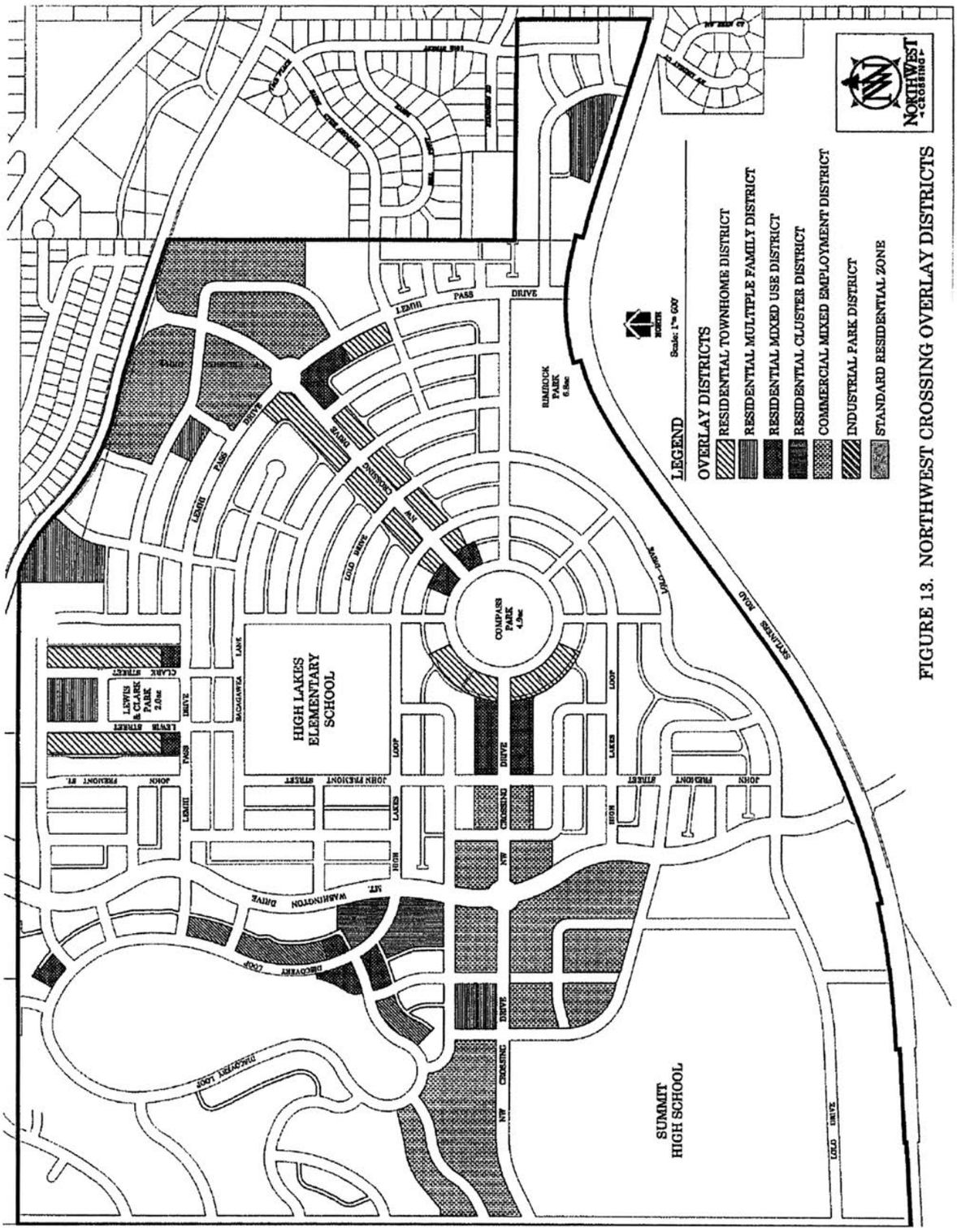


FIGURE 13. NORTHWEST CROSSING OVERLAY DISTRICTS

[Section 22D added by Ord. NS 1782, passed May 2, 2001]
[Section 22D amended by Ord. NS-1892, passed October 1, 2003]
[Section 22D, (3)(f)(H) and (3)(j)(F) amended by Ord. NS-1902, passed December 17, 2003]

ORDINANCE NO. NS-1969

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF AN AREA OF LAND FROM SM, SURFACE MINING TO CC, COMMERCIAL CONVENIENCE. ALSO TO AMEND THE BEND AREA GENERAL PLAN DESIGNATION FOR THE SUBJECT PROPERTY FROM PUBLIC SPECIAL DISTRICT TO CC, COMMERCIAL CONVENIENCE.

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 February 28, 2005 file number PZ 04-405.

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 Surface Mining (SM) to Commercial Convenience (CC).

Read for the first time the 20th day of April, 2005.

Read for the second time the 4th day of May, 2005.

Placed upon its passage the 4th day of May, 2005.

YES: 6 NO: 0

Authenticated by the Mayor the 4th day of May, 2005.

Bill Friedman, Mayor

ATTEST:

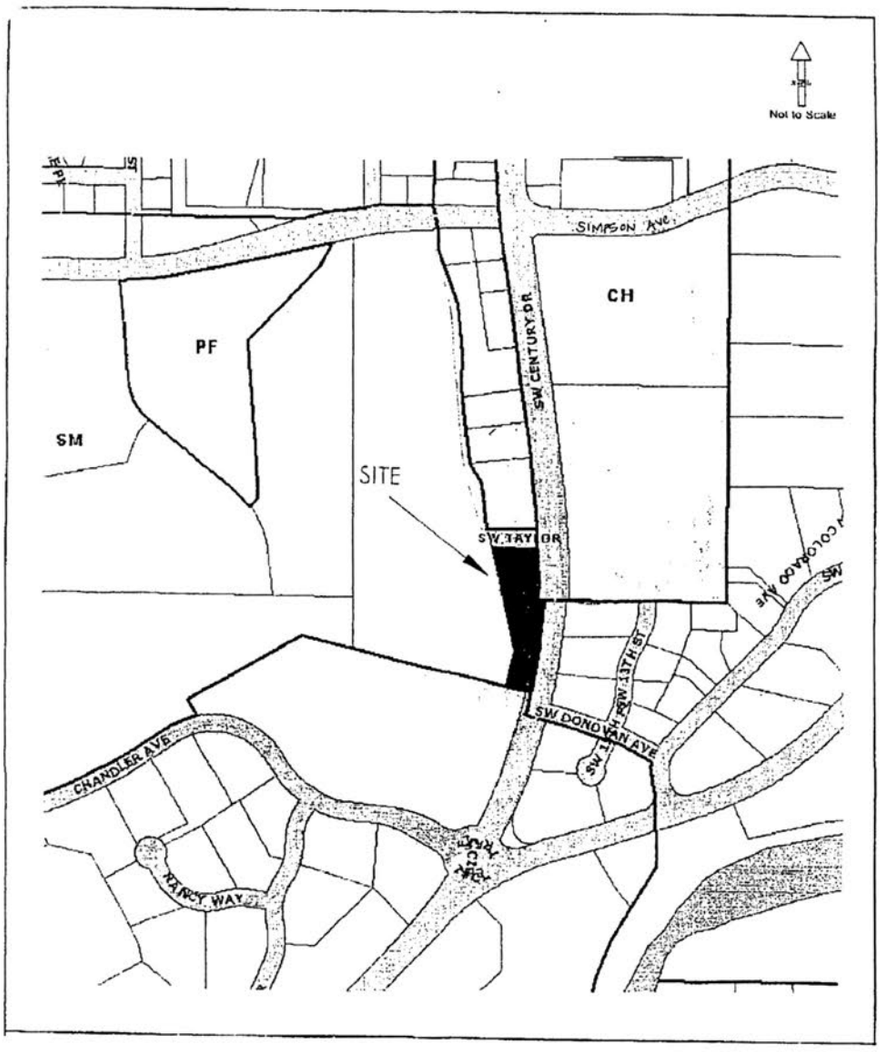
Patricia Stell, City of Bend Recorder

EXHIBIT A

A tract of land located in the East Half of Section Six (6), Township Eighteen (18) South, Range Twelve (12), East of the Willamette Meridian, more particularly described as follows: Beginning at the center quarter corner of said Section 6; thence South 00° 31' 08" East, 239 01 feet; thence South 76° 19' 27" East, 534.81 feet; thence North 13° 06' 33" East, 60 00 feet to the true point of beginning; thence North 13° 06' 33" East, 120 72 feet; thence North 11° 53' 12" West, 318.12 feet; thence North 14° 38' 04" West, 119 14 feet; thence South 89° 56' 16" East, 177.19 feet to a point on the Westerly right-of-way of the Cascade Lakes Highway; thence along a 600 foot spiral curve right, the chord of which bears South 01° 50' 16" East, 214 82 feet, S=9 00' A=0 50; thence South 88° 56' 45" East, 20.00 feet; thence around a 1,879 86 foot radius curve right, 355.00 feet to the intersection with the Northerly right-of-way of The Brooks Scanlon Logging Road, the long chord bears South 06° 27' 51" West, 354 47 feet; thence North 76° 19' 27" West, 98 72 feet to the point of beginning, EXCEPTING THEREFROM the North 60 feet,

Subject to the existence or roads, telephone, telegraph and power transmission facilities.

EXHIBIT B


Not to Scale
SIMPSON AVE
CH
PF
SM
SITE
SW CENTURY DR
SW TAYLOR
SW COLORADO AVE
SW 13TH ST
SW DONOVAN AVE
CHANDLER AVE
KANEY WAY

ORDINANCE NO. NS-1970

AN ORDINANCE AMENDING THE CITY OF BEND HISTORIC PRESERVATION CODE REGARDING THE MAKE-UP OF THE DESCHUTES COUNTY HISTORICAL LANDMARKS COMMISSION, ENACTING REGULATIONS REGARDING THE DEMOLITION OF HISTORIC RESOURCES AND REPEALING THE CURRENT CODE

WHEREAS, the Bend City Council believes that the current Historic Code which was adopted in 1988 needs to be revised to better reflect the community's desire to protect its historical assets and heritage;

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. The Provisions contained in Exhibit A are hereby adopted and shall be known as the Historic Preservation Code for the City of Bend.

Section 2. The current sections 10.17.100 through 10.17.126 and Exhibits are hereby repealed, except for Section 10.17.102 of the current ordinance, which shall remain in effect until the Cities of Redmond and Sisters, and Deschutes County adopt provisions substantially similar to Section 103(2) (Administration) contained in the attached Historic Code.

Section 3. The City's Land Use Procedures Ordinance, Bend Code Section 10-16.2(1)(B) is amended to require a public meeting to be held prior to the filing of an application to demolish or remove a historic resource. The amended section shall read as follows:

> "B. Public Meeting. The applicant for a Land Use Action for a Bend Area General Plan Map Amendment, Zoning Map Amendment, Conditional Use Permit, Subdivision or, Site Plan Review for new development, ~~or~~ an alteration/addition to an existing building exceeding 10,000 square feet, **or an application to demolish or move a historic resource as that term is defined in BCC 10.101** shall present the proposal at a public meeting prior to submitting the land use application to the City Planning Division. The presentation shall be made at either, a regular or special meeting with a neighborhood association recognized by the City of Bend whose boundaries the subject property lies within, or a public meeting arranged and conducted by the applicant. The presentation at the public meeting shall include the following:
>
> 1. A map depicting the location of the subject property proposed for development.
> 2. A visual description of the project including a site plan, tentative subdivision plan and elevation drawings of any structures if applicable.
> 3. A description of the nature of the use including but not limited to, sizes and heights of structures, proposed lot sizes, density, etc.
> 4. The expected or anticipated impacts from the development.
> 5. Any mitigation proposed by the applicant to alleviate the expected/anticipated impacts.
> 6. Provide opportunity for public comments. Applicants are encouraged to reconcile as many public concerns as possible prior to submittal of their application.

Section 4. Except for Section 10.17.103(2) (See Section 2 above), Exhibit A shall become effective on _____, 2005.

Read for the first time the 4th day of May, 2005.

Read for the second time the 18th day of May, 2005.

Placed upon its passage the 18th day of May, 2005.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 18th day of May, 2005.

Bill Friedman, Mayor

Attest:

Patty Stell, City Recorder

BEND CODE

PRESERVATION OF HISTORIC RESOURCES

10.100 Purpose.

(1) Districts, buildings and sites in the City of Bend that have special historic and prehistoric association or significance should be preserved as a part of the heritage of the citizens of the city and for the education, enjoyment and pride of the citizens, as well as the beautification of the city and enhancement of the value of such property. **Chapter 3 of the City's General Plan includes the City's official list of historic and cultural resources and sets policy. "Such (preservation) efforts are important because public awareness of Bend's historical and cultural background has been and will continue to be an important source of knowledge, pride, education, and enjoyment for visitors and residents. Rapid growth and development make it imperative that the city's historical and cultural resources be identified and protected. Properly restored and utilized historical and cultural resources enhance the economy of the area."**

(2) The City of Bend endorses the following policies regarding historic preservation:

(a) A community's cultural heritage is a valuable and important asset; that the public has an interest in the preservation and management of all antiquities, historic and prehistoric ruins, sites, structures, objects, districts, buildings and similar places and things for their scientific and historic information and cultural and economic value; and that the neglect, desecration and destruction of cultural sites, structures, places and objects result in an irreplaceable loss to the public.

(b) The preservation and rehabilitation of historic resources is of prime importance as a prime attraction for all visitors; that they help attract new industry by being an influence in business relocation decisions; and that rehabilitation projects are labor intensive, with subsequent benefits of payroll, energy savings and are important to the revitalization of deteriorating neighborhoods and downtowns.

(c) It is, therefore, the purpose of the City to identify, foster, encourage and develop the preservation, management and enhancement of structures, sites and objects of cultural significance . . .in a manner conforming with, but not limited by, the provisions of the National Historic Preservation Act of 1966. (P.L. 89-665; 16 U.S.C. 470). [1983 c.268 §1].

(3) To those ends, the regulatory controls and administrative procedures contained in Bend Code 10.100 to 10.118 are necessary.

10.102 Applicability.

This code applies to any historic resource within the City of Bend.

10.103 Administration.

(1) This ordinance shall be administered by the Deschutes County Historical Landmarks Commission.

(2) The Landmarks Commission is composed of nine voting and unnumbered non-voting ex-officio members who have demonstrated expertise in historic preservation related disciplines. The mayor of Bend with the advice and consent of City Council shall appoint four Commissioners to represent the City of Bend; the Mayor of Redmond shall appoint one Commissioner to represent the City of Redmond; the mayor of Sisters shall appoint one Commissioner to represent the City of Sisters; and the Board of County Commissioners shall appoint one Commissioner

to represent the unincorporated portion of the county. The president of the Deschutes County Historical Society shall recommend one Commissioner to represent the Historical Society and the Deschutes County Pioneer Association President shall recommend one Commissioner to represent the Pioneer Association. The Board of County Commissioners shall appoint the Commissioners who represent the Historical Society and the Deschutes County Pioneer Association. The ex-officio members shall be appointed by the Deschutes County Board of Commissioners. Landmarks Commissioners shall be qualified as defined in the National Park Service's Certified Local Government Program requirements (Appendix E Section 2). Appendix E, by this reference, is incorporated herein.

(3) Landmarks Commissioners serve four-year terms. Commissioners shall serve without compensation. Any vacancy occurring in a position for any reason other than expiration of a term shall be filled by appointment for the remainder of the term.

(4) The Commission shall serve as a land use decision making body on applications required by this ordinance and as an advisory body to the City Council on city policy, ordinances, decisions, and on city projects that could affect the historic resources and their settings that are protected by this code.

(5) Decisions made by the Landmarks Commission or the City Council when acting as the decision maker under Section 10.111 (6) of this code or upon appeal of a Landmarks Commission decision to the City Council shall be made in accordance with this ordinance and attached appendices.

10.104 Procedures.

(1) All applications for alterations, additions, new construction, demolition, removal, signs, restoration, rehabilitation and other actions involving a historic resource and addressed by this ordinance shall be submitted to the City Community Development Department on the appropriate application form and with the review fee as set by the City Council. An application is "submitted" when it is received by the City Community Development Department.

(2) Applications for review under this ordinance shall be submitted by the property owner or a person who has written authorization from the property owner as defined herein to make the application; be completed on a form prescribed by the Planning Director; include supporting information required by the code and other information necessary to demonstrate compliance with applicable criteria; and be accompanied by the appropriate filing fee.

(3) All land use applications submitted under this code shall be processed in accordance with the City of Bend Land Use Permit & Review Procedures Ordinance No. NS-1775, as amended.

(4) (a) A pre-application conference is encouraged for complex applications or for applicants who are unfamiliar with the City's historic preservation program or the land use process. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the applicable legal requirements, to provide for an exchange of information regarding applicable requirements of the comprehensive plan, procedures ordinance, zoning ordinance, historic preservation code, building codes, or land division ordinance and to identify issues likely to arise in processing an application. A Preservation Plan and preservation incentives may be explored at the meeting.

(b) A pre-application conference is required when an applicant applies for demolition or removal of a historic resource. This conference shall be held no less than 30 days prior to the filing of an application.

(c) A public meeting shall be conducted pursuant to the City's Land Use Permit & Review Procedures Ordinance, BCC Chapter 10-16.2(1)(B) when an applicant applies for the demolition or removal of a historic resource.

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

(6) Applications for minor alterations, restoration and rehabilitation may be decided by staff under the administrative review process, under the direction of the City of Bend Community Development Department (CDD) Director, and the Landmarks Commission.

(7) Applications for major alterations, additions, new construction, signs, moving or partial or complete demolition of a structure shall be decided by the majority vote of a quorum of the Commissioners after the Commission has held a quasi-judicial public hearing.

(8) The public shall have an opportunity to comment on applications that come before the Landmarks Commission. The Commission reviews and makes decisions on applications through a quasi-judicial land use decision-making process. It follows the State's Open Meetings Law and the Public Records Laws as well as the Secretary of the Interior's Standards and Guidelines for Rehabilitation. The applicant, the owner of the property and any interested parties shall be entitled to be heard in writing or orally up to the close of pubic hearings. In reaching the decision on an application, the Landmarks Commission shall consider all relevant evidence and testimony. The applicant and parties of record shall address the criteria and present evidence of appropriateness of the action requested.

(9) The Commission shall approve, approve with conditions or deny the application within 75 days of the date that the application has been determined to be complete, unless the 120 day rule contained in ORS 227.179 has been waived in writing by the Applicant.

10.105 Definitions.

For purposes of Bend Code 10.100 to 10.118, the following terms are defined as indicated:

(1) "Adaptive Re-use" is putting a historic structure to a new use and altering its interior and/or exterior and making other modifications to allow for its new use, while retaining its character defining features. (2) Alteration means the addition to, removal of or from, or physical modification of any exterior part or portion of a structure.

(3) "Architectural Significance" means that the structure, building or district (a) portrays the environment of a group of people in an era of history characterized by a distinctive architectural style, or (b) embodies those distinguishing characteristics of an architectural type, or (c) is the work of an architect or master builder whose individual work has influenced the development of the city, or (d) contains elements of architectural design, detail, materials, or craftsmanship which represent an architectural innovation.

(4) "City" means the City of Bend.

(5) "Culture" means the traditions, beliefs, practices, lifeways, arts, crafts, and social institutions of any community, be it an Indian tribe, a local ethnic group, or the people of the city, region, state of nation as a whole.

(6) "Demolish" means to raze, destroy, dismantle, deface or, in any other manner, cause partial or total ruin of a designated structure.

(7) "Evidence" means facts, documents, data or other information submitted to the record to demonstrate compliance or noncompliance with the standards, guidelines and criteria believed to be relevant to the decision.

(8) "Exterior" means any portion of the outside of a designated historic structure and/or building or a structure ad/or building in a designated historic district or any addition thereto.

(9) "Historic" means 50 years old or older.

(10) "Historic Resource" means a building, historic or cultural site, structure, object, historic district, or any combination of these resources that are designated by the City Council, State of Oregon or National Park Service, that are listed on the National Register of Historic Places, are within a National Register Historic District, or designated on the City's list of Goal 5 Historic Resources

(11) "Historic resources of statewide significance" are buildings, structures, objects, cultural sites, or districts listed in the National Register of Historic Places, and those located within approved National Register Historic Districts pursuant to the National Historic Preservation Act of 1966 (PL 89-665; 16 U.S.C. 470.

(12) "Historical Significance" shall mean that the structure or historical district (a) has character, interest, or value as part of the development, heritage, or cultural characteristics for the city, county, state, or nation; (b) is the site of a historic event with an effect upon society; (c) is identified with a person or group of persons who had some influence on society, or (d) exemplifies the cultural, political, economic, social, or historic heritage of the community.

(13) "Historic artifacts" means three-dimensional objects including furnishings, art objects, architectural elements, building materials and items of personal property which have historic significance. "Historic artifacts" does not include photographs, paper, electronic media or other media that are classified as public records.

(14) "Inventory" is a survey, map, or description of one or more resource sites that is prepared by a local government, state or federal agency, private citizen, or other organization and that includes information about the resource values and features associated with such sites. As a verb, "inventory" means to collect, prepare, compile, or refine information about one or more resource sites.

(15) "Landmarks Commission or Commission" means the Deschutes County Historical Landmarks Commission.

(16) A "major alteration" is an alteration which affects the historical or architectural significance of a structure or building.

(17) "Maintenance" means the process of mitigating the wear and deterioration of a property without altering the historic character of the property, including action taken to protect and repair the condition of the property with the least possible impact on the historic character of the property.

(18) A "minor alteration" is an alteration which does not affect the historical or architectural significance of a structure.

(19) "Preservation" means the process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property, including but not limited to the ongoing maintenance and repair of historic materials but; not including the extensive replacement of historic materials or new construction.

(20) "Preservation Plan" means a written preservation, rehabilitation, and maintenance plan submitted by the owner. A Preservation Plan for a property included in the Oregon Special Assessment Program is approved by the State Historic Preservation Office.

(21) "Primary Resource" is the site, object, structure, or building that includes the age, function, associations, physical characteristics, features, and historic significance of the overall property.

(22) "Property Owner" means the owner of record or the contract purchaser and does not include a person or organization that holds a security interest.

(23) "Protect" means to require Landmarks Commission review of applications for demolition, removal, or exterior alteration of a historic resource, new construction or signs on the designated property in accordance with the provisions of this ordinance so that the defining characteristics of the building and its site and environment are retained.

(24) "Reconstruction" means the process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

(25) "Real Market Value" has the meaning given in ORS 308.205.

(26) "Rehabilitation" means the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

(27) "Replacement" means the process of replacing historic materials and features with new materials when the deterioration of a character-defining material or feature is so extensive that protection, maintenance, or repair is not possible. Replacing severely deteriorated or damaged historic materials with new materials of the same kind as the historic materials and in the same design as the historic element is "replacement".

(28) "Resource list" includes the description, maps, and other information about significant Goal 5 resource sites within a jurisdiction, adopted by a local government as a part of the comprehensive plan or as a land use regulation. A "plan inventory" adopted under OAR 660-016-0000(5)(c) shall be considered to be a resource list.

(29) "Restoration" means the process of accurately depicting the forms, features and character of a property as it appeared at a particular period of time, by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

(30) "Secondary resources" are usually not as large as the primary resource on the property and do not strongly contribute to the property's historic significance. They may have been constructed by a different property owner after the primary resource was constructed, but during the period of significance.

(31) "Secretary of the Interior's Standards for Rehabilitation" are ten basic principles created to help preserve the distinctive character of a historic building and its site, while allowing for reasonable change to meet new needs. The Standards are included as Appendix "D", and by this reference are incorporated herein.

(32) "Site" means the location of a significant event, prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historical, cultural, or archaeological value regardless of the value of any existing structure.

(33) "Structure" means anything constructed or built, any edifice or building or any kind, or any pieces of work architecturally built or composed of parts joined together in some definite manner.

10.106 Criteria.

The evaluation and designation of sites, structures, and historical districts shall be based on the factors listed on the Deschutes County Landmarks Commission Rating Sheet, a copy of which is marked Appendix "A," attached hereto and, by this reference, incorporated herein.

10.107 Designation of Historic Resources.

(1) Upon receipt of a request by the Landmarks Commission to designate a particular building or site within the city limits of Bend as a historic resource, or upon direction by the Bend City Council on its own motion, the City Planning Department shall advise the owner of such building or site and shall fix a date and time for a public hearing before the City Council thereon.

(2) The Planning Department shall notify the Bend Urban Area Planning Commission and shall transmit a copy of the request to the Landmarks Commission unless such a request has come from the Landmarks Commission.

(3) The Landmarks Commission shall submit its recommendation to the Bend City Council at least 10 days prior to the public hearing. The Landmarks Commission, as part of its report, may request an inspection of the property from the building department and/or the fire prevention division to determine the condition of the building or site.

(4) At such public hearing, the owner of the property involved, a representative of the Landmarks Commission, and all other interested parties shall be entitled to be heard by the City Council.

(5) If the City Council determines that a building inside the city limits proposed for designation as a historic resource has architectural or historical significance based upon past or present use, the Council may designate such building as a historic resource. The Council shall use the criteria listed in Bend Code 10.106 and Appendix "A" to determine historical or architectural significance.

(6) If the City Council finds that a particular site had a prior use involving the establishment, growth, or particular incidents relating to the history of the city, the Council may designate the same as a historic resource.

(7) If any historical building has been demolished or destroyed, the City Council, on its own motion or upon recommendation of the Landmarks Commission, may remove the historic resource designation there from.

(8) If the designation is proposed to be removed from any historic resource for any other reason than set forth in Bend Code 10.108 (7), then similar notices, recommendations and hearings shall be held as upon the designation as an historic resource in the first instance.

(9) A historical or architecturally significant interior space or other portion of a building may be designated as a historic resource in the same manner as provided in this section; provisions of this ordinance relating to historical buildings shall be applicable to such designated interior space or other portion of a building.

(10) The City Council may make a recommendation regarding any request to designate a historic resource outside the city limits but inside the adopted urban growth boundary.

(11) At the time of annexation to the city, all designated historic resources within the annexed area shall retain their designation and shall fall under the jurisdiction of the City unless a public hearing is held by the City to remove the designation from the site or structure.

10.108 Designation of Historic District.

(1) Upon receipt of a request by the Landmarks Commission to designate an area as a historic district or upon direction by the City Commission, the Planning Director shall fix a date and time for a public hearing before the City Council thereon.

(2) The Planning Department shall notify owners within the proposed historic district, the Bend Urban Area Planning Commission, and shall transmit a copy of the request to the Landmarks Commission unless such request has been made by the Landmarks Commission.

(3) The Landmarks Commission shall submit its recommendation to the Bend City Council at least 10 days prior to the public hearing. The Landmarks Commission, as part of its report, may request an inspection of the property from the building department and/or the fire prevention division to determine the condition of the building or site.

(4) At such public hearing, the owners of the properties involved, a representative of the Landmarks Commission and all other interested parties shall be entitled to be heard by the City Council.

(5) If the City Council determines that an area proposed to be designated as a historical district has architectural or historical significance, based upon past or present use, the City Council may designate such area as a historic district.

(6) If the City Council determines that an area outside the city limits but inside the adopted urban growth boundary has historical significance, the City Council may recommend to the Board of County Commissioners that such area be designated as a historical district.

(7) All sites and structures within a historic district need not be of historical or architectural significance provided the district as a whole is of such importance or significance.

(8) If the primary or significant buildings within a historical district have been demolished or destroyed, the City Council, on its own motion, may remove the historical district designation.

(9) If the designation is proposed to be removed from any historical district for any other reason than set forth in Bend Code 10.108 (8), then similar notices, recommendations and hearings shall be held as upon the designation of the historical district in the first sentence.

(10) If part or all of a designated historical district is annexed to the city, that historical district or portion thereof shall retain its historic resource designation and shall fall under the jurisdiction of the City unless a public hearing is held to remove the historic district designation.

10.109 Designation Not a Recommendation for Federal Action.

Nothing in this ordinance nor the designation of a historic district under Bend Code 10.108 shall be interpreted as a recommendation by the City Council supporting designation of any building or structure as a "Certified Historic Structure" for purposes of Section 191 (d), (1), (b), or (c) of the Federal Tax Reform Act of 1976.

10.110 Exterior Alteration and New Construction.

(1) No person may alter any structure within a historic district or designated historic structure in such a manner as to change its exterior appearance, nor may any new structure be constructed within a historic district unless a certificate of approval has been issued by the Landmarks Commission and the City Planning Director, provided nothing in this ordinance shall be construed to prevent ordinary maintenance or repair of exterior architectural features which does not involve a change in design or type of materials.

(2) Application for a certificate of approval shall be made to the City Planning Department and shall be referred to the Landmarks Commission for review and hearing, provided that minor alterations may be acted upon by the Planning Director or designee by administrative review.

(3) A certificate of approval is not required for ordinary maintenance and repair of a structure that does not affect historic or architectural design. All applications for a certificate of approval must be accompanied by appropriate plans and specifications.

(4) Any request for a certificate of approval must be filed prior to or in conjunction with an application for any building or land use permit.

(5) For exterior alterations of structures in a historic district or a designated historic structure, the criteria to be used by the Landmarks

Commission in reaching its decision on the certificate of approval shall include the following:

(a) The reasonableness of the proposed alteration considering public interest in the structure's historical significance.

(b) Whether the alteration will be harmonious and compatible with the appearance and character of the historic structure or district.

(c) Whether the physical condition of the structure necessitates repairs or alterations.

(d) The design guidelines attached hereto as Appendix "B" and, by this reference, incorporated herein.

(6) For construction of new structures in a designated historic district, the criteria to be used in the issuance of a certificate of approval shall include the following:

(a) The economic effect of the new structure on the historical structure in the district.

(b) The effect of the proposed new structure on the historical character of the district.

(c) Whether the new structure will be harmonious and compatible with the appearance and character of the historic structure or district.

(d) The design guidelines attached hereto as Appendix "C" and, by this reference, incorporated herein.

(7) All decisions on certificates of approval shall be in writing.

10.111 Demolition, Moving or Dangerous Building Abatement Historic Structures.

The following rules, and the procedural rules contained in Section 10.104, apply to the demolition and removal of historic resources:

(1) The owner or other party with written permission of the owner shall apply for approval to demolish or move a historic resource to the City of Bend Community Development Department as described in Section 10.104 of this code. A pre-application meeting with the City Building Official or designee, City Planner, and the Historic Preservation Planner is required. Any decision made by the Commission on a request for demolition, moving or condemnation of a historic resource is a land use decision.

(2) At least 30 days prior to submitting an application to move or demolish a designated historic resource, the applicant shall provide mailed notice of the intended demolition or removal to the Deschutes County Historical Society and State Historical Preservation Office. The letters shall include the historic name of the resource, the date of construction or significant event associated with the property, a statement of its cultural or historic significance, and the reason for the proposed removal or demolition. Copies of the two mailed notices shall be submitted by the applicant with the demolition or removal application.

(3) Staff shall provide the applicant no later than the day of the required pre-application conference information regarding financial incentives for historic preservation and adaptive re-use projects such as the Oregon Special Assessment Program, donations of Façade Easements, the Federal Investment Tax Credit, the "Preserving Oregon" grants, the "Preserving America's Treasures" grants and special provisions in the International Building Code and International Existing Building Code available for designated historic resources. The applicant shall acknowledge in writing that he/she is aware of the above incentives and has been provided this information by the Planning Staff.

(4) At least 30 days before submitting an application for demolition or removal of a historic structure, the applicant shall post a notice on the property and publish a legal notice in a newspaper of general circulation in Deschutes County notifying the public that the applicant is considering applying for removal or demolition of a historic structure. The notice shall also invite purchasers and tenants to make written offers to purchase and/or rent the structure. The notice posted on the property shall be placed at a conspicuous location easily visible from the adjacent street. A copy of the notices shall be submitted with the removal or demolition application.

(5) After the application is deemed complete and forwarded to the Landmarks Commission, the Commission staff shall give required public notice, write a staff report addressing the criteria and schedule a public hearing that will be held within forty-five days of the determination that a complete application has been filed.

(6) The Commission may continue the hearing to a date, time, and place certain upon request from the applicant, a party of record, or a majority of the Commission. However, unless the 120-day time limit for final action is waived by the written consent of the applicant, the Commission shall issue a final written decision within 75 days after an application is accepted as complete. In the event that the Commission fails to issue a final written decision within 75 days after an application is accepted as complete, the City Council may call up the application for consideration, and decide the application itself following the procedures and substantive criteria contained in this Ordinance.

(7) In determining whether to grant or deny an application for removal or demolition, the Commission shall consider the following evidence:

a. The first list of evidence applies to all historic resources, both primary and secondary resources.

1. **Proof of ownership of the property**
2. **Whether or not the structure could be adaptively re-used.**
3. **Records of how the structure has been used over time.**
4. **Date property was acquired and status of the property under this ordinance at the time of acquisition, e.g. whether the property had been designated as a historic resource.**
5. **Statement of the necessity of the action requested.**
6. **Whether or not there is a viable economic or public use for the structure as it exists.**
7. **Alternatives to the requested action that have been studied.**
8. **Records of the current owner's efforts to maintain and rehabilitate the structure in the past five years or since purchasing the structure, if ownership has been for a period of less than five years.**
9. **The information used in the original designation of the property or structure as a historic resource.**
10. **The information filed in the Deschutes County Historic Landmarks Commission Historic Sites file or applicable National Register of Historic Places nomination.**
11. **Evidence of structural maintenance including maintenance records for the past five years or since the current owner purchased the building, and whether the current owner has ~~not~~ neglected the structure thereby deliberately leading to demolition by neglect.**
12. **Whether or not the structure can be altered, rehabilitated or adaptively used and at what financial cost.**
13. **Whether or not the structure could be altered or increased in size with an addition and the costs and benefits of that action.**
14. **Records of applications for any available historic preservation or energy efficiency grants or tax incentives**
15. **Whether or not the structure poses a threat to the public health or is a safety or fire hazard and whether or not there is a technically feasible means of alleviating the public health, safety, or fire hazard.**

16. Historic photographs (more than 50 years old) of the structure and its setting.
17. Current color slide photographs of the structure and its setting showing all exterior sides of the structure.
18. A set of black and white 4" by 6" prints of all exterior sides of the structure.

b. The following applies to primary resources only:
1. The zoning of the property and efforts to change the zoning to allow continued use of the structure.
2. Records of efforts to sell the property during the past 18 months to a party interested in preserving or adaptively re-using the structure
3. Records of advertisements for tenants for the structure
4. Evidence submitted by neutral parties determining the market value of the property
5. Evidence prepared by parties of comparable lease or rental rates for the structure.
6. Architectural plans and construction drawings of the historic structure.
7. Copies of all attempts to market the property, such as advertisements, notices, and news articles in magazines, newspapers, and the local historical society newsletter.
8. Evidence that the owner(s) are willing to consider in good faith, in the interest of preserving the structure, all reasonable offers to purchase, rent or lease the property and whether the owners have made a good faith effort to locate a tenant or a buyer for the property.
9. Reports of registered structural engineers, registered architects or historic preservation contractors with historic preservation experience about the feasibility of rehabilitation, restoration or an adaptive- reuse project.
10. Efforts to relocate the structure to a property that has a setting that is similar to the current site.
11. The importance of the historic structure to the identity of the neighborhood and the importance to the appearance of the built environment and architectural diversity and texture of Bend.
12. Whether there exists any viable alternative to demolition of the historic structure.
13. The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and the price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding any real estate broker or firm engaged to sell or lease the property; reasonableness of the price or rent sought by the applicant; any advertisements placed for the sale or rent of the property by the owner or applicant.
14. Comments and/or reports from any community organizations, preservation groups, other associations and private citizens that wish to testify about economic viability.
15. The extent to which the owner is responsible for diminished economic returns, such as the owner's failure to perform normal maintenance and repairs; the failure to diligently solicit and retain tenants; the failure to prescribe a rental amount which is reasonable; the failure to provide normal tenant improvements; and the owner's purchase of the subject property without making said purchase contingent upon the owner's first obtaining the approvals required by this ordinance.

(8) The Landmarks Commission shall make a decision based on the record and the criteria contained in this code.

(9) (a) In order to obtain a demolition permit involving a historic resource, the applicant must overcome the presumption that the structure shall be preserved. This presumption may be overcome and the demolition permit issued or issued with conditions, if the applicant demonstrates that there is no viable economic alternative

to demolition. Absent such a demonstration, the demolition permit shall be denied.

(b) The Commission may attach conditions to the approval of a demolition permit regarding historic artifacts and/or regarding the future development of the location if other historic resources will be affected by the proposed development.

(10) If the Commission, or the City Council on appeal of a Landmarks Commission Decision, approves the application for demolition, a permit may not be issued for 120 days from the date the application was deemed complete.

(11) If the Landmarks Commission approves or approves with conditions an application for a demolition permit and no appeal is pending, the building official may issue the permit 120 days from the date the application was deemed complete. The issuance of the demolition permit, however, shall be stayed beyond the 120 day period referenced in this paragraph, until the land use approvals and a building permit have been issued for the development that will occur on the site.[4]

(12) The City Building Division shall include the Landmark Commission staff on the mailing list for receiving notices of abatement of dangerous buildings involving historic structures. Landmark Commission staff may work with property owners to remedy the cause for the abatement notice. The Building Division shall entertain requests for extensions of time in processing such abatements to enable the property owner to remedy such dangerous conditions, provided that the public safety is maintained.

(13) The same procedures as stated in this section for demolition shall apply to moving a building or structure. The setting is an important component of the historical context. The site to which the building or structure is moved shall be as similar as is possible to the original setting.

10.112 Removal of Landmark Designation.

When the Landmarks Commission approves a demolition or removal permit, it shall make a recommendation to the City Council regarding whether or not the landmark or historical status should be removed. In making this recommendation the Commission shall consider the following factors among others: The historic resource was part of an ensemble designated as a historic landmark; or the site of the historic resource itself was designated as a significant feature of a historic landmark; or other buildings, structures, or objects on the property are historic resources.

10.113 Record of Demolished Historical Building/Artifacts.

If a designated historic resource is to be demolished, insofar as practical and as funds are available, the Landmarks Commission shall keep a pictorial and graphic history of the historic building or site and obtain artifacts from the building or site which it deems worthy of preservation.

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[1] **As stated in OAR 660-023-0200: "(9)A local government shall not issue a permit for demolition or modification of a historic resource described under subsection (6) of this rule for at least 120 days from the date a property owner requests removal of historic resource designation from the property." (c) "Historic resources" are those buildings, structures, objects, sites, or districts that have a relationship to events or conditions of the human past. (d) "Historic resources of statewide significance" are buildings, structures, objects, sites, or districts listed in the National Register of Historic Places, and within approved national register historic districts pursuant to the National Historic Preservation Act of 1966 (PL 89-665; 16 U.S.C. 470)."**

10.114 Signs/Plaques.

(1) No sign or plaque may be displayed on an historic resource except for signs or plaques approved by the Landmarks Commission, in conformance with Bend Code 10.110, the appendices referred to therein and the City of Bend sign code.

(2) All signs and plaques to be displayed on an historic property must be approved by the Landmarks Commission

(3) Signs that are freestanding, painted on the windows or glass doors or that are similar to signs shown in historic photographs of the structure are encouraged.

(4) Signs must be attached to the structure in such away as to not cause irreversible damage to the building. New signs will be attached by reusing existing hardware whenever possible. New brackets and bolts on masonry buildings shall be put only in wood or mortar, and not in bricks or rock.

(5) The size of the sign must be in proportion to the size of the historic building. The placement of the sign shall not obscure significant architectural elements of the building.

(6) The type of the sign, font, design and shape of the sign should be compatible with the historic building and the historic character of the historic district.

(7) The materials of which the sign is made must be compatible with the historic building and the historic character of the historic district.

(8) Back lighted metal-framed plastic signs are discouraged.

10.115 Redevelopment and Neighborhood Improvement Projects.

(1) In any redevelopment project or neighborhood improvement project administered by a department of the City or submitted to the City Council for its review and recommendation, the proposed action relating to a designated historical district, building, or site shall be submitted to the Landmarks Commission for its review and recommendation.

(2) A report thereon by the Landmarks Commission shall be filed with the City Council and a copy shall be sent to the appropriate city departments.

(3) If the project is federally funded, all or in part, the City of Bend will follow the Federal Section 106 process.

(4) If the project has no federal funding, but is within 100 feet of a designated historic or cultural resource or historic district, the City shall submit the project to the Landmarks Commission for review and recommendation.

10.116 Appeals.

Appeals from actions of the Landmarks Commission shall be to the Bend City Council and may be filed by a party of record. Appeals must be filed within twelve days from the date of written decision by the Landmarks Commission and shall be accompanied by a fee established by the Bend City Council. The appeal shall be conducted in conformance with the City's Uniform Land Use Procedure Ordinance.

10.117 Penalties.

(1) A violation of Bend Code 10.100 to 10.124 is a Class A violation.

(2) **Illegal Demolition or Removal of A Historic Resource.**

(a) The demolition or removal of a historic resource without the appropriate permit shall constitute a misdemeanor and shall be punishable accordingly.

(b) The City is authorized to institute a civil action against any person or group of persons who demolish a designated historic

resource without a ~~valid~~ demolition permit to recover up to 20% of the current real market value of the subject property as determined by the Deschutes County Assessor or in the event that the property is sold or conveyed for profit to recover the difference between the sales price and the purchase price by the property owner.

10.118. Severability.

In the event that any section, subsection, sentence or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect, as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof.

APPENDIX "A"

DESCHUTES COUNTY LANDMARKS COMMISSION

HISTORIC RESOURCE RATING SHEET

RATING_____
NAME OF HISTORIC RESOURCE _____
ADDRESS_____
MAP AND TAX LOT _____
EVALUATOR_____
DATE_____

Scoring on Scale of 1-5
5 - Excellent
4 - Very Good
3 - Good
2 - Fair
1 - Poor
0 - Non-existent

Factors	**Relative Importance**	**Weighted Rating**
1. Interpretive Potential: Property is associated with pre-historic or historic events, is related to the broad cultural history of the nation, state or community, or is included on the National Register of Historic Places, or has yielded or is likely to yield information important to prehistory or history.	3.0 x	
2. Rarity of type and/or Style: Property represents a period of history or prehistory or style of architecture or method of construction of extraordinary or unusual design, detail, materials, or craftsmanship; or is identified as the work of an architect, designer or master builder whose work has influenced development in the nation, state or community.	2.0 x	
3. Identification: Property is identified with a person or persons who have significantly contributed to the history of the City or County.	1.5 x	
4. Symbolic Value: Property represents an aesthetic or educational feature of the community, or has contributed to the cultural or economic history of the area.	1.5 x	
5. Chronology: Property was developed early in the relative scale of local history or was an early expression of a type or style of structure or development.	1.0 x	

APPENDIX "B"

DESIGN REVIEW GUIDELINES

ALTERATIONS/ADDITIONS

A. SITING

1. In addition to the zoning requirements, the relationship of new additions to the street and to the open space between buildings shall be compatible with adjacent historic buildings and with the historic character of the surrounding area.

2. New additions shall be sited so that the impact to the primary facades(s) is kept to a minimum. Additions shall generally be located at the rear portions of the property or in such locations where they have the least visual impact from public ways.

B. LANDSCAPE

1. Traditional landscape elements evident in the district - grass, trees, shrubs, picket fences, etc. - should be preserved and are encouraged in site redevelopment.

2. Inappropriate landscape treatments, such as berms and extensive ground cover, are discouraged.

C. BUILDING HEIGHT

1. In addition to the zoning requirements, the height of new additions shall not exceed the height of the historic building, or of historic buildings in the surrounding area.

D. BUILDING BULK

1. New additions smaller than the historic building or the historic buildings in the surrounding area are encouraged.

(a) Where new additions must be larger, the new addition shall be articulated in such a manner that no single element is visually larger than the historic building or larger than the surrounding historic buildings.

E. PROPORTION AND SCALE

1. The relationship of height to width of new additions and their sub-elements, such as windows and doors and of alterations, shall be compatible with related elements of the historic building and with the historic character of the surrounding area.

2. The relationship of solids to voids (wall to window) shall be compatible with related elements on the historic building and with the historic character of the surrounding area.

F. EXTERIOR FEATURES

1. General

(a) To the extent practicable, original historic architectural elements and materials shall be preserved.

(b) Architectural elements and materials for new additions shall be compatible with related elements of

the historic building and with the historic character of the surrounding area.

(c) The preservation, cleaning, repair, and other treatment of original materials shall be in accord with the Secretary of Interior's Standards of Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

2. Foundations:

(a) Concrete or masonry foundations to replace deteriorated wood foundations are encouraged. Such new foundations shall be covered with board skirting or similar treatment to match the original appearance and extend to within six to eight inches (6" - 8") of the ground level.

(b) Concrete or masonry foundations for new additions need not be covered with material that stimulates earlier construction.

(c) New foundations shall not significantly alter the historic elevation of the building.

3. Roofs:

(a) Roofs on new additions shall be of forms (gabled, hipped, etc.) that are compatible with the historic building and the historic character of the district.

MASONRY

(Adobe, Brick, Stone, Terra Cotta, Concrete, Stucco, Mortar)

RECOMMENDED*

Retaining original masonry and mortar, whenever possible, without the application of any surface treatment.

Repointing only those mortar joints where there is evidence of moisture problems or when sufficient mortar is missing to allow water to stand in the mortar joint.

Duplicating old mortar in composition, color, and texture.

Duplicating old mortar in joint size, method of application, and joint profile.

Repairing stucco with a stucco mixture that duplicates the original as closely as possible in appearance and texture.

Cleaning masonry only when necessary to halt deterioration or to remove graffiti and stains, and always with the gentlest method possible, such as low pressure water and soft, natural bristle brushes.

Repairing or replacing, where necessary, deteriorated material with new material that duplicates the old as closely as possible.

Replacing missing significant architectural features, such as cornices, brackets, railings, and shutters.

Retaining the original or early color and texture of masonry surfaces, including early signage wherever possible. Brick or stone surfaces may have been painted or whitewashed for practical and aesthetic reasons.

NOT RECOMMENDED

Applying waterproofing or water repellant coating or surface consolidation treatments unless required to solve a specific technical problem that has been studied and identified. Coatings are frequently unnecessary, expensive, and can accelerate deterioration of the masonry.

Repointing mortar joints that do not need repointing. Using electric saws and hammers to remove mortar can seriously damage the adjacent brick.

Repointing with mortar of high Portland cement content can often create a bond that is stronger than the building material. This can cause deterioration as a result of the differing coefficient of expansion and the differing porosity of the material and the mortar.

Repointing with mortar joints of a differing size or joint profile, texture, or color.

Sandblasting, including dry and wet grit and other abrasives, brick, or stone surfaces; this method of cleaning erodes the surface of the material and accelerates deterioration. Using chemical reaction with the masonry materials, i.e., acid on limestone or marble.

Applying new material which is inappropriate or was unavailable when the building was constructed, such as artificial brick siding, artificial cast stone, or brick veneer.

Removing architectural features such as cornices, brackets, railings, shutters, window architraves, and doorway pediments.

Removing paint from masonry surfaces indiscriminately. This may subject the building to damage and change its appearance.

WOOD

(Clapboard, Weatherboard, Shingles, and Other Wooden Siding)

RECOMMENDED

Retaining and preserving significant architectural features wherever possible.

Repairing or replacing, where necessary, deteriorated material that duplicates in size, shape, and texture, the old as closely as possible.

NOT RECOMMENDED

Removing architectural features such as siding, cornices, brackets, window architraves, and doorway pediments. These are, in most cases, an essential part of a building's character and appearance that illustrate the continuity of growth and change.

Resurfacing frame buildings with new material that is inappropriate or was unavailable when the building was constructed, such as artificial stone, brick, veneer, asbestos, or asphalt shingles and plastic or aluminum siding. Such material can also contribute to the deterioration of the structure from moisture and insects.

ARCHITECTURAL METALS

(Cast Iron, Steel, Pressed Tin, Aluminum, and Zinc)

RECOMMENDED

Retaining original material, whenever possible.

Cleaning when necessary with the appropriate method. Metals should be cleaned by methods that do not abrade the surface.

NOT RECOMMENDED

Removing architectural features that are an essential part of a building's character and appearance, illustrating the continuity of growth and change.

Exposing metals which were intended to be protected from the environment. Do not use cleaning methods which alter the color, texture, and tone of the metal.

ROOFS AND ROOFING

RECOMMENDED

Preserving the original roof shape.

Retaining the original material, whenever possible.

Providing adequate roof drainage and ensuring that the roofing materials provide a weathertight covering for the structure.

Preserving or replacing, where necessary, all architectural features that give the roof its essential character, such as dormer windows, cupolas, cornices, brackets, chimneys, cresting, and weather vanes.

NOT RECOMMENDED

Changing the essential character of the roof by adding inappropriate features such as dormer windows, vents, or skylights.

Applying new roofing material that is inappropriate to the style and period of the building and neighborhood.

Stripping the roof of architectural features important to its character.

WINDOWS AND DOORS

RECOMMENDED**

Retaining and repairing window and door openings, frames, sash, glass, doors, lintels, sills, pediments, architraves, hardware, awnings, and shutters where they contribute to the architectural and historic character of the building.

Improving the thermal performance of existing windows and doors through adding or replacing weatherstripping and adding storm windows and doors which are compatible with the character of the building and which do not damage window or door frames.

Replacing missing or irreparable windows on significant facades with new windows that match the original in material, size, general muntin and mullion proportion and configuration, and reflective qualities of the glass.

Replacing missing or irreparable windows on significant facades with new windows that match the original in material, size, general muntin and mullion proportion and configuration, and reflective qualities of the glass.

NOT RECOMMENDED

Introducing or changing the location or size of windows, doors, and other openings that alter the architectural and historic character of the building.

Replacing window and door features on significant facades with historically and architecturally incompatible materials such as anodized aluminum, mirrored or tinted glass.

Removing window and door features that can be repaired where such features contribute to the historic and architectural character of the building.

Installing on significant facades shutters, screens, blinds, security grills, and awnings which are historically inappropriate and which detract from the character of the building.

Installing new exterior storm windows and doors which are inappropriate in size or color, or which are inoperable, or which require removal of original windows and doors.

Installing interior storm windows that allow moisture to accumulate and damage the window.

Replacing sash which contribute to the character of the building with those that are incompatible in size, configuration, and reflective qualities or which alter the setback relationship between window and wall.

Replacing sash which contribute to the character of the building with those that are incompatible in size, configuration, and reflective qualities or which alter the setback relationship between window and wall.

Installing heating / air conditioning units in the window frames when the sash and frames may be damaged. Window installations should be considered only when all other viable heating / cooling systems would result in significant damage to historic material.

STOREFRONTS

RECOMMENDED

Retaining and repairing existing storefronts, including windows, sash, doors, transoms, signage, and decorative features where such features contribute to the architectural and historic character of the building.

Where original or early storefronts no longer exist or are too deteriorated to save, retaining the commercial character of the building through (1) contemporary design which is compatible with the scale, design, materials, color, and texture of the historic buildings, or (2) an accurate restoration of the storefront based on historical research and physical evidence.

NOT RECOMMENDED

Introducing a storefront or new design element on the ground floor, such as an arcade, which alters the architectural and historic character of the building and its relationship with the street or its setting or which causes destruction of significant historic fabric.

Using materials which detract from the historic or architectural character of the building, such as mirrored glass.

Altering the entrance through a significant storefront.

ENTRANCES, PORCHES, AND STEPS

RECOMMENDED

Retaining porches and steps that are appropriate to the building and its development. Porches or additions reflecting later architectural styles are often important to the building's historical integrity and, wherever possible, should be retained.

Repairing or replacing, where necessary, deteriorated architectural features of wood, iron, cast iron, terra cotta, tile, and brick.

NOT RECOMMENDED

Removing or altering porches and steps that are appropriate to the building's development and style.

Stripping porches and steps of original material and architectural features, such as hand rails, balusters, columns, brackets, and roof decoration of wood, iron, cast iron, terra cotta. tile, and brick.

Enclosing porches and steps in a manner that destroys their intended appearance.

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* For more information, consult Preservation Briefs:

1) "The Cleaning and Waterproofing of Masonry Buildings"

2) "Repointing Mortar Joints in Historic Brick Buildings" (Washington, D.C.; Heritage Conservation and Recreation Service, 1975 and 1976). Both are available from the Government Printing Office or State Historic Preservation Officers.

** For more information, consult Preservation Briefs:

3) "Conserving Energy in Historic Buildings" (Washington, D.C.; Heritage Conservation and Recreation Service, 1978). It is available from the Government Printing Office or State Historic Preservation Office.

APPENDIX "C"

DESIGN REVIEW GUIDELINES

NEW CONSTRUCTION

A. GENERAL

1. New construction shall be compatible in size, form, scale, materials, and texture with adjacent historic buildings and with dominant architectural character of the district.

2. Contemporary designs expressing the elements described in 1. above are encouraged.

3. Imitating in detail an earlier style of architecture is discouraged.

B. SITING

1. In addition to the zoning requirements, the relationship of new construction to the street and to the open space between buildings shall be compatible with surrounding historic buildings and with the historic character of the district.

C. LANDSCAPE

1. Traditional landscape elements evident in the district--grass, trees, and shrubs--are encouraged in new development.

2. Inappropriate landscape treatment such as berms and extensive ground cover areas are discouraged.

D. BUILDING HEIGHT

1. In addition to the zoning requirements, the height of new construction shall not exceed the height of the tallest historic building of similar type in the district.

E. BUILDING BULK

1. The apparent size of primary elements of new construction shall not exceed that of the largest historic building in the district.

F. PROPORTION AND SCALE

1. The relationship of height to width of primary and secondary elements of new construction shall be compatible with the dominant historic character of the district, such as the typical historic windows which have an approximate proportion of 2 vertical to 1 horizontal.

2. The relationship of solid to void (wall to window) shall be compatible with the dominant historic character of the district.

G. EXTERIOR FEATURES

1. General:

(a) Exterior features such as bays, porches, balconies, and other architectural elements that establish the district's historic character are encouraged in new construction.

2. Materials:

(a) New construction should employ materials traditional to the district--wood, stone, and brick. Such materials should be employed in their traditional configuration, e.g., drop siding, common brick, standard shingles.

(b) Inappropriate materials such as plywood, plastic and metal sidings, imitation brick and stone, and raw aluminum window frames are discouraged.

3. Roof Form:

(a) Primary roofs shall be gabled with pitches in the range of 12/12 to 12/8 to reflect the dominant roof pitches of the district's primary historic buildings.

4. Garages/Carports:

(a) When feasible, garages and carports should be located on the site where they have the minimum visual impact from public ways.

(b) Where garages must face the street front, they should be designed to minimize their bulk and visual impact. Single-car garage doors should be employed.

APPENDIX "D"

THE SECRETERY OF THE INTERIOR'S

STANDARDS FOR REHABILITATION

The Secretary of the Interior's Standards for Rehabilitation are ten basic principles created to help preserve the distinctive character of a historic building and its site, while allowing for reasonable change to meet new needs.

The Standards (36 CFR Part 67) apply to historic buildings of all periods, styles, types, materials, and sizes. They apply to both the exterior and the interior of historic buildings. The Standards also encompass related landscape features and the building's site and environment as well as attached, adjacent, or related new construction.

Rehabilitation projects must meet the following Standards, as interpreted by the National Park Service, to qualify as "certified rehabilitations" eligible for the 20% rehabilitation tax credit.

The Standards are applied to projects in a reasonable manner, taking into consideration economic and technical feasibility.

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

APPENDIX "E"

THE FEDERAL REQUIREMENTS

OF THE CERTIFIED LOCAL GOVERNMENT

(1) Enforce Appropriate State or Local Legislation for the Designation and Protection of Historic Properties. Federal regulations are found in 36 CFR 61.6. For the purpose of the CLG Program, the Act defines:

a. "Designation" as "the identification and registration of properties for protection that meet criteria established by the State or the locality for significant historic and prehistoric resources within the jurisdiction of a local government." Designation includes the identification and registration of resources according to State or local criteria which must be consistent with the Secretary of the Interior's Standards for Identification and Registration. Adoption of the National Register criteria is encouraged.

b. "Protection" as "a local review process under State or local law for proposed demolition of, changes to, or other action that may affect historic properties designated pursuant to" a local government becoming a Certified Local Government. The CLG's local protection review process of the Act applies only to properties designated pursuant to State or local laws and procedures. This would not include properties listed on or determined eligible for the National Register of Historic Places unless such properties also were designated under the appropriate State or local process.

c. In its CLG procedures, each State must define what constitutes appropriate State or local legislation for the designation and protection of historic properties and its enforcement. NPS does not require State or local legislation regarding designation and/or protection as a prerequisite for certification. However, if State and/or local legislation is required in the State's certification procedures, that legislation must be consistent with the Act and with the definitions above (for designation and/or protection).

(2) Establish an Adequate and Qualified Historic Preservation Review Commission by State or Local Legislation. "Historic preservation review commission" means a board, council, commission, or other similar collegial body established by State or local legislation. The members must be appointed, unless otherwise provided by State or local legislation, by the chief elected official of the jurisdiction. Members must be drawn from professionals in architecture, history, architectural history, planning, prehistoric and historic archeology, folklore, cultural anthropology, curation, conservation, and landscape architecture or related disciplines to the extent such professionals are available in the community concerned, and such other persons as have demonstrated special interest, experience, or knowledge in history, architecture, or related disciplines. NPS regulations regarding commissions are found in 36 CFR 61.6.

a. If no State law exists that allows the establishment of local commissions, the State will require the local government to establish a commission by law or ordinance, or other official action.

b. The State may define "adequate and qualified" within the limits of 36 CFR 61.6, but the requirements set shall not be more stringent or comprehensive than the State's requirements for the State Review Board.

c. A State may specify in its State CLG procedures or incorporate by reference in State CLG procedures, the minimum number and type of professional members that the local government shall appoint to the commission, and indicate how additional expertise may be obtained. A local government may be certified without the minimum number or types of disciplines if it can provide written documentation to the SHPO that it has made a reasonable effort to fill those positions. However, if the SHPO has delegated State Review Board

responsibilities to the Certified Local Government for that jurisdiction, the local commission must meet all applicable Review Board requirements, and perform all Review Board responsibilities.

d. When a professional discipline is not represented in the commission membership, the commission shall seek expertise in this area from persons meeting the Secretary of the Interior's Professional Qualification Standards, as appropriate.

3. Maintain a System for the Survey and Inventory of Properties that furthers the Purposes of the Act.

a. The State shall promulgate guidelines for local survey and inventory systems that ensure that such systems and the data produced can be readily integrated into SHPO inventories, the statewide comprehensive historic preservation plan, and other appropriate State and local planning processes. CLG survey data shall be in a format consistent with SHPO inventory requirements and shall not be inconsistent with the Secretary of the Interior's "Standards for Identification and Evaluation." This policy does not apply to survey data produced by local governments before the effective date of CLG certification.

4. Provide for Adequate Public Participation in the Local Historic Preservation Program.

a. The State shall define in writing minimum requirements for public participation in the conduct of overall CLG activities. These minimum requirements must include provision for open meetings (which must include public participation in the National Register Nomination process), minutes that are publicly available, and the publication and dissemination of commission procedures, as well as compliance with local, State, and Federal public participation regulations.

5. Satisfactorily Perform the Responsibilities Delegated to it Under the Act. Each local government must have the legal authority to fulfill the minimum requirements specified by the SHPO in its NPS-approved CLG procedures.

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ORDINANCE NS-1971

AN ORDINANCE RENAMING THE PORTION OF HILL STREET LOCATED BETWEEN NORTON AVENUE AND REVERE AVENUE TO WALL STREET.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. That the street name of the portion of Hill Street that lies between Norton Avenue and Revere Avenue be changed to Wall Street.

Section 2. The effective date for the renaming of this street shall be 30 days following the adoption of this ordinance.

Read for the first time the 4th day of May 2005.

Read for the second time the 18th day of May, 2005.

Placed upon its passage the 18th day of May, 2005.

YES: 7 NO: 0

Authenticated by the Mayor the 18th day of May, 2005.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

After recording Return to:
Deputy Recorder
City of Bend
710 NW Wall
Bend OR 97701

DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK
2005-34082

$31.00

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ORDINANCE NS-1972

AN ORDINANCE RENAMING THE PRIVATE STREET OF MARLBORO DRIVE TO CASCADE VILLAGE DRIVE IN THE PLANNED UNIT DEVELOPMENT OF CASCADE VILLAGE.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. That the street name of Marlboro Drive be changed to Cascade Village Drive.

Section 2. The effective date for the renaming of this street shall be 30 days following the adoption of this ordinance.

Read for the first time the 4th day of May 2005.

Read for the second time the 18th day of May, 2005.

Placed upon its passage the 18th day of May, 2005.

YES: 7 NO: 0

Authenticated by the Mayor the 18th day of May, 2005.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

After recording returning to:
Deputy Recorder
City of Bend
710 NW Wall
Bend OR 97701

DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

2005-34083

$31.00

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typeface; added language appears in **bold** typeface

ORDINANCE NO. NS-1973

AN ORDINANCE REPEALING SECTION 5.040 REGULATING GAMBLING IN THE CITY OF BEND

WHEREAS, The State of Oregon regulates social games and gambling throughout the State; and

WHEREAS, The City of Bend currently regulates social games and gambling to provide that only non-profit charitable organizations are allowed to conduct social games and gambling, and,

WHEREAS, The City of Bend finds no compelling reason to impose additional restrictions over and above the laws regulated by the State of Oregon; and.

WHEREAS, The Bend Code needs to be updated to reflect this change, now therefore:

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Bend Code Sections 5.040 is amended to read as follows:

Section 1

5.040 Gambling.

(1) Social games and gambling in the City of Bend are allowed and governed by Oregon law.

~~(1) Social games shall be permitted only in private homes and charitable organizations when no house player, house banker or house odds exist and where there is no house income from the operation of the social games, provided such charitable organizations have first obtained a social game gambling license approved by the City Commission.~~

~~(2) License Fees. The annual fee for a social game gambling license for premises, containing one to four tables is $150, and $75 for each additional table. The license fee shall be paid January lst of each year. Religious organizations are exempt from this fee.~~

~~(3) Application for License. Applications for licenses shall be made on blank forms prepared by the City Recorder and shall state:~~

~~(a) The full name, age, residence, present and previous occupations of all persons financially interested in the business in which the game shall be operated.~~

~~(b) The past criminal record, if any, of all persons who may have interest in the business~~

~~(c) A specific description of the location of the principal place of business of the applicant, and of the location of the social game when in operation.~~

~~(d) Information concerning the type or types of social game or games to be played, number of participants, number of gambling tables to be used, maximum betting of each game and a statement from the applicant that there will be no house player, house banker, house odds or house income from the operation of the social game.~~

~~(e) Such other information as the city finds reasonable necessary to effectuate the general purpose of this section and to make fair determination of whether the terms have been complied with.~~

~~(4) Investigation of Applicants. On the filing of an application for a social game gambling license, the Chief of Police shall investigate and determine if the applicant has ever been convicted of any felony or misdemeanor involving moral turpitude. On completion of the investigation, the Chief of Police shall report his findings to the City Commission, which shall then act on the application at a regular or special meeting of the City Commission. Licenses under this section shall be granted only to persons who have not been convicted of a felony or a misdemeanor involving moral turpitude and on approval of the City Commission.~~

~~(5) Conditions of Licensing~~

~~(a) Transferability. Licenses shall not be transferable and any attempt to transfer the license shall work a forfeiture of the license.~~

~~(b) Revocation and Suspension. Licenses shall be subject to revocation or suspension by the City Commission for good cause shown.~~

~~(c) Term. The term of a license shall be one year from its effective date.~~

~~(d) Renewal. No renewal of a license shall be issued without the approval of the City Commission.~~

~~(e) Areas within licensed premises used for social gambling shall be accessible for police inspection on police request.~~

~~(6) A violation of the provisions of this section is punishable as a Class B misdemeanor.~~

Read for the first time the 18th day of May, 2005.

Read for the second time the 1st day of June, 2005.

Placed upon its passage the 1st day of June, 2005.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 1st day of June, 2005

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1974

AN ORDINANCE AMENDING CITY OF BEND CODE, CHAPTER 7, ADDING SECTION 7.371 RELATED TO ANIMALS AT SPECIAL EVENTS IN ORDER TO CODIFY COUNCIL DIRECTION TO BAN ANIMALS AT SPECIAL EVENTS.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code Chapter 7 is amended by adding Section 7.371 and modifying Section 7.398 to read:

7.371 Animals at Special Events

(1) For reasons of public safety and sanitation, no person shall bring an animal into an area where a special event is being held, unless authorized by the Chief of Police .

(2) This prohibition does not apply to service animals utilized by disabled persons.

(3) This prohibition does not apply to events held specifically for animals

(4) Violation of this section is subject to the penalties prescribed in Section 7.398

7.398 Penalties.

(1) Failure to obtain a permit for an assembly or to pay permit fees or City costs, as required by B.C. 7.352 and 7.356 (1), is a Class A civil infraction.

(2) Failure to provide the facilities and services required by B.C. 7.360 - 7.366 or to comply with the conditions of the assembly permit is a Class A civil infraction.

(3) A violation of B.C. **7.371 (1),** 7.372 (3) and (4), 7.390 and B.C. 7.396 (1) is a Class A civil infraction and a violation of B.C. 7.396 (2) is a Class A traffic infraction.

(4) Closure of a City street or right-of-way in violation of B.C. 7.376 is a Class A infraction.

(5) Failure to comply with the directives of the Police Chief relating to crowd limitation is a Class A infraction.

Read for the first time the 18th day of. May, 2005

Read for the second time the 1st day of June, 2005

Placed upon its passage the.1st day of June, 2005

YES: 6 NO: 1

Authenticated by the Mayor the 1st day of June, 2005

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

Underlined text is added;
~~Struckthrough~~ text is deleted

ORDINANCE NO. 1975

AN ORDINANCE AMENDING BEND CODE CHAPTER 4 (SANITATION CODE), RELATING TO USE OF CITY SANITARY SEWERS FOR THE DISCHARGE OF INDUSTRIAL WASTEWATER AND MODIFYING PROVISIONS DEALING WITH THE OBLIGATION OF CERTAIN USERS TO PRE-TREAT SEWAGE BEFORE DISCHARGING IT INTO THE CITY'S WASTEWATER TREATMENT FACILITY

WHEREAS, Federal Regulation 40 CFR 403.8 requires that any Publicly Owned Treatment Works ("PTOW"), such as the City of Bend wastewater treatment facility, be required to establish a sewage pre-treatment program for certain industrial users of the city's POTW when the Bend POTW total intake exceeds a total of 5 million gallons per day, and

WHEREAS, The City of Bend PTOW intake now exceeds 5 million gallons per day, and

WHEREAS, Bend Code Sections 4.400 through 4.520 establish pre-treatment standards for certain industrial users of the wastewater treatment system; but those standards are no longer in compliance with Federal Regulations and State of Oregon DEQ requirements for certain industrial users, and

WHEREAS, The City of Bend wishes to obtain certification for a pretreatment program for its wastewater treatment program that meets federal EPA and state DEQ standards by amending the Bend Code to comport with current EPA and DEQ standards,

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1: Bend Code 4.400 through 4.520 is amended as follows:

GENERAL PROVISIONS

4.400 Purpose and Policy. This section sets forth requirements for the discharge of industrial wastewater into the wastewater collection and treatment system of the City of Bend and enables the City to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 and the general Pretreatment Regulations (40 CFR, Part 403).

4.402 Objectives. The objectives of this code section are:
(1) To prevent the introduction of pollutants into the City's wastewater system which will interfere with the operation of the system or contaminate the resulting sludge and effluent waters.
(2) To prevent the introduction of pollutants into the City wastewater system which will pass through the system, inadequately treated, into ground waters or the atmosphere or otherwise be incompatible with the City's effluent disposal system.
(3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and
(4) To provide for equitable distribution of the cost of the City wastewater system.

4.404 Overview of Section Provisions. This section provides for the regulation of discharge to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

4.406 Application. This code section shall apply to the City of Bend and to persons outside the City of Bend who are, by agreement, users of the City's wastewater collection and treatment system. Except as otherwise provided herein, the Director of Public Works shall administer, implement, and enforce the provisions of this code section.

4.408 Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this code section, shall have the following meanings:
(1) Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.
(2) Approval Authority. The Director of the Department of Environmental Quality for Oregon.
(3) Authorized Representative of Industrial User. An authorized representative of an industrial user may be: (1) A principal executive officer of at least the level of vice president, if the industrial user is a corporation; (2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; (3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the industrial discharge originates.
(4) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20□ centigrade expressed in terms of weight and concentration (milligrams per liter (mg/1).
(5) Building Sewer. A sewer conveying wastewater from the premises of a user to the City system.
(6) Categorical Standards. National Categorical Pretreatment Standards or Pretreatment Standard as established by the Environmental Protection Agency.
(7) City. The City of Bend or the City Council of Bend.
(8) City Collection and Treatment System. The collection and treatment system which is owned by the City of Bend. This definition includes any sewers that convey wastewater to the City's treatment plant, but does not include pipes,

sewers or other conveyances not connected to a facility providing treatment. For the purposes of this Ordinance, the City collection and treatment system shall also include any sewers that convey wastewaters to the treatment plant from persons outside the City of Bend who are, by agreement with the City of Bend, served by the City's wastewater system.
(9) City Treatment Plant. That portion of the City's system designed to provide treatment to wastewater.
(10) Code section. B.C. 4.400 - 4.490.
(11) Cooling Water. The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.
(12) Compatible Pollutant. Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria; plus any additional pollutants identified in the City's Water Pollution Control Facilities Permit, where the treatment plant treats such pollutants to the degree required by the City's permit.
(13) Control Authority. The term "control authority" shall refer to the "Approval Authority," defined under (b) above or the Director of Public Works if the City has an approved Pretreatment Program under the provisions of 40 CFR 403.11.
(14) Director of Public Works. The person designated by the City to supervise the operation of the city owned treatment works and who is charged with certain duties and responsibilities by this article, or his duly authorized representative.
(15) Environmental Protection Agency, or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
(16) Grab Sample. A sample which is taken from a waste stream on a onetime basis with no regard to the flow in the waste stream and without consideration of time.
(17) Holding Tank Waste. Any waste from holding tanks such as chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.
(18) Incompatible Pollutant. All pollutants other than compatible pollutants as defined in sub-paragraph (i) of this section.
(19) Industrial Discharge. The discharge or the introduction of nondomestic pollutants from any source, this includes partial domestic and partial nondomestic wastewater, regulated under section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the City's collection and treatment system (including holding tank waste discharged into the system).
(20) Industrial User. A source of discharge or the introduction of nondomestic pollutants from any source regulated under section 307 (b) or (c) of the Act, (33 U.S.C. 1317), into the City's collection and treatment system (including holding tank waste discharged into the system).
(21) Interference. The inhibition or disruption of the City's treatment processes or operations which contributes to a violation of any requirement of the City's D.E.Q. Permit. The term includes prevention of sewage sludge use or disposal by the City in accordance with 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria (including those contained in any State sludge management plan prepared pursuant to Title V of SWDA) applicable to the method of disposal or use employed by the City.
(22) National Categorical Pretreatment Standard or Pretreatment Standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of Industrial Users.
(23) National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Any regulation developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5.
(24) New Source. Any source, the construction of which is commenced after the publication of proposed regulations prescribing a section 307(c)(33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.
(25) National Pollution Discharge Elimination System or NPDES Permit. A permit issued pursuant to section 402 of the Act (33 U.S.C. 1342).
(26) Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.
(27) pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
(28) Pollution. The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.
(29) Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.
(30) Pretreatment or Treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the City's sewer system. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes by other means, except as prohibited by 40 CFR Section 403.6(d).
(31) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.
(32) Shall is mandatory; May is permissive.
~~(33) Significant Industrial User. Any industrial user of the City's wastewater disposal system who (1) has a discharge flow of 50,000 gallons or more per average work day, or (2) has a flow greater than 5% of the flow in the City's wastewater treatment system, or (3) has in his wastes toxic pollutants as defined pursuant to Section 307 of the Act, or (4) is found by the City, D.E.Q. or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.~~
(33) *Significant Industrial User.* (1) Except as provided in paragraph (33)(2) of this section, the term Significant Industrial User means:

(i) All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and (ii) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).
(2) Upon a finding that an industrial user meeting the criteria in paragraph (33)(1)(ii) of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Control Authority (as defined in 40 CFR 403.12(a)) may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user
(34) State. State of Oregon.
(35) Standard Industrial Classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.
(36) Storm Water. Any flow occurring during or following any form of natural precipitation and resulting therefrom.
(37) Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.
(38) Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA 307 (a) or other Acts.
(39) User. Any person who contributes, causes or permits the discharge of wastewater into the City's collection and treatment facilities.
(40) Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions whether treated or untreated, which is contributed into or permitted to enter the City's collection and treatment system.
(41) Waters of the State. All streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of any portion thereof.

4.410 Abbreviations. The following abbreviations shall have the designated meanings:
§ BOD - Biochemical oxygen demand.
§ CFR - Code of Federal Regulations.
§ COD - Chemical oxygen demand.
§ EPA - Environmental Protection Agency.
§ 1 - Liter.
§ mg - Milligrams.
§ mg/1 - Milligrams per liter.
§ NPDES - National Pollutant Discharge Elimination System.
§ O&M - Operation and maintenance.
§ SIC - Standard Industrial Classification.
§ SWDA - Solid Waste Disposal Act, 42 U.S.C. 6901, et. seq.
§ TSS - Total suspended solids.
§ WPCF- Water Pollution Control Facility

REGULATIONS

4.420 General Discharge Prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the City's wastewater collection and treatment system. These general prohibitions apply to all such users of the City facilities whether or not the user is subject to National Categorical Pretreatment Standards or any other National, State of Oregon, or local Pretreatment Standards or Requirements. A user shall not discharge the following substances into the City sewer system in such amounts that interfere with the operation of the sewer system:
(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the sewer system or to the operation of the pump stations and treatment plant. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system), be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides and any other substances which the City, the State of Oregon or EPA has notified the users is a fire hazard or a hazard to the system.
(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as, but not limited to: Grease, garbage with particles greater than one-half inch (½") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spend lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spend grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding, or polishing wastes.
(3) Any wastewater having a pH less than 5.0, or higher than 11.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the collection system, pump stations or treatment plant.
(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with maintenance of the wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving water of the plant or to exceed the limitation set forth in a

Categorical Pretreatment Standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act. See B.C. 4.490.
(5) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.
(6) Any substance which may cause the treatment plant's effluent or any other product of the plant such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the plant is pursuing a reuse and reclamation program. In no case shall a substance discharged into the system cause the treatment plant to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State of Oregon criteria applicable to the sludge management method being used.
(7) Any substance which will cause the treatment plant to violate its State Disposal System Permit.
(8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
(9) Any wastewater having a temperature which will inhibit biological activity in the treatment plant, but in no case wastewater with a temperature at the introduction into the system which exceeds 65□C (149□F) for users with a daily wastewater flow of 25,000 gallons or more.
(10) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow and/or pollutant concentration which a user knows or has reason to know will cause interference to the treatment plant. In no case shall a slug load have a flow rate, or contain concentrations or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.
(11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the State of Oregon or Federal regulations.
(12) Any nondomestic wastewater which causes a hazard to human life or creates a public nuisance.

4.422 Federal Categorical Pretreatment Standards. Upon the promulgation of the Federal Categorical Pretreatment Standard for a particular industrial subcategory, the Federal Standard, if more stringent than limitations imposed under this code section for sources in that subcategory, shall immediately supersede the limitations imposed under this code section. The Director of Public Works shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.

4.424 Modification of Federal Categorical Pretreatment Standards. Where the City's wastewater treatment system achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the City may apply to the Approval Authority for modification of specific limits in the Federal Pretreatment Standards. "Consistent removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system in 95 percent of the samples taken when measured according to the procedures set forth in Section 403.7(c)(2) of (Title 40 of the Code of Federal Regulations, Part 403) -"General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The City may modify pollutant discharge limits in the Federal Pretreatment Standards if the requirements contained in 40 CFR, Part 403, Section 403.7, are fulfilled and prior approval from the Approval Authority is obtained.

4.426 Specific Pollutant Limitations. No person shall discharge wastewater containing in excess of:
0.5 mg/l arsenic 0.05 mg/l mercury
0.5 mg/l cadmium 1.5 mg/l nickel
1.5 mg/l copper 0.5 mg/l silver
0.5 mg/l cyanide 0.5 mg/l total chromium
1.5 mg/l lead 1.5 mg/l zinc

4.428 State of Oregon Requirements. State of Oregon requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this code section.

4.430 City's Right of Revision. The City reserves the right to establish by code section more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives of this code section.

4.432 Excessive Discharge. No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the City or State. (Comment: Dilution may be an acceptable means of complying with some of the prohibitions set forth in Bend Code 4.420, e.g. the pH prohibition.)

4.434 Accidental Discharges.
(1) User Responsibilities. Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this code section. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review, and shall be approved by the City before construction of the facility. All existing users shall complete such a plan by January 1, 1984. No user who commences contribution to the City Sewer System after the effective date of this code section shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this code section. In case of an

accidental discharge, it is the responsibility of the user to immediately telephone and notify the City of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.
(2) Written Notice. Within five (5) days following an accidental discharge; the user shall submit to the Director of Public Works a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the City facilities, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.
(3) Notice to Employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees to call the City in the event of a dangerous discharge. Employers shall insure that all employees who may suffer or cause such a dangerous discharge to occur are advised of the emergency notification procedure.

FEES

4.440 Fees. It is the purpose of this section to provide for the recovery of costs from users of the City's wastewater disposal system for the implementation of the program established herein. The applicable extra strength charge will be set forth in the City's Schedule of Charges and Fees.

4.442 Amount of Fees.
~~(1) The permit fees for sewer service for industrial wastes that require a pretreatment permit shall be as follows:~~
~~(a) Base fee for all industrial pretreatment permits - $50.00.~~
~~(b) Plan review for pretreatment and accidental discharge facilities - $50.00 minimum plus any additional actual cost.~~
~~(c) Minimum annual fee for monitoring inspections and surveillance - $75.00.~~
~~(d) Other fees the City determines are necessary to pay for carrying out the requirements of this code section.~~
~~(2) The above fees relate solely to industrial pretreatment and are separate from all other fees charged by the City, such as connection charges.~~
(1) Fees are established by the City of Bend Fees Resolution, as it may be amended from time to time.

ADMINISTRATION

4.450 Wastewater Dischargers. It shall be unlawful to discharge any industrial wastewater to the City sewer system without first obtaining a permit from the City of Bend.

4.452 Wastewater Contribution Permits.
(1) General Permits. All significant industrial users proposing to connect to or to contribute added flow to the City's sewer system shall obtain an Industrial Wastewater Discharge Permit before connecting to or contributing to the system. All existing significant users connected to or contributing to the system shall obtain an Industrial Wastewater Discharge Permit within 180 days after being notified by the City.
(2) Permit Application. Users required to obtain an Industrial Wastewater Discharge Permit shall complete and file with the City an application in the form prescribed by the City and accompanied by the appropriate fee set pursuant to Bend Code 4.442. Existing users shall apply for a Wastewater Discharge Permit within 180 days after notification. In support of the application, the user along with a Professional Engineer, shall submit, in units and terms appropriate for evaluation, the following information:
(a) Name, address, and location, (if different from the address);
(b) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
(c) Wastewater constituents and characteristics, including, but not limited to, those mentioned in section 2 of this code section as determined by an EPA approved analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, part 136, as amended;
(d) Time and duration of contribution;
(e) Average daily and 3 minutes peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
(f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;
(g) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;
(h) Where known, the nature and concentration of any pollutants in the discharge which are limited by any City, State or Federal Pretreatment Standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional O&M and/or additional pretreatment is required for the user to meet applicable Pretreatment Standards;
(i) If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. The following conditions shall apply to this schedule:
(1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.);
(2) No increment referred to in paragraph (1) shall exceed nine (9) months;
(3) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Director of Public Works including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this

increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Director of Public Works.
(j) Each product produced by type, amount, process or processes and rate of production;
(k) Type and amount of raw materials processed (average and maximum per day);
(l) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
(m) Any other information as may be deemed by the City to be necessary to evaluate the permit application.
(3) Staff Review. The City staff will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the City Manager may issue an Industrial Wastewater Discharge Permit subject to terms and conditions provided herein.
(4) Appeals. Any applicant for an Industrial Use Permit who wishes to appeal the administration of this code section may submit a written appeal to the Bend City Council for review by the Council Sewer and Water Committee.
(5) Permit Modifications. Within nine (9) months of the promulgation of a National Categorical Pretreatment Standard, the Wastewater Contribution Permit or users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for an Industrial Wastewater Discharge Permit as required by 4.2(b), the user shall apply for an Industrial Wastewater discharge Permit within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard. In addition, the user with an existing Industrial Wastewater Discharge Permit shall submit to the Director within 180 days after the promulgation of an applicable Federal Categorical Pretreatment Standard the information required by paragraph (8) and (9) of section 4.2(b).
(6) Permit Conditions. Industrial Wastewater Discharge Permits shall be expressly subject to all provisions of this code section and all other applicable regulations, user charges and fees established by the City. Permits may contain the following:
(a) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
(b) Limits on the average and maximum wastewater constituents and characteristics;
(c) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
(d) Requirements for installation and maintenance of inspection and sampling facilities;
(e) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
(f) Compliance schedules;
(g) Requirements for submission of technical reports or discharge reports;
(h) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City, and affording City access thereto;
(i) Requirements for notification of the City or any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
(j) Requirements for notification of slug discharges;
(k) Other conditions as deemed appropriate by the City to ensure compliance with this code section.
~~(7) Permits Duration. The permits will not specify a specific time period. The permits will remain in force until there is any change in the wastewater discharge; changes in the terms of the permit or modifications in the requirements of this code section; or if other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.~~

(7) Wastewater Discharge Permit Duration
Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Director of Public Works. Each wastewater discharge permit will indicate a specific date upon which it will expire.
(8) Wastewater Discharge Permit Modification
The Director of Public Works may modify the wastewater discharge permit for good cause including, but not limited to, the following:
A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
D. Information indicating that the permitted discharge poses a threat to the City of Bend's POTW, City of Bend personnel, or the receiving waters;
E. Violation of any terms or conditions of the wastewater discharge permit;
F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required report;
G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR §403.13;
H. To correct typographical or other errors in the wastewater discharge permit; or
I. To reflect a transfer of the facility ownership and/or operation to a new owner/operator. {Note: Modification for this purpose may not be allowed unless the wastewater discharge permit is transferable as provided in Section 3.11 of this ordinance.}
(9) Permit Transfer. Industrial Wastewater Discharge Permits are issued to a specific user for a specific operation. An Industrial Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user,

different premises, or a new or changed operation without the approval of the City. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

4.454 Reporting Requirements for Permittee.
(1) Compliance Date Report. Within 90 days following the date for final compliance with applicable Pretreatment Standards or, in the case of a New Source, following commencement of the introduction of wastewater into the City sewer system, any user subject to Pretreatment Standards and Requirements shall submit to the Director of Public Works a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by Pretreatment Standards and Requirements and the average and maximum daily flow for these process units in the user facility which are limited by such Pretreatment Standards or Requirements. The report shall state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable Pretreatment Standards or Requirements. This statement shall be signed by an authorized representative of the Industrial User, and prepared by a qualified professional engineer.
(2) Periodic Compliance Reports.
(a) Any user subject to a Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the City sewer system, shall submit to the Director of Public Works during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Director, a report indicating the nature and concentration, of pollutants in the effluent which are limited by such Pretreatment Standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in paragraph (b)(4) of this section. At the discretion of the Director and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Director may agree to alter the months during which the above reports are to be submitted.
(b) The Director of Public Works may impose mass limitations on users which are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (1) of this paragraph shall indicate the mass of pollutants regulated by Pretreatment Standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Director, of pollutants contained therein which are limited by the applicable Pretreatment Standards. The frequency of monitoring shall be prescribed in the applicable Pretreatment Standard. All analysis shall be performed in accordance with procedures established by the Environmental Protection Agency pursuant to section 304(g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the Environmental Protection Agency. Sampling shall be performed in accordance with the techniques approved by the Environmental Protection Agency.
(Comment: Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the Environmental Protection Agency.)

4.456 Monitoring Facilities.
(1) The City shall require to be provided and operated at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the City may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
(2) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.
(2) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the City.

4.458 Inspection and Sampling. The Director of Public Works shall inspect the facilities of any user to ascertain whether the purpose of this code section is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City, State, D.E.Q., and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

4.460 Pretreatment.
(1) Users shall provide necessary wastewater treatment as required to comply with this code section and shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as specified by the Federal Pretreatment Regulations. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this code section. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes.

(3) All records relating to compliance with Pretreatment Standards shall be made available to officials of the EPA or State of Oregon D.E.Q. upon request.

4.462 Confidential Information.
(1) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.
(2) When requested by the person furnishing a report, the portions of a report which would disclose trade secrets or secret processes shall not be made available for inspection by the public, expect when disclosure is required by the Oregon Public Records Law (ORS 192.410 - 192.505).
(4) Wastewater constituents and characteristics will not be recognized as confidential information.

ENFORCEMENT

4.470 Harmful Contributions.
(1) The City may suspend the wastewater treatment service and/or an Industrial Wastewater Discharge Permit when such suspension is necessary, in the opinion of the City, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare, of persons, to the environment, causes interference to the treatment plant or causes the City to violate any condition of its operating permit.
(2) Any person notified of a suspension of the wastewater treatment service and/or the Industrial Wastewater Discharge Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the City sewer system or endangerment to any individuals. All reconnection expenses shall be the responsibility of the user. The City shall reinstate the Industrial Wastewater Discharge Permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the City within 15 days of the date of occurrence.

4.472 Revocation of Permit. Any user who violates the following conditions of this code section, or applicable State and Federal regulations, is subject to having his permit revoked in accordance with the procedures of section 5 of this code section:
(1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;
(2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;
(3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,
(5) Violation of conditions of the permit.

4.474 Notification of Violation. Whenever the City finds that any user has violated or is violating this code section, or the Industrial Wastewater Discharge Permit, or any prohibition, or limitation of the requirements contained within this code section, the City may serve upon such person a written notice stating the nature of the violation. Said notice may include a wastewater discharge limit as set by the director of Public Works. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the City by the user.

4.476 Show Cause Hearing.
(1) The City may order any user who causes or allows an unauthorized discharge to show cause before the City Council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the City Council regarding the violation, the reason why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the City Council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.
(2) The City Council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer to:
(a) Issue in the name of the City Council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
(b) Take the evidence;
(c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Council for action thereon.
(3) After the City Council has reviewed the evidence, it may issue an order to the user responsible for the discharge that the sewer service be discontinued after a specified time period. Discontinued service may occur unless adequate treatment facilities, devices or other related appurtenances are properly operated; or devices or other related appurtenances are installed on existing treatment facilities. Further orders and directives as are necessary and appropriate may be issued.

4.478 Legal Action. If any person discharges sewage, industrial wastes or other wastes into the City's wastewater disposal system contrary to the provisions of this code section, Federal or State Pretreatment Requirements or any order of the City, the City Attorney may commence an action for appropriate legal and/or equitable relief in the courts of Deschutes County or of the City of Bend.

PENALTIES AND COSTS

4.480 Penalties. An infraction of an order of the City Council or willful or negligent failure to comply with any provision of B.C. 4.400 - 4.490, and the orders, rules, regulations and permits issued hereunder, is subject to a Class A infraction. Each day on which a violation shall occur or continue shall be deemed a separate and distinct violation.

4.482 Fees and Costs. In addition to the penalties provided herein, the City may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate civil suit at law against the person found to have violated B.C. 4.400 - 4.490 or the orders, rules, regulations, and permits issued hereunder.

4.484 Falsifying Information. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to Bend Code 4.400 - 4.490 or Industrial Discharge Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance, shall, upon conviction, be punished as a Class A infraction.

4.490 65 Toxic Pollutants Listed in 307(a) of the Federal Clean Water Act of 1977
Acenapthene Endrin and metabolites
Acrolein Ethylbenzene
Acrylonitrile Fluoranthene
Aldrin/Dieldrin Haloethers
Antimony and compounds Halomethanes
Arsenic and compounds Heptachlor and metabolites
Asbestos Hexachlorobutadiene
Benzene Hexachlorocyclopentadiene
Benzidine Hexachlorocylohexane
Beryllium and compounds Isophorone
Cadmium and compounds Lead and compounds
Carbon tetrachloride Mercury and compounds
Chlordane Naphthalene
Chlorinated benzenes Nickel and compounds
Chlorinated ethanes Nitrobenzene
Chlorinalkyl ethers Nitrophenols
Chlorinated naphthalene Nitrosamines
Chlorinated Phenols Pentachlorophenol
Chloroform Phenol
2-chlorophenol Phthalate esters
chromium and compounds Polychlorinated byphenyls (PCB)
Copper and compounds Polynuclear aromatic
Cyanides Hydrocarbons
DDT and metabolities Selenium and compounds
Dichlorobenzenes Silver and compounds
Dichlorobenzidine 2,3,7,8,-Tetrachlorodibenzo-
Dichloroethylenes p-dioxin (TCDD)
2,4-dichlorophenol Tetrachloroethylene
Dichloropropane Thallium and compounds
Dicholorpropene Toluene
2,4-dimethylphenol Toxaphene
Dinitrotoluene Trichloroethylene
Diphenylhydrazine Vinyl chloride
Endosulfan & metabolites Zinc and compounds

USE OF PUBLIC AND PRIVATE SEWERS, DRAINS, PRIVATE SEWAGE DISPOSAL, THE INSTALLATION AND CONNECTION OF BUILDING SEWERS AND THE DISCHARGE OF ALL WASTEWATER EXCEPT INDUSTRIAL WASTEWATER INTO THE PUBLIC SEWER SYSTEM.

4.500 Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:
(1) "Biochemical Oxygen Demand" (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20□ centigrade expressed in terms of weight and concentration (milligrams per liter (MG/1).
(2) "Building Drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.
(3) "Building Sewer" means the extension from the building drain to the public sewer or other place of disposal.
(4) "City" means the City of Bend or the City Council of Bend.
(5) "Combined Sewer" means a sewer receiving both surface runoff and sewage.
(6) "Garbage" means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.
(7) "Industrial Discharge" means the discharge or the introduction of domestic pollutants from any source. This includes partial domestic and partial nondomestic wastewater, regulated under section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the City's collection and treatment system (including holding tank waste discharged into the system).
(8) "Natural Outlet" means any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.
(9) "Person" means any individual, firm, company, association, society, corporation or group.

(10) "pH" means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
(11) "Properly Shredded Garbage" means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1.2 inches (1.27 centimeters) in any dimension.
(12) "Public Sewer" means a sewer in which all owners of abutting properties have equal rights, and is owned and controlled by the City of Bend.
(13) "Sanitary Sewer" means a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.
(14) "Sewage" means a combination of the water-carried wastes from residences, business buildings, and institutions together with such ground, surface and storm waters as may be present.
(15) "Sewage Treatment Plant" means any arrangement of devices and structures used for treating sewage.
(16) "Sewage Works" means all facilities for collecting, pumping, treating and disposing of sewage.
(17) "Sewer" means a pipe or conduit for carrying sewage.
(18) "Slug" means any discharge of any wastewater which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than 15 minutes more than five times the average 24 hour concentration or flows during normal operation.
(19) "Storm Drain" or Storm Sewer" means a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.
(20) "Suspended Solids" means a total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.
(21) "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

4.502 Use of Public Sewers Required.

(1) No person shall place, deposit, or permit any human or animal excrement, garbage or other objectionable waste to be deposited in any unsanitary manner on public or private property within the City of Bend, or on any City property outside the City.
(2) No person shall discharge any sewage or other polluted waters into any natural outlet within the City of Bend, or in any area under the jurisdiction of the City, except where suitable treatment has been provided in accordance with this provision.
(3) Except as hereinafter provided, no person shall construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.
(4) All property used for human occupancy or employment which is within 100 feet of a public sanitary sewer shall be hooked up to the sewer provided the property can be served by the sewer from a public street, alley or right of way or a sewer easement. The property shall be hooked up to the public sanitary sewer within 90 days after the date official notice is given to hook up (unless extended pursuant to City policy). The hookup shall be accomplished in compliance with all applicable Federal, State and City laws, regulations and policies.
(5) City water service may be terminated to any property which has not hooked up to the sewer system in compliance with the provisions of this ordinance or any other applicable law, rule or regulation.

4.504 Private Sewage Disposal.
(1) Where a public sanitary sewer is not available under the provisions of Bend Code 4.502 (4), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this ordinance and the regulations of the State of Oregon Environmental Quality Commission.
(2) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit from the State Department of Environmental Quality and the County Health Department.
(3) A private sewage disposal system shall not be used until the installation is completed to the satisfaction of the State Department of Environmental Quality and the County Health Department.
(4) The type, capacities, location and layout of a private sewage disposal system shall comply with all regulations of the Department of Environmental Quality of the State of Oregon. No septic tank or cesspool shall be permitted to discharge into any natural outlet.
(5) At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with Bend Code 4.500 - 4.520, and any septic tanks, cesspools or other private sewage disposal facilities shall be abandoned and filled with suitable material unless otherwise specifically permitted by City.
(6) The owner shall operate and maintain the private sewage facilities in a sanitary manner at all times.
(7) Nothing in this section shall be construed to interfere with any additional requirements that may be imposed by the State or County Health Officer.

4.506 Building Sewers and Connections.
(1) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City.
(2) The owner or his agent shall make application on a form furnished by the City of Bend. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgement of the City.
(3) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
(4) A separate and independent building sewer shall be provided for each building.
(5) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the City, to meet all requirements of this ordinance.
(6) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall conform to the requirements of the

State Building and Plumbing Codes and applicable rules and regulations of the City of Bend. In the absence of code provisions or in amplification thereof, the "Standard Specifications for Public Works Construction" 1970, Oregon Chapter American Public Works Association shall apply.
(7) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
(8) The connection of the building sewer into the public sewer shall conform to the requirements of the State Building and Plumbing Codes and applicable rules and regulations of the City of Bend. All such connections shall be made gas tight and water tight. Any deviation from the prescribed procedures and material must be approved by the City before installation.
(9) The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to a public sewer. The connection shall be made under the supervision of the City.
(10) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City of Bend.

4.508 Use of the Public Sewers.
(1) No person shall discharge, or cause to be discharged, any storm water, surface water, ground water, roof runoff, subsurface drainage, unreasonably large amounts of uncontaminated cooling water or unpolluted process waters to any sanitary sewer.
(2) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the City. Industrial cooling water or unpolluted process waters may be discharged, on approval of the City and State of Oregon, D.E.Q., to a storm sewer or natural outlet.
(3) No person shall discharge, or cause to be discharged, any of the following described waters or wastes to any public sewers:
(a) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
(b) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the effluent disposal system of the sewage treatment plant, including but not limited to cyanides in excess of 0.5 mg/1 as CN in the wastes as discharged to the public sewer.
(c) Any water or wastes having a pH lower than 5.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
(d) Solid or viscous substances in quantities or of such size capable of causing obstruction of the flow in sewers, or other interference with the proper operation of the sewage works including, but not limited to: Ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.
(4) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the City that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the effluent disposal system, or can otherwise endanger life, limb, public property or constitute a nuisance. In review of the acceptability of these wastes, the City will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The substances prohibited are:
(a) Any liquid or vapor having a temperature higher than 149□ F. (65□ C.).
(b) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: Grease, garbage with particles greater than one-half inch (½") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble, dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding, or polishing wastes.
(c) Any waters or wastes containing iron, chromium, copper, zinc, lead and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the City for such materials.
(d) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the City as necessary, after treatment of the composite sewage, to meet the requirements of the State or Federal Government.
(e) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the State or Federal regulations.
(f) Any waters or wastes having a pH in excess of 11.0.
(g) Materials which exert or cause:
(1) Unusual concentrations or inert suspended solids, (including but not limited to: Fullers earth, lime slurries, and lime residues) or of dissolved solids (including, but not limited to, sodium chloride and sodium sulfate).
(2) Excessive discoloration (including, but not limited to, dye wastes and vegetable tanning solutions).
(3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
(4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
(h) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of the State and Federal agencies having jurisdiction over discharge to the receiving water.

(5) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 5(4), and which in the judgment of the City, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City may:
(a) Reject the wastes,
(b) Require pretreatment to an acceptable condition for discharge into the public sewers,
(c) Require control over the quantities and rates of discharge, or,
(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.
If the City permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the City and subject to the requirements of all applicable codes, ordinances and laws.
(6) Grease, oil and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be located and the capacity sized to the approval of the City.
(7) Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
(8) All measurement, tests and analysis of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property.

4.510 Protection from Damage.
(1) No unauthorized person shall break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works.

4.512 Powers and Authority of Inspectors.
(1) The City shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this ordinance.
(2) While performing the necessary work on private properties referred to in Section 4.512 (1), the City shall observe all safety rules applicable to the premises established by the company.
(3) The City shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspections, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

4.520 Penalties and Costs.
(1) Penalties. An infraction of an order of the City Council or willful or negligent failure to comply with any provision of this ordinance, and the orders, rules, regulations and permits issued hereunder, is subject to a Class A misdemeanor. Each day on which a violation shall occur or continue shall be deemed a separate and distinct violation.
(2) Costs and Fees. In addition to the penalties provided herein, the City may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate civil suit at law against the person found to have violated this ordinance or the orders, rules, and regulations, and permits issued hereunder.
(3) Falsifying Information. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance, or Industrial Discharge Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance, shall, upon conviction, be punished as a Class A Misdemeanor.

Read for the first time the 1st day of June, 2005.

Read for the second time the 15th day of June, 2005.

Placed upon its passage the 15th day of June, 2005.

YES: 5 NO: 1 ABSTAIN: 0

Authenticated by the Mayor the 15th day of June, 2005.

Bruce Abernethy, Mayor Pro Tem

ATTEST:
Patricia Stell, City Recorder

ORDINANCE NO. NS-1976

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF AN AREA OF LAND FROM INDUSTRIAL LIGHT (IL) TO MIXED-USE RIVERFRONT (MR), AND AMENDING THE BEND AREA GENERAL PLAN DESIGNATION FOR THE SUBJECT PROPERTY FROM INDUSTRIAL LIGHT (IL) AND MIXED-USE RIVERFRONT (MR) TO MIXED-USE RIVERFRONT (MR).

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 May 12, 2005, file number PZ 05-70.

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 Industrial Light (IL) to Mixed-use Riverfront (MR).

Section 3. The Bend Area General Plan and the Bend Urban Area General Plan Map are amended by changing the designation of the property described in "Exhibit A" and depicted on "Exhibit B" from Industrial Light (IL) and Mixed-use Riverfront (MR) to Mixed-use Riverfront (MR).

Read for the first time the 1st day of June, 2005.

Read for the second time the 15th day of June, 2005.

Placed upon its passage the 15th day of June, 2005.

YES: 5 NO: 1

Authenticated by the Mayor the 15th day of June, 2005.

Bruce Abernethy, Mayor Pro Tem

ATTEST:

Patricia Stell, City Recorder

EXHIBIT A

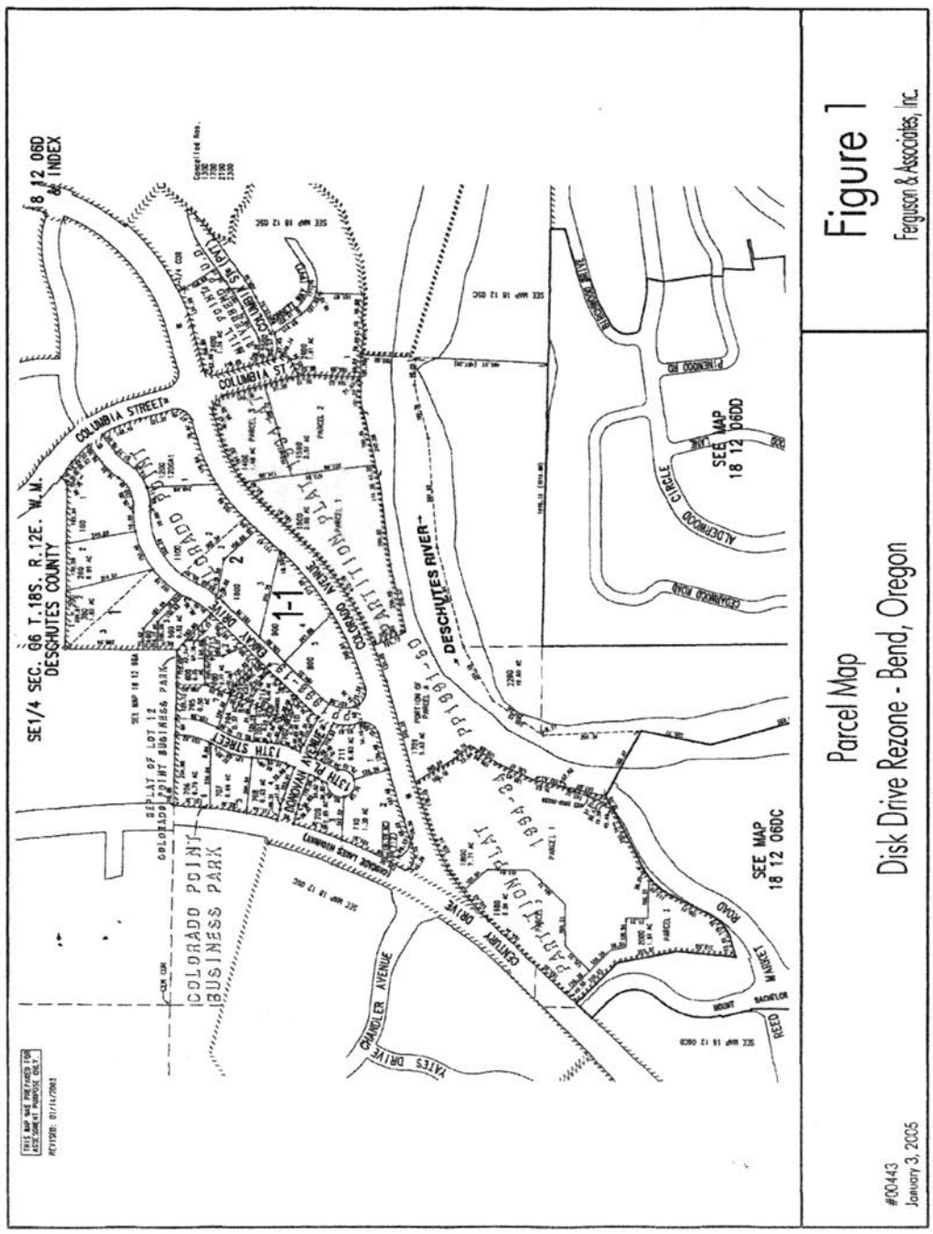
LEGAL DESCRIPTION FOR DESCHUTES RIDGE PLAN AMENDMENT AND ZONE CHANGE

Parcel 1 of Major Land Partition MJP-1-84, located in Lot 2, Block 3, Shevlin Center, in the Northeast one-quarter of the Southeast one-quarter of Section 6, Township 18 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the Initial Point, a 5/8" Iron Rod with cap marked "SCE&S". Said point further being the Westerly most corner of said Lot 2, and is also a point on the Southerly right-of-way line of Colorado Avenue; thence running along said right-of-way in the following courses: along an arc of a 1149.71 foot radius curve left 472.10 feet, the chord of which bears North 54°27'46" East 468.79 feet; thence North 42°41'57" East 189.91 feet; thence along an arc of a 532.96 foot radius curve right 290.93 feet, the chord of which bears North 58°20'14" East 287.33 feet; thence North 73°58'31" East 70.67 feet; thence along an arc of a 55.00 foot radius curve right 86.39 feet, the chord of which bears South 61°01'29" East 77.78 feet to a point on the Westerly right-of-way line of Columbia Street; thence leaving said Southerly right-of-way line of Colorado Avenue and running along said Westerly right-of-way of Columbia Street in the following courses: South 16°01'29" East 240.34 feet; thence along an arc of a 310.10 foot radius curve right 34.74 feet, the chord of which bears South 12°48'56" East 34.72 feet to the Southerly end of Columbia Street; thence leaving said Westerly right-of-way line of Columbia Street and continuing along an arc of a 310.10 foot radius curve right 61.36 feet, the chord of which bears South 03°56'15" East 61.26 feet; thence South 01°39'08" West 164.63 feet; thence North 83°51'51" West 21.63 feet; thence along an arc of a 317.58 foot radius curve left 101.37 feet, the chord of which bears South 85°29'56" West 100.95 feet; thence South 76°27'31" West 242.58 feet; thence along an arc of a 1053.57 foot radius curve right 111.38 feet, the chord of which bears South 79°29'14" West 111.32 feet; thence South 82°30'56" West 204.82 feet; thence along an arc of a 1124.00 foot radius curve left 250.83 feet, the chord of which bears South 76°07'23" West 250.31 feet; thence North 23°46'25" West 125.96 feet to the Initial Point.

EXHIBIT B

VICINITY MAP FOR DESCHUTES RIDGE PLAN AMENDMENT AND ZONE CHANGE



ORDINANCE NO. NS-1977

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 (ZONING MAP), BY CHANGING THE ZONING DESIGNATION OF A PARCEL OF LAND AS SHOWN IN EXHIBIT "A" FROM SR 2 ½ , SUBURBAN LOW DENSITY RESIDENTIAL, TO RS, URBAN STANDARD DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated May 10, 2005 file number PZ-05-96.

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 8100 on Deschutes County Tax Assessor's Map 17-12-17DC described in Exhibit "A" and depicted in Exhibit "B". The change will be from Suburban Low Density Residential (SR 2 ½) to Urban Standard Density Residential (RS).

Read for the first time the 1st day of June, 2005.

Read for the second time the 15th day of June, 2005.

Placed upon its passage the 15th day of June, 2005.

YES: 5 NO: 1

Authenticated by the Mayor the 15th day of June, 2005.

Bruce Abernethy

Bruce Abernethy, Mayor Pro Tem

ATTEST:

Patricia Stell

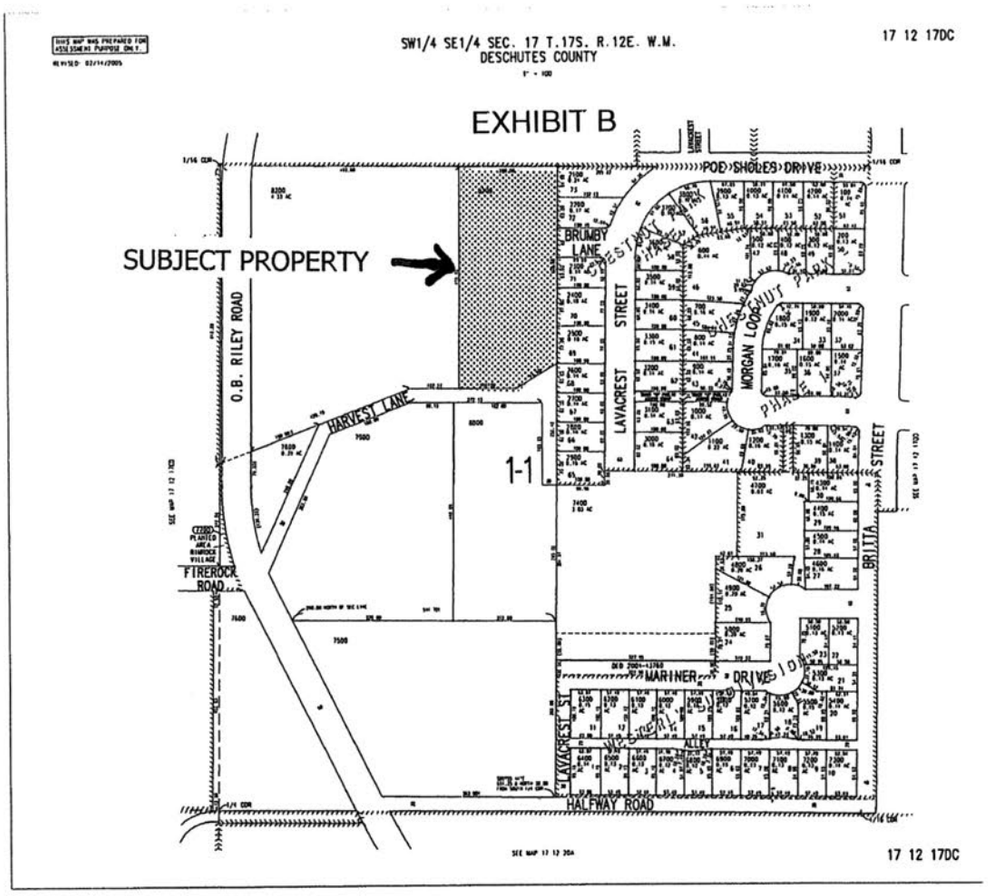
Patricia Stell, City of Bend Recorder

99-18112-2

Exhibit "A"

In Township Seventeen (17) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon, described as follows:

Section 17: A portion of the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4), more particularly described as follows: Beginning at a point on the North line of the SW1/4 SE1/4 of Section 17, located South 89°54'07" East, a distance of 492.0 feet from the Northwest corner of said SW1/4 SE1/4; thence South 89°54'07" East, for a distance of 200.00 feet; thence due South for a distance of 403.88 feet; thence South 58°38' West for a distance of 97.50 feet; thence due West for a distance of 116.70 feet; thence due North for a distance of 455.0 feet to the point of beginning.


SW1/4 SE1/4 SEC. 17 T.17S. R.12E. W.M.
DESCHUTES COUNTY
17 12 17DC
EXHIBIT B
SUBJECT PROPERTY
POE SHOLES DRIVE
BRUMBY LANE
LAVACREST STREET
MORGAN LOOKOUT PLACE
O.B. RILEY ROAD
HARVEST LANE
1-1
BRITTA STREET
FIREROCK ROAD
MARINER DRIVE
ALLEY
HALFWAY ROAD
17 12 17DC

ORDINANCE NO. NS-1978

AN ORDINANCE REPEALING THE NOVEMBER 1998 VERSION OF CHAPTER 4 OF THE BEND URBAN AREA GENERAL PLAN, POPULATION AND DEMOGRAPHICS, AND REPLACING IT WITH AN UPDATED VERSION DATED JUNE 2005.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Planning Commission's recommendation and public record in this matter, and has found that there is a public need and benefit for the proposed changes to the text of the Bend Area General Plan.

Section 2. Chapter 4 of the Bend Area General Plan, Population and Demographics, dated November 1998, is hereby repealed and replaced in its entirety with Exhibit "A" to this ordinance.

Read for the first time the 15th day of June, 2005.

Read for the second time the 6th day of July, 2005.

Placed upon its passage the 6th day of July, 2005.

YES: 6 NO: 0

Authenticated by the Mayor the 6th day of July, 2005.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

Exhibit "A"

Chapter 4
Population and Demographics

June 2005

BEND AREA GENERAL PLAN

CHAPTER 4: POPULATION AND DEMOGRAPHICS

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JUNE 2005

GOALS

A major goal of the land use planning process is to ensure that there is sufficient land within the urban growth boundary for housing, for business and industry, for public services such as parks and schools, and an adequate transportation system to serve those needs. The forecast of growth and change in the urban area population is an important component in determining these land use needs. It is a goal of the city to use and evaluate the best historic information and expert forecasts in preparing this chapter. Regular updates of population and demographic information will be conducted to keep these forecasts current.

OVERVIEW

Rapid population growth is nothing new to Bend. Fifteen years after its incorporation as a city of about 500 persons in 1905, the population had exploded to more than 5,400 persons after the building of two large sawmills at the south edge of town. In later decades the Bend area and Deschutes County, like the rest of the state, experienced cycles of population growth tied to economic conditions. Bend is the eighth largest city in Oregon and the largest Oregon city east of the Cascade Mountains.

As the population has grown, it also has become younger and more affluent, conditions that can be traced in part to the expansion of the local outdoor recreation businesses and the in-migration of "baby-boomers" from California and the Northwest.

Fast Facts:

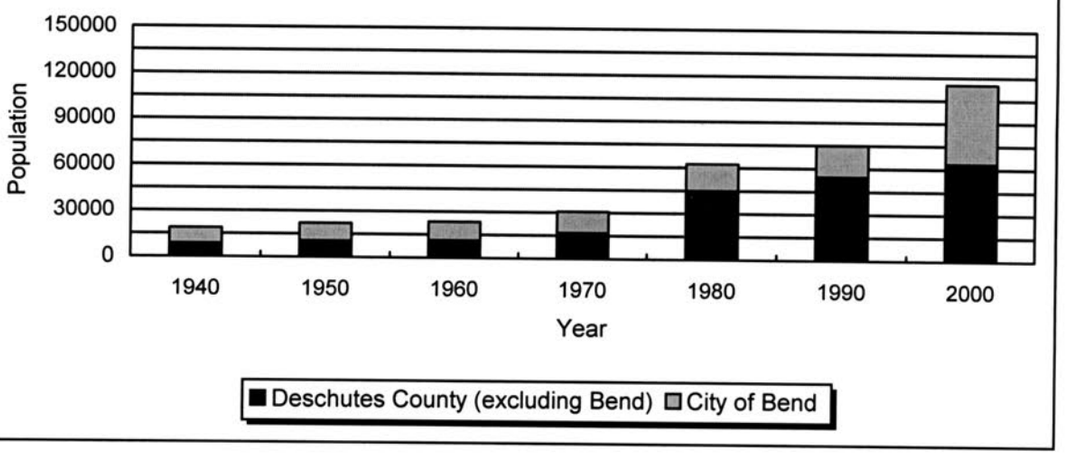
- ***Bend is the largest Oregon city east of the Cascade Mountains.***
- ***The annual rate of growth in Bend during the 1990s was more than three times the state average.***
- ***The Bend UGB population is forecast to increase to 109,389 people by the year 2025.***

Population history

Historically, the City of Bend population made up about half of the Deschutes County population. This changed in the 1960s when thousands of rural recreational lots and suburban lots were platted in the county outside of urban areas.

Much of the county population growth in the 1970s and 1980s was driven by persons seeking open space rather than urban lots. Figure 4-1 shows the change in population since the 1940 census.

Figure 4-1
City of Bend and Deschutes County Population



The late 1980s marked the swing out of a recessionary period in Central Oregon and into better economic times. Bend's expanding role as the regional trade and service center, combined with its attractiveness as a year-round tourism and recreation area, fueled another surge of population and employment growth that continued through the 1990s and has become stronger during the early 2000s.

Growth during the 1990s

The 1990 census counted 20,469 persons within the city limits of Bend. The population within the county portion of the urban areas was estimated to be 12,100 based on census tract data for the "Bend District," for a total of 32,569 persons within the UGB in 1990.

During the 1990s, the rate of population growth in the City of Bend and Deschutes County was among the highest in the state. By the year 2000, the city population was 52,029 persons – up 31,560 persons since the 1990 census – although much of the city's increase during this period was due to annexing all unincorporated areas in the UGB in 1999. The Portland State University Center for Population Research and Census estimated the annexed population to be 13,648 persons. Even accounting for the annexations, the population of Deschutes County excluding the City of Bend increased by 8,849 persons, from 54,489 to 63,338 persons, much of this growth occurring in the Cities of Redmond and Sisters. The total population of the county, including the City of Bend increased from 74,958 to 115,367 persons in the year 2000, which equates to an average annual growth rate of 4.4 percent per year. At the same time, the average annual growth rate for the State of Oregon was 1.9 percent per year.

Excluding the 13,648 persons annexed in to the City of Bend in 1999, and another 3,411 annexed between 1990 and 1998, the city's population increased by 14,501 during the 1990s, which equates to an average annual growth rate of approximately six (6) percent per year.

The annual rate of growth in Bend during the 1990s was more than three times the statewide average. To put this increase in perspective, in the year 2000 one out of three Bend urban area residents did not live in the area in 1990. Table 4-1 below displays the results of the 1990 and 2000 Census counts for Deschutes County and how the population is distributed between the cities and the unincorporated county.

Table 4-1
Distribution of County Population in 1990 and in 2000

Jurisdiction	April 1, 1990 Population	Percent of Total	April 1, 2000 Population	Percent of Total
Deschutes County	74,958	100%	115,367	100%

Bend	20,469	27%	52,029	45%
Redmond	7,163	10%	13,481	12%
Sisters	679	1%	959	1%
Total Pop in Cities	28,311	38%	66,469	58%
Total Unincorporated	46,647	62%	48,898	42%

Source: U.S. Census Bureau Summary Tape File 1 (1990) and Summary File 1 (2000).

The growth pressures in the 1990s affected not only Bend, but all of Central Oregon. Between 1990 and 2000 Deschutes County was the fastest growing county in the state, Jefferson County was third, and Crook County was fourth. Although the total Deschutes County population increased by more than 40,400 persons in ten years, the growth pattern in the 1990s was different than the previous boom in that most of the new residents settled in the urban areas.

One result of this population growth is that Bend was designated by the federal government as a metropolitan statistical area in June of 2003. An MSA is county that has a city with a population of 50,000 or more. The purpose of defining geographic areas like an MSA is to establish nationally consistent area definitions for collecting, tabulating, and publishing federal statistics. The Bend MSA represents Deschutes County.

Age Distribution

The Census data for Bend include demographic information on the age of residents. Table 4-2 compares the age distribution in four broad groupings for the city population since the 1970 census. The 2000 census data are also compared to the county and state populations, and show that the city population was younger than the overall county and statewide population averages.

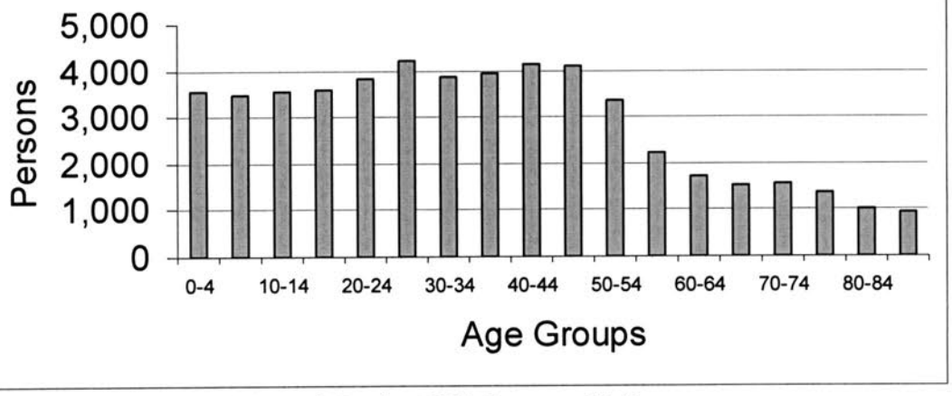
Table 4-2
Comparison of Bend Age Groupings Over Time

Age Range	City of Bend				County	Statewide
	1970	1980	1990	2000	2000	2000
Age 0-24	43.5%	42.7%	35.3%	34.7%	32.6%	34.3%
Age 25-44	22.6%	31.6%	36.3%	31.1%	28.6%	29.2%
Age 45-64	22.3%	15.2%	14.9%	21.8%	25.7%	23.7%
Age 65+	11.6%	10.5%	13.5%	12.4%	13.1%	12.8%

Source: U.S. Census reports and Portland State University Center for Population Research and Census

Table 4-2 and Figure 4-2 show that Bend's population in 2000 was not that different from the populations of the County and the State. The greatest difference between these populations is that Bend's population in 2000 included more persons between the ages of 25-44 than the county or the state. In contrast, the Census counted fewer people in the 45-64 range in Bend than in the county or the state.

Figure 4-2
Bend 2000 Population by Age



Source: U.S. Census of Population and Housing, 2000: Summary File 2.

As was indicated above, Deschutes County was the fastest growing county in the state in the 1990s. Between 1990 and 2000, the County's population grew by 40,409 people, an increase of almost 54 percent. A majority of the increase (88 percent) was from "positive net migration" – the number of people moving into the county exceeded the number of people moving out. Similarly, most of the increase in the Bend UGB population since 1990 is attributed to in-migrants. Table 4-3 displays the population change data by natural increase and net migration for Deschutes County between 1980 and 2000. During the 1990 to 2000 period, population increase due to natural increase (births-deaths) decreased while the net migration component of population change (in-migrants – out-migrants) increased. Net migration accounted for 88 percent of the county's population growth during the 1990s. In contrast, net migration accounted for 73 percent of the state's population growth.

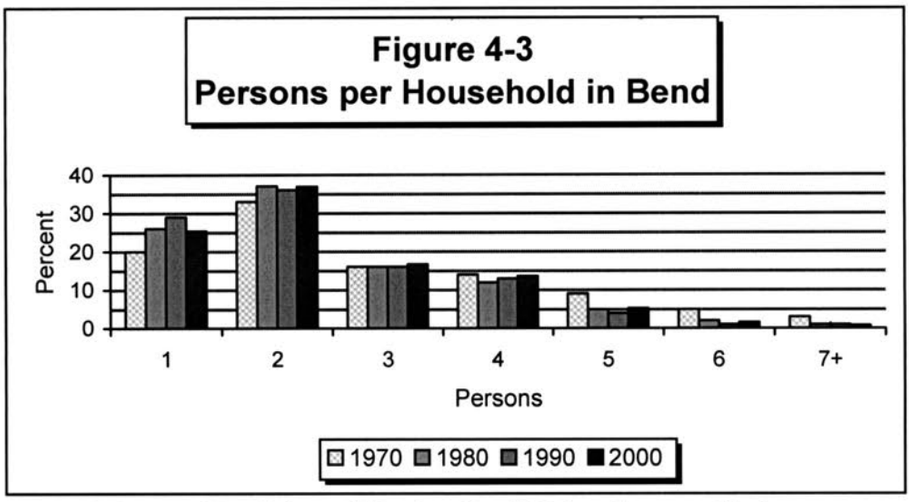
Table 4-3
County Population Change and In-migration

Time Period	Population Change	Natural Increase	Net Migration All Ages
4/1/80 - 4/1/90	+13,458	4,878 (36%)	8,580 (64%)
4/1/90 - 4/1/00	+40,409	4,713 (12%)	35,696 (88%)

Source: Portland State University Center for Population Research and Census

Persons per household

The average number of people living in a dwelling, whether as a family or a household of unrelated persons, is a useful measurement to help forecast how many dwellings will be needed in the future. Figure 4-3 shows the percent of Bend households by number of persons for the past four census periods. Bend was following a trend toward smaller household size. However, the most recent Census data shows the number of households with three or four persons remains constant or represents a larger share of the number of households.



Source: U.S. Census of Population and Housing. For 2000 data, Summary File 1.

Table 4-4 compares the average household size for the city, county, and state since 1950. This comparison of persons per household shows a trend of fewer persons per household continuing for the county and the state. Bend differs in that an average household size of 2.4 persons per household has remained constant between 1990 and 2000.

Table 4-4
Average Persons Per Household

Area	1950	1960	1970	1980	1990	2000
All of Oregon	3.1	3.1	3.0	2.6	2.6	2.5
Deschutes County	3.2	3.1	3.0	2.7	2.6	2.5
City of Bend	3.0	3.0	2.9	2.5	2.4	2.4

Source: U.S. Census reports for Oregon

Education and Occupation

As reported in the 2000 census, the education levels in Bend were a few percentage points higher than the county and the statewide averages. For those Bend residents aged 25 or older at the time of the 2000 census, 90.2 percent had a high school degree or higher, and 29.4 percent had a bachelor's degree or higher. Many of the new jobs created in the urban area since the 1990s have been skilled or professional jobs in the service sector, finance, research, government, and manufacturing. This fact, combined with evidence from state surveys that a number of persons moving into the area have some college education, suggests that the percentage of education levels in the community will continue to increase. Additional information on education services and programs is contained in Chapter 3, *Community Connections.* The following presents the occupational employment data for Deschutes County from April 2001 through April 2005 to highlight the changes in employment over the last four years.

Table 4-5
Occupations in Deschutes County in April 2001 and April 2005

Occupation	April, 2001	April, 2005	Change	Percent Change	Percent of Total in 2004
Natural resources, Mining, and Construction	4,430	6,330	1,900	43%	10.3%
Manufacturing	5,400	5,920	520	10%	9.6%
Trade, transportation, and utilities	10,720	12,110	1,390	13%	19.7%
Information	1,430	1,550	120	8%	2.5%
Financial activities	3,390	4,050	660	19%	6.6%
Professional and business services	4,630	6,190	1,560	34%	10.1%
Educational and health services	6,030	7,270	1,240	21%	11.8%
Leisure and hospitality	7,500	8,340	840	11%	13.6%
Other services	1,650	1,800	150	9%	2.9%

Government	7,370	7,880	510	7%	12.8%

Sources: Oregon Labor Market Information System April 2001 and April 2005 data for Bend MSA (Deschutes County).

Income levels

The median (middle) household income in the City of Bend in 1989 (from the 1990 Census) was $25,787. The median household income in Deschutes County was a little higher, at $27,317 during the same period. Table 4-6 displays the 2000 Census data for household and family income for Bend. The 2000 Census showed the median household income was $40,857, and was $45,357 for families. The category of family with 2 workers represents the large share of family households in Bend and those households that had the greatest median income in 1999.

Table 4-6
Income Levels in Bend (1999 dollars)

Household Category	Median for 1999	Percent of Total
Household	$40,857	
Family with no workers	$34,140	12.6%
Family with 1 worker	$32,669	29.1%
Family with 2 workers	$60,907	48.9%
All families	$45,357	100%

Source: U.S. Census of Population and Housing, 2000: Summary File 4.

Table 4-7 shows the 1999 income levels of households by the age of the household. This information is particularly useful in planning for housing, especially in determining what forms of housing will be more affordable to certain households. The age groups with the lower income levels, according to this data, are younger individuals and families and older retired (75+) persons.

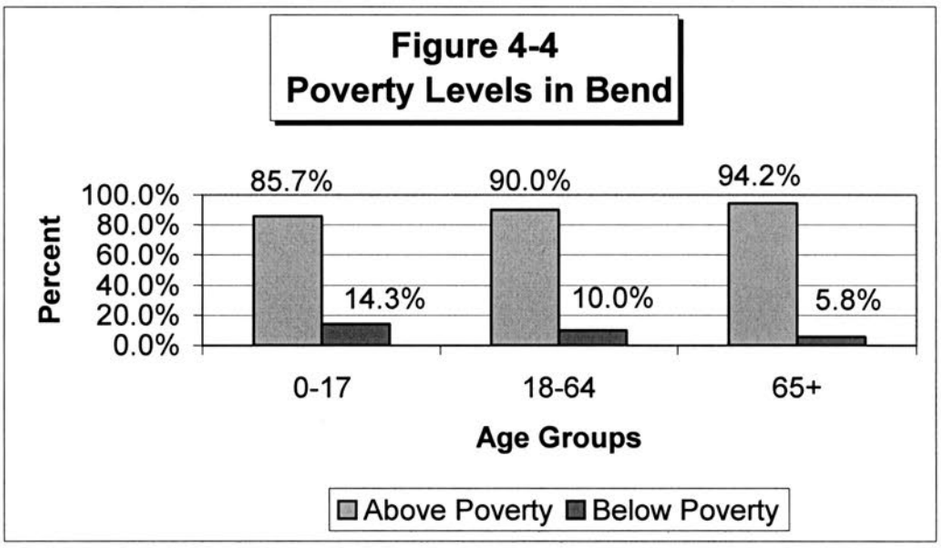
Table 4-7
Householder Age by Income Levels

1999 Gross Income	0 - 24	25 - 34	35 - 44	45 - 54	55 - 64	65 - 74	75+
Less than $10,000	9.5%	4.9%	4.1%	5.2%	8.9%	7.7%	14.6%
$10,000 to $14,999	14.6%	5.8%	4.9%	3.8%	3.5%	6.3%	18.0%
$15,000 to $19,999	15.4%	7.1%	3.9%	5.3%	2.4%	10.0%	8.8%
$20,000 to $24,999	10.6%	6.8%	4.4%	5.3%	5.1%	7.5%	10.4%
$25,000 to $29,999	12.2%	7.5%	6.6%	5.6%	7.5%	8.7%	11.9%
$30,000 to $34,999	10.6%	8.5%	8.6%	4.6%	8.4%	12.6%	8.2%
$35,000 to $39,999	7.4%	8.9%	7.2%	4.1%	4.5%	6.4%	5.3%
$40,000 to $44,999	7.2%	5.6%	6.9%	5.8%	4.9%	5.8%	2.3%
$45,000 to $49,999	2.9%	7.2%	7.1%	5.2%	6.1%	4.7%	4.2%
$50,000 to $59,999	4.8%	13.9%	10.6%	11.9%	8.1%	4.9%	3.9%
$60,000 to $74,999	2.2%	13.0%	13.2%	11.9%	12.6%	7.3%	4.6%
$75,000 to $99,999	1.2%	6.1%	13.6%	14.2%	13.4%	8.9%	3.1%
$100,000 to $124,999	0.8%	2.9%	4.0%	7.8%	5.9%	1.9%	3.3%
$125,000 to $149,999	0.6%	0.6%	1.6%	3.4%	2.6%	3.6%	0.9%
$150,000 to $199,999	0.0%	0.6%	1.5%	2.8%	2.0%	3.0%	0.5%
$200,000 or more	0.0%	0.6%	1.8%	3.1%	4.1%	0.7%	0.0%
Columns read down ↓	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Source: US Census of Population and Housing, 2000: Summary File 3.

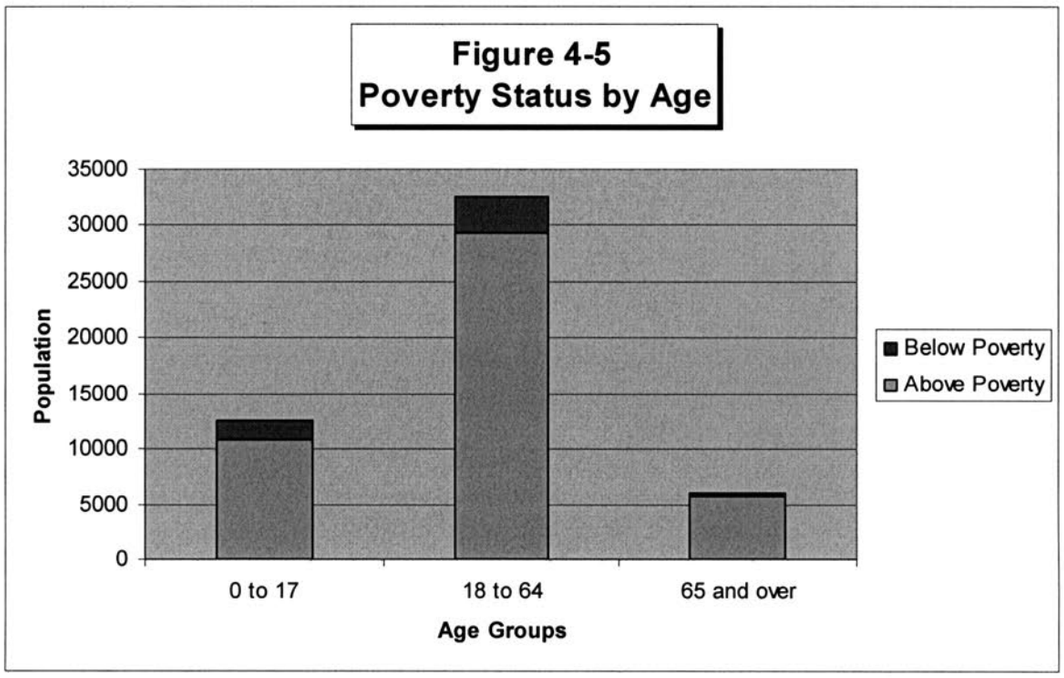
A related measure of income levels is the number of persons below the poverty level. Poverty levels reported in the 2000 Census are determined by comparing local incomes to a national standard of 48 income thresholds tied to the number and age of persons in the household. The national standards are not adjusted for state, regional, or local cost of living variations.

Figure 4-4, using 2000 Census data, shows the relationship of persons in three broad age groups to the national poverty standards. Although the percentage of Bend residents living below the poverty level decreased from 13.2 percent in 1989 to 10.5 percent in 1999, the number of Bend residents living below the poverty level increased from 2,637 people in 1989 to 5,380 people in 1999. The poverty level in Bend is slightly higher than the county level of 9.2 percent. It is interesting to note that only 12.6 percent of Bend households below the poverty level are receiving public assistance. This may be due, in part, to the number of students and young recreational enthusiasts in Bend that generally have lower incomes.



Source: U.S. Census of Population and Housing, 2000: Summary File 3.

Figure 4-5 provides detail on the number of persons above or below poverty.



Source: U.S. Census of Population and Housing, 2000: Summary File 3.

While Figures 4-4 and 4-5 show the relationship of Bend residents to the poverty levels, they do not show the magnitude of incomes below or above the poverty levels. Table 4-8 shows the levels at which Bend residents were below or above poverty in 1999.

Table 4-8
Income Level in relation to Poverty Level

Ratio of income to Poverty in 1999	Number of Persons	Percent of Total Population
Less than .50	1,670	3.3%
.50 to .74	1,330	2.6%
.75 to .99	2,380	4.7%
1.00 to 1.24	2,199	4.3%
1.25 to 1.50	2,100	4.1%
1.50 to 1.74	2,165	4.2%
1.75 to 1.84	816	1.6%
1.85 to 1.99	1,369	2.7%
2.00 and over	37,013	72.5%

Source: US Census of Population and Housing, 1990: Summary File 3

Both before and after the 1990 Census was taken, county income levels have shown a steady rise. The average income levels of county families and households increased almost 6 percent a year between 1984 and 1995, a rate faster than the statewide averages. Since Bend is the major employment center in the region it is assumed that income levels within the urban area more or less follow the county-wide patterns. The diverse and expanding economy in Bend provides a wide range of job possibilities, including entry level jobs in the trade and services, which allows young people and additional family workers access to jobs.

The Department of Housing and Urban Development estimated the 2004 median family income in Deschutes County at $57,800— more than four thousand dollars above the average for non-metropolitan areas in the state. Since the last half of the 1980s the per-capita income levels in Deschutes County have steadily increased to match the state average. Even more interestingly, the county income levels have been above the Eugene, Medford, and Salem metropolitan areas since the early 1980s.

The Federal Bureau of Economic Analysis (BEA) reports personal income for counties on a per capita basis. For Deschutes County in 2002, the leading source of personal income was net earnings. Income in this category includes earnings from place of work (e.g. wages and salary) and accounted for 60 percent of total personal income in the county. Income from dividends, interest, and rent accounted for 24.2 percent of personal income. Finally, income from personal current transfer receipts (e.g. retirement benefits, Medicare, income maintenance benefits) accounted for 15.8 percent of total personal income.

FORECASTS

In the past, several public and private organizations have prepared population and demographic forecasts for the county or region as a whole, but no independent forecasts have been prepared for the Bend urban area:

- the Oregon Department of Transportation (1993) — county population and employment forecasts through 2012;

- the Portland State University Center for Population Research and Census (1993) — county population and age forecasts through 2010; and

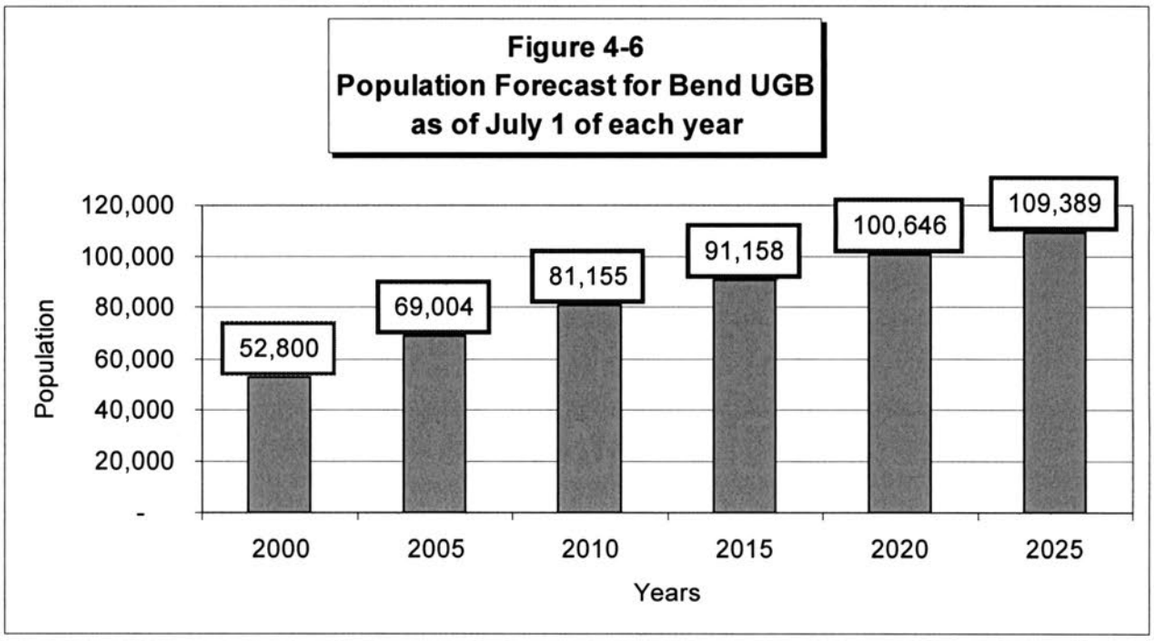
- the Oregon Office of Economic Analysis (OEA) — county population and employment forecasts through 2040 (1997) and county population forecasts from 2000 to 2040 (2004).

These forecasts were used by the city and county as guides in the coordination of county-wide population forecasts, and the preparation of the urban area population forecast in the plan adopted in 1998. The city coordinated with the planning and legal staff of the cities of Redmond and Sisters and Deschutes County through 2002 and 2004 to develop a final coordinated population forecast for the county and the cities from 2000 to 2025.

Population

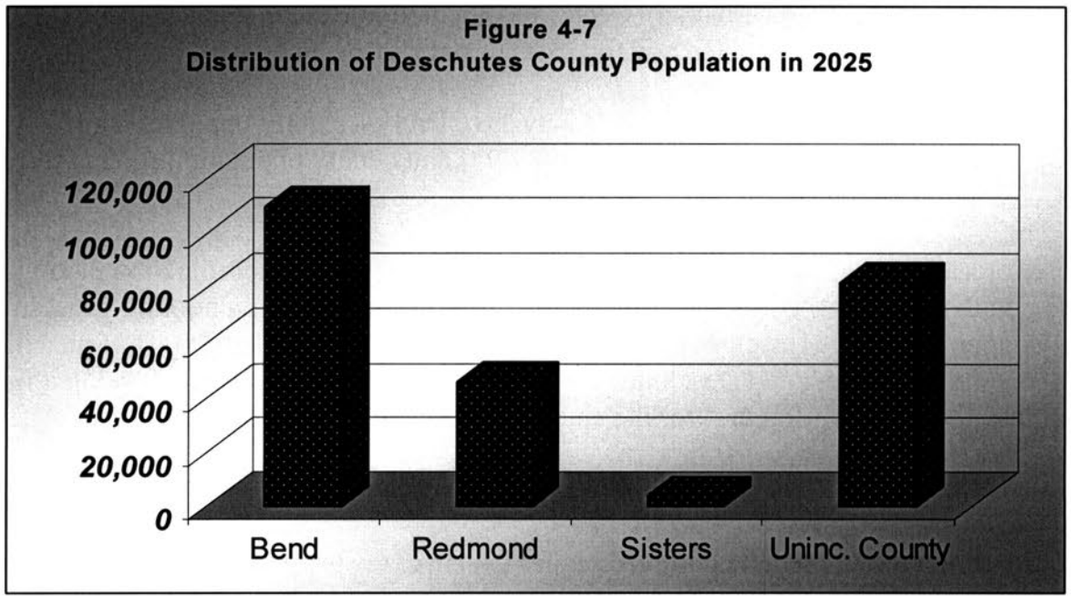
All of these forecasts predict continued higher than average growth rates for Deschutes County until early into the 21st century, followed by slower growth rates. The most recent forecasts by OEA (2004) and the coordinated forecast (2004) show the recent trend of steady growth continuing through 2010 and then slowing through 2025. The Bend UGB population forecast for the year 2025 is 109,389. Figure 4-6 shows this forecast in five-year increments.

Figure 4-6
Population Forecast for Bend UGB
as of July 1 of each year



Source: 2000-2025 Deschutes County Coordinated Population Forecast (August, 2004)

The county and three cities have worked together to coordinate population forecasts for all three urban areas and the non-urban portion of the county. The Bend population forecast is based on a combination of past rates of population growth continuing in the near term and the use of annual growth rates developed by OEA through the long term. Although additional development will occur in rural subdivisions and rural service centers, the majority of the new residents will settle in the three urban areas. The forecast distribution of the population in the year 2025 is shown in Figure 4-7.



Source: 2000-2025 Deschutes County Coordinated Population Forecast (August, 2004)

As in the past, it is expected that most of the population increase will come from persons moving into the area. The OEA forecast for Deschutes County from 2000 to 2040 shows that most of the future growth in the county's population will be net migration. During the forecast period, net migration accounts for 88 percent to 100 percent of the county's growth in population. By 2025, the percent of the county's growth in population due to net migration will be 94 percent.

Demographics

In the early 1990s about 70 percent of the Bend population was less than 50 years old. The World War II baby-boomers made up the biggest bulge in the population pyramid (about 29 percent in 1990) followed by a plateau of baby-boomer children and grandchildren. In the year 2000 the baby-boomers were in their early 40s to mid-50s age range, and by 2020 they will be in their 60s to mid-70s.

The 2000 Census showed the largest proportion of the city's population was between 25 and 54 years of age representing 45 percent of the city's population. About 27 percent of the population was 19 years or less in age. About 12 percent of the population was 65 years and over in age. The OEA 2000 to 2040 population forecast for Deschutes County included forecasts by age groups. The following table shows the breakdown of age groups for the county in 2000 and in 2025 based on the OEA Deschutes County population forecast for 2000 to 2040.

Table 4-9
Age of Deschutes County Population in 2000 and in 2025

Age Groups	In 2000		In 2025	
	Deschutes County	Percent of Total	Deschutes County	Percent of Total
Total	116,600		214,479	
0-4	7,179	6%	10,647	5%
5-19	24,595	21%	34,460	16%
20-44	39,482	34%	62,654	29%
45-64	30,131	26%	58,738	27%
65-84	13,510	12%	43,303	20%
85+	1,703	1%	4,677	2%

Source: OEA 2000-2040 County Population Forecast

The high percent of growth due to in-migrants affects the population age distribution. Even though the baby-boomer generation will make up part of the growth, an even larger portion of the new residents will be the baby-boomer children and grandchildren. This population growth due to younger people moving into the area will create a population age distribution that is contrary to the historic pattern of the baby-boomer peak followed by a plateau.

POLICIES

1. The city shall review and update the urban area population forecast every five years.

2. The city shall update income levels, household size, and other demographic information for the urban area after every U.S. census, or when other data for the City of Bend are available.

✪✪✪✪✪

Thursday, July 01, 2004
Drafted : November 1996. Last revision or edit: June, 2005

ORDINANCE NO. NS-1979

AN ORDINANCE AMENDING BEND CODE SECTION 6.165 RELATING TO PROHIBITED PARKING WITHIN THE BOUNDARIES OF THE CITY OF BEND

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1: Bend Code Section 6.165 is amended to read:

6.165 Prohibited Parking. No operator shall park and no owner shall allow a vehicle to be parked on a street, **or other public rights of way,** for the principal purpose of:

(1) Displaying the vehicle for sale.

(2) Repairing or servicing the vehicle, except repairs necessitated by an emergency.

(3) Displaying advertising from the vehicle.

(4) Selling merchandise from the vehicle, except when authorized.

(5) Storage or as junkage or dead storage for more than forty-eight (48) hours.

Read for the first time the 6th day of July, 2005.

Read for the second time the 20th day of July, 2005.

Placed upon its passage the 20th day of July, 2005.

Yes: 6 No: 0 Abstain: 0

Authenticated by the Mayor the 20th day of July, 2005.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1980

AN ORDINANCE AMENDING ORDINANCE NO. NS-1968 TO CORRECT AN ERROR RELATING TO THE NORTHWEST CROSSING OVERLAY ZONE

WHEREAS, City Council adopted Ordinance NS-1968 on May 4, 2005, for the purpose of modifying the Bend Urban Area General Plan map and amending Section 22D, the NorthWest Crossing Overlay Zone of the City of Bend Zoning Ordinance No. NS-1178;

WHEREAS, there was a mapping error in Figure 13. NorthWest Crossing Overlay Districts in the Ordinance adopted by City Council. The shading to identify the Standard Residential Zone Overlay District was not included in the adopted Figure 13;

AND WHEREAS, Council desires to correct this mapping error and to clarify the exact location of the Standard Residential Zone in Figure 13. NorthWest Crossing Overlay Districts of Section 22D, the NorthWest Crossing Overlay Zone;

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 10-10.22D Figure 13, NorthWest Crossing Overlay Districts shall be replaced with the corrected figure attached to this Ordinance.

Section 2. The other provisions of Ordinance NS-1968 shall not be effected by this ordinance.

Read for the first time the 20th day of July, 2005.

Read for the second time the 3rd day of August, 2005.

Placed upon its passage the 3rd day of August, 2005.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 3rd day of August, 2005.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

Figure 13. NorthWest Crossing Overlay Districts

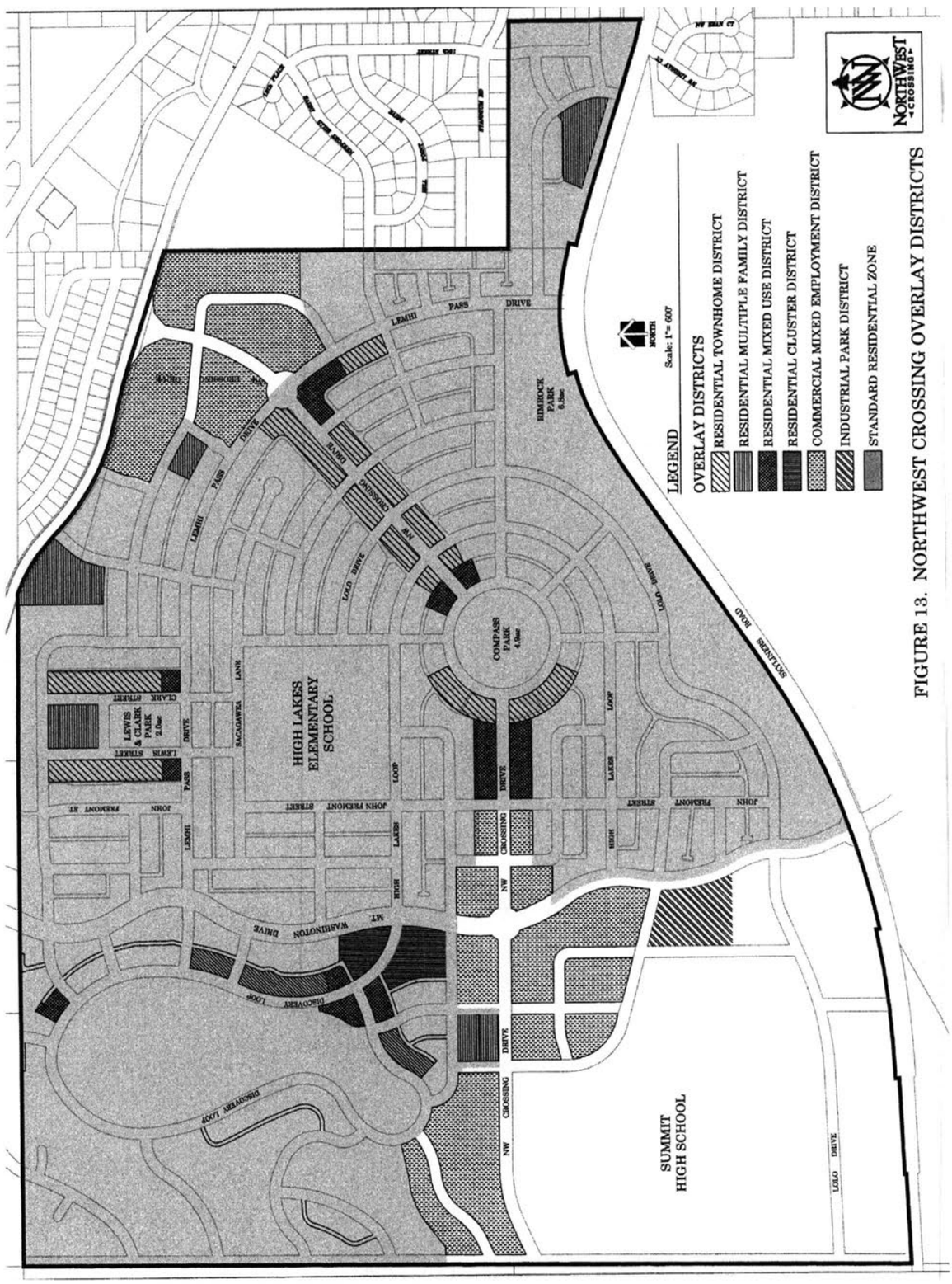


FIGURE 13. NORTHWEST CROSSING OVERLAY DISTRICTS

DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

2005-60545

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D-IPPS Cnt=1 Stn=23 BECKEY
$335.00 $11.00 $10.00 $5.00

DESCHUTES COUNTY CLERK

CERTIFICATE PAGE

**This page must be included
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Do Not remove from original document.**

Ordinance NS-1981

AN ORDINANCE OF THE BEND CITY COUNCIL MAKING CERTAIN DETERMINATIONS AND FINDINGS RELATING TO AND ADOPTING THE JUNIPER RIDGE URBAN RENEWAL PLAN

WHEREAS, the Bend Urban Renewal Agency ("BURA"), as the duly authorized and acting urban renewal agency of the City of Bend, Oregon, is proposing to undertake certain redevelopment activities in a designated area within the City of Bend pursuant to ORS Chapter 457; and

WHEREAS, BURA, pursuant to the requirements of ORS Chapter 457, has prepared an urban renewal plan which is attached to this Ordinance as Exhibit A, and incorporated herein by this reference ("Plan"). The Plan authorizes the redevelopment activities, including the acquisition and disposition of property described therein within the Juniper Ridge Urban Renewal Area (the "Area"); and

WHEREAS, BURA has caused the preparation of a report accompanying the Plan as required by ORS 457.085(3) ("Report") is attached to this Ordinance as Exhibit B and incorporated herein by this reference; and

WHEREAS, the Plan and the Report were forwarded to the City of Bend Planning Commission for recommendation and the Planning Commission considered the Plan and Report on March 28, 2005 and recommended that the Council adopt the Plan; and

WHEREAS, the Plan and the Report were forwarded on August 8, 2005 to the governing body of each taxing district affected by the Plan, and BURA has thereafter consulted and conferred with said districts; and

WHEREAS, on March 28, 2005, BURA met with the Board of Commissioners of Deschutes County to review the Plan, including proposed maximum indebtedness for the Plan; and

WHEREAS, the City Council has received only one written communication from a taxing authority regarding the formation of the urban renewal district, and this ordinance addresses that letter which is from the Deschutes County Board of Commissioners;

WHEREAS, on August 5, 2005, the City caused notice of the hearing to be held before the City Council on the Plan for the Juniper Ridge Urban Renewal Area, including the required statements of ORS 457.120(3), to be mailed to postal patrons within the City of Bend; and

WHEREAS, on August 17, 2005 the City Council held a public hearing to review and consider the Plan, the Report, the recommendation of the Planning Commission, and the public testimony received on that date, and does by this Ordinance desire to approve the Plan; and

WHEREAS, the City Council hereby determines and finds that the Plan complies with all requirements of ORS Chapter 457 and the specific criteria of 457.095(1) through (7), in that, based on the information provided in the Report, the Recommendation of the Planning Commission and the public testimony before the City Council;

Please record 67 pages of Ordinance NS-1981 (including Exhibits A and B) After recording return to Deputy City Recorder, City of Bend, 710 NW Wall, Bend, OR 97701

THE CITY OF BEND MAKES THE FOLLOWING STATUTORILY REQUIRED FINDINGS:

1. The area designated in the Plan as the Area meets the statutory definition of "blight", as defined by ORS 457.010(1) and is eligible for inclusion within the Plan because of conditions described in the Report, including the underdevelopment of property within the Area, the lack of adequate access and the lack of utilities.

2. The rehabilitation and redevelopment described in the Plan to be undertaken by BURA is necessary to protect the public health, safety and welfare of the City because absent the completion of urban renewal projects, the Area will fail to contribute its fair share of property tax revenues to support City services and will fail develop and/or redevelop according the goals of the City's Comprehensive Plan.

3. The Plan conforms to the Bend Comprehensive Plan and provides an outline for accomplishing the projects described in the Plan, as more fully described in the Plan.

4. Provision will be made to house displaced persons within their financial means in accordance with ORS 35.500 to 35.530 and, except in the relocation of elderly or disabled individuals, without displacing on priority lists persons already waitng for existing federally subsidized housing.

5. The acquisition of real property provided for in the Plan is necessary for the development of public facilities in the Area and for the development of adequate streets and utilities, as more fully described in Section II of the Report.

6. Adoption and carrying out the Plan is economically sound and feasible in that eligible projects and activities will be funded by urban renewal tax revenues derived from a division of taxes pursuant to section 1c, Article IX of the Oregon Constitution and ORS 457.440 and other available funding as more fully described in Section VIII of the Report; and

7. The City shall assume and complete any activities prescribed it by the Plan.

8 . On an annual basis, City and/or Bend Urban Renewal Agency (BURA) staff will meet with staff from the overlapping taxing districts of the Juniper Ridge Urban Renewal Area and provide up-to-date information on the finances of the renewal area and progress on financing and constructing infrastructure to implement the plan. At each annual period, the City and BURA shall evaluate if it is appropriate to reduce the maximum indebtedness or duration of the renewal plan. The City and BURA are prepared to enter into discussions with the other taxing districts <u>regarding whether</u> to reimburse foregone urban renewal tax increment revenues on a proportional basis to all taxing districts, if property sale proceeds in the Juniper Ridge Urban Renewal Area exceed actual costs after all debt is retired.

9. The City has received written testimony from one taxing authority. The Deschutes County Commissioners indicated their support for the Juniper Ridge Urban Renewal District. In addressing that letter, the City Council represents that it will endeavor to negotiate with Deschutes County an agreement to reimburse taxing authorities foregone tax revenues ~~when Juniper Ridge generates a net profit after the retirement of debt~~ <u>if property sales proceeds in the Juniper Ridge Urban Renewal area exceed actual cost after all debt is retired</u>. At this time, however, the City because of time constraints and the need to further define concepts can not accept or modify the Plan in regard to the

written comments from Deschutes County. It is the City's desire however to negotiate an equitable arrangement along the lines above discussed.

NOW THEREFORE, THE COUNCIL OF THE CITY OF BEND HEREBY ORDAINS THAT:

Section 1 : The Juniper Ridge Urban Renewal Plan is hereby approved and adopted, based upon review and consideration by the City Council of the Report, the recommendations of the Planning Commission, each of which is hereby accepted, and the public testimony in the record.

Section 2 : The City Recorder shall forward forthwith to BURA a copy of this Ordinance.

Section 3 : BURA shall thereafter cause a copy of the Plan to be recorded in the Records of Deschutes County, Oregon.

Section 4 : The City Recorder, in accordance with ORS 457.115, shall publish notice of the adoption of the Ordinance approving the Plan, including the provisions of ORS 457.135, in the Bend Bulletin no later than four days following adoption of this Ordinance.

Read for the first time the 17th day of August, 2005.

Read for the second time the 29th day of August, 2005.

Placed upon its passage the 29th day of August, 2005.

YES: 4 NO: 1 ABSTAIN: 0

Authenticated by the Mayor the 29th day of August, 2005.

Bill Friedman, Mayor

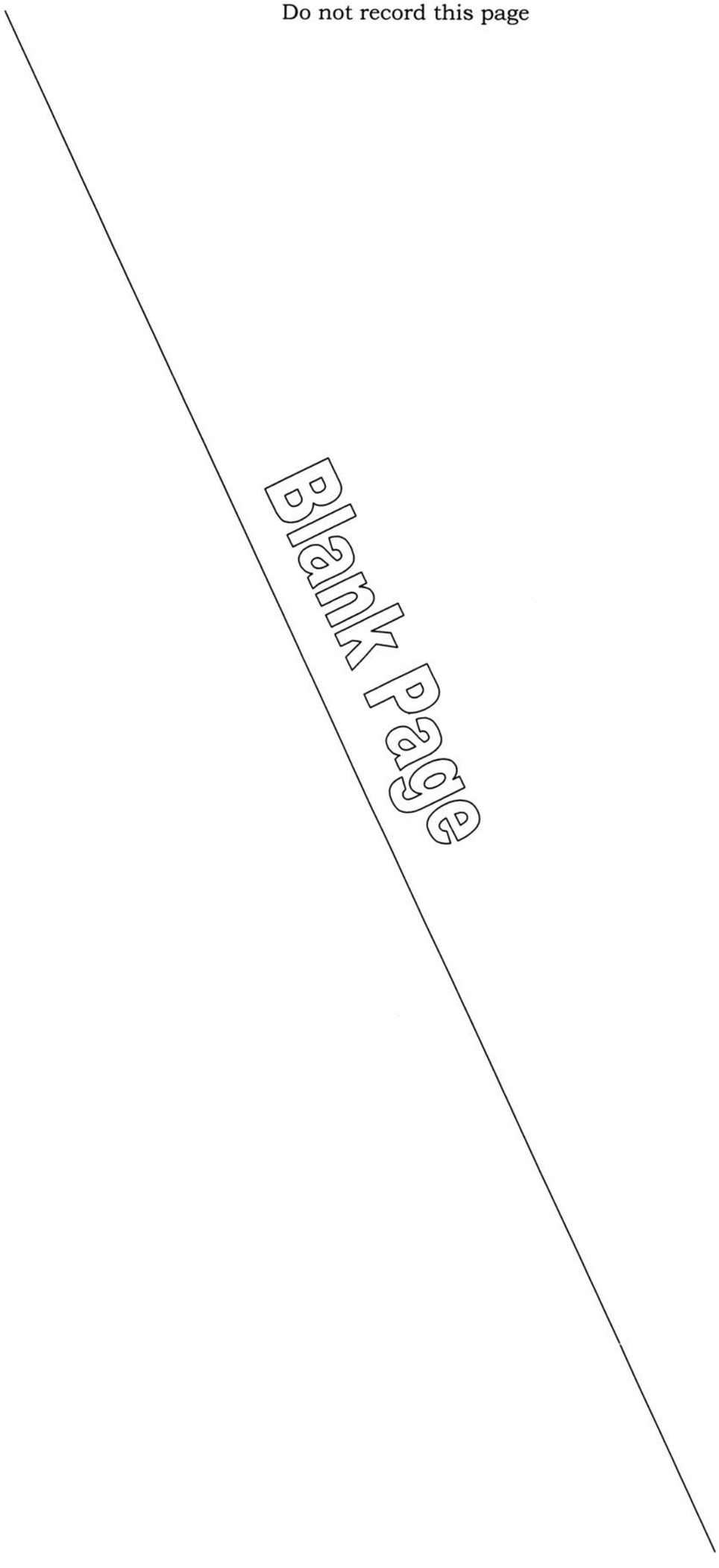
Attest:

Patricia Stell, City Recorder

Attachments: Exhibit A - Plan

Exhibit B - Report

Do not record this page



Ordinance NS-1981
Exhibit A

JUNIPER RIDGE URBAN RENEWAL PLAN

August 29, 2005

City of Bend

LIST OF PARTICIPANTS

City of Bend Staff

John Russell
Brian Shetterly

Consultants

Jeffrey Tashman, Tashman Johnson LLC
Tina Mosca, Consulting Planner
Ranjit Thomas, Financial Consultant
OTAK, Inc.
Todd Chase, Project Manager, Juniper Ridge Master Plan

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I. Introduction

The Juniper Ridge Urban Renewal Plan (the "Plan") contains goals, objectives and projects for the development of the Juniper Ridge Urban Renewal Area (the "Area"). The Area, shown in Figure 1, is divided into two Sub-Areas. Sub-Area A includes an estimated 513 acres of vacant, City-owned property commonly referred to as Juniper Ridge Phase 1 ("Juniper Ridge"). Properties north and south of Cooley Road and adjacent to Highway 97 are also within Sub-Area A. In total, Sub-Area A encompasses 558.4 acres of property within the City's Light Industrial (IL), Commercial Highway (CH) and Residential Urban Standard Density (RS) zoning districts. Sub-Area B, located north and south of Cooley Road, west of Highway 97 and east of Highway 20, encompasses an estimated 142.93 acres of property within the City's Mixed Employment (ME) and CH Districts. The two Sub-Areas are connected by Cooley Road.

The Plan will help facilitate the implementation of the Juniper Ridge Phase I Site Public Facilities Plan (the "Public Facilities Plan"). The stated purpose of the Public Facilities Plan is, "To establish a framework for identifying how necessary urban services, including water, sanitary sewer, stormwater drainage, transportation and parks will be developed as the area urbanizes." A detailed assessment of water, sewer, surface water management and transportation systems within Juniper Ridge, including existing conditions, future needs and goals, policies and recommended action measures, is provided in the Public Facilities Plan.

The purpose of the Plan is to use the tools provided by urban renewal to overcome obstacles to the development and ensure the highest and best use of properties within the Area. These tools include tax increment financing (see Section IX), which uses the property taxes resulting from growth in property value within the Area to finance urban renewal improvement projects and programs. Urban renewal also allows for the purchase and sale of land for development as part of a public/private development partnership.

The Plan is administered by the Bend Urban Renewal Agency ("Agency") which was established by the City Council of the City Bend as the City's Urban Renewal Agency. Major changes to the Plan, if necessary, must be approved by the City Council.

The Plan has a duration of thirty years (see Chapter X). The maximum amount of indebtedness (amount of tax increment financing for projects and programs) that may be issued for the Plan is $41,250,000.

II. Goals and Objectives

The goals of the Plan represent its basic purposes. The objectives for each goal generally demonstrate how the goals are to be achieved. The urban renewal projects called for in Chapter IV of the Plan are the specific means of meeting the objectives.

LAND USE

Goal 1: Support the Development of High Quality Employment Uses Within the Area

Stimulate a broad mix of compatible employment and recreational uses within the Area, including commercial, light industrial, research and development and public open space uses.

Objectives:

1A: Assist in the financing of public transportation and utility improvements to serve the Area.

1B: Work with developers, industrial brokers, local and regional economic development agencies, and the Oregon Economic and Community Development Department (OECDD) in marketing properties within the Area.

1C: Promote business development that creates high paying jobs and a range of employment opportunities.

1D: Provide opportunities for retail and service commercial uses that serve local workers and visitors, thereby reducing commutes outside of the Area and offering conveniences that will make the Area a more desirable destination for prospective employers and workers.

Goal 2: Preserve and Enhance the Area's Natural Assets

Promote development that preserves and enhances the Area's natural assets.

Objectives:

2A: Integrate landscaping features and streetscape amenities into the design and development of the Area to create a livable, visually appealing, pedestrian friendly environment.

2B: Develop public open space and parks that preserve the Area's natural amenities while creating opportunities for recreational use.

TRAFFIC AND TRANSPORTATION

Goal 3: Improve Traffic and Transportation

Implement transportation improvements that will increase access to vacant and underutilized properties.

Objectives:

3A: Develop street improvements, including arterials, collectors and local roads, to provide adequate access and traffic circulation within the Area.

3B: Develop transportation improvements that connect the Area to Highways 97 and 20 to provide adequate access to the Area.

3C: Concurrent with the development and upgrade of arterial and collector roads, provide bikeways, sidewalks and traffic calming facilities to promote multimodal access and safety.

PUBLIC UTILITIES

Goal 4: Provide Public Utilities

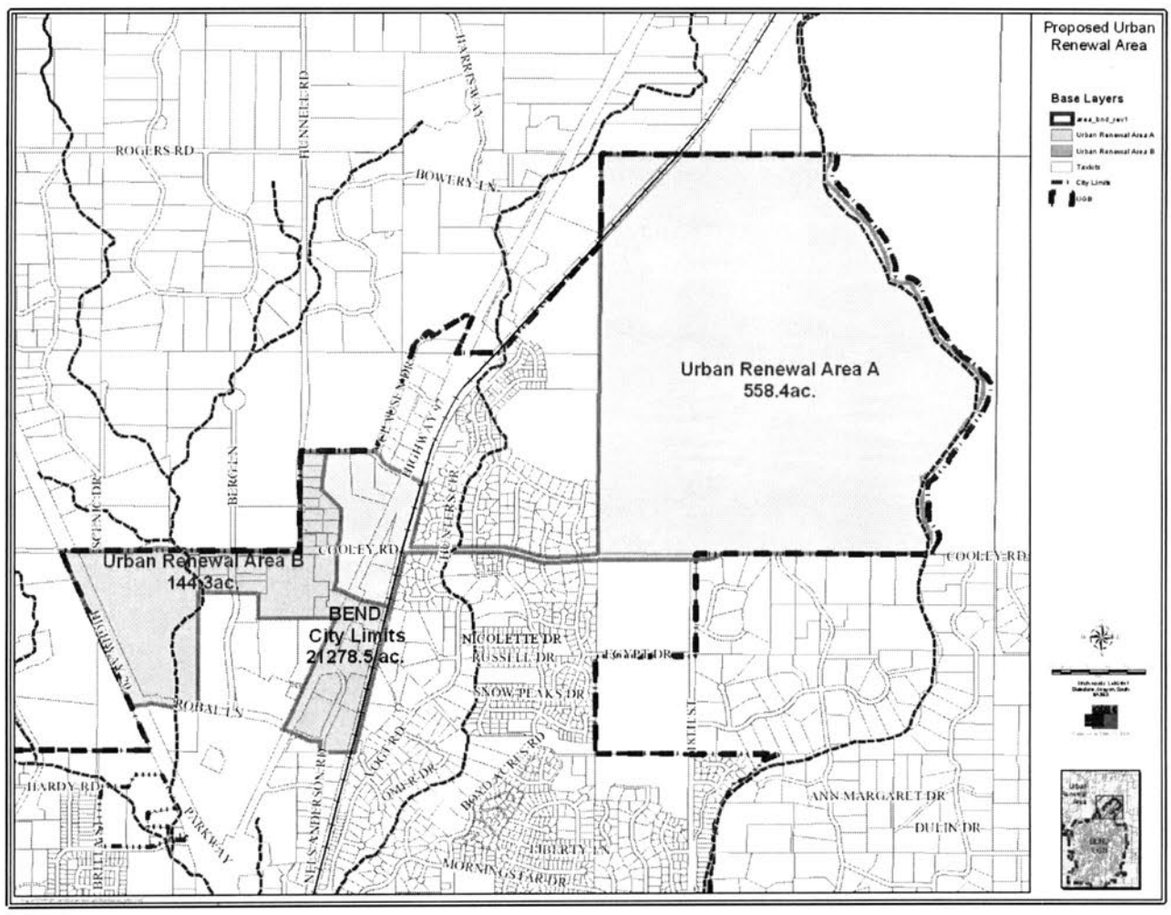
Provide sewer, water and surface water management infrastructure adjacent to and within the Area that will facilitate the timely and complete development of the Area.

4A: Develop water, sanitary sewer and surface water management improvements as necessary to serve anticipated development within the Area.

4B: Participate in the cost of on- and off-site utility system improvements necessary to serve anticipated development within the Area.

III. Map and Legal Description of Urban Renewal Area

Figure 1. shows the Urban Renewal Area boundaries. Exhibit A is a legal description of the Area. As noted in the Urban Renewal Report accompanying the Plan, the Area conforms to the size and assessed value limits contained in ORS 457.



IV. URBAN RENEWAL PROECTS

Urban renewal projects authorized by the Plan are described below and are shown in Figure 2.

A. Public Improvements

Public improvements identified in the Public Facilities Plan and authorized under the Plan include the design and construction of new arterial, collector and local roads and new connections with Highway 97 as well as street extensions, widening and realignment projects that will increase access to the Area and facilitate the development of vacant sites. As shown in the Report, urban renewal funds will be combined with existing and other future sources of funding to finance project costs.

Sub-Area A Projects

Projects in Sub-Area A that may be undertaken under the Plan are:

1. Transportation

a) Highway 97 Interchange and Intersection Improvements

The Highway 97 Interchange and Intersection Improvements project will increase access to the Area through the provision of new interchanges and associated intersection improvements on both sides of Highway 97. The interchanges, which may be developed at Cooley Road/Highway 97 or other locations along US 97, will provide separate lanes and grades for turning movements to and from Highway 97 to accommodate the trips generated by anticipated development in Juniper Ridge and the broader Area.

b) Burlington Northern Santa Fe (BNSF) Railroad Grade Separation (Cooley Road)

This project consists of the design and construction of a new railroad bridge where the BSNF railroad intersects with Cooley Road.

c) Cooley Road Widening, Realignment and Improvements

The Cooley Road Widening, Realignment and Improvements project consists of widening Cooley Road to 4-lanes and realigning the existing roadway to connect it to the planned southwest entrance to Juniper Ridge. Additional project components include turn lanes, medians, sidewalks, bike lanes, lighting, landscaping and pedestrian crossings.

d) Roundabouts# on Cooley

The design and construction of new roundabouts at two intersection of Cooley Road is intended to calm traffic and create a safe environment for multi-modal commuters. The roundabout will feature landscaping and public art.

e) Cooley Road Extension

The Cooley Road Extension project extends the existing Cooley Road east from Roundabout #1 to Deschutes Market Road. Additional project components include the design and construction of roundabouts, medians, turn lanes, bike lanes, sidewalks and pedestrian crossings as well as utilities and lighting.

f) 18th Street Extension

The 18th Street Extension project extends 18th Street, an existing north/south arterial, from Cooley Road to the Central Oregon Irrigation District (COID) canal. Additional project components include the design and construction of a median, turn lanes, bike lanes, sidewalks and pedestrian crossings as well as underground utilities and lighting.

g) New Collector Roads

The design and construction of an anticipated eight new collector roads in Sub-Area A will promote multimodal circulation and safety by collecting and distributing traffic from local roads to arterials.

h) New Local Roads

The provision of new local roads will facilitate direct access to properties in Juniper Ridge. While local roads will be funded by developers, participation in such costs is allowed under the Plan.

2. Sewer

a) South Sewer Trunk Line Extensions and Pump Station

Concurrent with the development of planned arterial and collector roads, this project will provide new sewer main extensions and a pump station south of Roundabout #1.

b) Sewer Trunk Line Extensions

Anticipated sewer infrastructure projects in Juniper Ridge include a new sewer main extension connection from Roundabout #1 to the McGrath Treatment Plant and a Level 4 Water connection from the McGrath Treatment Plant. Other on-site improvements may include but are not limited to new sewer mains extending from Cooley Road and Roundabout #1 to the eastern boundary of Juniper Ridge and north-south along the area's eastern boundary.

c) Sewer Pump Stations

Concurrent with the phased development of Sub-Area A, this project consists of the construction of new sewer pump stations.

3. Water

a) Water Trunk Line Connections and Hydrants

As planned arterial and collector roads and sewer improvements are constructed, this project will provide water trunk line connections and fire and water flow hydrants. Anticipated water infrastructure projects may include, but are not limited to, new water main extensions along the Cooley Road and 18th Street extensions to Roundabouts #1 and #2 and the COID canal.

b) Piping of COID Canal and Irrigation Systems

This project consists of the piping and/or lining of the COID canal, which may be carried out as a regional water conservation measure. Irrigation water systems, including reservoirs, conveyance and watering devices, may also be constructed throughout Juniper Ridge.

4. Stormwater

a) Storm Water Controls and Irrigation Ponds

This project provides for the construction of irrigation ponds and other storm water controls to be located near the planned entrance to Juniper Ridge and other on-site locations.

5. Parks and Open Space

a) Public Open Space Areas

Currently, there are no formal parks and open space within Juniper Ridge. This project calls for the development of public open space at key areas identified in the Public Facilities Plan. These areas include the southwest corner of Juniper Ridge, an area adjacent to the North Point Neighborhood, and an area near the location of the waterfall along the COID canal.

b) Linear Trail/ Greenway Network

Develop a linear trail/ greenway network that interconnects public open space uses. Specific project components may include pedestrian pathways, recreational trails and greenway buffers along the area's western edge, which will protect lands along the COID canal.

Sub-Area B Projects

Projects in Sub-Area A that may be undertaken under the Plan are:

1. Transportation

a) Hunnell Road Extension

The Hunnell Road Extension project will extend Hunnell Road north from Cooley Road to the Urban Reserve Boundary. The extension, which will be classified as a collector, will serve as a frontage road for developing commercial properties in Sub-Area B. A new intersection and traffic

roundabout will be constructed at Cooley Road and the terminus of the existing roadway.

b) Cooley Road Upgrade

In conjunction with the proposed widening of Cooley Road in Sub-Area A, this project calls for the upgrade of the existing Cooley Road to a 4-lane minor arterial between Highway 20 and the western boundary of Sub-Area A.

c) Sub-Area B Bicycle Lane Improvements

Complete planned bike lanes within Sub-Area B. Planned bike lanes will be developed on Cooley Road (Hwy 20 to Highway 97), Hunnell Road (Robal Lane to Cooley Road) and Robal Lane (Hwy 20 to Highway 97).

d) Sub-Area B Sewer Extensions

Proposed sewer extensions within Sub-Area B may include a new north-south sewer line along the proposed Hunnell Road Extension and an east-west line along Loco Road.

e) Sub-Area B Water Extensions

Proposed water extensions within Sub-Area B may include a new north-south water line along the proposed Hunnell Road Extension and a 12-inch water line along Cooley Road.

B. Assistance to Property Owners/Lessees for Rehabilitation, Redevelopment or Development

The Plan authorizes assistance to property and/or business owners, in making capital improvements to property within the Area which support the goals of the Plan. Specific programs and rules and regulations for their administration will be developed to ensure that urban renewal funds are used properly and for the agreed upon purposes. The adoption and amendment of such programs, rules and regulations by the Bend Urban Renewal Agency Board (the "Board") shall not be considered changes to the Plan.

1. Property Development Loans and/or Grants and Technical Assistance

Property to be improved will industrial or commercial. Loans may be at or below market rates, and assistance can include direct loans or guarantees of loans made by third parties. Technical assistance, in the form of site studies, market studies, feasibility analyses, engineering and design and other activities directly related to the rehabilitation, development and redevelopment of property in the Area.

The Plan authorizes assistance to property and/or business owners, in making capital improvements to property within the Area which support the goals of the Plan. Specific programs and rules and regulations for their administration will be developed to ensure that urban renewal funds are used properly and for the agreed upon purposes. The adoption and amendment of such programs, rules and regulations shall not be considered changes to the Plan.

Programs may include the following:

- Loans and/or grants for property development and other improvements. Property to be improved may be industrial or commercial. Loans may be at or below market rates, and assistance can include direct loans or guarantees of loans made by third parties.
- Technical assistance, in the form of site studies, market studies, feasibility analyses, engineering and design and other activities directly related to development of property in the Area.

2. Access and Utility Improvements/Grants and/orLoans

Financial assistance may be provided to extend access and utilities to property within the Area where the such facilities have not otherwise been provided under the Plan.

V. Relationship to Local Objectives

The Plan addresses local planning and development objectives contained in the Bend Area General Plan, Urban Area Transportation System Plan and Capital Improvement Plan. Adopted in November 1998 and last updated in 2005, the Bend Area General Plan identifies goals and policy objectives that will promote growth that is both sustainable and supportive of the community's desire to increase economic opportunities for local residents and maintain high standards of community livability.

In 2004, the City of Bend completed its Fiscal Year 04/05 Capital Improvement Program (CIP). The CIP identifies projects that address all modes of transportation as well as street maintenance, water, sewer and airport projects and provides a five year capital program schedule. Given that Juniper Ridge was not annexed to the City until 2005, the extent to which the Capital Improvement Program and other guiding plans specifically address needs in the area is limited. The CIP will be amended to reflect planned capital improvements in Juniper Ridge.

The Development Code provides a description of desired uses and development standards for the commercial, industrial and mixed-use employment districts in the Plan area. The most specific objectives to which the Plan responds are those contained in the General Plan, the Urban Area Transportation System Plan and the Capital Improvement Plan.

C. Bend General Plan Policies

The Bend General Plan contains goals and policies that address the City of Bend's long range planning and development objectives. Of particular relevance to the Plan are policy directives that address land use planning, economic development, public facilities and transportation needs in Bend's industrial and commercial districts. The Area is within the General Plan's Commercial Highway (CH), Mixed Employment (ME), Light Industrial (IL) and Residential Standard Density (RS) designations. The Plan authorizes financial assistance programs and transportation, public utilities, and parks and open space projects that will encourage development that is consistent with the General Plan's goals.

Chapter 3 *Community Connections* prescribes goals and policies intended to preserve and increase community livability in the face of rapid growth and change occurring in the City of Bend. The provision of "quality green spaces, natural areas, and creation sites through public and private park land throughout the community" is identified as a major goal. Additionally, the land transfer agreement between Deschutes County and the City of Bend requires a minimum of 10% of the Juniper Ridge property be kept in open space or park use.

Community Connections policies supported by the Plan include:

Parks and Recreation facilities

Policy 5: The Bend Metro Park and Recreation District, with support of the city and county, shall ensure and an equitable distribution of parks and open spaces throughout the District's jurisdiction.

Chapter 6 *The Economy and Lands for Economic Growth* prescribes goals and policies that promote "quality economic growth and a diverse economy." Goal statements supported by the Plan include:

- "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;"
- "Improve the income levels of Bend residents;" and
- "Encourage more small neighborhood commercial developments and convenience commercial centers to reduce vehicle trips and trip lengths."

Economic growth policies that are supported by the Plan's goals and objectives and capital improvement projects include:

Industrial Development

Policy 2: The city shall work to preserve prime industrial lands for industrial purposes.

Policy 3: The community shall attempt to diversify its industrial base.

Policy 9: Community efforts should be directed toward improving the general appearance of industrial areas so that they make a positive contribution to the environment of the community.

Commercial Development

Policy 28: It is the intent of the Plan to allow commercial development adjacent to arterial streets and highways in areas designated for commercial development, provided that the developments access onto frontage roads or interior roads, and that access onto the highway or arterial will be limited. Points of access will be encouraged that provide for adequate and safe entrances and exits, and that favor right turns and merging over the use of traffic signals.

Chapter 7 *Transportation Systems* incorporates goals and policies from the City's Transportation System Plan. *Transportation Systems* goal statements supported by the Plan include:

Mobility and Balance

- "Develop a transportation system that serves all modes of travel and reduces the reliance on the automobile."

Efficiency

- "Coordinate and design transportation improvements to assure the expenditure of resources in the most cost-effective manner;" and
- "Encourage the development of land use patterns that provide efficient, compact use of land, and facilitate a reduced number and length of trips."

Access

- "Provide all transportation modes access to all parts of the community."

Economic

- "Implement transportation improvements to foster economic development and business vitality."

Livability

- "Design and locate transportation facilities to be sensitive to protecting the livability of the community."

Safety

- "Design and construct the transportation system to enhance travel and safety for all modes."

The Plan identifies multiple projects that will achieve the goals described above by providing safe and efficient access to the Area through upgrades to existing roadways and the construction of new arterials, collectors and local roads. In Sub-Area A, for example, the widening and realignment of Cooley Road and the design and construction of interchanges and related intersection improvements at Cooley Road/Highway 97, or other locations along US 97, are projects designed to promote connectivity and facilitate efficient multimodal access to the Area. Further, the provision of new collector roads and local roads within Juniper Ridge will facilitate multimodal connectivity and traffic circulation. The Transportation system planning policies prescribed in the General Plan are identical to those identified in Bend's Transportation System Plan, addressed in the following sub-section.

Chapter 8 *Public Facilities and Services* identifies the City's current and future needs with respect to the provision of sanitary sewer, water, storm drainage and other urban facilities and services. Goals supported by the Plan include:

- "To have public and private utility systems provide adequate levels of service to the public at reasonable cost;"

- "For the city, county, and special districts to cooperate in the provision of adequate urban services in an efficient and timely matter to support urban development;" and
- "To ensure that public services will not have negative impacts on the environment or the community."

Public Facilities and Services policies that the Plan's goals and objectives and capital improvement projects address include:

Urban Sewer

Policy 1: The city shall encourage development of serviced land prior to unserviced land or require the extension of sewer lines as part of any development within the UGB.

Urban Water

Policy 7: Within the urban planning area, public and private water systems should be consistent with city standards for construction and service capabilities.

Storm sewer

Policy 10: Dry wells, landscaping, retention ponds or storm drains shall be used for surface drainage control.

Policy 12: Due to the lack of a defined drainage pattern for most of the urban area, development shall contain storm drainage on-site.

The Plan identifies several projects in Sub-Area A, including the extension of sanitary sewer and water mains along major roadways and the construction of irrigation ponds, sewer pump stations and a micro-package treatment plant, which will facilitate the provision of adequate public facilities and urban services concurrent with build-out of the Area.

Chapter 9 *Community Appearance* addresses the City's goals to improve the image of the community and promote livability through development standards and planning activities that incorporate landscaping and beautification elements. Goals supported by the Plan include:

- "To make a concerted effort to improve the appearance of the community, particularly in the commercial, industrial and multifamily areas;" and
- "To significantly improve the appearance along the state highways and other transportation corridors as one means of recapturing the individual and distinct identity of the Bend area."

Many transportation projects outlined in the Plan incorporate landscaping and design elements. In addition, the Plan supports parks and open space and greenway projects that will help achieve the following *Community Appearance* policy objectives:

Policy 10: The city shall develop designs for arterial and collector streets that include landscaped planter strips and medians. Such designs shall include trees in the planter and median strips when practical and safe.

Policy 12: The city shall seek opportunities to relocate existing overhead utility lines underground in all parts of the community, and especially along the commercial corridors.

D. Transportation System Plan Objectives and Policies

Adopted in 2000, the stated purpose of the Bend Urban Area Transportation System Plan (TSP) is to "help guide the development of a transportation system that will meet the forecast needs of the Bend community to the year 2020. This plan provides a policy and plan framework that will continue to enable Bend to design a balanced transportation system for the near-term and the next twenty years. Strategies for planning and implementing a wide range of transportation components are addressed in the TSP including automobile, public transportation, bicycle and pedestrian travel."

The Plan addresses the following objectives and policies identified in Section 6.9 of the TSP.

Section 6.9.4: Transportation System Management

Objective

- "Provide cost effective transportation improvements and implement strategies that will improve the efficiency and function of existing roadways."

Transportation System Management Policies supported by the Plan include:

Policy 2: The City shall ensure that land use actions support the access management policies of the Oregon Department of Transportation along the state highways located in the urban area.

Policy 3: The City and State shall implement transportation system management measures to increase safety, reduce traffic congestion to improve the function of arterial and collector streets, and protect the function of all travel modes.

Section 6.9.4: Pedestrian and Bicycle Systems

Objectives

- "To support and encourage increased levels of bicycling and walking as an alternative to the automobile," and
- "To provide safe, accessible and convenient bicycling and walking facilities."

Pedestrian and Bicycle Systems Policies supported by the Plan include:

Policy 5: The City shall facilitate easy and safe bicycle and pedestrian crossings of major collector and arterial streets. Intersections shall be designed to include pedestrian refuges or islands, curb extensions and other elements where needed for pedestrian safety. Also, bike lanes shall be extended to meet intersection crosswalks.

Policy 6: Bike lanes shall be included on all new and reconstructed arterials and major collectors, and when practical on local streets within commercial and industrial areas. Bike lanes shall be added to existing arterial and major collector streets on a prioritized schedule. Specific effort shall be made to fill the gaps in the on-street bikeway system. An appropriate means of pedestrian and bicyclist signal actuation should be provided at all new or upgraded traffic signal installations.

Section 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;" and
- "To provide an attractive, tree-lined, pedestrian friendly streetscape sensitive to protecting the livability of the community."

General *Street System* Policies supported by the Plan include:

Policy 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.

Policy 6: Access control shall be part of the design standards for major collectors, arterials, principal arterials and expressways to ensure that adequate public safety and future traffic carrying capacity are maintained while at the same time preserving appropriate access to existing development and providing for appropriate access for future development.

Policy 8: Traffic signals or roundabouts shall be constructed in accordance with the design, spacing and standards adopted by the City and State.

Arterial *Street System* Policies supported by the Plan include:

Policy 20: Appropriate facilities for bike, pedestrian and transit use shall be included in any road-widening project.

Policy 25: Landscaped medians should be included on all arterial streets, except where right-of-way acquisition is not possible, that incorporate left-turn refuge lanes at controlled intervals to improve community appearance, maintain system mobility and to reduce the adverse affects of wide street widths to all types of travel. On streets with multiple vehicle lanes and wide curb radii, pedestrian refuge islands shall be constructed to minimize street crossing distances.

Policy 26: Frontage roads shall be provided parallel to arterial streets, as illustrated on the Bend Urban Area Roadway System Plan Map, or as determined necessary by the City or State, to maintain an acceptable level or safety and carrying capacity on the arterial system.

Safety *Street System* Policies supported by the Plan include:

Policy 34: As a part of the development process, right-of-way shall be acquired as necessary for the correction of street intersections, excessively sharp curves, or as necessary to improve the safety of a road alignment.

The Plan's transportation projects directly address the TSP's goals to provide a safe and efficient means of moving people and goods while promoting high standards of community livability. Proposed upgrades to existing arterials and collectors, such as Cooley Road and 18th Street, and new construction projects, such as the planned network of collectors and local roads in Juniper Ridge, incorporate landscaping, bike lanes, sidewalks and streetscape elements that will create a visually pleasing environment and ensure the safety of multimodal users. The provision of new roadways within Sub-Area A

will facilitate multimodal access, transit access, and circulation as the phased build-out of Juniper Ridge occurs.

Projects funded either fully or partially by tax increment revenues may be leveraged to facilitate private investment in the Area. Tax increment revenues may also be leveraged for state and federal funding sources that require local governments to produce "matching funds."

E. City of Bend FY 04/05 Capital Improvement Plan Projects

The CIP identifies priority transportation and public infrastructure projects for a five-year period beginning in FY 04/05. The CIP aids in the implementation of broader goals and policy objectives outlined in the Bend Area General Plan, the TSP and other planning documents.

Unlike the General Plan and the TSP, the CIP does not contain detailed goals and policy objectives. However, it does score and prioritize transportation projects using a set of 10 fixed criteria, including public safety, protection of system operation, volume of traffic served, multi-modal benefits, relation to adopted plans and operating budget.

The Plan supports several projects that are components of the CIP's Cooley Road (Highway 97 to 18th) transportation project, including:

- Build a full interchange at Cooley Road and Highway 97
- Build 2,800 feet of roadway, from 1,400 feet west of the Cooley Road/Highway 97 intersection to 1,400 feet east of the intersection
- Build a railroad over-crossing on Cooley Road
- Build R/W for project (approximately 40 R/W files)
- Build a canal over-crossing on Cooley Road.

VI. Proposed Land Uses

Land uses within the Area are governed by the City of Bend Zoning Ordinance. The Zoning Ordinance establishes zoning districts that implement the Bend General Plan. The districts govern the allowed uses (including outright permitted uses and conditional uses) and contain development standards.

Currently, land in the Area is within the Urban Area Reserve 10 (UAR), Light Industrial (IL)[1], Commercial Highway (CH) and Mixed Employment (ME) and Residential Urban Standard Density (RS) zoning districts. The purpose of the districts is described in the Development Code as follows:

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[1] The current General Plan designation for Juniper Ridge Phase 1 is Light Industrial (IL). After the adoption of this Plan, it is anticipated that the City may amend the Zoning Ordinance to specify zoning provisions for Juniper Ridge.

F. Light Industrial

"The Industrial Districts are intended to accommodate a range of light and heavy industrial land uses. They are intended to segregate incompatible industrial developments from other districts, while providing a high-quality environment for businesses and employees."

Industrial District standards are based on the following principles:

- "Provide for efficient use of land and public services;"
- "Provide transportation options for employees and customers;"
- "Located business services close to major employment centers;"
- "Ensure compatibility between industrial uses and nearby commercial and residential areas;"
- "Provide appropriate design standards to accommodate a range of industrial users, in conformance with the Comprehensive Plan;" and
- "Conserve industrial zoned lands for industrial uses."

Development in the IL District is subject to a minimum front yard setback of 10 feet, and minimum rear yard and side yard setbacks of 0 feet (except when abutting a residential use, the setbacks shall be 20 feet). A maximum lot coverage of 80% and maximum building height of 50 feet are prescribed.

G. Commercial Highway

"The Commercial Highway District is intended to support infill and redevelopment along existing commercial corridors. Market area for uses in this district are highly variable, though emphasis should be given to automobile-dependent land uses – e.g., automobile sales and repair, warehousing and distribution; storage, servicing or repair of heavy equipment; drive-up facilities; gas service stations; etc."

Development in the CH District is subject to a minimum front yard setback of 10 feet and minimum rear yard setback ranging from 0 feet for street access and 6 feet for alley access. A maximum building height of 45 feet is allowed.

H. Mixed Employment

"The Mixed Use Districts are intended to provide a balanced mix of residential and employment opportunities. These mixed-use areas provide a transition between existing urban environments and both existing and future residential developments. The mixed-use districts support service commercial, employment, and housing needs of a growing community."

Mixed Use District standards are based on the following principles:

- "Ensure efficient use of land and public services;"
- "Create a mix of housing and employment opportunities;"
- "Provide transportation options for employees and customers;"
- "Provide business services close to major employment centers;" and

- "Ensure compatibility of mixed-use developments with the surrounding area and minimize off-site impacts associated with development."

Development in the ME District is subject to a minimum front yard setback of 10 feet, and minimum rear yard and side yard setbacks of 0 feet (except when abutting a residential use, the minimum setbacks shall be 15 feet). A minimum lot coverage of 50% and a maximum building height of 45 feet are prescribed.

VII. Property Acquisition and Disposition

The Plan authorizes the acquisition and disposition of property as described in this section. Property includes any and all interests in property, including fee simple ownership, lease, easements, licenses or other rights to use.

I. Property Acquisition for Public Improvements

Property may be acquired for public improvement projects authorized in the Plan by all legal means, including use of eminent domain without amendment of the Plan. Good faith negotiations for such acquisition must occur prior to institution of eminent domain procedures.

Procedures for property acquisition requiring eminent domain shall conform to all statutory requirements that ensure that property owners' rights are fully respected.

J. Property Acquisition for Private Redevelopment

Property may be acquired for resale or lease for private development by all legal means, including use of eminent domain. Property purchased by the Agency under the Plan shall be purchased at fair market value. Property owners may sell or otherwise convey property to the Agency at less than fair market value if such terms are agreeable to the Agency and the property seller.

Prior to acquisition of property for private redevelopment, the Plan must be changed by minor amendment to identify the property to be acquired and its intended disposition. Procedures for property acquisition requiring eminent domain shall conform to all statutory requirements that ensure that property owners' rights are fully respected.

K. Disposition of Land for Private Redevelopment

Land sold or leased by the Agency for private redevelopment shall be sold or leased at its fair re-use value, which is the value at which the Agency determines such land should be made available in order that it may be used for the purposes specified in the Plan.

Where land is sold or leased, the purchaser or lessee must agree to use the land for the purposes designated in the urban renewal plan and to begin the building of their improvements within a period of time that the Agency determines is reasonable.

VIII. Relocation Methods

Where property is acquired under the Plan and the acquisition is through or under the threat of eminent domain, residential or commercial occupants of such property shall be offered relocation assistance as required under applicable state law. Prior to such acquisition, the Agency shall adopt rules and regulations as necessary for the administration of relocation assistance.

IX. Tax Increment Financing of Plan

Tax increment financing consists of using annual tax increment revenues to make payments on loans, usually in the form of tax increment bonds. The proceeds of the bonds are used to finance the urban renewal projects authorized in the Plan. Bonds may be both long-term and short-term.

Tax increment revenues equal most of the annual property taxes imposed on the cumulative *increase* in assessed value within an urban renewal area over the total assessed value at the time an urban renewal plan is adopted. [Under current law, the property taxes for general obligation ("GO") bonds and local option levies approved after October 6, 2001 are not part of the tax increment revenues.]

L. General Description of the Proposed Financing Methods

The Plan will be financed using a combination of revenue sources. These include:

- Tax increment revenues;
- Advances, loans, grants and any other form of financial assistance from the Federal, State or local governments or other public body;
- Loans, grants, dedications or other contributions from private developers and property owners; and
- Any other source, public or private.

Revenues obtained by the Board will be used to pay or repay costs, expenses, advancements and indebtedness incurred in planning or undertaking project activities or otherwise exercising any of the powers granted by ORS Chapter 457 in connection with the implementation of this Plan.

M. Tax Increment Financing and Maximum Indebtedness

The Plan may be financed, in whole or in part, by tax increment revenues allocated to the Board as provided in ORS Chapter 457. The ad valorem taxes, if any, levied by a taxing district in which all or a portion of the Area is located, shall be divided as provided in section 1c, Article IX of the Oregon Constitution, and ORS 457.440. Amounts collected pursuant to ORS 457.440 shall be deposited into the unsegregated tax collections account and distributed to the Board based upon the distribution schedule established under ORS 311.390.

The maximum amount of indebtedness that may be issued or incurred under the Plan, based upon good faith estimates of the scope and costs of projects in the Plan and the schedule for their completion is $41,250,000. This amount is the principal of such indebtedness and does not include interest or indebtedness incurred to refund or refinance existing indebtedness.

N. Prior Indebtedness

Any indebtedness permitted by law and incurred by the Board or the City of Bend in connection with the preparation of this Plan or prior planning efforts related to this Plan may be repaid from tax increment revenues from the Area when and if such funds are available.

X. Duration of Plan

No projects may be commenced and no new indebtedness may be incurred after thirty years from the effective date of the Plan. Tax increment revenues may continue to be collected beyond this date, until it is found that deposits in the Agency's debt service fund are sufficient to fully pay principal and interest on indebtedness issued during the thirty years following the effective date of the Plan, either through direct payment of the indebtedness or by payment of principal and interest on bonds or notes issued to finance the indebtedness.

XI. Future Amendments to Plan

The Plan may be amended as described in this section.

O. Substantial Amendments

Substantial Amendments are solely amendments:

- Adding land to the urban renewal area, except for an addition of land that totals not more than one percent of the existing area of the urban renewal area; or
- Increasing the maximum amount of indebtedness that can be issued or incurred under the plan.

Substantial Amendments shall require the same notice, hearing and approval procedure required of the original Plan, including public involvement, consultation with taxing districts, presentation to the Planning Commission and adoption by the City Council by non-emergency ordinance after a hearing notice of which is provided to individual households within the City of Bend.

P. Council-Approved Amendments

Council-Approved Amendments consist solely of the following amendments:

- Material changes to the goals and objectives of the Plan.
- Addition or expansion of a project, which adds a cost in 2005 dollars of more than $500,000 and which is materially different from projects previously authorized in the Plan.

Council-approved amendments require approval by the Agency by resolution and by the City Council, which may approve the amendment by resolution.

Q. Minor Amendments

Minor Amendments are amendments that are not Substantial Amendments or Council-Approved amendments. They require approval by the Agency by resolution.

R. Amendments to the Bend General Plan and/or Zoning Ordinance

Amendments to the Bend General Plan and/or Zoning Ordinance that affect the Plan and/or the Area shall be incorporated within the Plan without any action required by the Agency or the City Council.

XII. EXHIBIT A - LEGAL DESCRIPTION OF RENEWAL AREA BOUNDARY

EXHIBIT A
JUNIPER RIDGE URBAN RENEWAL AREA
DESCRIPTION
August 20, 2005

A tract of land located in portions of Sections 9, 10, 15, 16 and 17, Township 17 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, said tract being more particularly described as follows:

Beginning at the north one-quarter corner of said Section 10;
thence along the north line of said Section 10, North 89°50'30" East, a distance of 490.28 feet to a point on the east sideline of a 20.00 foot wide access road easement along the east side of the Pilot Butte Canal;
thence along said east sideline on the following fifty-three (53) courses:

South 03°21'01" West, a distance of 113.44 feet;
South 20°27'09" West, a distance of 55.30 feet;
South 33°15'36" West, a distance of 68.87 feet;
South 17°43'05" West, a distance of 14.66 feet;
South 02°39'22" West, a distance of 46.52 feet;
South 25°13'29" East, a distance of 33.02 feet;
South 46°47'36" East, a distance of 54.20 feet;
South 38°25'10" East, a distance of 111.44 feet;
South 45°18'20" East, a distance of 362.20 feet;
South 39°53'59" East, a distance of 501.81 feet;
South 24°54'31" East, a distance of 198.80 feet;
South 18°59'52" East, a distance of 232.98 feet;
South 01°12'26" West, a distance of 107.89 feet;
South 11°19'19" East, a distance of 20.91 feet;
South 45°01'50" East, a distance of 11.25 feet;
South 78°50'48" East, a distance of 54.31 feet;
North 87°12'37" East, a distance of 85.50 feet;
South 84°48'39" East, a distance of 58.79 feet;
South 56°06'00" East, a distance of 81.39 feet;
South 40°53'09" East, a distance of 73.88 feet;
South 22°21'00" East, a distance of 495.66 feet;
South 30°05'42" East, a distance of 38.65 feet;
South 37°04'19" East, a distance of 66.46 feet;
South 39°16'28" East, a distance of 485.68 feet;
South 62°37'03" East, a distance of 125.42 feet;

South 49°57'27" East, a distance of 89.27 feet;
South 62°48'31" East, a distance of 52.22 feet;
South 34°56'57" East, a distance of 88.38 feet;
South 49°39'56" East, a distance of 59.95 feet;
South 30°13'48" East, a distance of 111.15 feet;
South 06°00'55" East, a distance of 64.46 feet;
South 06°59'19" West, a distance of 66.93 feet;
South 15°47'17" West, a distance of 173.18 feet;
South 29°08'45" West, a distance of 117.18 feet;
South 34°14'47" West, a distance of 324.27 feet;
South 30°35'37" West, a distance of 196.22 feet;
South 40°25'49" West, a distance of 196.90 feet;
South 23°59'06" West, a distance of 49.96 feet;
South 34°48'31" West, a distance of 97.48 feet;
South 39°43'01" West, a distance of 228.36 feet;
South 60°37'09" West, a distance of 67.23 feet;
South 26°05'38" West, a distance of 34.90 feet;
South 05°58'55" East, a distance of 190.16 feet;
South 04°21'39" West, a distance of 128.19 feet;
South 02°09'46" East, a distance of 119.35 feet;
South 14°27'33" East, a distance of 70.65 feet;
South 24°06'07" East, a distance of 33.32 feet;
South 53°22'27" East, a distance of 55.82 feet;
South 40°27'12" East, a distance of 61.72 feet;
South 24°10'18" East, a distance of 65.40 feet;
South 01°50'56" West, a distance of 73.58 feet;
South 32°25'42" West, a distance of 161.21 feet;
South 16°15'33" West, a distance of 51.64 feet to a point on the south line of said Section 10;

thence along said south line, South 89°43'46" West, a distance of 1779.76 feet to the south one-quarter corner of said Section 10;
thence continuing along said south line, South 89°36'02" West, a distance of 1312.02 feet to the northeast corner of the northwest one-quarter of the northwest one-quarter of said Section 15;
thence along the east line of said northwest one-quarter of the northwest one-quarter, South 00°00'47" West, a distance of 80.00 feet to the south line of Cooley Road;
thence along said south line, South 89°36'02" West, a distance of 1312.13 feet to the east line of said Section 16;
thence along said east line, South 00°05'49" West, a distance of 0.34 feet to the south line of Cooley Road;

thence along said south line on the following courses:

South 84°49'50" West, a distance of 516.00 feet;
on the arc of a 965.00 foot radius curve right through a central angle of 25°01'53", a distance of 421.59 feet (chord bears North 82°39'14" West, a distance of 418.24 feet);
North 70°08'17" West, a distance of 62.92 feet;
on the arc of an 885.00 foot radius curve left through a central angle of 10°23'16", a distance of 160.45 feet (chord bears North 75°19'55" West, a distance of 160.23 feet) to the easterly line of Boyd Acres Road;

thence along said easterly line, South 27°39'40" West, a distance of 10.53 feet to a point on a line which is parallel with and 50.00 feet southerly of, when measured at right angles to, the center line of said Cooley Road;
thence along said parallel line on the following courses:

on the arc of an 875.00 foot radius non-tangent curve left through a central angle of 09°13'45", a distance of 140.94 feet (chord bears North 85°21'20" West, a distance of 140.79 feet);
North 89°58'13" West, a distance of 368.85 feet to the west line of Stacy Lane;

thence along said west line, North 00°01'47" East, a distance of 10.00 feet to the south line of Cooley Road;
thence along said south line, North 89°58'13" West, a distance of 885.26 feet to the easterly line of the Burlington Northern Railroad right of way;
thence along said easterly line, South 13°45'57" West, a distance of 2722.08 feet to the north line of "B.I.D. III", recorded as CS05241, Deschutes County Survey Records;
thence along said north line, North 89°54'41" West, a distance of 456.12 feet to the west line of Nels Anderson Road;
thence along said west line, North 03°24'17" East, a distance of 134.93 feet to the southerly line of Robal Lane;
thence along said southerly line on the following courses:

North 86°35'43" West, a distance of 92.40 feet;
on the arc of a 200.00 foot radius curve right through a central angle of 20°53'50", a distance of 72.94 feet (chord bears North 76°08'48" West, a distance of 72.54 feet);
North 65°41'53" West, a distance of 217.08 feet to the easterly line of The Dalles-California Highway, U.S. Highway No. 97;

thence North 67°08'27" West, a distance of 130.04 feet to the intersection of the south line of Robal Lane with the westerly line of The Dalles-California Highway, U.S. Highway No. 97;

thence along said westerly line, North 24°18'45" East, a distance of 1613.28 feet to the north line of Partition Plat No. 1998-63, recorded as CS13485, Deschutes County Survey Records;
thence along said north line, North 89°59'10" West, a distance of 1014.19 feet to the east line of Lot 21, "Norwood Section No. 2", recorded as CS08634, Deschutes County Survey Records;
thence along said east line, North 00°00'47" West, a distance of 325.20 feet to the most northeasterly corner of said Lot 21;
thence along the north line of said Lot 21, South 89°55'15" West, a distance of 780.68 feet to the east line of said Section 17;
thence along said east line, South 00°01'27" East, a distance of 1557.96 feet to the southerly line of Robal Lane;
thence along said southerly line on the following courses:

North 78°48'44" West, a distance of 193.34 feet;
North 88°52'10" West, a distance of 101.12 feet;
North 81°27'03" West, a distance of 257.56 feet;
North 67°54'30" West, a distance of 37.60 feet;
on the arc of a 354.26 foot radius non-tangent curve left through a central angle of 15°07'52", a distance of 93.56 feet (chord bears South 86°08'50" West, a distance of 93.28 feet) to the easterly line of the Bend-Sisters Highway, U.S. Highway No. 20;

thence South 65°01'47" West, a distance of 200.00 feet to the westerly line of the Bend-Sisters Highway, U.S. Highway No. 20;
thence along said westerly line, North 24°58'13" West, a distance of 2323.22 feet to the north line of said Section 17;
thence along said north line, North 89°59'16" East, a distance of 1834.53 feet to the northeast corner of said Section 17;
thence along the south line of said Section 9, North 89°58'01" East, a distance of 1322.39 feet to the southwest corner of the southeast one-quarter of the southwest one-quarter of said Section 9;
thence North 00°07'33" West, a distance of 1321.19 feet to the northwest corner of the southeast one-quarter of the southwest one-quarter of said Section 9;
thence along the north line of said southeast one-quarter of the southwest one-quarter, North 89°58'25" East, a distance of 1048.68 feet to the easterly line of Clausen Drive;
thence along said easterly line, on the arc of a 180.06 foot radius non-tangent curve left through a central angle of 68°38'36", a distance of 215.72 feet (chord bears South 31°23'35" East, a distance of 203.05 feet);
thence continuing along said easterly line and easterly line extended, South 65°42'53" East, a distance of 558.99 feet to the easterly line of the Burlington Northern Railroad right of way;

thence along said easterly line, South 13°45'57" West, a distance of 862.53 feet to the north line of Cooley Road;
thence along said north line on the following courses:

South 89°58'13" East, a distance of 1183.09 feet;
on the arc of a 965.00 foot radius curve right through a central angle of 19°49'56", a distance of 334.02 feet (chord bears South 80°03'15" East, a distance of 332.36 feet);
South 70°08'17" East, a distance of 62.92 feet;
on the arc of an 885.00 foot radius curve left through a central angle of 25°01'53", a distance of 386.64 feet (chord bears South 82°39'14" East, a distance of 383.57 feet);
North 84°49'50" East, a distance of 523.37 feet to the southwest corner of said Section 10;

thence North 00°01'27" East, a distance of 2644.32 feet to the west one-quarter corner of said Section 10;
thence North 00°01'07" East, a distance of 2644.29 feet to the northwest corner of said Section 10;
thence North 89°37'43" East, a distance of 2620.61 feet to the Point of Beginning.

Contains 714.76 acres, more or less.



Ordinance NS-1981
Exhibit B

REPORT ON PROPOSED

JUNIPER RIDGE URBAN RENEWAL

August 29, 2005

City of Bend

LIST OF PARTICIPANTS

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I. INTRODUCTION

The Juniper Urban Renewal Report (the "Report") contains background information and project details for the Juniper Ridge Renewal Plan (the "Plan"). The Report is not a legal part of the Plan but is intended to provide public information and a basis for the findings made by the City Council as part of its approval of the Plan.

The Report provides the information required in ORS 457.085(3). The format of the Report is based on this statute.

II. EXISTING PHYSICAL AND ECONOMIC CONDITIONS AND IMPACT ON MUNCIPAL SERVICES

This section of the Report describes existing conditions within the Juniper Urban Renewal Area (the "Area"), documenting the occurrence of "blighted areas" as defined by ORS 457.010(1).

A. Physical Conditions

1. Land Use and Zoning

The Area comprises an estimated 701.33 acres or 3.32% of Bend's 21,110 acres of total land area. It is divided into two sub-areas. With an estimated land area of 558.4 acres, Sub-Area A includes properties adjacent to Cooley Road and Highway 97 and an estimated 513 acres of vacant land under city ownership, commonly referred to as Juniper Ridge Phase I ("Juniper Ridge"). While Sub-Area A is largely undeveloped, active uses, including two manufactured home parks on Highway 97, are present.

Sub-Area B, which includes properties north and south of Cooley Road, west of Highway 97 and the Burlington Northern Santa Fe (BNSF) railroad, and north of Robal Road, encompasses an estimated 142.93 acres of predominantly and industrial and ancillary commercial lands. Existing commercial development within Sub-Area B includes the Lowe's home improvement store on the SW corner of Cooley Road and Highway 97. Proposed development includes a Super Wal-Mart, to be located on the NW corner of Cooley Road and Highway 97.

Following the adoption of this Plan, Juniper Ridge will be rezoned to allow for primarily industrial and ancillary commercial support uses that will facilitate the goals and objectives of the Plan.

An analysis of property classification data from Deschutes County's 2004-05 Tax Assessor's database was used to identify existing land uses of parcels in the Area. As illustrated in Table 1, "Land Use (2004-05)," the Area is characterized by a mix of uses, including commercial, industrial, mobile home park, non-EFU farmland and tax-exempt uses. The analysis of existing uses includes right-of-way (ROW) property within the Area, which as noted in Table 1, accounts for approximately 47.57 acres or 6.78% of the Area's estimated total acreage.

The property tax-exempt Juniper Ridge site accounts for the majority of the Area's total acreage (78.5%). A large 52-acre parcel classified as vacant non-EFU farmland constitutes 8.0% of the Area's total acreage. Commercial uses comprise 6.8% (44.24 acres) of the Area's total acreage and residential uses are limited to two manufactured home parks totaling 16.94 acres or 2.6% of

the Area's total land area. As described above, vacant lands are predominant and constitute an estimated 560.08 acres or 85.7% of the Area's total land area.

Table 1: Land Use (2004-05)

Property Class	Number of Parcels	Acres*	% of Total
Vacant Commercial	19	33.59	5.1%
Improved Commercial	6	10.65	1.6%
Vacant Industrial	5	13.03	2.0%
Improved Industrial	5	14.09	2.2%
Mobile Home Park	2	16.94	2.6%
Vacant Non-EFU Farmland	1	0.46	0.1%
Improved Non-EFU Farmland	1	52.00	8.0%
Vacant City Exempt	1	513.00	78.5%
Miscellaneous	1	0.00	0.0%
TOTAL	**41**	**653.76**	**100.0%**
TOTAL VACANT	**26**	**560.08**	**85.7%**
TOTAL IMPROVED	**14**	**93.68**	**14.3%**

Source: Deschutes County, OR 2004-05 Parcel Database

*Analysis does not factor in an estimated 47.57 acres of ROW.

As shown in Table 2, "Zoning Districts (2004-05)," the Area is located within the City's commercial, industrial and residential zoning districts. Similar to the land use analysis presented in Table 1, the zoning analysis does not factor in an estimated 47.57 acres of ROW property within the Area.

Table 2: Zoning Districts (2004-05)			
Zoning District	Number of Parcels	Acres*	% of Total
Commercial Zoning Districts			
Commercial Highway (CH)	27	61.18	9.4%
Mixed Employment (ME)	1	52.00	8.0%
SUBTOTAL	*28*	*113.18*	*17.3%*
Industrial Zoning Districts			
Light Industrial (IL)**	12	540.31	82.6%
Residential Zoning Districts			
Residential Urban Standard Density (RS)	1	0.27	0.0%
TOTAL	**41**	**653.76**	**100.0%**
Source: Deschutes County, OR 2004-05 Parcel Database *Analysis does not factor in an estimated 47.57 acres of ROW. **The proposed zoning for Juniper Ridge Phase I is IL.			

Industrial-zoned lands are predominant, with an estimated 540.31 acres or 82.6% of the Area's total acreage within Bend's Light Industrial (IL) zoning district[1]. East of Highway 97, an estimated 113.18 acres or 17.3% of the Area's total acreage is within Bend's commercial zoning districts, with 61.18 acres in the Commercial Highway (CH) District and 52.00 acres in the Mixed Employment (ME) District. Residential-zoned property, limited to a small 0.27-acre parcel east of Highway 97 and north of Cooley Road, constitutes less than 1% of the Area's total acreage.

B. Infrastructure

1. Transportation

As prescribed in the Transportation System Plan (TSP) and General Plan, the provision of safe and efficient multimodal access and the incorporation of high quality streetscape, landscape and parks and open space improvements throughout the Area will facilitate private investment. Under existing conditions, Sub-Area A is primarily undeveloped. The Juniper Ridge site lacks both internal collectors and local streets and adequate access from existing arterials and Highway 97. While access to Sub-Area B is less constrained, in order to increase the productivity of commercial and industrial lands, the Capital Improvement Plan (CIP) identifies transportation improvements that will increase both vehicular and non-vehicular access.

The City has determined priority transportation needs for the Area, which include:

[1]The current General Plan designation for Juniper Ridge Phase 1 is Light Industrial (IL). The zoning analysis presented in Table 2 assumes that the City will apply the IL zoning designation to Juniper Ridge following the adoption of this Plan.

1. convenient access to the Area from Highway 97
2. access to Juniper Ridge from Cooley Road
3. increased traffic volume capacity on Cooley Road
4. access to Juniper Ridge from 18th Street
5. traffic roundabouts within Juniper Ridge to facilitate safe, multimodal commutes
6. frontage roads along both sides of Highway 97 to facilitate local traffic circulation
7. a network of new collector roads to provide adequate internal access and circulation within Juniper Ridge
8. new local roads to provide direct access to sites in Juniper Ridge
9. a new railroad bridge where the BNSF railroad intersects with Cooley Road
10. access to properties north of Cooley Road from Hunnell Road
11. bike lanes on Cooley Road and Hunnell Road to provide safe and convenient multimodal access to and within Sub-Area B
12. increased access to Sub-Area B from Cooley Road

2. Public Utilities

Sub-Area A presently lacks adequate sewer, water and stormwater infrastructure. In order for development to occur and to leverage private investment within Juniper Ridge, it will be necessary to provide sufficient public utilities. Sewer and water trunk line extensions along planned arterial and collector roads and street extensions, water connections to the McGrath Treatment Plant, and the construction of new sewer pump stations and a micro-package treatment plant have been identified as priority needs within Juniper Ridge. In addition, the Plan calls for the construction of irrigation ponds and other stormwater controls to manage stormwater runoff and mitigate the impacts of development on the natural environment.

Similar to Sub-Area A, Sub-Area B lacks adequate sewer and water infrastructure to serve anticipated commercial and industrial development. The CIP identifies the extension of water lines along Cooley Road and the proposed Hunnell Road Extension and sewer lines along Cooley Road and Loco Road as priority projects.

3. Parks and Open Space

At this time, there are no formal parks and open space areas in the Juniper Ridge area.

The City has identified open space needs for Juniper Ridge, which include:

- public parks and open space areas that provide recreational opportunities for employees, visitors and local residents
- public access to natural amenities, including the waterfall along the Central Oregon Irrigation District (COID) canal
- a continuous and interconnected system of open space uses designed to preserve and enhance environmentally sensitive areas

C. Social Conditions

To provide an accurate assessment of the Area's social conditions, a summary of demographic data and trends extracted from the 2000 U.S Census is included in this section. Given the predominance of commercial and industrial uses, the Area's population is small and concentrated in two manufactured home parks abutting Highway 97. As Census Tract and Block Group geographic boundaries do not correspond with the Area, the analysis is limited to population and housing data available at the Census Block level.

The analysis is based on the following Census Blocks:

Census Tract 9912.01, Block Group 2 - Blocks 2042 and 2043

1. Population and Housing

According to the Bureau of Census, the Area's population was an estimated 69 persons in 2000. A total of 33 households with an estimated average household size of 2.15 persons was reported. The Area featured a total of 44 housing units in 2000. At 25% (11 units), the share of the Area's housing units reported as vacant was significant. Of the Area's 33 occupied units, 60.6% (20 units) were owner occupied and 39.4% (13 units) were renter occupied in 2000.

As illustrated in Table 3, the Area's population is predominantly white. In 2000, all reported residents affiliated were of one race and only 4 persons or 5.8% of the total population identified themselves as "non-white".

Table 3: Race Characteristics (2000)		
Race	Area Total	% of Area Total
Total:	**69**	**100.0%**
Population of one race:	69	100.0%
White alone	65	94.2%
Black or African American alone	0	0.0%
American Indian and Alaska Native alone	0	0.0%
Asian alone	0	0.0%
Native Hawaiian and Other Pacific Islander alone	0	0.0%
Some other race alone	4	5.8%
Two or more races:	0	0.0%
Total non-white:	**4**	**5.8%**
Source: 2000 Census, SF 1 - 100 Percent Data		

D. Economic Conditions

1. Taxable Value of Property within the Area

The estimated taxable value of property within the Area, including all real, personal, personal manufactured and utility properties, is $14,210,598 or 0.26% of the City of Bend's total assessed value.

For municipalities over 50,000 in population, State law provides that the assessed value of an urban renewal area, when added to the certified assessed values for all other urban renewal areas, may not exceed 15% of the total assessed value of the municipality, exclusive of any increased assessed value for other urban renewal areas.

Table 4 below, "Conformance to Assessed Value Limits," shows the certified frozen base AV of the existing Central Bend Urban Renewal Area and the impact that the new Area will have on the AV limit. Given the tax exempt status of Juniper Ridge, which accounts for the majority of the Area's total acreage, the Area's impact on the AV limit is very low and the City will remain well within the 15% limit.

Table 4: Conformance to Assessed Value Limits	
Assessed Value	Base AV
Central Bend URA Frozen Base AV	$48,487,501
Proposed Juniper Ridge URA	**$14,210,598**
Total Certified Values in Urban Renewal Areas	$62,698,099
Central Bend URA Incremental AV	$113,348,000
Total AV, City of Bend (M50 AV less UR increment)	$5,280,514,457
Percent of Bend AV in Urban Renewal Areas	**1.19%**

In addition to imposing a 15% AV limit, State law limits the total land area within a municipality that can be within urban renewal areas to 15%. Table 5 below, "Conformance to Acreage Limits," shows the land area of the existing Central Bend Urban Renewal Area and the estimated acreage of the proposed new Area. With the addition of the Area, the City will remain within the 15% acreage limitation.

2. Existing Development

As described in Section IIA, Land Use and Zoning, most of the Area is undeveloped at this time. Most notably, the Juniper Ridge site, with a General Plan designation of Light Industrial (IL), occupies an estimated 513 acres of vacant land or 78.5% of the Area's total acreage. Commercial-zoned properties west of Highway 97 and north of Cooley Road are predominantly vacant. Existing uses, limited to two manufactured home parks and a single, low-value commercial structure, are not representative of the type of high-intensity commercial development that the General Plan expressly targets.

With the exception of the Lowe's on the SW corner of Cooley Road and Highway 97, which is anticipated to serve as an anchor for future commercial development and mixed employment uses in the vicinity of Highway 20, Highway 97 and Cooley Road, properties south of Cooley Road are undeveloped or underutilized. In particular, a large 52.0 acre property in Sub-Area B, west of Hunnell Road and south of Cooley Road, lies fallow. The property's existing land use is non-EFU Farmland and its General Plan designation is ME. Improved commercial and industrial properties abutting Highway 97 are characterized by substandard, low value development.

In general, the Area suffers from a lack of productive uses. Capital improvement projects and financial assistance programs provided in the Plan will encourage active uses and development that is consistent with the long range planning goals set forth in the General Plan.

E. Impact on Municipal Services

The fiscal impact of tax increment financing on taxing districts that levy taxes within the Area ("affected taxing districts") is described in section IX of this Report. This subsection discusses the fiscal impacts resulting from potential increases in demand for municipal services.

Anticipated increases in commercial and industrial development within the Area will generally result in higher demand for fire, life safety and public safety services.

The completion of public open space areas in Juniper Ridge and landscaping improvements associated with many of the Plan's public infrastructure and utility projects will increase the need for maintenance.

As described in the Land Use and Zoning subsection, all properties in the Area are within the City's commercial and industrial zoning districts and the Area's existing population is small. Therefore, the increase in population and especially school age population within the Area is not expected to be significant and should not result in measurable increases in the demand for municipal and social services.

III. REASONS FOR SELECTION OF EACH URBAN RENEWAL AREA IN THE PLAN

There is one urban renewal area in the Plan and it was selected to remove and prevent the future occurrence of blighted areas as defined in ORS 457.010(1).

IV. THE RELATIONSHIP BETWEEN URBAN RENEWAL PROJECTS AND THE EXISTING CONDITIONS IN THE URBAN RENEWAL AREA

This section describes the relationship between the urban renewal projects authorized in the Plan and conditions generally described in Section II of this Report and, in more detail, below.

Sub-Area A Projects

A. Highway 97 Interchange and Intersection Improvements

This project calls for the construction of freeway interchanges and intersection improvements on both sides of Highway 97, with separate turn lanes and grades for traffic entering and exiting the Highway and Cooley Road.

Relationship to Existing Conditions

As detailed in Section II, most of the Area is undeveloped, thereby limiting the demand for highway access. However, with the phased development of Juniper Ridge, commuter and commercial traffic is anticipated to increase dramatically and the demand for convenient and efficient access to Highway 97 will also rise. The construction of new interchanges at Highway 97 and Cooley Road, or other locations on Highway 97, will mitigate the impacts of increased traffic on existing arterials and facilitate safe and direct access to the Area.

B. Cooley Road Widening, Realignment and Improvements

This project calls for the widening of the existing Cooley Road to four lanes. The existing roadway will be realigned to connect it to the southwest entrance to Juniper Ridge.

Relationship to Existing Conditions

Cooley Road, the Area's main east-west transportation corridor, is a 2-lane minor arterial with sufficient capacity to meet current traffic demands. As the Area develops, commutes to and from Juniper Ridge via Cooley Road will increase. To accommodate the projected increase in traffic volume, the realignment and widening of Cooley Road to a 4-lane arterial will be critical.

C. Traffic Roundabouts

The Plan calls for the design and construction of two traffic roundabouts in Juniper Ridge. Roundabout #1 will be located at the intersection of Cooley Road and 18th Street. Roundabout #2 will be on 18th Street.

Relationship to Existing Conditions

The installation of traffic roundabouts at key intersections in Juniper Ridge will promote multimodal safety and internal traffic circulation.

D. Cooley Road Extension

This project will extend the existing Cooley Road east from Roundabout # 1 to Deschutes Market Road.

Relationship to Existing Conditions

The existing Cooley Road extends as far as the planned location of Roundabout #1. Given that Juniper Ridge is undeveloped, facilitating access to the site, which extends beyond the terminus of the existing Cooley Road, has not been necessary to date. However, as development occurs and an internal street system of collectors and local roads is completed, the demand for convenient access to Juniper Ridge from various points on Cooley Road will increase. Further, extending Cooley Road to Deschutes Market Road will facilitate access to Juniper Ridge from the east.

E. 18th Street Extension

This project calls for the extension of 18th Street from Cooley Road to the COID canal.

Relationship to Existing Conditions

An existing north-south arterial, 18th Street extends north to Cooley Road. Similar to the Cooley Road Extension, the phased extension of 18th Street from Cooley Road to the COID canal will connect to internal collectors and local roads in Juniper Ridge and facilitate multimodal access and circulation throughout the area.

F. Highway 97 Frontage Roads

Concurrent with the implementation of the proposed Highway 97 Interchange and Intersection Improvements project, this project will extend frontage roads along both sides of Highway 97.

Relationship to Existing Conditions

As Juniper Ridge is undeveloped and inaccessible, its present impact on local traffic patterns is low. However, with the phased build-out of Juniper Ridge, it will be necessary to implement traffic management techniques and transportation improvements to ensure the safe and efficient of flow of traffic. Development of the proposed Highway 97 interchanges will necessitate the construction of frontage roads along Highway 97. The frontage roads will facilitate local traffic circulation and access to sites within Juniper Ridge without adding to traffic on Highway 97.

G. New Collector Roads

This project calls for the development of an anticipated eight new collector roads within Juniper Ridge.

Relationship to Existing Conditions

The provision of new collector roads within Juniper Ridge will promote multimodal circulation and safety by collecting and dispersing traffic from local roads to arterials.

H. New Local Roads

This project calls for the development of local roads in Juniper Ridge.

Relationship to Existing Conditions

The provision of new local roads will facilitate direct access to properties in Juniper Ridge.

I. Sewer Trunk Line Extensions and Pump Station

This project will provide new sewer main extensions and a pump station south of Roundabout #1.

Relationship to Existing Conditions

To date, the provision of sewer infrastructure within Juniper Ridge has not been a priority since the area is vacant. However, as with planned transportation, water and stormwater improvements, the provision of sewer lines and a new pump station is a prerequisite to development.

J. Sewer Trunk Line Extensions

Proposed projects include a new 14-inch sewer main extension from Roundabout #1 to the McGrath Treatment Plant and a Level 4 Water connection from the McGrath Treatment Plant. Additional sewer lines may be extended throughout Juniper Ridge as necessitated by development.

Relationship to Existing Conditions

As described above, Juniper Ridge lacks sewer infrastructure. The proposed improvements will enable new development to hook up to the City sewer system. By assisting with the costly expense of extending sewer lines to the area, urban renewal will help jump start development in Juniper Ridge.

K. Sewer Pump Stations

This project calls for the construction of new sewer pump stations concurrent with the phased development of Juniper Ridge.

Relationship to Existing Conditions

As the intensity of development in Juniper Ridge increases, the provision of new sewer pump stations will be necessary to meet the capacity demands of light industrial users.

L. Micro-Package Treatment Plant

This project calls for the construction of an on-site micro-package treatment facility and conveyance and disposal systems in Juniper Ridge, which could supplement or replace elements of planned sewer projects.

Relationship to Existing Conditions

Developing an on-site micro-package treatment plant and associated conveyance and disposal systems in Juniper Ridge will ensure that adequate sewage treatment services are available to businesses that locate in the Area. Most notably, this project will accommodate the capacity demands generated by water-intensive industrial processes.

M. Water Trunk Line Connections and Hydrants

This project calls for the provision of trunk line connections and fire and water flow hydrants at strategic locations within Juniper Ridge. The extension of a new water main along the Cooley Road Extension to Roundabout #1 and the COID canal is a priority project. Other projects may include a water main extension along the 18th Street Extension to Roundabout #2 and the COID canal.

Relationship to Existing Conditions

Juniper Ridge lacks water infrastructure. Extending existing water lines, including the 12-inch line along Cooley Road, through the area and installing flow hydrants will facilitate development and compliance with fire and safety regulations.

N. Storm Water Controls and Irrigation Ponds

Initially, this project calls for the construction of an irrigation pond and storm water controls near the planned entrance to the Juniper Ridge area. As build-out occurs, additional irrigation ponds may be constructed.

Relationship to Existing Conditions

Juniper Ridge lacks surface water management facilities. Development of the area will necessitate the construction of on-site storm water controls and irrigation ponds

to manage stormwater runoff generated by light industrial users and mitigate impacts on environmentally sensitive areas.

O. Public Open Space

Proposed open space areas will be developed at key locations in Juniper Ridge. Open space areas may include but are not limited to the southwest corner of Juniper Ridge, an area adjacent to the North Point Neighborhood, and an area near the waterfall along the COID canal.

Relationship to Existing Conditions

Currently, Juniper Ridge does not have any public open space areas or recreational facilities. As the area develops and business, employment and commercial activity increases, public open space areas will be developed to serve workers and visitors and the general public. The open space areas will be designed to enhance and preserve the integrity of the area's natural resources.

P. Linear Trail/ Greenway Network

This project calls for the creation of a linear trail/ greenway network that interconnects public open space uses within and around Juniper Ridge. Specific project components may include pedestrian pathways, recreational trails and greenway buffers that protect environmentally sensitive areas.

Relationship to Existing Conditions

As described above, the lack of formal public open space areas in Juniper Ridge will be addressed as the intensity of uses increases. The linear trail/ greenway network will connect individual open spaces areas and provide opportunities for recreational activity while preserving the area's natural amenities.

Sub-Area B Projects

Q. Hunnell Road Extension

This project will extend Hunnell Road, an existing minor arterial, from Cooley Road to the Urban Reserve Boundary. The extension will be classified as a collector road.

Relationship to Existing Conditions

Access to commercial-zoned properties that abut the proposed Hunnell Road Extension is severely constrained. Some properties lack direct access and must be accessed through neighboring properties. The extension will accommodate traffic generated by nearby commercial and industrial uses and generally improve traffic circulation within Sub-Area B.

R. Cooley Road Upgrade

In conjunction with proposed improvements to Cooley Road in Sub-Area A, this project calls for the upgrade of the existing Cooley Road to a 4-lane minor arterial between Highway 20 and the western boundary of Sub-Area A. A new intersection and traffic roundabout will be constructed at Cooley Road and the terminus of the existing Hunnell Road.

Relationship to Existing Conditions

Although Cooley Road is classified as a minor arterial in the TSP, it is not to standard at this time. As the Area develops and traffic volume increases, widening the existing 2-lane roadway to 4-lanes and upgrading it to arterial standards will be necessary to accommodate increased capacity demands.

S. Sub-Area B Bicycle Lane Improvements

Planned bike lanes within Sub-Area B will be located on Cooley Road (Hwy 20 to Highway 97), Hunnell Road (Robal Lane to Cooley Road) and Robal Lane (Hwy 20 to Highway 97).

Relationship to Existing Conditions

The lack of dedicated bike lanes on minor arterials within Sub-Area B hinders multimodal access to (and within) the area. Completing planned bike improvements identified in the City's Bicycle and Primary Trail System Plan will facilitate safe and convenient access to the area by bicyclists and further the Plan's objective to develop bike and pedestrian facilities that encourage multimodal transportation.

T. Sub-Area B Sewer Extensions

This project calls for the provision of a new north-south sewer line along the proposed Hunnell Road Extension and an east-west line along Loco Road, which parallels the Urban Reserve Boundary.

Relationship to Existing Conditions

Properties abutting Loco Road and the proposed Hunnell Extension lack sewer infrastructure. While the properties are within the City's Highway Commercial zoning district, most are undeveloped or underdeveloped. Extending sewer lines along arterials and collectors will facilitate more productive uses within Sub-Area B.

U. Sub-Area B Water Extensions

Proposed water extensions within Sub-Area B may include a new north-south water line along the proposed Hunnell Road Extension and a 12-inch water line along Cooley Road.

Relationship to Existing Conditions

Water infrastructure in Sub-Area B is insufficient to meet the capacity demands of projected development. New water lines will facilitate more intensive development.

V. THE ESTIMATED TOTAL COST OF EACH PROJECT AND THE SOURCES OF MONEYS TO PAY SUCH COSTS

Table 6 below shows the estimated total cost of each project and the estimated sources of funds to address such costs, with all figures in year-of -expenditure dollars. Of the "other revenues," $20.9 million are anticipated to be loans to be repaid, with interest, from tax increment revenues by FY 2029.

Table 6: Estimated Total Costs and Revenues

REVENUES	
Debt Proceeds:	
Tax Increment Debt - Long term	17,842,167
Tax Increment Debt - Short term	2,521,440
State and Federal Funding For HWY 97/Cooley	15,000,000
State and Federal Funding For RR Crossing	1,000,000
Developer Contribution (Subarea B)	1,250,000
Other Revenues (SDC's, LID, Grants, City Funding)	34,066,995
Total Revenues	71,680,602
Administration	2,561,559
Project Needs (Year of Expenditure$)	
Highway 97 /Cooley Road Interchange and Intersection Improvements	36,050,000
Burlington Northern Santa Fe (BNSF) Railroad Grade Separation (Cooley Road)	1,545,000
Cooley Road Widening	4,604,100
Roundabouts on Cooley	824,000
Cooley Road Extension To Canal	3,646,200
18th Street Extension	1,730,400
Collector Roads	2,402,475
Sewer Trunk Line Extensions and Pump Station, Cooley and 18th	1,346,725
Water Trunk Lines on 18th and Cooley	1,102,100
COID Canal Piping	576,800
Hunnel Road Extension (West of 97)	0
Cooley Road Extension (West of 97)	0
Cooley Road Extension (Canal - Deschutes Market Rd)	4,944,000
Sewer Trunk Line Extensions and Connection to STP	4,833,275
18th Street Extension (Rdt 3 - Canal)	4,614,400
Bond Issuance Costs	899,568
Total Expenditures	71,680,602

VI. THE ANTICIPATED COMPLETION DATE FOR EACH PROJECT

All projects are anticipated to be completed by June 30, 2017.

VII. THE ESTIMATED AMOUNT OF TAX INCREMENT REVENUES REQUIRED AND THE ANTICIPATED YEAR IN WHICH INDEBTEDNESS WILL BE RETIRED

Table 7 shows the yearly tax increment revenues and their allocation to debt service and debt service reserve funds. It is anticipated that all debt will be retired by the end of FY 2028/2029. Debt service includes short term bonds issued through FY 2016, and reimbursement of $20.9 million of the "other revenues" shown in Table 6 from FY 2017 through FY 2029. The total amount of tax increment revenues required to pay this debt is $67,485,948. The difference between this total amount of tax increment revenues required and the maximum amount of indebtedness are the interest payments for debt.

VIII. FINANCIAL ANALYSIS OF THE PLAN

The estimated tax increment revenues of Table 7 are based on projections of the assessed value of development within the Area as provided by the City of Bend as part of the Juniper Ridge Public Facilities Plan and on development that has occurred or is underway on the West Side of Highway 97.

Table 8 shows the projected incremental assessed value, projected tax rates that would produce tax increment revenues, and the annual tax increment revenues. These in turn provide the basis for the projections in Table 7.

IX. IMPACT ON THE TAX INCREMENT FINANCING BOTH UNTIL AND AFTER THE INDEBTEDNESS IS REPAID, UPON ALL ENTITIES LEVYING TAXES UPON PROPERTY IN THE URBAN RENEWAL AREA

The impact of tax increment financing on overlapping taxing districts consists primarily of the property tax revenues foregone on permanent rate levies as applied to the growth in assessed value in the Area *without the Plan*. Revenues on growth in assessed value that would not occur but for the Plan cannot be considered as foregone.

It is reasonable to project that development within the Area without the Plan would take longer to occur, would be less extensive and would have lower assessed values. The projection in this Report is that development would begin in the area east of Highway 97 four years later (during FY 2008/2009) and would total 25% of the projected development with the Urban Renewal Plan. The projection of 25% is based on the importance of urban renewal investments to support the full scope and quality of development and the limited nature of alternative funding sources. Development west of Highway 97 is assumed at the same schedule and value as with the Urban Renewal Plan.

Table 9 shows the property tax revenue foregone by overlapping taxing districts during the use of tax increment financing, in terms of average revenues foregone per year through FY 2028/2029, both in year of receipt dollars and current dollars. No impacts are shown for the K-12 School District or Educational Service District, because under the current K-12 and ESD financing system, property tax revenues foregone by the districts would be offset by additional revenues from the State School Fund.

Table 10 shows the *increase* in permanent rate levy revenues that would occur in the years after termination of the tax increment financing, from FY 2030 through FY 2035, when the projected additional value in the Area would result in a "break even" point. During FY 2034/2035, the value in current dollars of the revenues foregone would be exceeded by the value in current dollars of the additional revenues gained.

X. RELOCATION REPORT

At the time of adoption of the Plan, the alignments and locations of public improvements and facilities had not been determined with enough specificity to know whether any residents or businesses would be displaced. At the time that such project locations and alignments are determined, and if there is displacement as a result of projects, the Agency shall amend this section of the Report to present that information

Table 7: Tax Increment Revenues, Debt Service and Debt Service Reserves

FY Ending June 30	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
REVENUES											
Beginning Balance	$ -	$ 196,966	$ 423,380	$ 412,490	$ 412,490	$ 642,512	$ 616,976	$ 1,089,021	$ 1,177,281	$ 1,177,281	$ 1,986,010
Tax Increment Revenues	$ 156,182	$ 327,156	$ 437,486	$ 554,233	$ 723,767	$ 960,876	$ 1,508,194	$ 1,704,544	$ 2,015,229	$ 2,571,910	$ 2,753,952
Interest	$ 2,343	$ 10,816	$ 19,264	$ 20,688	$ 23,231	$ 33,688	$ 41,132	$ 58,239	$ 65,547	$ 73,897	$ 100,890
Transfer from Bond Proceeds	$ 150,000						$ 100,000				
Total Revenues	$ 308,524	$ 534,938	$ 880,129	$ 987,411	$ 1,159,488	$1,637,076	$ 2,166,302	$ 2,851,803	$ 3,258,057	$ 3,823,089	$ 4,840,852
EXPENDITURES											
Debt Service, Long Term											
Bond 1	$ 111,558	$ 111,558	$ 111,558	$ 111,558	$ 111,558	$ 111,558	$ 111,558	$ 111,558	$ 111,558	$ 111,558	$ 111,558
Bond 2			$ 200,931	$ 200,931	$ 200,931	$ 200,931	$ 200,931	$ 200,931	$ 200,931	$ 200,931	$ 200,931
Bond 3					$ 204,487	$ 204,487	$ 204,487	$ 204,487	$ 204,487	$ 204,487	$ 204,487
Bond 4							$ 560,305	$ 560,305	$ 560,305	$ 560,305	$ 560,305
Bond 5										$ 759,798	$ 759,798
Total Debt Service, Long Term	$ 111,558	$ 111,558	$ 312,490	$ 312,490	$ 516,976	$ 516,976	$ 1,077,281	$ 1,077,281	$ 1,077,281	$ 1,837,079	$ 1,837,079
Bond Reserve	$ 111,558	$ 111,558	$ 312,490	$ 312,490	$ 516,976	$ 516,976	$ 1,077,281	$ 1,077,281	$ 1,077,281	$ 1,837,079	$ 1,837,079
Debt Service Short Term/Reimbursement	$ -		$ 155,150	$ 262,431	$ -	$ 503,124	$ -	$ 597,241	$ 1,003,494	$ -	$ 1,066,694
Total Expenditures	$ 223,117	$ 223,117	$ 780,129	$ 887,411	$ 1,033,953	$1,537,076	$ 2,154,562	$ 2,751,803	$ 3,158,057	$ 3,674,158	$ 4,740,852

Table 7: Tax Increment Revenues, Debt Service and Debt Service Reserves (Continued)

FY Ending June 30	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
REVENUES												
Beginning Balance	$ 1,937,079	$ 1,937,079	$ 1,937,079	$ 1,937,079	$ 1,825,521	$ 1,825,521	$ 1,624,589	$ 1,624,589	$ 1,420,103	$ 1,420,103	$ 859,798	$ 859,798
Tax Increment Revenues	$ 3,203,971	$ 3,575,256	$ 3,934,473	$ 4,302,801	$ 4,705,295	$ 4,771,032	$ 4,800,622	$ 4,831,099	$ 4,862,490	$ 4,894,824	$ 4,928,127	$ 4,962,430
Interest	$ 106,172	$ 111,741	$ 117,129	$ 122,654	$ 125,345	$ 126,331	$ 120,747	$ 121,204	$ 115,540	$ 116,025	$ 99,716	$ 100,230
Transfer from Bond Proceeds												
Total Revenues	$ 5,247,222	$ 5,624,077	$ 5,988,681	$ 6,362,534	$ 6,656,161	$ 6,722,884	$ 6,545,958	$ 6,576,892	$ 6,398,133	$ 6,430,952	$ 5,887,641	$ 5,922,458
EXPENDITURES												
Debt Service, Long Term												
Bond 1	$ 111,558	$ 111,558	$ 111,558	$ 111,558								
Bond 2	$ 200,931	$ 200,931	$ 200,931	$ 200,931	$ 200,931	$ 200,931						
Bond 3	$ 204,487	$ 204,487	$ 204,487	$ 204,487	$ 204,487	$ 204,487	$ 204,487	$ 204,487				
Bond 4	$ 560,305	$ 560,305	$ 560,305	$ 560,305	$ 560,305	$ 560,305	$ 560,305	$ 560,305	$ 560,305	$ 560,305		
Bond 5	$ 759,798	$ 759,798	$ 759,798	$ 759,798	$ 759,798	$ 759,798	$ 759,798	$ 759,798	$ 759,798	$ 759,798	$ 759,798	$ 759,798
Total Debt Service, Long Term	$ 1,837,079	$ 1,837,079	$ 1,837,079	$ 1,837,079	$ 1,725,521	$ 1,725,521	$ 1,524,589	$ 1,524,589	$ 1,320,103	$ 1,320,103	$ 759,798	$ 759,798
Bond Reserve	$ 1,837,079	$ 1,837,079	$ 1,837,079	$ 1,725,521	$ 1,725,521	$ 1,524,589	$ 1,524,589	$ 1,320,103	$ 1,320,103	$ 759,798	$ 759,798	$ 759,798
Debt Service Short Term/Reimbursement	$ 1,473,064	$ 1,849,919	$ 2,214,523	$ 2,699,934	$ 3,105,120	$ 3,372,774	$ 3,396,780	$ 3,632,201	$ 3,657,928	$ 4,251,052	$ 4,268,045	$ 4,402,862
Total Expenditures	$ 5,147,222	$ 5,524,077	$ 5,888,681	$ 6,262,534	$ 6,556,161	$ 6,622,884	$ 6,445,958	$ 6,476,892	$ 6,298,133	$ 6,330,952	$ 5,787,641	$ 5,922,458

Summary of Tax Increment Debt Principal – Maximum Amount Of Indebtedness

Principal of Tax Increment Debt	
Long Term Bonds	17,842,167
Short Term Bonds	2,521,440
Reimbursement	20,886,393
Total	41,250,000

Total Tax Increment Revenues Required to Pay Maximum Amount Of Indebtedness : $67,485,948

Table 8: Projected Incremental Assessed Value and Tax Rates

FY Ending June 30	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Base	14,210,598	14,210,598	14,210,598	14,210,598	14,210,598	14,210,598	14,210,598	14,210,598	14,210,598	14,210,598	14,210,598
Appreciation %	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Appreciation Dollars	0	0	0	0	0	0	0	0	0	0	0
Assessed Value of New Development, East of Highway 97	0	4,118,870	4,221,842	7,212,313	2,957,049	17,049,233	45,213,090	9,553,253	30,192,261	25,928,624	19,289,642
Assessed Value of New Development, West of Highway 97	13,000,000	9,750,000	0	5,759,385	5,903,370	6,050,954	0	0	0	0	0
Sub Total Industrial/R&D AV	0	4,118,870	8,340,712	15,553,026	18,510,074	35,559,307	80,772,397	90,325,650	120,517,912	146,446,536	165,736,178
Sub Total Commercial AV	27,636,916	38,216,023	43,478,800	46,302,764	57,919,901	61,254,028	63,091,648	70,417,811	66,933,930	74,650,427	71,010,206
Total AV	27,636,916	42,334,894	51,819,512	61,855,790	76,429,975	96,813,335	143,864,045	160,743,461	187,451,842	221,096,963	236,746,384
Incremental AV	13,426,318	28,124,296	37,608,914	47,645,192	62,219,377	82,602,737	129,653,447	146,532,863	173,241,244	206,886,365	222,535,786
Tax Rate Per $1,000 AV	11.7500										
Tax Increment Revenues	$ 157,759	$ 330,460	$ 441,905	$ 559,831	$ 731,078	$ 970,582	$ 1,523,428	$ 1,721,761	$ 2,035,585	$ 2,597,889	$ 2,781,770

FY Ending June 30	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Base	14,210,598	14,210,598	14,210,598	14,210,598	14,210,598	14,210,598	14,210,598	14,210,598	14,210,598	14,210,598	14,210,598	14,210,598
Appreciation %	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Appreciation Dollars	0	0	0	0	0	0	0	0	0	0	0	0
Assessed Value of New Development, East of Highway 97	36,556,015	29,723,731	28,620,350	29,335,859	32,203,202	3,181,521	0	0	0	0	0	0
Assessed Value of New Development, West of Highway 97	0											
Sub Total Industrial/R&D AV	202,292,193	232,015,924	260,636,274	289,972,133	322,175,335	325,356,856	325,356,856	325,356,856	325,356,856	325,356,856	325,356,856	325,356,856
Sub Total Commercial AV	73,140,512	75,334,728	77,594,770	79,922,613	82,320,291	84,789,900	87,333,597	89,953,605	92,652,213	95,431,779	98,294,733	101,243,574
Total AV	275,432,705	307,350,652	338,231,043	369,894,745	404,495,626	410,146,756	412,690,453	415,310,461	418,009,069	420,788,635	423,651,589	426,600,431
Incremental AV	261,222,107	293,140,054	324,020,445	355,684,147	390,285,028	395,936,158	398,479,855	401,099,863	403,798,471	406,578,037	409,440,991	412,389,833
Tax Rate Per $1,000 AV	11.7500	11.7500	11.7500	11.7500	11.7500	11.7500	11.7500	11.7500	11.7500	11.7500	11.7500	11.7500
Tax Increment Revenues	$ 3,236,334	$ 3,611,370	$ 3,974,215	$ 4,346,263	$ 4,752,824	$ 4,819,224	$ 4,849,113	$ 4,879,898	$ 4,911,607	$ 4,944,266	$ 4,977,906	$ 5,012,555

Table 9: Revenues Foregone

Revenues Forgone in Year of Receipt Dollars	Through 2029	Average/Year
Deschutes County	2,269,255	108,060
County Extension 4H	39,765	1,894
City of Bend	4,976,809	236,991
Bend Metropolitan Park and Recreation	2,593,586	123,504
911	287,229	13,678
Deschutes County Library	976,367	46,494
COCC	1,101,342	52,445
Present Value of Revenues Foregone	Through 2029	Average/Year
Deschutes County	1,436,618	68,410
County Extension 4H	25,174	1,199
City of Bend	3,150,716	150,034
Bend Metropolitan Park and Recreation	1,641,946	78,188
911	181,839	8,659
Deschutes County Library	618,118	29,434
COCC	697,237	33,202

Table 10: Revenues Gained After Termination of Tax Increment Financing FY 2030 through FY 2035

Taxing District	Through 2035
Deschutes County	1,612,283
County Extension 4H	28,252
City of Bend	3,535,974
Bend Metropolitan Park and Recreation	1,842,717
911	204,074
Deschutes County Library	693,699
COCC	782,493

(Added text is in underlined typeface;
deleted text is in ~~strikethrough~~ typeface.)

ORDINANCE NO. NS-1982

AN ORDINANCE AMENDING SECTION 3.112 OF THE BEND CODE

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Bend Code Section 3.112 is amended to read:

3.112 Fees and Payment. Utilities shall pay the following percentage of their gross operating revenue to the City of Bend as a license fee:

(1) Utilities shall pay the following percentage of their gross operating revenue to the City of Bend as a license fee:

(a) Telecommunications utilities: 7.0%.
(b) Gas utilities: 4.5%.
(c) Water Utilities: 3%.
~~(c)~~ (d) All other utilities: 5.0%.

(2) The City of Bend may, in its discretion, provide by written agreement that a utility pay a different amount or kind of fee than stated in Subsection (1) of this section. Unless the City specifically provides by written agreement that a utility shall pay a different fee than set forth in Subsection (1) of this section, a utility shall pay the fee set forth in Subsection (1) of this section. Where a written agreement between the City and a utility requires that the utility pay the license fee required by City ordinance, the utility shall pay the fee set forth in Subsection (1) of this section.

The licensee shall pay the license fee to the Treasurer of the City within 35 days of the end of the month of operation for which the license fee is due, unless the City, by written agreement with the licensee, specifically provides otherwise.

Section 2. Effective date

The amendments to Bend Code adding Subsection 3.112(1)(c) shall be effective 30 days from the date of adoption of this ordinance or when approved for Avion Water Company and Roats Water Company by the Oregon Public Utility Commission, which ever occurs later.

Read for the first time the 7th day of September, 2005.

Read for the second time the 21st day of September, 2005.

Placed upon its passage the 21st day of September, 2005.

YES: 5 NO: 1 ABSTAIN: 0

Authenticated by the Mayor the 21st day of September, 2005.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1983

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

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

WHEREAS, the Cities of Bend, Redmond, Culver and Madras established Central Oregon Cities Organization (COCO) to effectively and efficiently promote the common interests of the cities of Central Oregon; and

WHEREAS, the cities of Sisters, Prineville, Maupin and Metolius have indicated a desire to become members of COCO; and,

WHEREAS, it is the desire and intent of COCO to include the cities of Sisters, Prineville, Maupin and Metolius in the organization;

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

Section 1.

Ratification of First Amendment to Intergovernmental Agreement Creating Central Oregon Cities Organization, Pursuant to ORS 190.085, the City of Bend hereby ratifies the Amendment by including the cities of Sisters, Prineville, Maupin and Metolius. (Exhibit attached)

Read for the first time the 5th day of October, 2005.

Read for the second time the 19th day of October, 2005.

Placed upon its passage the 19th day of October, 2005.

YES: 6 NO: 1 ABSTAIN: 0

Authenticated by the Mayor the 19th day of October, 2005.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

Exhibit to Ordinance NS 1983

FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT ESTABLISHING THE CENTRAL OREGON CITIES ORGANIZATION

WHEREAS, the Cities of Bend, Redmond, Culver and Madras established to Central Oregon Cities Organization (COCO) by each City's adoption of the attached Intergovernmental Agreement (Original IGA) in 2002;

WHEREAS, the Original IGA anticipated that additional cities would join COCO and provided for adding new members;

WHEREAS, the cities of Sisters, Prineville, Maupin and Metolius have indicated a desire to become members of COCO;

NOW, THEREFORE, the undersigned cities agree as follows:

1. The membership of COCO shall consist of those Cities that have adopted this First Amendment and attached Original IGA as revised by this First Amendment.

2. The Original IGA is adopted, except for Paragraph 3.2, 3.3 and 3.7 which are hereby rescinded and replaced by the following new paragraphs:

"3.2 At its first meeting of every even numbered year, the Board shall appoint from the voting member a chairman and a vice-chairman for that year. The Board shall be responsible for the management, supervision, policy and direction of all programs, functions and activities established and operated under COCO. Also at the first meeting of every even numbered year, the Board shall designate an administrative officer who shall handle all administrative functions for a period of two years.

"3.3 The term of each voting member and alternate member of the Board shall be 2 years. Each member of the Board shall hold office until the city he or she represents appoints a successor.

"3.7 A quorum shall consist of no less than 50% of the cities that have adopted this Amendment and become members of COCO. When COCO consists of 4 member cities, a quorum consists of 2 member cities. When COCO consists of 5-6 members, the quorum shall be 3 member cities. When COCO consists of 7-8 members, the quorum shall be 4 member cities. The concurrence of a majority of the quorum is necessary for the Board to decide a matter before the Board. The Board may meet telephonically or by other means of electronic communication."

3. COCO as presently constituted with four cities as members has ended the fiscal year 2004-2005 with a fund balance. This fund balance shall be transferred to the newly constituted COCO without recourse by the current four cities to be utilized to help fund COCO's next legislative summit.

CITY OF BEND

By:_____

Title:_____

Dated this __ day of _____, 2005

CITY OF CULVER

By:_____

Title:_____

Dated this __ day of _____, 2005

CITY OF MADRAS

By:_____

Title:_____

Dated this __ day of _____, 2005
2005

CITY OF METOLIUS

By:_____

Title:_____

Dated this __ day of _____,

CITY OF PRINEVILLE

By:_____

Title:_____

Dated this __ day of _____, 2005
2005

CITY OF REDMOND

By:_____

Title:_____

Dated this __ day of _____,

CITY OF SISTERS

By:_____

Title:_____

Dated this __ day of _____, 2005

CITY OF MAUPIN

By:_____

Title:_____

Dated this __ day of _____, 2005

ORDINANCE NO. NS-1984

AN ORDINANCE AMENDING SECTION 10-10.15(2) OF THE BEND CITY ZONING ORDINANCE NO. NS-1178, BY ADDING "CONVENTION CENTERS/MEETING ROOMS" TO THE LIST OF USES PERMITTED IN THE LIMITED COMMERCIAL (CL) ZONE

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. On June 27, 2005, the Bend Area Planning Commission forwarded to the City Council its recommendations for the proposed comprehensive City of Bend Development Code. The proposed Development Code expressly includes the category "Convention Centers/Meeting Rooms" as a permitted use in the City's Limited Commercial (CL) zone. Council has decided to adopt this Ordinance prior to the adoption of other parts of the Development Code in the hope that this expressly stated permitted use will resolve ongoing litigation involving whether convention centers are permitted in that zoning district.

Section 2. Section 10-10.15 "Limited Commercial Zone, or CL Zone" Of City of Bend Zoning Ordinance No. NS-1178, subsection "(2) Permitted Uses. The following uses are permitted in the CL Zone subject to the provisions of Section 23." is amended to add the following subsection (uu):

"(~~uu~~) Convention Centers/Meeting Rooms."
(vv)

Read for the first time the 21st day of September, 2005

Read for the second time the 19th day of October, 2005

Placed upon its passage the 19th day of October, 2005

YES: 5 NO: 1 ABSTAIN: 0

Authenticated by the Mayor this 19th day of October, 2005

Bill Friedman, Mayor

Attest
Patty Stell, City Recorder

ORDINANCE NO. NS-1985

AN ORDINANCE OF THE CITY OF BEND ESTABLISHING AN ECONOMIC IMPROVEMENT DISTRICT WITHIN THE CITY'S CENTRAL BUSINESS DISTRICT APPLYING ONLY TO COMMERICIAL PROPERTIES, AND ESTABLISHING A PROCESS FOR IMPOSITION OF ASSESSMENTS

WHEREAS, the City Council upon request by various downtown business and property owners conducted a public hearing on October 19, 2005 on the question whether to create the BEND DOWNTOWN ECONOMIC IMPROVEMENT DISTRICT;

WHEREAS, the City provided not less than thirty days notice of the October 19, 2005 hearing;

WHEREAS, ORS 223.112 to ORS 223.161 authorizes the City to establish economic improvement districts and to use assessments from the district to fund specific economic improvement projects;

WHEREAS, the City Council finds that the creation of the District has various beneficial purposes;

AND WHEREAS, the City is required after establishment of the District to provide notice to property owners of assessments and then conduct an additional hearing to receive remonstrances, if any.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1: Findings: The City Council adopts the following findings of facts: 1) The City Council on October 19, 2005 held a public hearing regarding the establishment of an economic improvement district;

2) Written notices to the affected property owners were mailed no less than thirty (30) days prior to that hearing:

3) The area within the boundaries of the proposed district is zoned commercial;

4) No residential real property or any portion of a structure used primarily for residential purposes will be assessed;

5) A preliminary estimate of the probable cost of the activities to be funded pursuant to Section 2 of this Ordinance is approximately $100,000.00, and the proposed formula for apportioning costs is set forth in Section 4 of this Ordinance;

6) The rate to be assessed each benefited and assessed property is in proportion to the benefit that the property may be derived from the district.

Section 2: Creating of District: (a)The City Council of Bend hereby approves and creates the "Bend Downtown Economic Improvement District" for the purpose of promoting within said district economic improvements by planning and/or management of development or improvement activities; by landscaping or other maintenance of the public areas; by promotion of commercial activity or public events; by activities in support of business expansion, and development; and by improvements in parking systems or parking enforcement including but not limited to the provision of private security services for the District.

(b) The boundaries of the District are as depicted on Exhibit A to this ordinance. All commercial property located within the boundary shall be subject to the assessment.

Section 3: Duration: The Bend Downtown Economic Improvement District shall be in effect for three (3) consecutive years, commencing January 2006. Council may extend the duration of the District, after following the required public notice requirements and opportunity for remonstrances contained in ORS 223.122. .

Section 4: Assessment Rate: The property shall be assessed as follows: $0.11 per square foot per year of real property.

Section 5: Total Assessment: The initial total assessment each year of the three (3) year term is expected to be approximately $100,000.00 subject to change as the amount of commercial building spaces changes.

Section 6. Agreement to administer program and providing for the Expenditure of Funds. City shall enter into an agreement with the Bend Downtowners' Association, Inc., for the Downtowners' to administer the EID funds, provide for public meetings, budget adoption and consideration at open publicly noticed meetings, limitations on expenditures and other appropriate matters. This agreement will be adopted at the time of approval of proposed assessments. No less than thirty-five percent of the voting members of the Board shall own real property within the district. Also, the City shall have at least one ex officio (nonvoting) member of the board who can participate in discussions, and provide liaison with the City.

Section 7. Notice of assessments and hearing to receive remonstrances.

(a) The City Clerk shall promptly mail to property owners within the boundaries of the District, a notice identifying the amount of the proposed assessment for each property, and informing the property owner of a meeting scheduled for December 7, 2005, at which the property owners may appear to submit written objections to the assessment.

(b) The City Council will consider the objections and may adopt, correct, modify or revise the proposed assessment. The Council will not impose the assessment if written remonstrances are received at the public hearing from owners of property upon which more than 33 percent of the total amount of assessment is imposed.

(c)After the December 7 hearing, if the Council decides to impose the assessment, it shall impose the assessment by resolution, determine whether the properties within the district shall bear all or a portion of the costs of the activities to be funded, and approve the amount of assessment on each lot.

Read for the first time the 19th day of October, 2005.

Read for the second time the 2nd day of November, 2005.

Placed upon its passage the 2nd day of November, 2005.

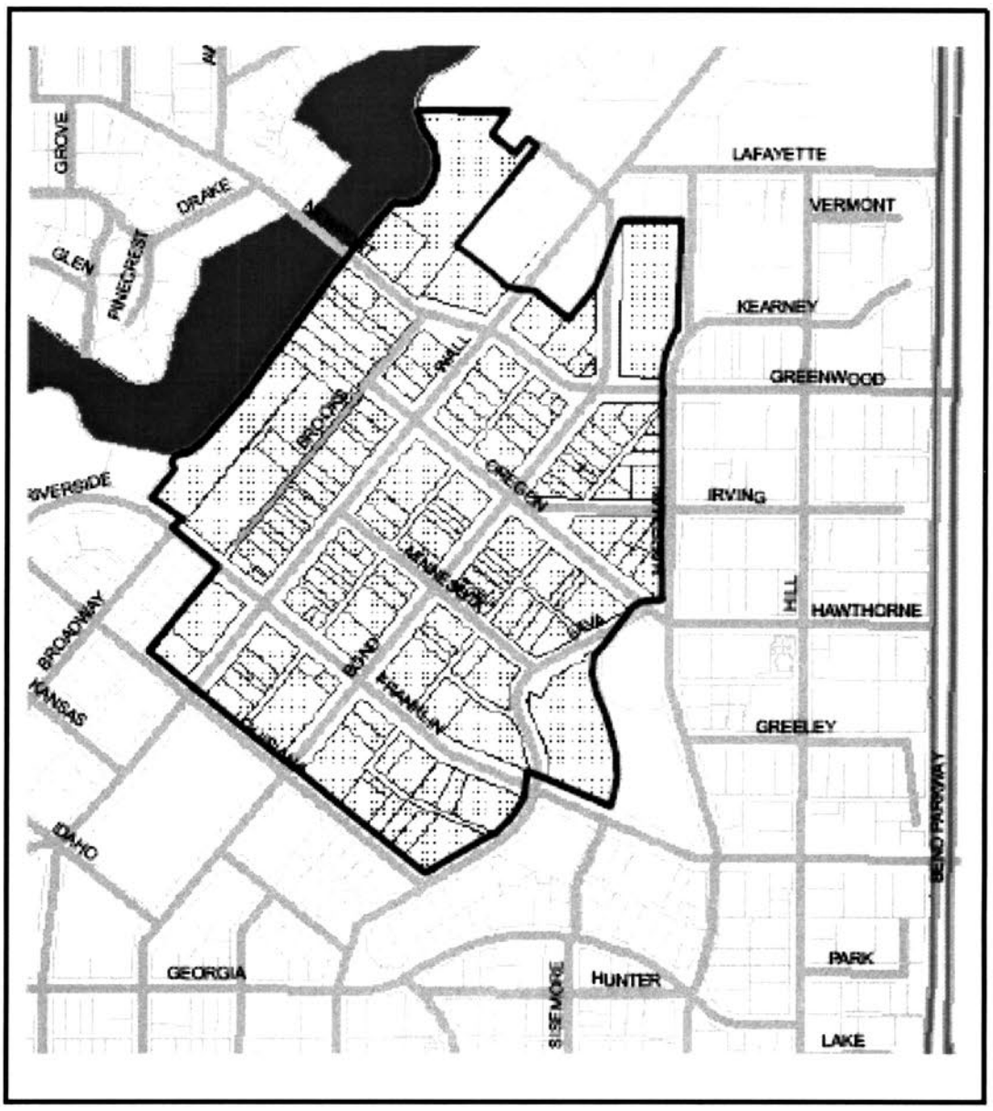
YES: 6 NO: 0 ABSTAIN: 1

Authenticated by the Mayor the 2nd day of November, 2005.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder



Proposed Economic Development District

DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

2005-79650

$41.00

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DESCHUTES COUNTY CLERK

CERTIFICATE PAGE

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NS-1986

ORDINANCE NO. NS-1986

AN ORDINANCE VACATING A PORTION OF AN UNAMED ALLEY THAT LIES SOUTHWEST OF NASHVILLE AVENUE APPROXIMATELY ½ BLOCK FROM NEWPORT AVENUE , LOCATED IN A PORTION OF THE SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER (SE1/4 NE1/4) OF SECTION 31, TOWNSHIP 17 SOUTH, RANGE 12 EAST, WILLIAMETTE MERIDIAN IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON

WHEREAS, the City of Bend has initiated a vacation of portions of a former unnamed alley located on the real estate described in Exhibits A and B attached to this ordinance;

WHEREAS, the land described in Exhibits A and B are longer used as an alley because the City as part of the 9th and Newport Roundabout project moved the alley generally to the south in order to improve sight distance from the alley onto Nashville Avenue;

WHEREAS, the relocation of the alley rendered the land depicted in Exhibits A and B to be excess and not necessary for public use;

AND WHEREAS, the City has entered into an agreement with adjacent property owner Paul Brohard to resolve various legal disputes providing for the conveyance of this land to Mr. Brohard;

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 19th day of October, 2005 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 proposed vacation is within the public interest, that the above-described portions of the unnamed alley are hereby vacated and conveyed to adjacent property owner Paul Brohard, subject only to an existing public utility right of way that currently exists over this property, and that adjacent property owner City of Bend relinquishes and conveys its interest under ORS 271.140 in the subject property to Mr. Brohard

Read for the first time the 19th day of October, 2005.

Read for the second time the 2nd day of November, 2005.

Placed upon its passage the 2nd day of November, 2005.

Yes: 7 No: 0

Authenticated by the Mayor the 2nd day of November , 2005.

Bill Friedman, Mayor

ATTEST: Patricia S Stell

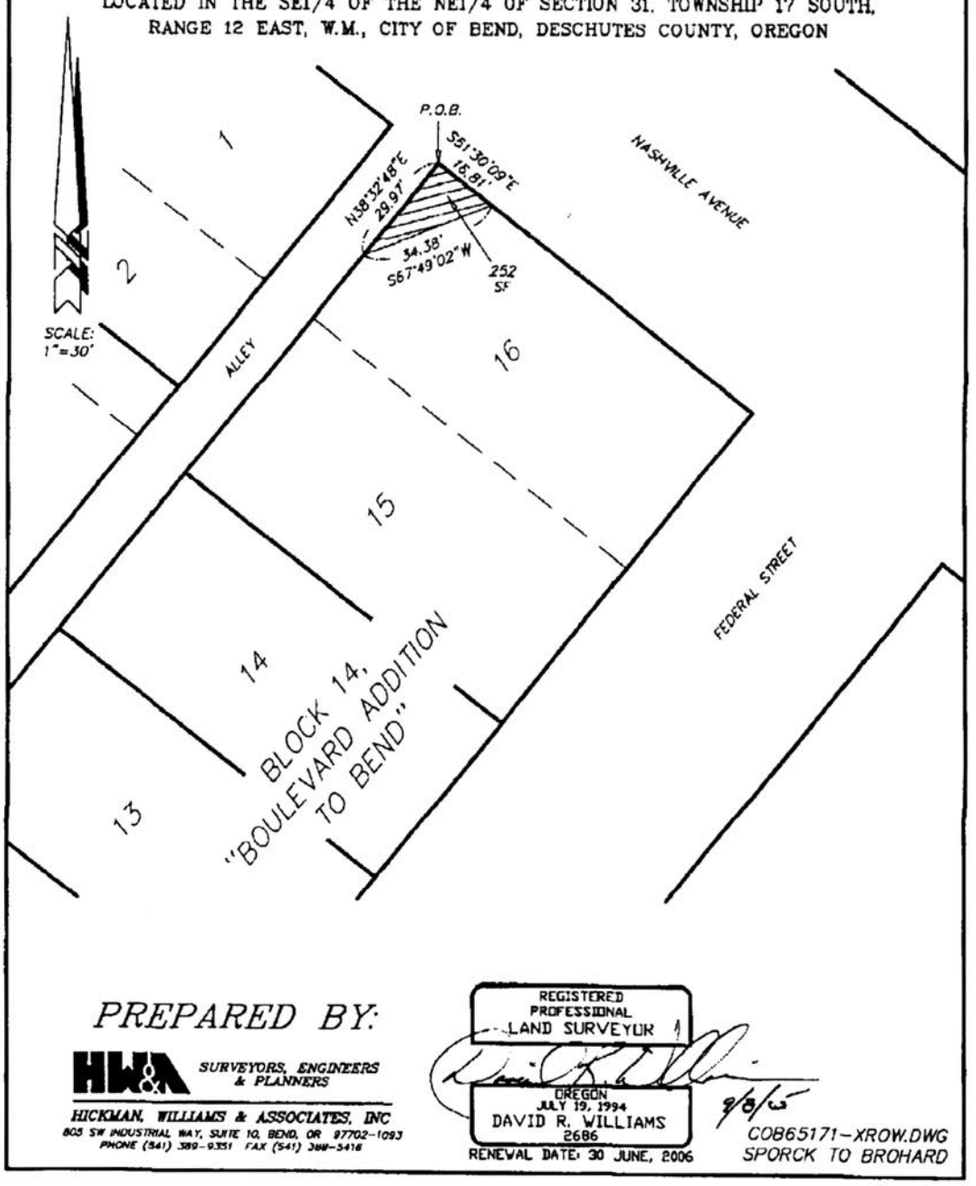
Patricia Stell, City Recorder

Please record page 1-3 of Ord. NS-1986

After recording return to Deputy City Recorder, 710 NW Wall, Bend 97701

EXHIBIT "A"

LOCATED IN THE SE1/4 OF THE NE1/4 OF SECTION 31, 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, OR 97702-1093
PHONE (541) 389-9351 FAX (541) 388-5416

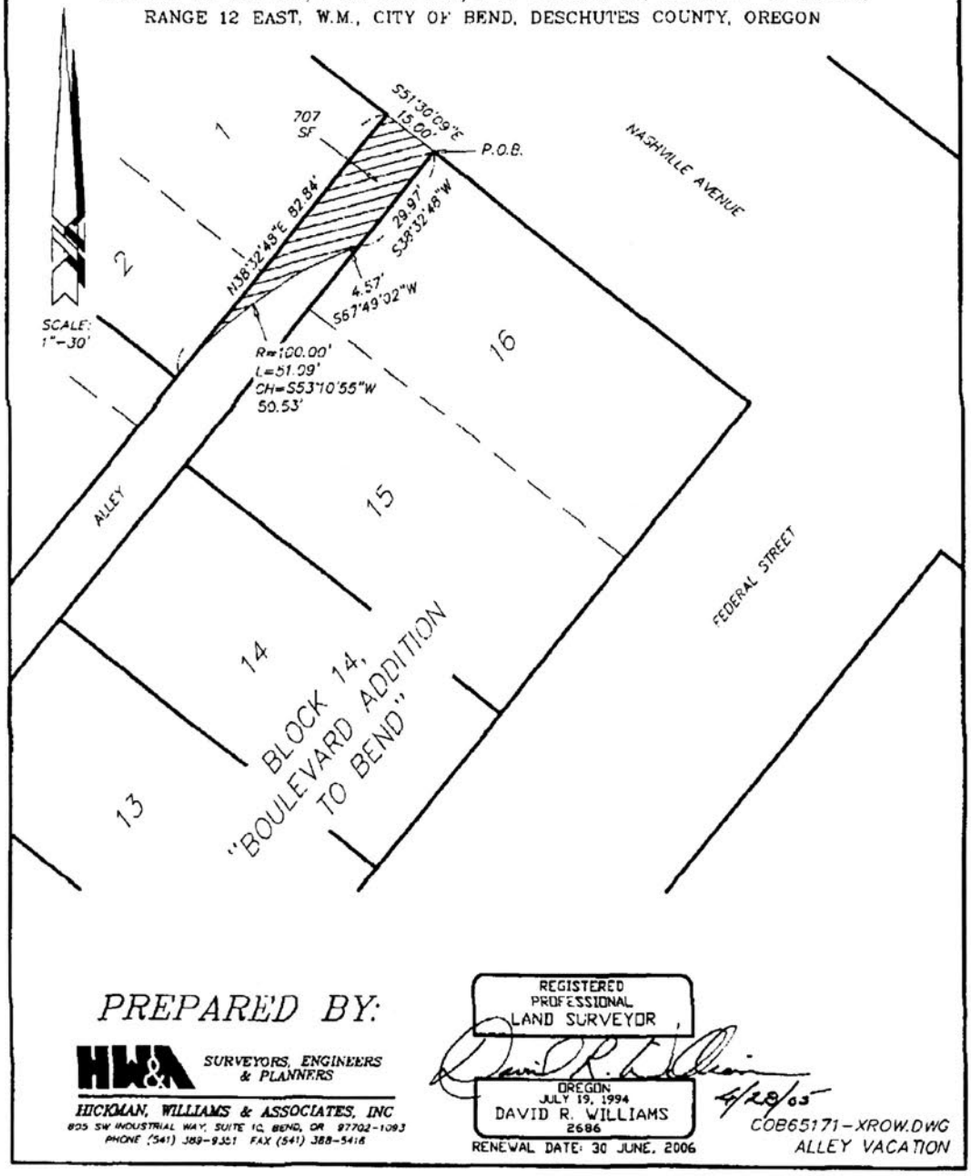
REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
JULY 19, 1994
DAVID R. WILLIAMS
2686
RENEWAL DATE: 30 JUNE, 2006

9/8/05

COB65171-XROW.DWG
SPORCK TO BROHARD

EXHIBIT "B"

LOCATED IN THE SE1/4 OF THE NE1/4 OF SECTION 31, 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, OR 97702-1093
PHONE (541) 389-9351 FAX (541) 388-5418

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 19, 1994
DAVID R. WILLIAMS
2686

RENEWAL DATE: 30 JUNE, 2006

4/28/05

COB65171-XROW.DWG
ALLEY VACATION

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ORDINANCE NO. NS-1987

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 SR 2 ½ , RESIDENTIAL SUBURBAN LOW DENSITY, TO RS, STANDARD DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated October 20, 2005 file number PZ-05-483.

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 17-12-17DC, tax lots 7400, 7800, 7900, 8000 and 8200 from Residential Suburban Low Density (SR 2 ½) to Urban Standard Density Residential (RS).

Read for the first time the 2nd day of November, 2005.

Read for the second time the 16th day of November, 2005.

Placed upon its passage the 16th day of November, 2005.

YES: 7 NO: 0

Authenticated by the Mayor the 16th day of November 2005.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1988

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 RL, LOW DENSITY RESIDENTIAL to RS, URBAN STANDARD DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated October 20, 2005, file number PZ-05-369.

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 a 0.2-acre portion of Assessor's Map 17-12-09DB, Tax Lot 3500 from Urban Low Density Residential (RL) to Urban Standard Density Residential (RS).

Read for the first time the 2nd day of November, 2005.

Read for the second time the 16th day of November, 2005.

Placed upon its passage the 16th day of November, 2005.

YES: 7 NO: 0

Authenticated by the Mayor the 16th day of November, 2005.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

EXHIBIT "A"
TO
ORDINANCE NO. NS-1988

The subject property is described as follows:

A parcel of land containing 0.20 acres more or less, located in a portion of the Southeast One-Quarter (SE 1/4) of Section 9, Township 17 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

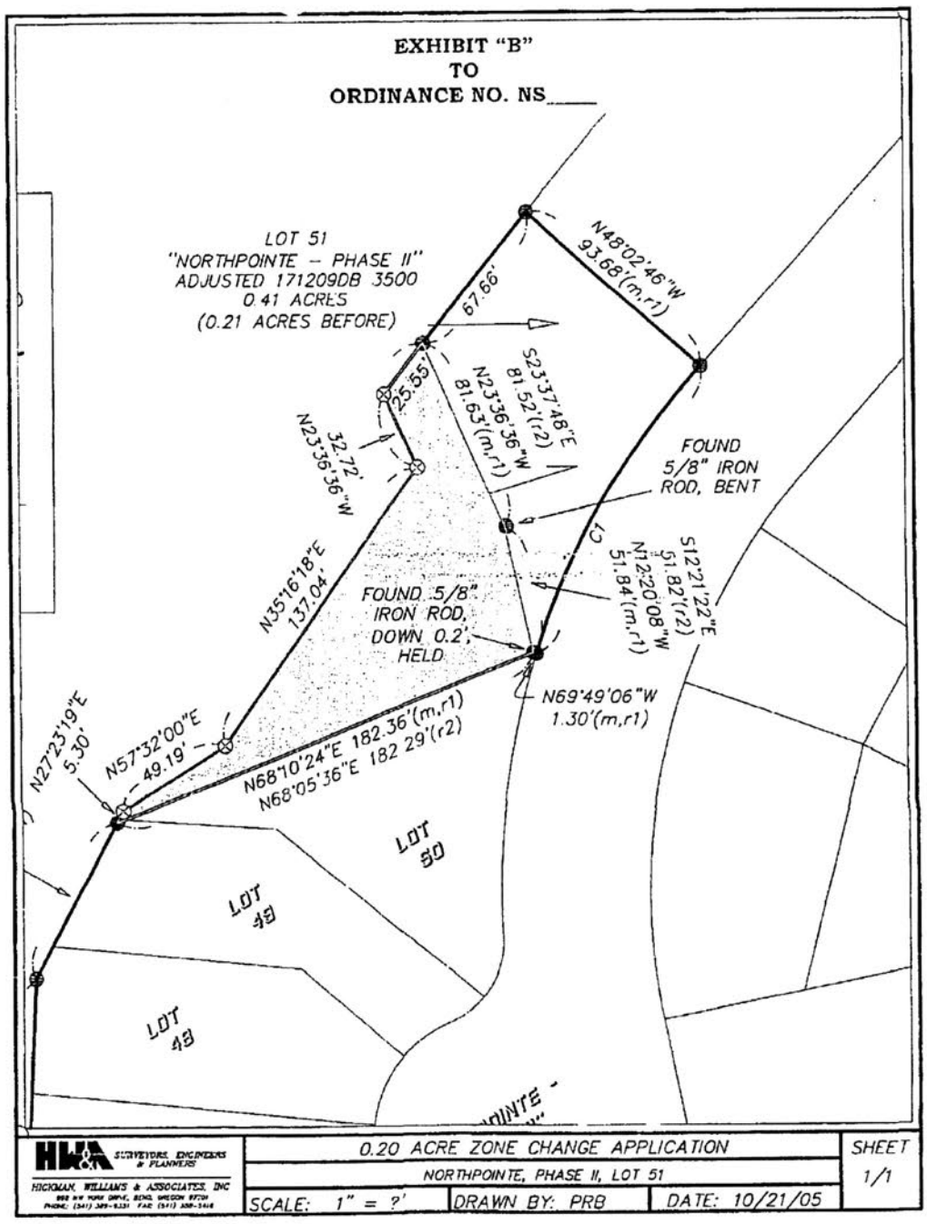
A portion of Lot 51 of Northpointe, Phase II, as adjusted by Lot Line Adjustment Number 05-308, being more particularly described as follows:

Beginning at the northerly most corner of said Lot 51; thence along the northwesterly boundary of said Lot 51 along a curve southeast with a radius of 2,764.79 feet, an arc distance of 67.66 feet, (chord bears South 38°27'17" West, 67.66 feet), to a point, the True Point of Beginning; thence along the following two (2) courses:

South 23°36'36" East a distance of 81.63 feet;
South 12°20'08" East a distance of 51.84 feet;

To the southerly boundary of said Lot 51; thence following said boundary South 68°10'24" West a distance of 182.36 feet to the northwesterly boundary of said Lot 51; thence following said boundary, North 27°23'19" East a distance of 5.30 feet; thence North 57°32'00" East a distance of 49.19 feet; thence North 35°16'18" East a distance of 137.04 feet; thence North 23°36'36" West a distance of 32.72 feet to the easterly right-of-way of the Burlington Northern Railroad; thence along said right-of-way, 25.55 feet along a non-tangent curve to the right with a radius of 2762.79 feet, the chord of which bears North 37°29'20" East a distance of 25.55 feet to the True Point of Beginning, the terminus of this description.

EXHIBIT "B"
TO
ORDINANCE NO. NS-1988



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DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

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DESCHUTES COUNTY CLERK

CERTIFICATE PAGE

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Do Not remove from original document.

ORDINANCE NO. NS-1989

AN ORDINANCE VACATING A PORTION OF AN UNUSED AND UNDEVELOPED RIGHT OF WAY THAT LIES SOUTH OF MOUNT WASHINGTON DRIVE AND WEST OF THE DESCHUTES RIVER ACROSS LAND OWNED BY RIVERS EDGE INVESTMENTS LLC, LOCATED IN THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 17 SOUTH, RANGE 12 EAST OF THE WILLIAMETTE MERIDIAN IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON

WHEREAS, the City of Bend has initiated a vacation of an unused and undeveloped right-of-way located on the real estate described on Exhibits A and the map attached to this ordinance;

WHEREAS, the land described in Exhibits A and B is not currently used by the City, and the City Council pursuant to a development agreement adopted in December 2004 agreed to vacate this right-of-way in exchange for valuable consideration contained in the development agreement;

WHEREAS, the right of way is not necessary for public use;

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 16th day of November, 2005 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 proposed vacation is within the public interest, that the above-described portions of the right of way are hereby vacated and conveyed to adjacent property owner RIVERS EDGE INVESTMENTS, LLC, subject only to an existing public utility-rights-of way, if any, that currently exist over this property.

Read for the first time the 16th day of November, 2005.

Read for the second time the 7thth day of December, 2005.

Placed upon its passage the 7th day of December, 2005.

Yes: 5 No: 0

Authenticated by the Mayor the 7th day of December, 2005.

Bill Friedman, Mayor

ATTEST: Patricia S Stell
Patricia Stell, City Recorder

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

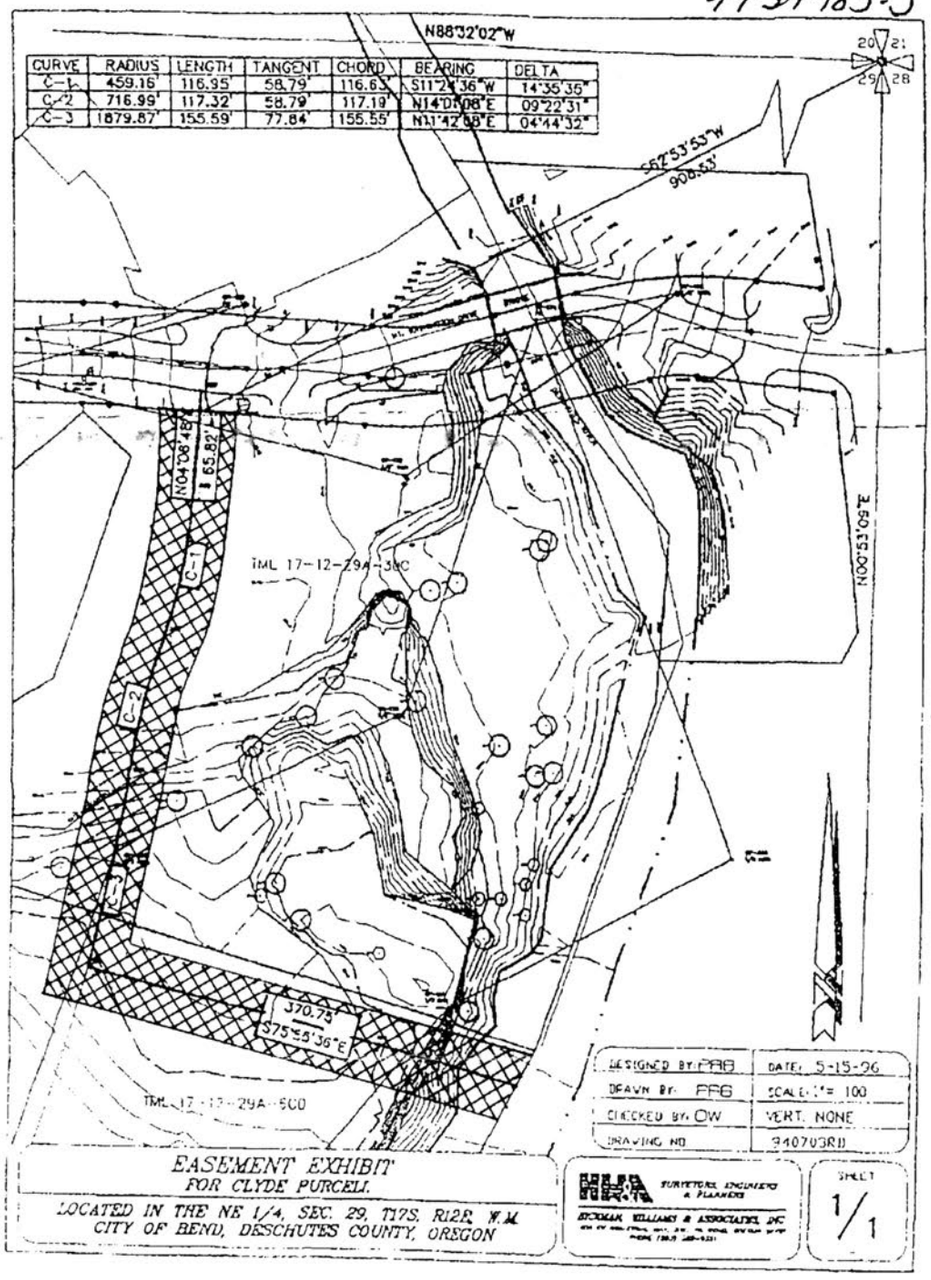
EXHIBIT A

A 60.00 foot wide strip of land lying 30.00 feet on each side of the centerline located in the Northeast Quarter of Section Twenty-nine (29), Township Seventeen (17) South, Range Twelve (12) East of the Willamette Meridian, City of Bend, Deschutes County, Oregon, the centerline of which is more particularly described as follows:

Beginning at a point on the southerly right-of-way of Mt. Washington Drive (80.00 feet wide), said point bears South 62° 53'53" West, 908.53 feet from the northeast section corner of said section; thence South 04° 06'48" West, 65.82 feet; thence along a curve to the right with a radius of 459.16 feet an arc distance of 116.95 feet (chord bears South 11° 24'36" West, 116.63 feet); thence along a curve to the left with a radius of 716.99 feet an arc distance of 117.32 feet (chord bears South 14° 01'08" East, 117.19 feet), thence along a curve to the right with a radius of 1879.87 feet an arc distance of 155.59 feet (chord bears South 11° 42'08" West, 155.55 feet): thence South 75° 55'36" East, 370.75 feet, more or less, to the Deschutes River and the terminus of this description. The centerline of this description may be adjusted to reflect subsequent development plans.

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

99-34983-3


N88°32'02"W
CURVE | RADIUS | LENGTH | TANGENT | CHORD | BEARING | DELTA
C-1 | 459.16' | 116.35' | 58.79' | 116.03' | S11°24'36"W | 14°31'35"
C-2 | 716.99' | 117.32' | 58.79' | 117.19' | N14°08'08"E | 09°22'31"
C-3 | 1879.87' | 155.59' | 77.84' | 155.55' | N11°42'38"E | 04°44'32"
S62°53'53"W
900.53'
N00°53'09"E
N04°06'48"E
65.62'
C-1
C-2
C-3
TML 17-12-29A-300
370.75'
S75°55'36"E
TML 17-12-29A-600
20
21
29
28
DESIGNED BY: PPB
DATE: 5-15-96
DRAWN BY: PPB
SCALE: 1"= 100
CHECKED BY: OW
VERT. NONE
DRAWING NO 94070GRD
SHEET 1/1
EASEMENT EXHIBIT
FOR CLYDE PURCELL
LOCATED IN THE NE 1/4, SEC. 29, T17S, R12E, W.M.
CITY OF BEND, DESCHUTES COUNTY, OREGON
SURVEYORS, ENGINEERS & PLANNERS
BRODMAN, WILLIAMS & ASSOCIATES, INC.

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ORDINANCE NO. NS-1990

AN ORDINANCE RELATED TO THE MAINTENANCE OF TREES ON CITY PROPERTY AND PUBLIC RIGHTS-OF-WAY

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

The Bend Code is amended by adding a new Section 2.50 to Chapter 2, Local Improvements to read as follows:

TREES ON CITY PROPERTY AND PUBLIC RIGHTS-OF-WAY

2.500 Purpose. It is the purpose of this ordinance to promote a diverse, healthy and sustainable urban forest and to provide for the general welfare of Bend's citizens by managing, conserving and enhancing the existing and future trees located on city property and on public rights-of-way; enhancing the appearance of the City; and providing ongoing education regarding the preservation, health and benefits of trees and Bend's urban forest.

2.510 Definitions. For the purpose of this Ordinance the following terms, phrases, words, and their derivation shall have the meaning given herein:

City – City of Bend, State of Oregon including its duly authorized representatives. *(from 9-16.2)*

City Property – Real property owned or controlled by the City either within or outside the City limits. *(from 5.315)*

Crown – The leaves and branches of a tree measured from the lowest branch on the trunk to the top of the tree.

Damage – Injury to a tree that compromises its health or longevity, or causes its death, including direct or indirect injury caused by insect, disease, human or animal.

Hazardous Tree - A tree or tree part that has a high potential to fail and cause damage or injury to people or property.

Major Pruning – The selective removal of over 20% of a tree's crown.

Person – Any person, firm, partnership, association, corporation, company, or organization of any kind.

Pruning – The selective removal of plant parts to meet specific goals and objectives.

Public Rights-of-Way – That portion of land acquired for construction of a roadway and supporting utilities falling under the jurisdiction of public entities. *(from 9-16.2)*

Topping – An inappropriate technique to reduce tree size; cutting a stem more than 2 years old at an indiscriminate location or back to a lateral branch too small to keep the cut stem vital (typically less than 1/3 the diameter of the cut stem); an unacceptable pruning practice that destroys tree architecture and serves to initiate discoloration and perhaps decay in the cut stem.

Tree – A woody perennial plant, usually with one main trunk, that is or will attain a height of twelve feet or a trunk diameter of at least 2 inches at 4.5 feet above natural grade.

Tree Board – The City Council or any body assembled by the City Council to hear appeals of decisions made by the Public Work director

Urban Forest Management Plan – A document that guides the work of the City's urban forestry program and envisions a long range plan for the preservation and improvement of Bend's urban forest. The Plan shall provide a 10-year outline for achieving urban forestry administrative, policy, educational and management goals and may contain such data as deemed necessary by the City to carry out its legal mandate. This Plan shall further implement the policies and goals of the City of Bend Urban Area General Plan. The initial Plan and subsequent updates are subject to the approval of the City Council.

Urban Forestry – The planting, management and maintenance of trees and related vegetation located within Bend's urban growth boundary for the present and potential positive benefits and contributions to the health and livability of the city.

2.520 Applicability and Jurisdiction.

(1) The provisions of this ordinance shall apply to trees located now and hereafter on city property and public rights-of-way.

(2) The City of Bend shall have jurisdiction of all trees located now and hereafter on city property and public rights-of-way and shall have the authority to regulate the planting, maintaining, removing and replacing of such trees.

(a) The Public Works Director or designee is authorized to:

(i) Supervise the urban forestry program and implement the provisions of this ordinance.

(ii) Develop within three (3) years of the adoption of this ordinance an Urban Forest Management Plan and, thereafter, implement and periodically update the Plan. Best efforts shall be made to insure that activities of the urban forestry program are guided by such Plan.

(iii) Be the city staff liaison to the City Tree Board.

2.530 Requires City authorization. Written authorization by the Public Works Director or designee is required for the removal, major pruning or planting of trees on city property and public rights-of-way.

(1) Request for written authorization shall be made at least 3 working days before the intended activity.

(2) The Public Works Director or designee shall base his/her written authorization on the standards, goals and objectives set forth in this ordinance, the City of Bend Standards and Specifications, Division VI - Landscape and Irrigation and the Urban Forest Management Plan.

(3) Work done under such written authorization shall be performed in accordance with the terms and provisions of this ordinance and the City of Bend Standards and Specifications, Division VI - Landscape and Irrigation.

(4) No such written authorization shall be valid for a period greater than ninety (90) days after the date of its issuance.

(5) The written authorization to remove trees may include a provision requiring the replacement of the tree(s) removed with tree(s) selected from the City of Bend Standards and Specifications, Division VI - Landscape and Irrigation, Tree Selection Guide.

(6) Public utility companies holding a current franchise agreement with the City are exempt from this written authorization

requirement. All activities shall be conducted in accordance with the provisions of the franchise agreement.

(7) City personnel and personnel with Bend Metro Parks and Recreation District on official business who are performing removal, major pruning or planting of trees on city property and public rights-of-way are exempt from this written authorization requirement. All activities shall be coordinated with the Public Works Director or designee and be conducted in accordance with the provisions of this ordinance, the City of Bend Standards and Specifications, Division VI - Landscape and Irrigation and the Urban Forest Management Plan.

(8) If the Public Works Director or designee determines a tree is hazardous, he/she may authorize immediate emergency removal or pruning of such tree. Work shall be done in accordance with the City of Bend Standards and Specifications, Division VI - Landscape and Irrigation, unless otherwise authorized by the Public Works Director or designee.

2.540 Responsibilities of property owner(s) of land abutting public rights-of-way.

(1) Except for trees located in medians on public rights-of-way, which shall be maintained by the City, it shall be the continued duty and routine obligation of property owner(s) of land abutting the public rights-of-way to perform activities required to maintain trees located on the abutting public rights-of-way in good health and vigor. Activities include watering, pruning, and protection against damage.

(2) Tree removal and tree planting shall be the obligation of the property owner(s) of land abutting the public rights-of-way where the tree is located or will be located.

(3) Through a written agreement with a property owner(s), the Public Works Director or designee may accept for the City, ongoing or project specific responsibility for maintaining, removing or planting tree(s) located on the public rights-of-way abutting the land owned by the property owner(s).

(4) All activities shall be conducted in accordance with this ordinance and the City of Bend Standards and Specifications, Division VI – Landscape and Irrigation.

2.550 Work Standards and Specifications.

(1) Work done on and near trees located on city property and public rights-of-way shall be performed in accordance with the terms and provisions of this ordinance and the City of Bend Standards and Specifications, Division VI - Landscape and Irrigation.

(2) The Public Works Director or designee shall develop specifications and standards for activities affecting trees located on city property and public rights-of-way, including planting, maintenance, protection and removal of trees within the City of Bend Standards and Specifications. The standards and specifications shall be consistent with the landscaping provisions of Section 10-10.23 of the City of Bend Zoning Ordinance.

(a) The City of Bend Standards and Specifications, Division VI - Landscape and Irrigation shall include a Tree Selection Guide; a list of tree species, varieties and cultivars thereof, approved for planting on city property and public rights-of-way. Tree species, varieties and cultivars thereof, not included in the Tree Selection Guide may be considered and approved by the Public Works Director or designee for planting. Approval shall be based upon the suitability and appropriateness of the tree species, variety or cultivar for the planting site.

(b) The Public Works Director or designee shall maintain and update as necessary these standards and specifications. All amendments are subject to approval by the City Council.

(2) The City recognizes the American National Standards Institute A300 Standards for Tree Care Operations as the appropriate standard for tree care. ANSI A300 standards for pruning shall apply to any person or entity engaged in the performance, business or trade of repairing, maintaining or preserving trees on city property or on public rights-of-way. The city shall incorporate by reference the most recent version of the ANSI A300 within the City of Bend Standards and Specifications, Division VI - Landscape and Irrigation and maintain the most recent version of the ANSI A300 for public review.

(3) Except for immature trees of insufficient height to prune and retain a crown that is at least 2/3 the height of the tree, trees located on city property and public rights-of-way shall be pruned to maintain at a minimum a clearance height of 8' over public sidewalks and a clearance height of 14' over arterial and collector streets.

(4) The City's Clear Vision Area requirements shall be maintained in accordance with the standards and specifications stated within Section 10-10.27 of the City of Bend Zoning Ordinance.

(5) Trees located on city property and public rights-of-way that are located within fifteen (15) feet of any excavation, demolition or construction site, including the erection, repair, alteration or removal of any buildings, structures, street, utilities or landscaping, may require protection from harm and injury, as determined by the Public Works Director or designee. Protection measures shall be conducted in accordance with the City of Bend Standards and Specification Division VI – Landscape and Irrigation.

2.560 Activities Prohibited. Unless specifically authorized in writing by the Public Works Director or designee:

(1) No person shall top a tree located on city property or on public rights-of-way. Authorization to top a tree shall be based upon the determination that topping is necessary to alleviate a dangerous or hazardous condition, including electric service interruptions, which pose an imminent threat to the public or property.

(2) No person shall attach or keep attached to any tree located on city property or on public rights-of-way any ropes, wires, chains or other device whatsoever, except that the same may be attached to any tree as support or protection of such tree.

(a) Seasonal holiday lights attached in accordance with the standards and specifications within the City of Bend Standards and Specifications, Division VI - Landscape and Irrigation is permissible for a period not to exceed 90 days, unless otherwise approved by the Public Works Director or designee .

(3) No person shall damage any tree located on city property or on public rights-of-way; allow any gaseous liquid or solid substance which is harmful to such tree to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any such tree.

(4) No person shall remove, major prune or plant a tree located on city property or on public rights-of-way without authorization from the Public Works Director or designee.

2.570 Penalties and Appeals.

(1) A violation of 2.500 – 2.560 is a Class A Civil Infraction.

(2) Any action related to this code section by the Public Works Director or designee may be appealed to and heard by the Tree Board. To be effective, an appeal shall be filed within fourteen (14) working days after the decision of the Public Works Director or designee. The appeal shall be in writing and shall be filed with the City Recorder for placement on the Tree Board's agenda. The appeal shall clearly specify the reasons for which a hearing is requested. After a hearing, the Tree Board shall render its decision, which shall be final unless appealed to the City

Council. To be effective, an appeal to the City Council shall be in writing, state the reasons for the appeal, and shall be filed with the City Recorder within fourteen (14) working days after notice of the decision of the Tree Board is mailed to the applicant. The decision of the City Council shall be final.

2.580 Severability. If any subsection, sentence, clause, provision or part of this Ordinance shall be held invalid for any reason, the remainder of this Ordinance shall not be affected thereby, but shall remain in force and effect.

This ordinance shall take effect thirty days after its passage.

Read for the first time the 7th day of December, 2005.

Read for the second time the 4th day of January, 2006.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

DO NOT RECORD THIS SIDE.

ORDINANCE NS-1991

AN ORDINANCE RENAMING FOUR INTERIOR STREETS IN THE ASPEN RIM SUBDIVISION DUE TO AN ERROR AT TIME OF RECORDING. THE STREET NAMES ARE TO BE CHANGED AS LISTED BELOW:

FROM:	TO:
Meadows Drive	Aspen Ridge Drive
Cascade Lane	Steens Lane
Breckenridge Drive	Aspen Meadows Drive
Aspen Ridge Drive	Aspen Rim Lane

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. That four street names in the Aspen Rim subdivision shall be changed as follows: Meadows Drive shall be renamed Aspen Ridge Drive, Cascade Lane shall be renamed Steens Lane, Breckenridge Drive shall be renamed Aspen Meadows Drive and Aspen Ridge Drive shall be renamed Aspen Rim Lane.

Section 2. The effective date for the renaming of these streets shall be 30 days following the adoption of this ordinance.

Read for the first time the 7th day of December 2005.

Read for the second time the 4th day of January 2006.

Placed upon its passage the 4th day of January 2006.

YES: 7 NO: 0

Authenticated by the Mayor the 4th day of January 2006.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City Recorder

Please record Ordinance NS-1991. After Recording return to:
Deputy City Recorder, City of Bend, 710 NW Wall, Bend, OR 97701

DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK
2006-14233
$31.00
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03/01/2006 02:37:06 PM
D-IPPS Cnt=1 Stn=23 SHIRLEY
$5.00 $11.00 $10.00 $5.00

ORDINANCE NO. NS-1992

AN ORDINANCE AMENDING ORDINANCE NO. NS-1178, CITY OF BEND ZONING ORDINANCE , AS AMENDED, TO MODIFY THE ZONING MAP BY ADJUSTING THE MEDICAL DISTRICT OVERLAY ZONE (MDOZ) BOUNDARY.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Whereas, the City of Bend City Council has held a public hearing, considered the Planning Commission's recommendation, and has found that the proposal meets the criterion for approval. The City of Bend City Council adopts the findings as stated in the Staff Recommendation dated November 23, 2005, in regard to City of Bend file #PZ05-633.

Section 2. The official Zoning Map of the City of Bend, as adopted by Ordinance No. NS-1178, and as amended, is hereby amended to modify the Medical District Overlay Zone Boundary map, as adopted by Ordinance No. NS-1914, to incorporated all of Lot 2 of the Daggett Lane Subdivision as recorded with the Deschutes County Surveyors office on December 16, 2003, into the Medical District Overlay Zone.

Read for the first time the 4th day of January, 2006.

Read for the second time the 18th day of January, 2006.

Placed upon its passage the 18th day of January, 2006.

YES: 6 NO: 1

Authenticated by the Mayor the 18th day of January, 2006.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1993

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 UAR, URBAN AREA RESERVE, TO RS, STANDARD DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated November 23, 2005 file number PZ-05-430.

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 18-12-18BA, Tax Lots 600, 700, 800 and Tax Map 18-12-18BB, Tax Lots 100, 200, 400, 500, 600 and shown in Exhibit "A". The change will be from Urban Area Reserve (UAR) to Urban Standard Density Residential (RS).

Read for the first time the 4th day of January, 2006.

Read for the second time the 18th day of January, 2006.

Placed upon its passage the 18th day of January, 2006.

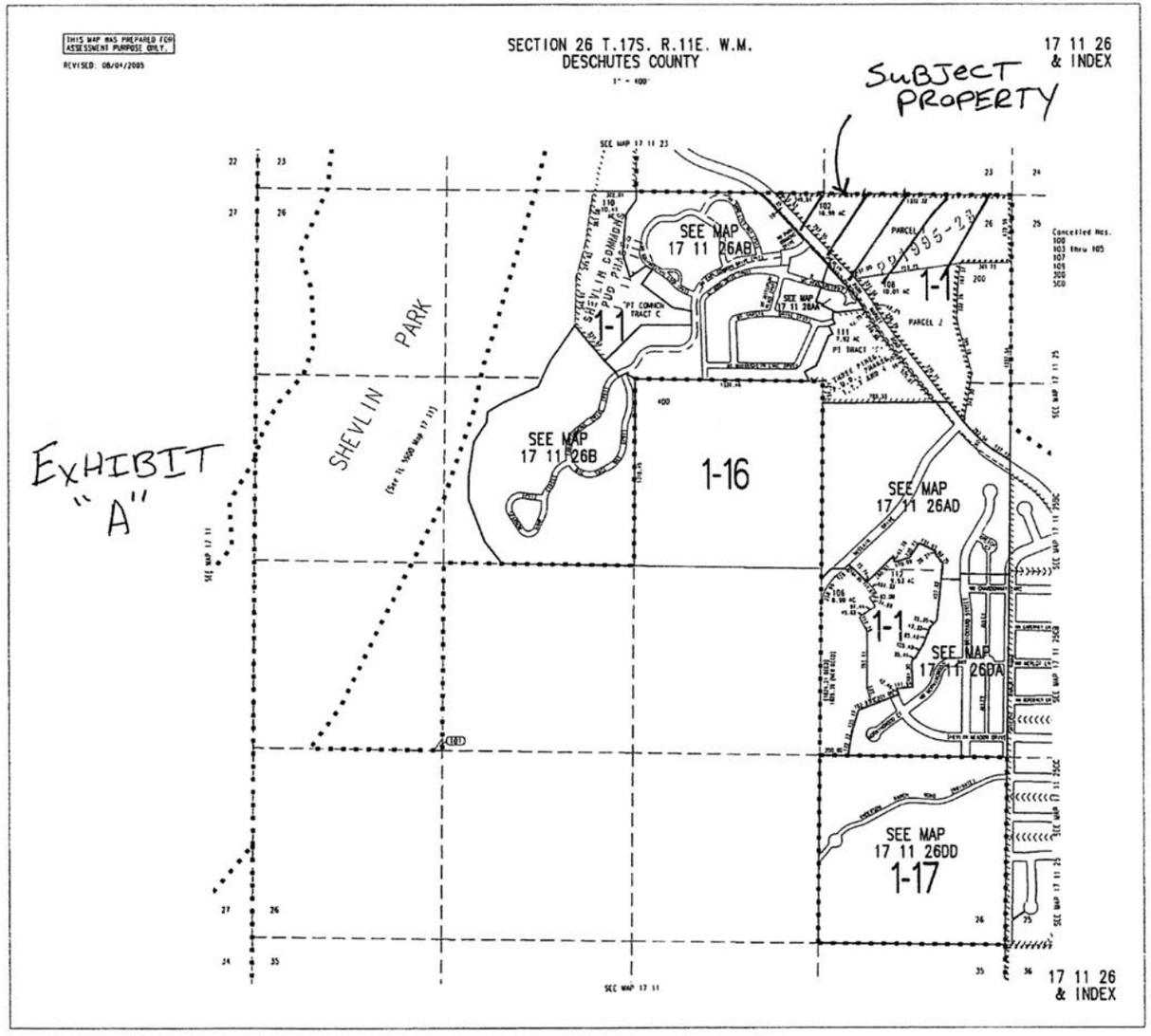
YES: 6 NO: 1

Authenticated by the Mayor the 18th day of January, 2006.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder


THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY.
REVISED: 08/04/2005
SECTION 26 T.17S. R.11E. W.M.
DESCHUTES COUNTY
1" = 400'
17 11 26 & INDEX
SUBJECT PROPERTY
EXHIBIT "A"
SHEVLIN PARK
SHEVLIN COMMONS 2ND PHASE
SEE MAP 17 11 26AB
SEE MAP 17 11 26AA
SEE MAP 17 11 26B
SEE MAP 17 11 26AD
SEE MAP 17 11 26DA
SEE MAP 17 11 26DD
1-1
1-16
1-17
PARCEL 1
PARCEL 2
PT TRACT
PT COMMON TRACT C
Cancelled Accts. thru 105
SEE MAP 17 11 23
SEE MAP 17 11
17 11 26 & INDEX

ORDINANCE NO. NS-1994

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

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 3, 2005, file number PZ-05-334.

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

Read for the first time the 4th day of January, 2006.

Read for the second time the 18th day of January, 2006.

Placed upon its passage the 18th day of January, 2006.

YES: 6 NO: 1

Authenticated by the Mayor the 18th day of January, 2006.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

EXHIBIT "A"

PARCEL 1:

The Easterly portion of Lot 1 in Block 4 of ELLIS SUBDIVISION, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the Southeast corner of said Lot 1; thence along the Southerly lot line of said Lot 1 West, 261.70 feet; thence leaving said Southerly line North 100.00 feet to a point on the Northerly lot line of said Lot 1; thence along the Northerly lot line East, 262.51 feet to a point of the Westerly right-of-way line of Butler Market Road (East 8th Street); thence along said right-of-way line along on an arc of a 1175.92-foot radius curve left, 43.72 feet; the chord of which bears South 01°03'42" West, 43.72 feet; thence South 56.29 feet to the Point of Beginning and terminus of this description.

PARCEL 2:

Lot 1 in Block 6 and Lot 1 in Block 4 of ELLIS SUBDIVISION, Deschutes County, Oregon.

TOGETHER WITH that portion of Seventh Street which inured to said Lots upon the vacation thereof by Ordinance No. NS-1234 dated April 16, 1947.

EXCEPTING THEREFROM the Easterly portion of Lot 1 in Block 4 of ELLIS SUBDIVISION, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the Southeast corner of said Lot 1; thence along the Southerly lot line of said Lot 1 West, 261.70 feet; thence leaving said Southerly line North 100.00 feet to a point on the Northerly lot line of said Lot 1; thence along the Northerly lot line East, 262.51 feet to a point of the Westerly right-of-way line of Butler Market Road (East 8th Street); thence along said right-of-way line along on an arc of 1175.92-foot radius curve left 43.72 feet, the chord of which bears South 01°03'42" West, 43.72 feet; thence South 56.29 feet to the Point of Beginning and terminus of this description.

(Text appearing in underlined typeface
has been added to the December 7, 2005 draft;
Text appearing in ~~strikethrough~~ typeface
has been deleted from the December 7, 2005 draft.)

ORDINANCE NO. NS-1995

AN ORDINANCE ESTABLISHING A BUSINESS LICENSE REQUIREMENT FOR BUSINESSES OPERATING IN THE CITY OF BEND

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Bend Code Chapter 7 is amended by adding the following Sections 7.700 through 7.790:

7. 700 BUSINESS LICENSES

7.705 Short Title. The provisions of Sections 7.700 to 7.790 shall be known as the Business License Ordinance.

7.710 Purpose

(1) Emergency responders from the Bend Fire Department are better able to respond effectively and safely to emergency situations at Bend businesses when they have information about what type of business and contents of the structure are located in business establishments in Bend. Building Code compliance, Planning Code compliance, Fire Code compliance and Wastewater discharge compliance are enhanced by obtaining data from business license applications about structures where businesses are located. Business demographic information is also necessary to promote economic development. This ordinance is designed to obtain that information. The public health, safety and welfare are benefited by this business licensing ordinance.

(2) It is necessary that fees for engaging in business in Bend be collected for securing revenue to assist in defraying the cost of police and fire protection, and other necessary municipal services. The fee required by this ordinance shall be in addition to general ad valorem taxes now or hereafter levied under law and the license shall be in addition to licenses prescribed in other parts of the Bend Code and fees resolutions, or licenses required by other city, county, local, state, and federal laws.

7.715 Definitions. In Bend Code Sections 7.700 to 7.790, a "business" is a trade or business activity activity, regardlesss of the form under which the activity is conducted (such as sole proprietor; partnership; corporation; Subchapter S corporation; limited liability company; limited liability partnership and the like), that is required under the US Internal Revenue Code to file an income tax return. The following additional definitions apply:

(1) "For profit business" means any trade, profession, occupation or pursuit, the purpose of which is to make a profit, whether or not a profit is actually made, as defined by the US Internal Revenue Code, as amended from time to time.

(2) "Non-profit business" means any business that qualifies as a non-profit business under the US Internal Revenue Code, as amended from time to time.

(3) "Public utility" means any business regulated by the Oregon Public Utility Commission or federal agency, such as the Federal Communications

Commission, that delivers water, sewer, gas, electric, cable television, cable modem, satellite television, satellite modem, or telecommunications services within the City of Bend.

(4) "Exempt business" means:

(a) Any person transacting and carrying on any business within the City which is exempt from a license fee or tax or regulation by virtue of the US Constitution, laws of the United States, Oregon Constitution, or laws of the State of Oregon;

(b) Churches and governmental agencies;

(c) A service business operated by a person under the age of 18, such as a lawn mowing business, a newspaper delivery business, a lemonade stand, and the like.

(d) Independent contractors (such as medical care providers, beauticians, and the like) that work in an office building or building of a business that has applied for and obtained a business license that covers the entire building are not required to obtain an individual license. Where the owner of the building has not obtained a business license to cover such independent contractor, the independent contractor is required to obtain a license under this ordinance.

7.720 Requirement to Obtain Business License; Pay Application Fee; and Apply for Exemption.

(1) Persons carrying on or transacting any Business, Non-profit Business or Public Utility as defined in section 7.715(1), (2) or (3), where physical business activity is undertaken within the City of Bend, shall be required to apply for and obtain a business license, unless such person is an Exempt Business, or the business is not required to obtain a license under another provision of this ordinance. A business that believes it is exempt from obtaining a business license shall apply for an exemption on a form provided by the city.

(2) Non-profit businesses, as defined in Section 7.715(2) must obtain a license, but shall pay a reduced fee as established by the current City of Bend Fee Resolution.

(3) Where a business is owned by a corporation or operates under a franchise, it shall be the responsibility of the local business manager to obtain the required license.

(4) The following provisions apply to the obligation to obtain a business license:

(a) Any business that conducts physical activities in the City of Bend, whether or not such business operates from a physical structure or location within the City of Bend, is subject to this ordinance. Businesses that have their primary business location outside the City of Bend, but that conduct business activity within the City of Bend (including, but not limited to delivery businesses, repair businesses, and the like) are required to be licensed under this ordinance.

(b) If two or more related businesses are carried on at the same premises by the same owners, one license issued in the name of the business for which the premises is primarily used shall be sufficient for all such activities.

(c) Electronic businesses, including internet businesses with a physical location in the City of Bend, shall be required to be licensed, unless exempt by another provision of this ordinance.

(d) Where:

(1) A business is leased, under concession to, or owned wholly or in part by a different person or persons on the same premises, such business must be separately licensed, unless exempted by this ordinance. (For example, in the case where a business allows a food or other concession to be operated on the premises, and where the concession is owned by a separate entity, the concession is a separate business activity, requiring a separate license.)

~~(2) Various independent contractors work in the same building, whether they are engaged in the same profession or not, each such independent contractor shall be required to obtain a business license, unless otherwise exempted under this ordinance.~~

(2) A single business occupies more than one building and the separate building occupancy is an adjunct to the same business activity (such as a retail or wholesale business that operates a warehouse in a building separate from the central business office or retail sales location), then only one license shall be required; but the business license application shall list all buildings where business activity occurs, providing necessary detail as to the activity conducted in each separate building.

(e) For the purpose of this ordinance, no employee of a business whose income is based solely on an hourly, daily, weekly, monthly or annual wage, or salary shall be considered a person transacting and carrying on a business. The intention of this ordinance is that all business license fees assessed by this ordinance shall be borne by the employer or proprietor for the privilege of doing business.

(f) Charitable organizations that have no physical location other than a post office box are not required to obtain a license under this ordinance.

(g) Activities that qualify as hobbies or passive holding of property for investment purposes under the US Internal revenue Code are not required to obtain a license under this ordinance.

7.725 License Duration and Transfer of Business or Business Location.

(1) New licenses shall be valid from the date of issuance to the end of the following 12th month, and shall be renewable annually in the same month of each following year. The license fee shall not be pro-rated.

(2) If ownership of a business is transferred during the year, the new owner shall apply for a new business license and pay a separate license fee in the amount established by the City of Bend Fee Resolution.

(3) Businesses that change physical location or business name shall record the change of address or business name with the city, but shall not be required to pay a new fee for the current year.

7.730 Application for License. Each person wishing to engage in a new business shall apply for a license to carry on business for the license year. Suitable application forms will be furnished by the City. At the time of filing, the applicant shall pay the license fee required. The application shall be filed with the City Recorder and shall contain, at a minimum:

(1) A description of the nature of the Business activity, Non-Profit Business activity or Utility to be engaged in;

(2) The date that business operations commenced;

(3) The name and address of the applicant; if a partnership, the names and addresses of all partners; if a business is a corporation, its name and the address of the home office, the name and address of the designated agent in the State if a foreign corporation, and the name and address of the local agent or representative who will be in charge of the business in the City;

(4) The addresses where the business will be located or have its City office and all branch, storefront, warehouse and any other associated locations;

(5) The date of application.

(6) The North American Industrial Coding System ("NAICS") (formerly SIC) code number;

(7) A statement of the number of full time, part time or seasonal employees of the business;

(8) Emergency contact information;

(9) Any other information the Recorder or Council determines that the application should contain;

(10) The signature of the applicant or agent making the application;

(11) If the applicant is a foreign corporation or a non-resident of this State, and no permanent business location is proposed to be created in the City, the applicant shall appoint a local person, acceptable to the City Manager, as an agent for accepting service of a process, notice, or demand required or permitted service of a process, notice or demand required or permitted by law to be served upon the applicant. The applicant shall submit with the application, the agent's acknowledged consent to acceptance of said service on the form provided by the City.

7.735 Application Review and Effect of Issuance of License. The City Recorder shall review and issue licenses. Issuance of a license is not evidence that the applicant is in compliance with any other provision of law.

7.740 Issuance of License.

(1) After receipt of necessary license information and the application fee, the City Recorder shall issue the license.

(2) No license shall be issued to a person if the person has, prior to making application, conducted a business within the City while this ordinance was in effect without a current, valid license issued under this ordinance, unless an additional amount equal to the license fee for the period during which the business was thus conducted is paid. In addition, civil penalties may be assessed as provided in this ordinance.

7.745 Denial of Application; Incomplete applications. The City Recorder will only deny a license where the business activity is obviously illegal. If the City

Recorder determines that the application is materially incomplete, a license will be issued upon furnishing a complete application together with an additional administrative fee established by the fee resolution.

7.750 License Renewal. The application for renewal of a business license shall be made to the City Recorder prior to the expiration date. Failure to timely submit an application is a Class "A" Civil Infraction, subject to the penalty provisions of Section 7.790.

7.755 Revocation of License. The City of Bend will revoke a business license where a licensed business is operating illegally. Once issued, all businesses must comply with all city, state and federal laws, and the existence of a City of Bend business license does not authorize a business to operate in violation of any other laws.

7.760 Continuing requirement for Other Licenses. Any business or profession required to be licensed by any other provision of city, state, county, local or federal law shall continue to be responsible for obtaining and maintaining such licensure. Nothing in this ordinance excuses a business from obtaining all other necessary licenses, and the issuance of a business license under this ordinance shall not excuse a licensee from compliance with any other law.

7.765 Appeal. An applicant whose license is denied, or who contests any other ruling of the City Recorder may file an appeal with the Bend Municipal Court. The Court shall establish procedures for processing and hearing such appeals.

7.770 Posting of License. All businesses based in buildings whose primary purpose is commercial, and all businesses based in vehicles must display the license in public view at all times. For businesses that utilize multiple vehicles, a photocopy of the license shall be required to be on display in public view in each vehicle. Businesses based in buildings that are primarily residential need not publicly display the license, but must keep it available for inspection upon reasonable request.

7.775 Business License Fee. The fees for all licenses required under this ordinance shall be established by the City of Bend Fee Resolution, and may be changed from time to time. Any change in the license fee resolution shall apply to a licensee at the time of initial issuance or at the next renewal, but shall not apply retroactively to a license already in effect.

7.780 Effective Date; Waiver of Penalties During the First 18 months. This ordinance shall be effective 30 days after adoption by the City Council. During the first 18 months following the effective date, no penalties shall be assessed under Section 7.790; however, application fees shall be due upon the effective date of the ordinance, and any unpaid application fee shall remain due and payable for the first 12 months, and thereafter. Penalties shall not be assessed until the City of Bend provides two notices to the business that the license is required, and 45 days elapse after the second notification is received. A first notice shall be sufficient if sent by first class mail to the owner of the business, or agent of such owner; and a second notice shall be sufficient if sent by certified mail, return receipt requested. If the notices are sent to an address where the owner of the business or agent of such owner receives mail, it shall not be a defense that the notice was not actually received. The grace period for assessment of penalties shall not affect the obligation of the business to pay application fees from the effective date of this ordinance.

7.785 Changes to Application Requirements or Fee Changes. Amendment of the fee resolution to change the amount of fees to be assessed or information to be supplied on the application form shall require public notice and two prior public hearings.

7.790 Violations and Civil Penalties.

(1) Violation of any provision of this ordinance shall be a Class A Civil Infraction, subject to a fine not to exceed $500 per violation.

(2) In addition to violations of the specific provisions of this ordinance, the following acts shall constitute a Class A Civil Infraction:

(a) Operating a business without obtaining a license as required by this ordinance;
(b) Failure to make timely application for a license or license exemption;
(c) Making a materially false statement to the City of Bend in connection with any requirement of this ordinance;
(d) Failure to provide information required by this ordinance;

(3) Assessment of a fine under this ordinance shall be a remedy of the city in addition to any other remedy. The statute of limitations on a civil penalty shall not begin to run until the city discovers that a violation of the ordinance has occurred. Every year that a business operates without a required license shall be a separate violation. The city shall have a civil claim against any business that fails to pay a fee required by this ordinance, and the city reserves any other remedies available under law.

Read for the first time the 4th day of January, 2006.

Read for the second time the 18th day of January, 2006.

Placed upon its passage the 18th day of January, 2006.

YES: 5 NO: 2 ABSTAIN: 0

Authenticated by the Mayor the 18th day of January, 2006.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

Added text appears in underlined typeface;
Deleted text appears in ~~strikethrough~~ typeface.

ORDINANCE NO. NS - 1996

AN ORDINANCE AMENDING THE ROATS WATER SYSTEM, INC. FRANCHISE BY PROVIDING FOR A FRANCHISE FEE

Whereas, On June 7, 2000, the City of Bend, by ordinance No. NS-1747, adopted a revised Franchise Agreement with Roats Water System, Inc. which did not provide for the payment of a franchise fee, and

Whereas, On September 21, 2005, the City of Bend adopted Ordinance No. NS-1982, establishing a 3% franchise fee on the gross operating revenues of water utilities operating within the City of Bend, and

Whereas, the City of Bend Water Utility is required to pay a comparable fee,

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1: Section 12 of the franchise agreement between the City of Bend and the Roats Water System, Inc., is amended as follows:

Section 12: ~~No~~ Franchise Fee.
~~City shall not charge a franchise fee for Company's service unless City's water utility pays a comparable fee and the fee is approved by the P.U.C~~. Company shall pay the franchise fee established by Section 3.112 of the Bend Code. A comparable fee shall be paid by the City's water utility. For purposes of calculating the franchise fee, the term "gross operating revenue" in Bend Code Section 3.112 shall mean all Company income recognized by the Oregon Public Utility Commission for rate setting purposes. The franchise fee provided herein is subject to Public Utility Commission approval.

Read for the first time this 18th day of January, 2006.

Read for the second time this 1st day of February, 2006.

Placed upon its passage this 1st day of February, 2006.

YES: 6 NO: 1

Authenticated by the Mayor this 1st day of February, 2006.

Bill Friedman, MAYOR

ATTEST:

Patricia Stell, City Recorder

Added text appears in underlined typeface;
Deleted text appears in ~~strikethrough~~ typeface.

ORDINANCE NO. NS - 1997

AN ORDINANCE AMENDING THE AVION WATER COMPANY. FRANCHISE BY PROVIDING FOR A FRANCHISE FEE

Whereas, On June 7, 2000, the City of Bend, by ordinance No. NS-1748, adopted a revised Franchise Agreement with Avion Water Company, which did not provide for the payment of a franchise fee, and

Whereas, On September 21, 2005, the City of Bend adopted Ordinance No. NS-1982, establishing a 3% franchise fee on the gross operating revenues of water utilities operating within the City of Bend, and

Whereas, the City of Bend Water Utility is required to pay a comparable fee,

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1: Section 12 of the franchise agreement between the City of Bend and the Avion Water Company, is amended as follows:

Section 12: ~~No~~ Franchise Fee.
~~City shall not charge a franchise fee for Company's service unless City's water utility pays a comparable fee and the fee is approved by the P.U.C~~. Company shall pay the franchise fee established by Section 3.112 of the Bend Code. A comparable fee shall be paid by the City's water utility. For purposes of calculating the franchise fee, the term "gross operating revenue" in Bend Code Section 3.112 shall mean all Company income recognized by the Oregon Public Utility Commission for rate setting purposes. The franchise fee provided herein is subject to Public Utility Commission approval.

Read for the first time this 18th day of January, 2006.

Read for the second time this 1st day of February, 2006.

Placed upon its passage this 1st day of February, 2006.

YES: 6 NO: 1

Authenticated by the Mayor this 1st day of February, 2006 .

Bill Friedman, MAYOR

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1998

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NS-1178 AND THE BEND AREA GENERAL PLAN TO CHANGE THREE DEVELOPMENT STANDARDS AND PROCEDURES 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 purpose of adopting new development standards and procedures is to protect and enhance the Downtown core area of Bend; and

WHEREAS, the City of Bend has conducted a public hearing on February 1, 2006 regarding adoption of new development standards for the CB Zone, and legal notice of the public hearing was published in the Bend Bulletin on January 22, 2006; and

WHEREAS, the staff report and issue summaries 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 1st day of February, 2006.

Read for the second time the 15th day of February, 2006.

Placed upon its passage the 15th day of February, 2006.

YES: 4 NO: 2

Authenticated by the Mayor the 15th day of February, 2006.

Bill Friedman, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

EXHIBIT A BEND CODE 10.10.18

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.

(k) Temporary Housing, up to 5 beds, subject to the Special Use Standards in Section 25.

(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) Buildings exceeding the height limits in Subsection (4) of Section 18.~~

~~(e)~~**(d)** Department store.

~~(f)~~**(e)** Small animal veterinary clinic.

~~(g) Right-in/right-out only driveway access to a street.~~

(f) Driveway access to Franklin and Greenwood Avenues. Driveway access, if permitted, shall be right-in/right-out only.

~~(h)~~**(g)** Temporary Housing, 6 – 25 beds, subject to the Special Use Standards in Section 25.

(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~~ **approval of a Variance, pursuant to the provisions of Subsection (2) of Section 31. The provisions of Subsection (3) of Section 31 do not apply to Variances to building height limits.**

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~~ **60** 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~~ **60** feet.

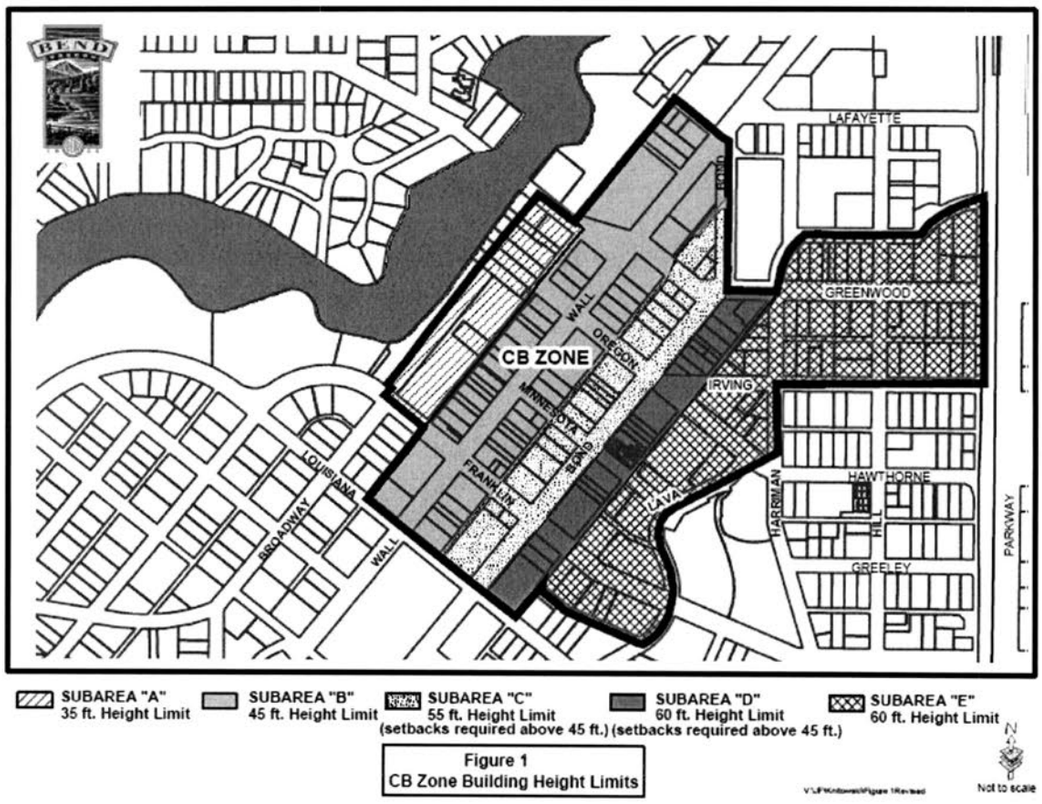


Figure 1
CB Zone Building Height Limits

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)(k) added by ORD. No. NS-1866, passed May 21, 2003]
[Section 18(3)(g) added by ORD. No. NS-1866, passed May 21, 2003]
[Section 18(2)(j), (3)(c), (5), and (7)(d) amended by ORD. No. NS-1919, passed April 24, 2004]
[Section 18(3), (4), (6), and (7) amended by ORD. NS-1946, passed November 17, 2004]
[Section 18(3) and (4) amended by ORD. NS-_____, passed _____]

EXHIBIT B BEND CODE 10.10.23C

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.

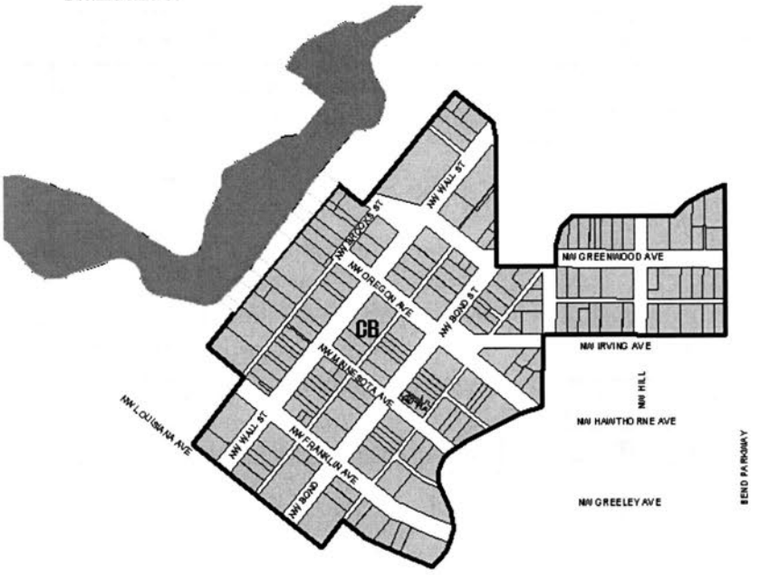


Figure 1
Bend Central Business (CB) Zone

(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 the height regulations listed below without ~~a Conditional Use Permit~~ **approval of a Variance, pursuant to the provisions of Subsection (2) of Section 31. The provisions of Subsection (3) of Section 31 do not apply to Variances to building height limits.**

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~~ **60** 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~~ **60** feet.

(c) Minimum Building Setback. There is no minimum building setback from the property line facing the street **for portions of a building 45 feet or less in height**.

(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 façades 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. 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.

(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-1919, passed April 24, 2004]
[Section 23C(7)(b) amended by ORD. No. NS-1946, passed November 17, 2004]
[Section 23C(7)(d) amended by ORD. No. NS-1946, passed November 17, 2004]
[Section 23C(9)(c) amended by ORD. No. NS-1946, passed November 17, 2004]
[Section 23C(7)(b) and (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 the maximum allowable building height limit in the zone shall be reviewed through the conditional use permit process**, except in the Central Business (CB) Zone. Proposed buildings that exceed the maximum allowable building height limit in the CB Zone shall be reviewed through the variance process.**

ORDINANCE NO. NS- 1999

AN ORDINANCE ISSUING STREET NAMES AND HOUSE NUMBERS AND REPEALING AND READOPTING ORDINANCE NO. NS-998 (BEND CODE SECTION 10-9.1 THROUGH 10-9.3)

The City of Bend Ordains as Follows:

Section 1. Ordinance No. 998 (Bend Code Sections 10-9.1 through 10-9.3) is repealed and replaced with the following:

Section 10-9.1	Intent
Section 10-9.2	Discussion of Map
Section 10-9.3	Address
Section 10-9.4	Districts
Section 10-9.5	Numbers
Section 10-9.6	Street Naming Requirements
Section 10-9.7	Size and Placement of Address
Section 10-9.8	Renaming of Streets
Section 10-9.9	Application for New Street Name
Section 10-9.10	Application for Street Name Changes
Section 10-9.11	Definitions
Section 10-9.12	Enforcement

Section 10-9.1 Intent. The intent of this ordinance is to assign street names and address numbers to all properties within the City limits in an orderly manner and to provide for the posting of those assigned numbers. The City of Bend finds that it is necessary for the protection, safety and welfare of the residents of Bend to establish and enforce a systematic address numbering and street naming procedure to facilitate the location of buildings by emergency services and others.

Section 10-9.2 Map. For the purpose of assigning numbers for buildings or premises situated within the corporate limits of the city as such limits exist now or may hereafter be extended, the city is divided into districts as shown by the map on file in the Community Development Department. A map shall be prepared and maintained of the city whereon numbers given to residences, buildings, and premises shall be clearly indicated. This shall be kept up to date with the numbering that takes place.

Section 10-9.3 Address Assignment.

(1) There shall be a minimum of one address assigned per building with individual unit, suite, numbers/letters, etc. for separate occupancies.

(2) The address shall be assigned based on the street location of the building's main entrance if practicable. For vacant lots, the address shall be assigned based upon the most probable entrance location.

(3) Duplexes, triplexes, fourplexes or condominiums shall each be assigned one address. Manufactured home parks will be assigned one address for the park with space numbers for each manufactured home. Larger apartment complexes shall be assigned a minimum of one address per building. A numerical or alphabetical suffix system shall be used to differentiate between units, suites, etc. in the complex assigned by the City of Bend that shall meet the specifications of the Oregon Fire Code.

(4) Commercial and industrial complexes shall be assigned at least one address for each building to clearly identify the location of the primary driveway access point. A numerical unit, suite, etc. system may be used to differentiate between occupancies in the buildings assigned by the City of Bend that shall meet the specifications of the Oregon Fire Code.

(5) Addressing any residence, building, or premises at or near the city boundary may be coordinated with Deschutes County and numbers assigned to provide for a smooth transition from city to county addresses. The naming of streets may also be coordinated with the county during preliminary and final subdivision review processes as well as street name changes to avoid duplication of names.

Section 10-9.4 Directional Districts.

(1) The division line between the northeast district and the southeast district and the division line between the northwest and the southwest district shall be the baseline for starting points northerly and southerly. The numbering easterly and westerly shall commence at the division line between the southwest and southeast districts and the division line between northwest and northeast districts, all as shown by the map on file in the Community Development Department. This is based on the beginning point at the intersection of Division Street, Arizona and Alden Avenues or more specifically, at the Township 17S / Township 18S boundary extending out to the city address boundary. All street signs and addresses shall indicate the district in which the street or portion thereof or address indicated is located, which indication of district shall appear as a prefix preceding the name of the street, avenue, or other public way. Abbreviations may be used for this purpose.

(2) The districts into which the city is divided for the purpose of numbering houses, buildings, and premises are **as shown on the attached map known as Exhibit A.** ~~as follows:~~

~~(a) Northeast district (NE): All that portion of the City of Bend lying north of Alden Avenue and east of Division Street.~~

~~(b) Northwest district (NW): All that portion of the City of Bend lying west of Division Street and north of Arizona Avenue.~~

~~(c) Southeast district (SE): All that portion of the City of Bend south of Alden Avenue and east of Division Street.~~

~~(d) Southwest district (SW): All that portion of the City of Bend south of Arizona Avenue and west of Division Street.~~

Section 10-9.5 Numbers. Both sides of the same street shall be in the same series of numbers whenever practicable and the numbers shall increase sequentially. The address number shall be determined by where the building's main entrance faces a public street or an approved signed private road. Alleys will not be addressed or named. The city will use a 5 digit series of numbers with a district directional for properties annexed into the city from the County.

(1) For irregular or short, winding blocks and streets, to which the provisions of this ordinance cannot be literally applied, numbers shall be assigned and placed corresponding to the general direction of the street. Upon determining the general direction of streets applicable in this section, they shall take the number sequencing range of nearby streets running in that determined direction.

(2) Loop streets shall be numbered progressively as if they were a section of the street they originated from. Numbers shall be sequenced according to a north-south or east-west grid, whichever direction is determined and the grid line shall remain the same along the entire street, so long as the street name does not change.

(3) Even numbers shall be assigned to and placed upon the north and east side of the streets and odd numbers upon the south and west side of the streets. In the case where a street changes direction, the odd and even sides shall be assigned to reflect the general direction (north-east or south-west) of the street. Odd and even sides shall remain the same for the entire length of the street, regardless of changes in direction. A circle street or loop street shall have even numbers on the inside of the circle or loop and odd numbers on the outside.

(4) Where a building or premises has several entrances for use by different occupancies, or in case of a multiple dwelling where permissible, the City of Bend may assign a different unit, suite, etc. number for each occupancy requiring an address that shall meet the specifications of the Oregon Fire Code.

(5) Address numbers assigned to sites with new construction shall be displayed on site when construction begins.

(6) Address numbers that are changed must be displayed within thirty (30) days from the date on which the address becomes effective.

Section 10-9.6 Street Naming Requirements.

(1) All new public and private streets shall be given a name in accordance with the provisions of this ordinance, and as approved by the Community Development Director.

(2) The name shall be limited to a maximum of two (2) words not including the directional or street suffix.

(3) Street names shall be continuous. When a new subdivision puts in a street that connects to an existing street, the existing street name will be continued.

(4) The street name shall not be a duplicate of a street name already in use (unless it is a small court off of that street; see (j) below), even if the suffix (avenue, driveway, etc.) is different unless there is reasonable assurance that those so named street sections will be connected in the future. New streets shall be designated as numbered streets only if they fall on the gridline and there are reasonable assurances that the street will connect with another section of the numbered street. Public and private streets shall be further named as follows:

(a) Continuous north-south streets shall be designated "street".

(b) Continuous east-west streets shall be designated "avenue".

(c) Short or interrupted streets shall be designated "place".

(d) Short or interrupted streets with no outlet shall be designated "court".

(e) Streets that intersect the same street twice at different locations shall be named "loop".

(f) Short or interrupted diagonal streets shall be named "way".

(g) Continuous meandering streets shall be named "drive".

(h) Short or interrupted meandering streets shall be named "lane".

(i) Streets that flow in a circular pattern and intersect the same street at only one location shall be named "circle".

(j) A court that comes off a street at a perpendicular may take that street's name, but with a "court" suffix.

(k) All other street names such as "highway", "road", "terrace" may be approved for use by the city in special situations.

Section 10-9.7 Size and Placement of Address. The owner of any residence, building, or place of business, excepting sheds and accessory buildings, within the city shall place in a conspicuous place upon the main entrance clearly visible from the street to which the property is addressed, or at such other place as provided in this ordinance, a number assigned thereto by the Director of Community Development. If access to the property for vehicles is from an alley or the address on the building is not visible to the street where the access is taken, the city may require a monument sign be placed at the street where addressed, that clearly identifies the address to ensure that emergency vehicles will be able to locate the building.

(1) The figures in the numbers shall not be less than four (4) inches (102 mm) high with a minimum stroke width of 0.5 inches (12.7 mm), shall be a contrasting color to the background, shall be Arabic numerals or alphabet letters and shall be affixed permanently in a conspicuous place upon the main entrance clearly visible from the street to which the property is addressed.

(2) The owner or occupant of any residence, building, or place of business, upon complying with the provisions of this section may place, or cause to be placed, upon the street curb in front of said residence, building or place of business the appropriate assigned house or building numbers. This is in addition to the required posting of the address and shall not replace the required placement as stated above

(3) In the case where the building is not visible from the access road, a monument sign with the address or other approved signage may be required by the city to be placed on the right side of the driveway as you are facing the driveway. This address must be visible from both directions.

(4) Commercial buildings and commercial complexes addressed from a main street and not the driveway access, as determined by the city, shall have adequate signage indicating access. The city may require a monument sign or other approved signage with a site map to be placed at the access to the complex.

(5) Construction sites or buildings under construction shall display a street address number or subdivision w/lot number. These numbers are to be affixed to a sign visible from the street to which the property is addressed.

(6) All numbers shall conform to the provisions of this chapter and shall adhere to standards of design, size and color promulgated by the Community Development Director.

Section 10-9.8 Application for New Street Name. An application to name all new streets within the City of Bend shall be required.

(1) The application shall contain the following information:

(a) Name of applicant;

(b) Proposed street name, with two alternative choices;

(c) Copy of proposed subdivision (11 x17 or smaller) and a pdf file of the plat;

(d) Location of proposed street (include tax map and lot numbers);

(e) Attach one copy of County Assessor's map showing subject area (11x17 or smaller) and an electronically stored copy of the map;

(f) A vicinity map with north arrow that indicates projected streets that will have future connectivity and any existing streets that may continue.

(2) The application may be submitted by the developer, engineer or other representative.

(3) A fee in the amount prescribed by resolution of the council shall be submitted with application.

Section 10-9.9 Renaming Streets. The Bend City Council or the Planning Commission may initiate changing the name of any street within the City of Bend. Where the Council initiates such change it shall be referred to the Planning Commission for its recommendation. A property owner may request a change in the name of a street by making an application with the Community Development Department.

A public hearing shall be held before the City of Bend Planning Commission on any proposed street name change. Notice of the public hearing shall be given by mail to all property owners and residents abutting the street in question. The Planning Commission shall then make a recommendation to City Council regarding the proposed name change. A public hearing shall then be held before the City of Bend City Council to consider the recommendation and ordinance changing the name to the proposed name. The new name will become effective thirty (30) days after the ordinance is approved.

Section 10-9.10 Application for Street Name Changes.

(1) The application shall contain the following information:

(a) Name of applicant;

(b) Proposed street name, with two alternative choices;

(c) Reason for request;

(d) Location of street (include from and to address numbers as well as names of all cross streets; tax map number);

(e) Attach one copy of County Assessor's map showing subject area (11x17 or smaller), or one copy of the recorded subdivision plat (11 x17 or smaller) and a pdf file of the map and plat;

(f) List of the names and addresses and zip code of each owner and resident (husband and wife) of all property abutting the street;

(g) Signature of at least 51 percent of the residents and property owners abutting the street proposed to be changed, signifying they agree with the proposed name change on a petition.

(h) A vicinity map with north arrow that indicates projected streets that will have future connectivity and any existing streets that may continue.

(2) A fee in the amount prescribed by resolution of the council shall be submitted with application.

(3) The following criteria shall be used in determining whether or not an existing street name shall be changed:

(a) The street name causes confusion and a new name will improve or clarify the identification of the area.

(b) The street name sounds like another street name or is spelled similarly and causes confusion.

(c) Street names that are words other than proper names and are deliberately misspelled to emphasize a pun or other frivolous association with another word or slang term, resulting in confusion will not be allowed.

(d) The street is known by more than one name.

(e) The street is different than the name of the street of which it is a continuation or the street is in more than one section interrupted by topographical barriers.

(4) Person(s) receiving notice of the street name change shall promptly notify affected tenants or other occupants of the proposed name change.

Section 10-9.11 Definitions

(1) **Address:** A unique site location identifier of a parcel or tax lot.

(2) **Address Grid System:** A system of assigning property address numbers with the city limits based on a beginning point at the intersection of Division and Alden Streets or more specifically, at the Township 17 South/Township 18 South boundary extending out to the city address boundary.

(3) **Building:** A building is any structure used or intended for supporting or sheltering any use or occupancy.

(4) **East-west Street:** A street that runs predominantly east and west.

(5) **North-south Street:** A street that runs predominantly north and south.

Section 10-9.12 Enforcement

(1) It shall be the duty of the City Community Development Director to enforce this ordinance. All departments, officials and public employees of the City of Bend, vested with the duty or authority to issue permits shall conform to the provisions of this ordinance and shall issue no permit, certificate or license for any use, building or purpose which violates or fails to comply with conditions or standards imposed by this ordinance. Any permit, certificate or license issued in conflict with the provisions of this ordinance, intentionally or otherwise, shall be void. Any use of land in violation of this ordinance is declared to be a nuisance.

(2) Penalties for Violation. A violation of the provisions of this ordinance is punishable upon conviction by:

(a) A fine of not more than $500 for each day of violation where the offense is a continuing offense.

(b) A fine of not more than $500 where the offense is not a continuing offense.

(3) Injunctive Relief and Abatement.

(a) The foregoing sanctions shall not be exclusive, and where the public health, safety, morals, or general welfare will be better served thereby, the City Community Development Director may institute such proceedings for injunctive relief against a continuing violation as may be authorized by the statutes of the State of Oregon.

(b) In the discretion of the City of Bend, a violation may be abated as a nuisance as provided in Sections 5.400 through 5.425 of the Bend Code or other applicable provisions of law.

(4) Evidence. In any prosecution for violation of this ordinance, the person listed as owner of the property as shown by the records of the Deschutes County Assessor shall be presumed to be the person who committed the violation. This presumption shall be rebuttable and either the City or the defendant in such prosecution shall have the right to show that the offense was committed by some person other than, or in addition to, an owner or lessee or other persons in possession or control of the premises; but this shall not be construed as relieving a person in possession and control of property from any duty imposed upon him by this ordinance. Where premises on which the violation is committed are commercial or industrial premises on which a sign is situated identifying the commercial or industrial activity conducted thereof, the same shall constitute prima facie evidence that the person whose name is thus displayed is in possession or control of the premises as owner or lessee, but this shall not be construed to relieve from responsibility any agent, manager, employee, owner or other person who actually committed the violation.

Read for the first time the 4th day of January, 2006.

Read for the second time the 15th day of February, 2006.

Placed upon its passage the 15th day of February, 2006.

YES: 6 NO: 0 ABSTAIN: 0

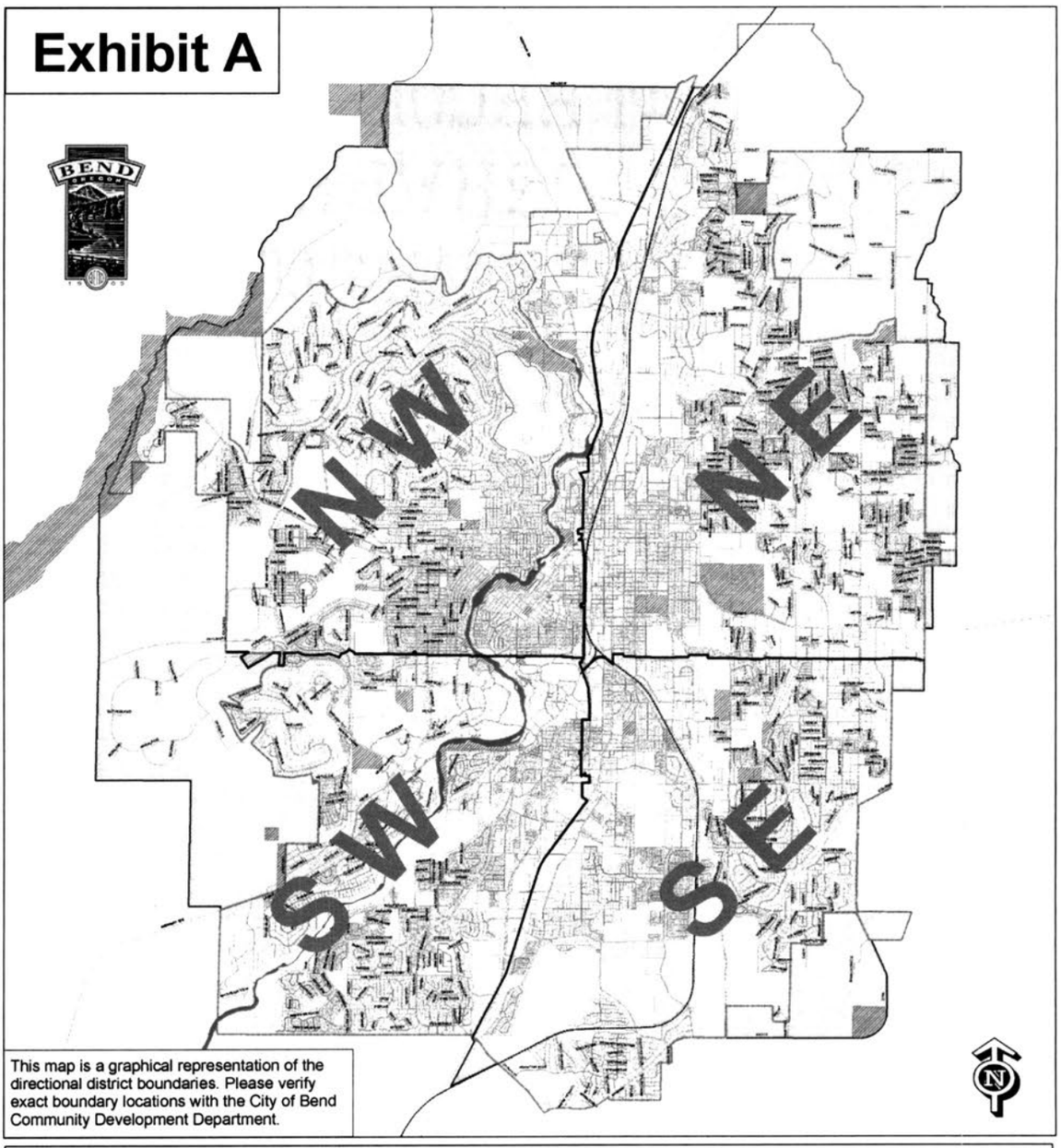
Authenticated by the Mayor the 15th day of February, 2006.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

Exhibit A



Directional Districts

Map Symbols

- Bend Park Properties
- County Taxlots
- Deschutes River
- UGB - Urban Growth Boundary
- UAR - Urban Area Reserve
- Taxlots
- Roads
- Railroad
- City Limits

1 0.5 0 1 Miles

This map is for reference purposes only. The information was derived from Deschutes County G.I.S. and City of Bend land records. Care was taken in the creation of this map, but it is provided "AS IS". Please contact the City of Bend to verify map information or to report any errors.

Map prepared by City of Bend
GIS/Mapping – Engineering Division
Created 02-01-06 [bc]
v:\arcgis\commdev\NSEW_Quadrants

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Text in ~~strikethrough~~ typeface is deleted

ORDINANCE NO. NS-2000

AN ORDINANCE AMENDING ORDINANCE NO. NS-1725 (BEND CODE SECTION 1.520) PERTAINING TO EMERGENCY MANAGEMENT

WHEREAS, The Bend City Council finds that certain changes to the Emergency Management Ordinance (Bend Code Section 1.520) would provide the City of Bend with a more efficient and effective emergency response, therefore

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1: Bend Code Section 1.520 is amended as follows:

EMERGENCY MANAGEMENT

1.520 Procedures for Dealing with Emergencies in the City of Bend

~~Section~~ (1) The conditions required for the declaration of a state of emergency within the City of Bend shall be as set out in ORS 401.025(4), which provides:
" 'Emergency' includes any man-made or natural events or circumstance causing or threatening loss of life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material as defined in ORS 466.605, contamination, utility or transportation emergencies, disease, blight, infestation, crisis influx of migrants unmanageable by the county, civil disturbance, riot, sabotage and war."

~~Section~~ (2) A declaration of a state of emergency within the City of Bend may be issued by the ~~mayor (or the mayor pro tem when the mayor is absent or otherwise unable to perform the functions of mayor as provided in the City Charter); or the~~ City Manager or his/her designee (hereafter referred to as "City Manager"). ~~if the nature of the emergency requires that immediate action be taken and it is not reasonably practicable for the mayor to issue the declaration of emergency prior to the time immediate action must be taken.~~ The City Manager may issue a directive establishing the city department heads who shall have the authority to declare an emergency, if the City Manager is unavailable at the time the emergency occurs. If an emergency is declared by a department head pursuant to the City Manager's directive, then the City Manager shall resume authority to manage the emergency as soon as the City Manager is available. Any declaration of emergency by the City Manager shall be subject to review ~~and revision by the mayor. All declarations of emergency shall be subject to review and revision by the~~ for ratification or other action that the City Council deems appropriate at an emergency meeting called as soon as practicable after the declaration of emergency, or if convening an emergency meeting is impracticable, at the next regular meeting of the City Council. A declaration of a state of emergency shall be terminated when the state of emergency ceases to exist.

~~Section (~~3) The City Council may by resolution establish procedures to prepare for and carry out any activity to prevent, minimize, respond to or recover from an emergency. The resolution may provide for coordination with Deschutes County, the State of Oregon, or any other state or federal agency. The City Manager shall have the authorization to take action that includes, but is ~~These procedures may include, but are~~ not limited to, the following measures:

~~(1)~~ (a) redirect City funds for emergency use and suspend standard City procurement procedures;

~~(2)~~ (b) establish a curfew which fixes the hours during which all persons other than officially authorized personnel may not be upon the public streets or other public places;

~~(3)~~ (c) prohibit or limit the number of persons who may gather or congregate upon any public street, public place, or any outdoor place;

~~(4)~~ (d) barricade streets and prohibit vehicular or pedestrian traffic, or regulate the same on any public street leading to the emergency area for such distance as may be deemed necessary under the circumstances;

~~(5)~~ (e) evacuate persons;

~~(6)~~ (f) prohibit the sale of alcoholic beverages;

~~(7)~~ (g) prohibit or restrict the sale of gasoline or other flammable liquids;

~~(8)~~ (h) prohibit the sale, carrying, or possession of any weapons or explosives of any kind on public streets, public places, or any outdoor place;

~~(9)~~ (i) curtail or suspend commercial activity;

~~(10)~~ (j) turn off water, gas, or electricity;

~~(11)~~ (k) order such other measures as are necessary for the protection of life or property, or for the recovery from the emergency;

(l) adopt temporary emergency regulations to implement the foregoing powers, as necessary.

~~Section~~ (4) The City Manager shall have the authority, in addition to the authority provided by this ordinance, to carry out the emergency duties or functions as prescribed by the resolution establishing procedures to deal with an emergency.

~~Section~~ (5) No person shall knowingly violate any regulation promulgated pursuant to this ordinance, and imposed in a state of emergency declared under this ordinance. Violation of an emergency regulation shall be a Class A misdemeanor.

(6) In the event of a conflict between the provisions of this ordinance and any other ordinance of the City of Bend, the provisions of this ordinance shall control.

Read for the first time the 15th day of March, 2006.

Read for the second time the 5th day of April, 2006.

Placed upon its passage the 5th day of April, 2006.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 5th day of April, 2006.

Bruce Abernethy, Mayor Pro Tem

Attest:

Patricia Stell, City Recorder

Text in underlined typeface is added;
Text in ~~strikethrough~~ typeface is deleted

ORDINANCE NO. NS-2001

AN ORDINANCE AMENDING ORDINANCE NO. NS-1643 (BEND CODE SECTION 1.100) PERTAINING TO SPECIAL MEETINGS OF THE CITY COUNCIL

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1: Bend Code Section 1.100 is amended as follows:

1.100 Meetings.

(1) Unless provided otherwise by ordinance, the City Council shall hold regular meetings on the first and third Wednesdays of each month at such time as the Council shall determine. If the regular meeting falls on a holiday, the meeting shall be held on the day following or canceled.

(2) Regular Council meetings shall be held in the Council Chambers of City Hall or such other place in the City as the Council shall determine.

(3) Adjourned meetings may be held at such times as the Council may determine.

(4) Special meetings of the Council may be called ~~and held as provided by the City charter and state law.~~ by the city manager ~~the mayor~~ or any ~~three~~ **two** council members.

Read for the first time the 15th day of March 2006.

Read for the second time the 5th day of April, 2006.

Placed upon its passage the 5th day of April, 2006.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 5th day of April, 2006.

Bruce Abernethy, Mayor Pro Tem

Attest:

Patricia Stell, City Recorder

Underlined text is added;
~~Struckthrough~~ text is deleted

ORDINANCE NO. NS-2002

AN ORDINANCE AMENDING BEND CODE SECTION 1.106 BY PROVIDING THAT THE CITY COUNCIL MAY ALTER THE PROCESS FOR SETTING THE AGENDA FOR COUNCIL MEETINGS

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1: Bend Code Section 1.106 is amended as follows:

1.106 Order of Business. Council meetings shall be open to the public, except as provided by the charter and state law. Promptly at the hour set by law on the day of each regular meeting, the members of the Council, the City Recorder, and the City Manager shall take their regular stations in the Council room, and the business of the Council shall be taken up for consideration and disposition, after roll call, in the order that such business is listed on the Council agenda. The City Manager shall prepare the Council agenda and make it available to the public and Council prior to the Council meeting, unless the Council, by majority vote, adopts a different process for the determination of the Council's agenda.

Read for the first time the 15th day of March, 2006.

Read for the second time the 5th day of April, 2006.

Placed upon its passage the 5th day of April, 2006.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 5th day of April, 2006.

Bruce Abernethy, Mayor Pro Tem

Attest:

Patricia Stell, City Recorder

(Section 22D Figures 4 and 13 have been updated and Figure 15 was added to reflect the new Residential High Density Multiple-family Overlay District Zone.)

ORDINANCE NO. NS-2003

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, CITY OF BEND ZONING ORDINANCE SECTION 22D NORTHWEST CROSSING OVERLAY ZONE TO ADD A NEW NORTHWEST CROSSING RESIDENTIAL HIGH DENSITY MULTIPLE-FAMILY OVERLAY DISTRICT ZONE AND TO UPDATE FIGURES 4 AND 13 AND ADD FIGURE 15 TO REFLECT THE NEW RESIDENTIAL HIGH DENSITY MULTIPLE FAMILY OVERLAY DISTRICT ZONE.

WHEREAS, the City of Bend adopted Ordinance NS-1781 NorthWest Crossing to amend the City of Bend General Plan in order to add NorthWest Crossing text and policies and map designations to the General Plan and accompanying map; and

WHEREAS, the City of Bend adopted Ordinance No. NS-1782 Section 22D NorthWest Crossing Overlay Zone in 2001 in order to create the NorthWest Crossing Overlay Zone; and

WHEREAS, the City of Bend has subsequently modified Section 22D NorthWest Crossing Overlay Zone; and

WHEREAS, Ordinance No. NS-1782 has been codified as Section 22D of the City of Bend Zoning Ordinance, now therefore,

WHEREAS, The Bend City Council has held a public hearing, considering the Planning Commission's Decision and Recommendation, and has found that there is a public need and benefit for the proposed changes. The Bend City Council adopts the Decision and Recommendation of the Planning Commission dated March 2, 2006, File Number PZ-05-765 and changes to the property identified in Exhibit "A" and described in Exhibit "B"; and as reflected in the changes to the NorthWest Crossing text as identified in Exhibit "C" and Exhibit "D".

Read for the first time the 15th day of March, 2006.

Read for the second time the 5th day of April, 2006.

Placed upon its passage the 5th day of April, 2006.

Yes: 7 No: 0 Abstain: 0

Authenticated by the Mayor the 5th day of April, 2006.

Bruce Abernethy

Bruce Abernethy, Mayor Pro Tem

ATTEST:

Patricia Stell

Patricia Stell, City of Bend Recorder

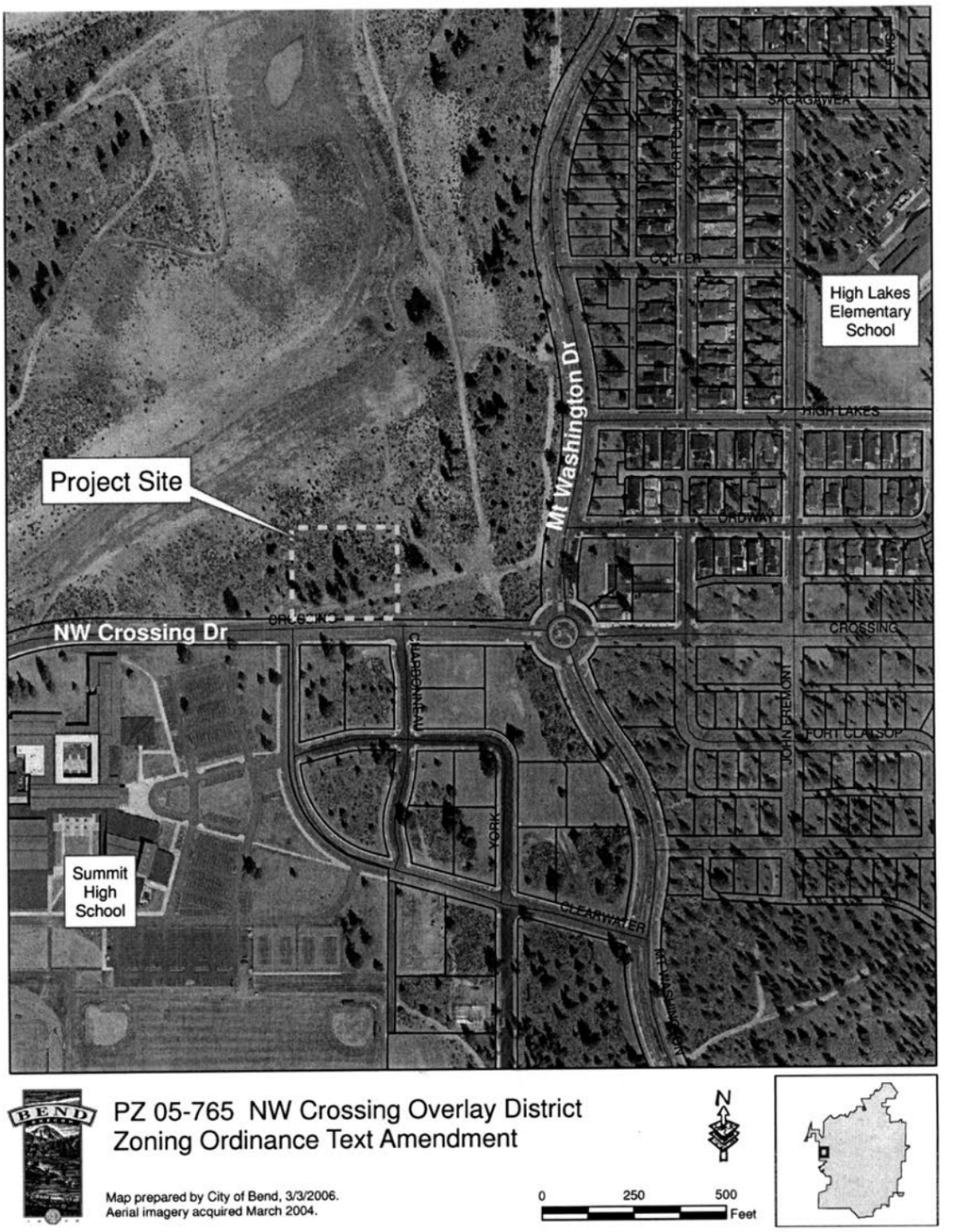

Project Site
NW Crossing Dr
Mt Washington Dr
High Lakes Elementary School
Summit High School
HIGH LAKES
CROSSING
FORT CLATSOP
CHARBONNEAU
YORK
CLEARWATER
JOHN FREMONT
COLTER
SACAGAWEA
PZ 05-765 NW Crossing Overlay District
Zoning Ordinance Text Amendment
Map prepared by City of Bend, 3/3/2006.
Aerial imagery acquired March 2004.
0
250
500
Feet
N

Exhibit A

Exhibit C

NORTHWEST CROSSING
AMENDMENT TRACT

DESCRIPTION

February 24, 2006

A tract of land in the northwest one-quarter of Section 36, Township 17 South, Range 11 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, said tract being more particularly described as follows:

Beginning at the intersection of the centerline of N.W. Crossing Drive with the northerly extension of the northerly west line of "Northwest Crossing, District 1", which point bears N.87°55'02"E., 1025.84 feet from the southwest corner of the northwest one-quarter of said Section 36; thence N.00°04'34"W. along the northerly extension of said northerly west line, 285.74 feet to the westerly extension of the centerline of N.W. Ordway Avenue as dedicated in the plat of "Northwest Crossing, Phase 1"; thence N.89°55'26"E. along said westerly extension, 306.25 feet the northerly extension of the centerline of Charbonneau Street as dedicated in the plat of "Northwest Crossing, District 1"; thence S.00°04'34"E. along said northerly extension, 286.96 feet to the centerline of said N.W. Crossing Drive; thence N.89°50'53"W. along said centerline, 306.25 feet to the Point of Beginning.

Contains 2.013 acres, more or less.

The basis of bears for this description is the Central Oregon Coordinate System.

Exhibit C

APPLICANT'S PROPOSED TEXT AMENDMENTS WITH THE CHANGE FROM THE PLANNING COMMISSION

Proposed text amendments will remove the site from the existing Residential Multiple-family Overlay District of the NorthWest Crossing Overlay Zone District (10.10.22.D) and add a Residential High Density Multiple-family Overlay District section. Following are the proposed text amendments. The new Residential High Density Multiple-family Overlay District section is similar to 10.10.22.D, Residential Multi-family Overlay District, but differs in two places. For clarity, the modified parts are shown in *italics and underlined*.

10.10.22.D. 3(d) Residential Multiple-family Overlay District

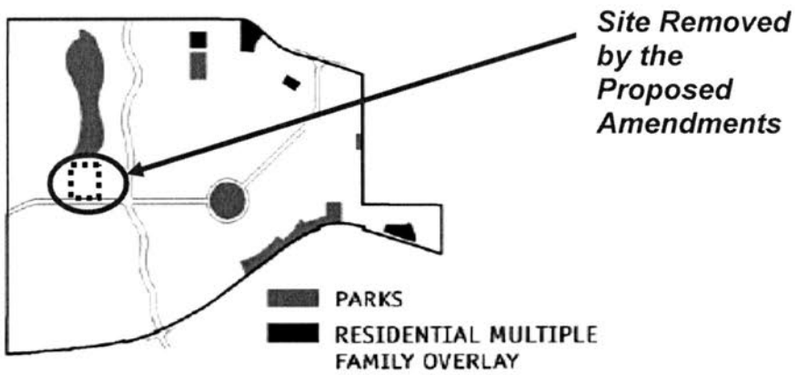


Figure 4. Residential Multiple-family District

.....

(i) Residential High Density Multiple-family Overlay District

A. Purpose. The Residential High Density Multiple-family Overlay District is applied in specific locations adjacent to arterial or collector streets, public parks or commercial areas. The purpose is to provide a diversity of housing types in the Urban Standard Residential Zone at the edges of single-family neighborhoods and to locate higher density housing adjacent to commercial services and open space.

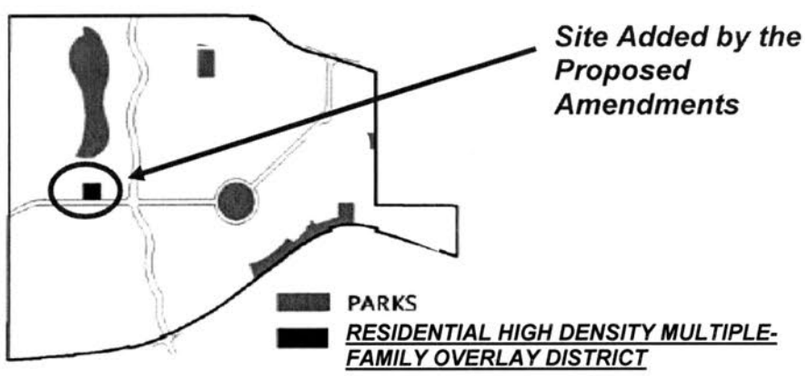


Figure 15. Residential High Density Multiple-family District

B. Uses Permitted.

i. All uses permitted in the Urban Standard Residential Zone.

ii. Multiple-family housing.

C. Conditional Uses.

i. Conditional uses permitted in the underlying Urban Standard Residential Zone subject to a Conditional Use Permit and the provisions of Section 29.

D. Height Standards.

i. No building, except multiple-family housing, shall be erected, enlarged or structurally altered to exceed 45 feet in height without a Conditional Use Permit.

E. Lot Requirements.

i. The lot requirements of the RS Zone shall apply to all permitted and conditional uses except multiple-family housing.

ii. Except as specified in this section, the lot requirements of the RH Zone shall apply to multiple-family housing.

iii. Lot Coverage. There is no maximum lot coverage standard for multiple-family housing.

F. Maximum Density. The maximum density shall be that established by the RH Zone.

G. Minimum motor vehicle parking for housing that is limited to residents of age 55 and older is 1 parking spaces per dwelling unit.

H. Site Plan Review. Multiple-family housing is not subject to the provisions of Section 23 of this code. It shall be subject to design review through the NorthWest Crossing Architectural Review Committee.

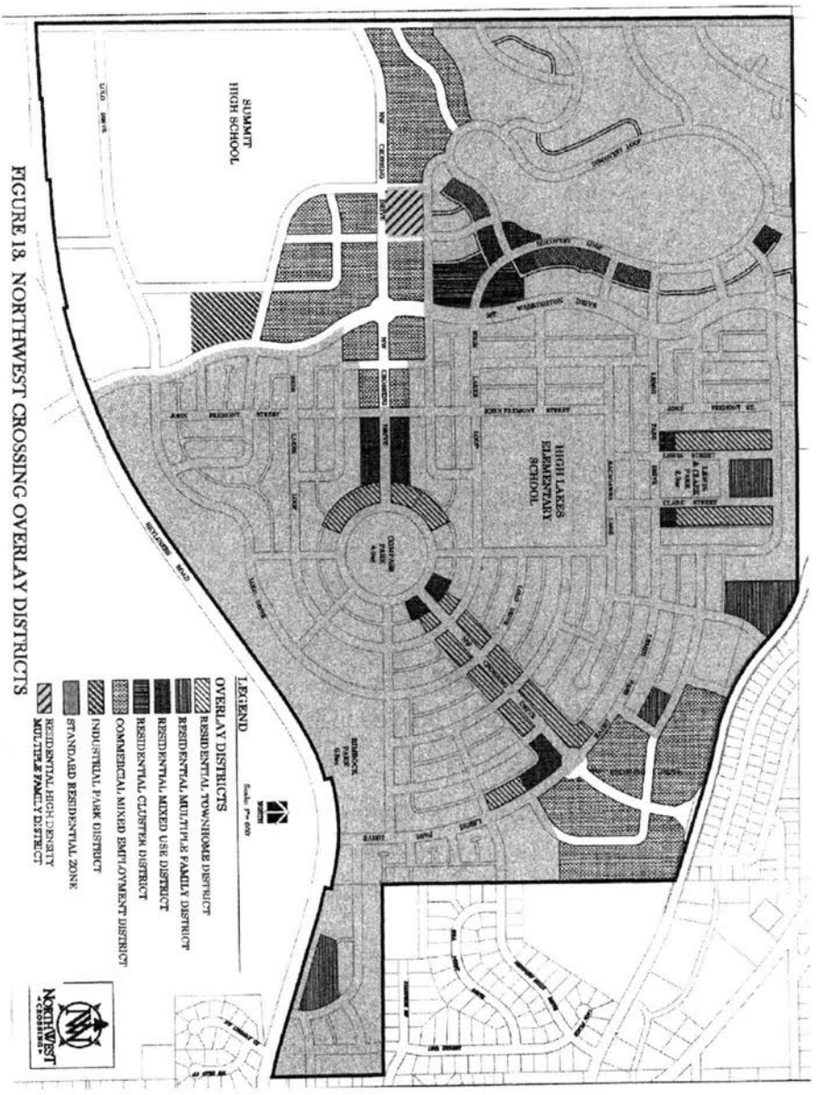


FIGURE 13. NORTHWEST CROSSING OVERLAY DISTRICTS

Exhibit D

ORDINANCE NO. NS-2004

AN ORDINANCE AMENDING THE BEND URBAN AREA GENERAL PLAN MAP AND AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 TO CHANGE 4.77 ACRES OF LAND DESIGNATED AS INDUSTRIAL GENERAL, (IG) TO MIXED USE RIVERFRONT, (MR).

WHEREAS, The Bend City Council has held a public hearing, considered the Hearing Officer's findings and record, and has found that there is a public need and benefit for the proposed change; and

WHEREAS, The Bend City Council adopts the Findings and Recommendation dated March 21, 2006, regarding file PZ-05-579, excluding the condition.

NOW, THEREFORE, The City of Bend Zoning map is amended by changing the designation of the property shown on "Exhibit A" from General Industrial (IG) to Mixed Use Riverfront (MR); and the Bend Urban Area General Plan map is amended by changing the designation of the property shown on "Exhibit A" from General Industrial (IG) to Mixed Use Riverfront (MR)

Read for the first time the 5th day of April, 2006.

Read for the second time the 19th day of April, 2006.

Placed upon its passage the 19th day of April, 2006.

Yes: 5 No: 0 Abstain: 0

Authenticated by the Mayor the 19th day of April, 2006.

Bruce Abernethy

Bruce Abernethy, Mayor Pro Tem

ATTEST:

Patricia S Stell

Patricia Stell, City of Bend Recorder

EXHIBIT A

A parcel of land located in the NE ¼ of the NW ¼ of Section 5, Township 18 South, Range 12 East of the Willamette Meridian, City of Bend, Deschutes County, Oregon described as follows:

Lot 3, Block 1 MILL 'A' AREA OF SHEVLIN CENTER SECOND ADDITION

EXCEPTING THEREFROM a portion of said Lot 3 described as follows: Beginning at the Southwest corner of said Lot 3; thence N 0° 30' 46" W, along the West line of said Lot 3, a distance of 44.58 feet; thence leaving the West line of said Lot 3, a distance of 30.53 feet along the arc of a non-tangent 76.00 foot radius curve, concave to the Southwest (the long chord of which bears S 49° 35' 27" E, 30.32 feet); thence 28.12 feet along the arc of a 35.00 foot radius curve concave to the Northeast (the long chord of which bears S 61° 05' 56" E, 27.37 feet); thence S 84° 06' 48" E, 29.00 feet; thence S 85° 59' 10" E, 96.40 feet to the South line of said Lot 3; thence S 89° 20' 26" W along the South line of said Lot 3, a distance of 171.68 feet to the **true point of beginning**.

TOGETHER WITH a portion of Lot 4, Block 1 MILL 'A' AREA OF SHEVLIN CENTER SECOND ADDITION described as follows: Commencing at the Southwest corner of said Lot 3, also being the Southeast corner of said Lot 4; thence N 0° 03' 46" W, along the East line of said Lot 4, a distance of 44.58 feet to the **true point of beginning**; thence leaving the East line of said Lot 4, a distance of 1.48 feet along the arc of a non-tangent 76.00 foot radius curve, concave to the Southwest (the long chord of which bears N 61° 39' 18" W, 1.48 feet); thence 14.82 feet along the arc of a 16.00 foot radius curve, concave to the Northeast (the long chord of which bears N 35° 40' 40" W, 14.30 feet); thence N 9° 08' 34" W, 12.60 feet; thence 20.18 feet along the arc of a 35.00 foot radius curve concave to the East (the long chord of which bears N 7° 22' 27" E, 19.90 feet); thence N 5° 10' 06" W, 62.95 feet; thence N 1° 36' 35" W, 61.77 feet; thence N 0° 35' 21" W, 147.59 feet to the North line of said Lot 4; thence N 89° 35' 39" E along the North line of said Lot 4, a distance of 14.54 feet to the Northeast corner thereof; thence S 0° 30' 46' E along the East line of said Lot 4, a distance of 317.55 feet more or less to the **true point of beginning**.

Containing 4.77 acres more or less.

Underlined text is added to the draft ordinance that was the subject of a public hearing on March 15, 2006; ~~struckthrough~~ text is deleted from the draft previously distributed in the council packet.

ORDINANCE NO. NS-2005

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 SR 2 ½, SUBURBAN LOW DENSITY RESIDENTIAL, TO RS, URBAND STANDARD DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Decision of the Hearings Officer dated February 16, 2006 file number PZ-05-556, subject to the additional findings and conditions of approval contained in the document entitled "Decision by the Bend City Council" that was made part of this ordinance by vote of the Bend City Council on March 15, 2006.

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 at Tract 16, GLEN VISTA, Deschutes County, Oregon and further identified on Tax Assessor's Map 17-12-17C, Tax Lot 1300 . The change will be from Suburban Low Density Residential (SR 2 ½) to Urban Standard Density Residential (RS). This zone change is subject to the ~~conditions of approval imposed by the Hearings Officer's Decision dated February 16, 2006, as modified by the~~ additional findings and condition of approval contained in the document entitled "Decision by the Bend City Council" that made part of this ordinance by vote of the Bend City Council on March 15, 2006.

Read for the first time the 5th day of April, 2006.

Read for the second time the 19th day of April, 2006.

Placed upon its passage the 19th day of April, 2006.

YES: 5 NO: 0

Authenticated by the Mayor the 19th day of April, 2006.

Bruce Abernethy, Mayor Pro Tem

ATTEST: Patricia S Stell

Patricia Stell, City of Bend Recorder

DECISION BY THE BEND CITY COUNCIL

FILE NUMBER:	**PZ 05-556**
HEARING DATE:	March 15, 2006, Public Hearing
APPLICANT:	KDV LLC P.O. Box 5014 Aloha, OR 97007
AGENT/ENGINEER:	Hickman Williams & Associates 698 NW York Avenue Bend, Oregon 97707
APPLICANT'S ATTORNEY	Liz Fancher 644 NW Broadway Bend, OR 97701
PROPOSAL:	The applicant is requesting a zone change from SR 2 ½ to RS, and tentative plan approval for a 32 lot subdivision to be called Rim Rock Riders Subdivision on an 8.43 acre parcel on the west side of OB Riley Road, North of Empire Blvd.
STAFF REVIEWER:	Matthew Martin, Associate Planner

After consideration of the written materials submitted by the City of Bend Public Works Department, in its letter dated March 15, 2006, and the decision of the hearings officer, the City Council affirms the written decision of the hearings officer as provided herein and as supplemented by the following additional findings and additional condition of approval. The facts stated in the Public Works Engineering Division letter of March 15, 2006 are hereby adopted by the City of Bend.

Any finding of the hearings officer that is inconsistent herewith is modified to be consistent with this decision. All conditions of approval imposed by the hearings officer are affirmed by this decision, to the extent such conditions are consistent herewith. Any condition of approval imposed by the hearings officer inconsistent with this decision is hereby modified to be consistent with this decision.

Additional Findings Regarding Zone Change Approval:

1. OB Riley Road is not currently constructed to City of Bend standards and specifications.

2. The present character of OB Riley Road is essentially rural, and it is lacking curbs, sidewalks, bicycle lanes, turn lanes, medians, drainage systems, site distances, road grades and ROW width necessary to bring it up to city standards.

3. OB Riley Road is expected to experience approximately 15,000 average daily vehicle trips per day, with the buildout of available residential land that will utilize the corridor.

4. OB Riley Road currently handles approximately 2,700 average daily vehicle trips, and is adequate for that intensity of use, but is not adequate to handle up to 15,000 average daily vehicle trips without extensive improvements, to bring it up to city standards for a city collector street in regard to curbs, sidewalks, turn lanes, bike lanes, sight distances, road grades and drainage facilities.

5. In addition to the land use applications in this land use application, there are numerous pending and potential developments along OB Riley Road that, when constructed, will add significantly more vehicle trips.

6. Because the instant land use application will contribute to the increase in vehicle trips that will, when combined with anticipated development, require the improvement of the entire OB Riley Road corridor to city standards for a collector street, a nexus exists between this land use application and the need to improve the OB Riley Road corridor to city standards.

7. Evidence in the record shows that the total cost of improving the OB Riley Road corridor to city standards within the existing city limits will be approximately $7.1 million.

8. Requiring this applicant to pay the entire cost of improving OB Riley Road within the Bend City Limits to city standards would be more than could be exacted from the applicant under *Dolan v. City of Tigard*, 512 US 374, 114 S Ct 2309, 129 L Ed2d 304 (1994). However, each of the pending and potential new developments along the OB Riley Road corridor will benefit from improvement of the entire OB Riley Road corridor, within the city limits, to city standards. Creation of an LID or other form of shared financing that would fairly apportion the costs according to benefits of the road improvements among all new pending and potential development would be roughly proportional to the impact that this land use application will have on the OB Riley Road transportation facility.

9. Evidence in this record shows that a cap of $5,000 LID assessment per residential lot for the applicant's property would provide an adequately funded LID or other shared financing mechanism to enable the city to construct the necessary improvements to the OB Riley Road corridor in the future.

10. This land use applicant will be a principal beneficiary of the improvement of OB Riley Road to City of Bend standards for collector streets, because residents of this development will be able to use the improvements along the entire OB Riley Road corridor.

11. Creation of a local improvement district (LID) or other method of financing that is proportional to all new users of OB Riley Road is a means to achieve a legitimate governmental interest – the interest in keeping OB Riley Road functioning at a level that is acceptable under existing city standards for collector streets.

12. In calculating the participation in the LID or other financing method for apportioning costs among new development, consideration should be given to any developer that improves any portion of OB Riley Road to city standards, and finances such improvements outside of the LID or other shared financing method, except to the extent that such improvement may have been required by the hearings officer as an exaction under *Dolan v. City of Tigard.*

13. Existing development located on OB Riley Road currently has, in OB Riley Road, a transportation facility that is adequate to the needs of the existing development, defined as houses and other structures with an occupancy permit issued as of the date of this Final Decision. Accordingly, the city finds that the existing development will not benefit to the extent that existing development should be required to participate in the funding of the OB Riley Road improvements, except to the extent that such financing may come from System development Charges, local property taxes, gasoline taxes, shared revenue and other (similar) funds.

Additional Condition of Approval Regarding LID or Other Shared Financing Method

1. Applicant shall execute the Waiver of Remonstrance substantially in the form attached hereto as Exhibit A as a condition of approval of the zone change in this land use application.

Dated April _____ 2006

Bruce Abernathy

~~Bill Friedman~~, Mayor ~~Pro~~ Tem

Bruce Abernathy

EXHIBIT A

WAIVER OF REMONSTRANCE TO
THE FORMATION OF A LOCAL
IMPROVEMENT DISTRICT OR OTHER SHARED FINANCING MECHANISM FOR
IMPROVEMENT OF OB RILEY ROAD TO CITY OF BEND COLLECTOR
STANDARDS

STATE OF OREGON)
) ss File No. PZ 05-556
County of Deschutes)

WHEREAS, Rim Rock Riders, hereinafter Owner, seeks approval of a zone change in City of Bend land use file PZ 05-556 for the following described real property located within the Bend city limits, of Deschutes County, Oregon;

Tract 16, GLEN VISTA, Deschutes County, Oregon and further identified on Tax Assessor's Map 17-12-17C, Tax Lot 1300; and

WHEREAS, the City of Bend, has conditioned approval of PZ05-556 on the recording of Owner's Waiver of Remonstrance to the Formation of a Local Improvement District for the completion of said public improvements at some future date, as provided in the City of Bend land use decision dated April ___, 2006;

NOW THEREFORE,

1. Owner hereby waives its rights, as provided under Bend City Code, and ORS Sections 223.117, 223.118, 223.389 and ORS 223.391 to have its written or oral objection to a proposed local improvement counted for purposes of determining whether there are, by law, sufficient objections to force the relevant governing body to abandon the proposed improvement, including but not limited to the formation of a local improvement district. Owner, however, does not waive its right to submit written testimony or to appear before the Bend City Council at any public hearing to object or otherwise testify about the whether the assessment against the subject property represents that property's proportionate share of the improvement. Further, Owner does not waive the right to remonstrate against any LID or other financing mechanism that results in an assessment of more than $5,000 per residential lot. This waiver will not be effective unless the resolution, ordinance or other instrument creating the LID limits the final LID assessment to a maximum of $5,000 per residential lot.

2. It is the intent of Owner that this Waiver of Remonstrance shall be a condition and covenant that shall run with the land and be binding upon the real property described herein above and shall be binding upon Owner's heirs, executors, assigns and successors.

IN WITNESS WHEREOF, this document is executed this _____ of _____, 2006.

Rim Rock Riders

_____
By: _____
Title: _____

STATE OF OREGON)
) ss
County of Deschutes:)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

DATED this _____ day of _____, 2006

_____
Notary Public for Oregon
My commission expires: _____

ACCEPTANCE BY CITY OF BEND

Accepted:_____
Harold A. Anderson, City Manager

STATE OF OREGON)
)ss
County of Deschutes)

This instrument was acknowledged before me on _____
by _____.

_____
NOTARY PUBLIC FOR OREGON
My Commission Expires: ___

DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK
2006-74735
$36.00
00507738200600747350050056
11/13/2006 11:01:59 AM
CL-IPPS Cnt=1 Stn=1 BN
$25.00 $11.00

Add to ord NS-2005

EXHIBIT A

WAIVER OF REMONSTRANCE TO THE FORMATION OF A LOCAL IMPROVEMENT DISTRICT OR OTHER SHARED FINANCING MECHANISM FOR IMPROVEMENT OF OB RILEY ROAD TO CITY OF BEND COLLECTOR STANDARDS

STATE OF OREGON)
) ss File No. PZ 05-556
County of Deschutes)

WHEREAS, KDV, LLC, hereinafter Owner, seeks approval of a zone change in City of Bend land use file PZ 05-556 for the following described real property located within the Bend city limits, of Deschutes County, Oregon;

Tract 16, GLEN VISTA, Deschutes County, Oregon and further identified on Tax Assessor's Map 17-12-17C, Tax Lot 1300; and

WHEREAS, the City of Bend, has conditioned approval of PZ05-556 on the recording of Owner's Waiver of Remonstrance to the Formation of a Local Improvement District for the completion of said public improvements at some future date, as provided in the City of Bend land use decision dated April 19, 2006;

NOW THEREFORE,

1. Owner hereby waives its rights, as provided under Bend City Code, and ORS Sections 223.117, 223.118, 223.389 and ORS 223.391 to have its written or oral objection to a proposed local improvement counted for purposes of determining whether there are, by law, sufficient objections to force the relevant governing body to abandon the proposed improvement, including but not limited to the formation of a local improvement district. Owner, however, does not waive its right to submit written testimony or to appear before the Bend City Council at any public hearing to object or otherwise testify about the whether the assessment against the subject property represents that property's proportionate share of the improvement. Further, Owner does not waive the right to remonstrate against any LID or other financing mechanism that results in an assessment of more than $5,000 per residential lot. This waiver will not be effective unless the resolution, ordinance or other instrument creating the LID limits the final LID assessment to a maximum of $5,000 per residential lot.

2. It is the intent of Owner that this Waiver of Remonstrance shall be a condition and covenant that shall run with the land and be binding upon the real property described herein above and shall be binding upon Owner's heirs, executors, assigns and successors.

IN WITNESS WHEREOF, this document is executed this 12th of MAY, 2006.

KDV, LLC

By: _____
Title: MEMBER

Return to:
City of Bend
Community Development
710 NW Wall St
Bend, OR 97701

STATE OF OREGON)
) ss
County of Deschutes:)

I certify that I know or have satisfactory evidence that Harris Kimble is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

DATED this 12th day of May, 2006

OFFICIAL SEAL
SUSAN L STINSON
NOTARY PUBLIC-OREGON
COMMISSION NO 362554
MY COMMISSION EXPIRES OCT. 30, 2006

Susan L Stinson
Notary Public for Oregon
My commission expires: 10-30-2006

ACCEPTANCE BY CITY OF BEND

Accepted: Harold A. Anderson
Harold A. Anderson, City Manager

STATE OF OREGON)
)ss
County of Deschutes)

This instrument was acknowledged before me on May 23, 2006
by Harold A Anderson.

OFFICIAL SEAL
KIM PARSONS
NOTARY PUBLIC-OREGON
COMMISSION NO. 375857
MY COMMISSION EXPIRES JAN. 6, 2008

Kim Parsons
NOTARY PUBLIC FOR OREGON
My Commission Expires: 1/6/08

Underlined text is added to the draft ordinance that was the subject of a public hearing on March 15, 2006; ~~struckthrough~~ text is deleted from the draft previously distributed in the council packet.

ORDINANCE NO. NS-2005

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 SR 2 ½, SUBURBAN LOW DENSITY RESIDENTIAL, TO RS, URBAND STANDARD DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Decision of the Hearings Officer dated February 16, 2006 file number PZ-05-556, subject to the additional findings and conditions of approval contained in the document entitled "Decision by the Bend City Council" that was made part of this ordinance by vote of the Bend City Council on March 15, 2006.

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 at Tract 16, GLEN VISTA, Deschutes County, Oregon and further identified on Tax Assessor's Map 17-12-17C, Tax Lot 1300 . The change will be from Suburban Low Density Residential (SR 2 ½) to Urban Standard Density Residential (RS). This zone change is subject to the ~~conditions of approval imposed by the Hearings Officer's Decision dated February 16, 2006, as modified by the~~ additional findings and condition of approval contained in the document entitled "Decision by the Bend City Council" that made part of this ordinance by vote of the Bend City Council on March 15, 2006.

Read for the first time the 5th day of April, 2006.

Read for the second time the 19th day of April, 2006.

Placed upon its passage the 19th day of April, 2006.

YES: 5 NO: 0

Authenticated by the Mayor the 19th day of April, 2006.

Bruce Abernethy, Mayor Pro Tem

ATTEST: Patricia S Stell

Patricia Stell, City of Bend Recorder

5. In addition to the land use applications in this land use application, there are numerous pending and potential developments along OB Riley Road that, when constructed, will add significantly more vehicle trips.

6. Because the instant land use application will contribute to the increase in vehicle trips that will, when combined with anticipated development, require the improvement of the entire OB Riley Road corridor to city standards for a collector street, a nexus exists between this land use application and the need to improve the OB Riley Road corridor to city standards.

7. Evidence in the record shows that the total cost of improving the OB Riley Road corridor to city standards within the existing city limits will be approximately $7.1 million.

8. Requiring this applicant to pay the entire cost of improving OB Riley Road within the Bend City Limits to city standards would be more than could be exacted from the applicant under *Dolan v. City of Tigard*, 512 US 374, 114 S Ct 2309, 129 L Ed2d 304 (1994). However, each of the pending and potential new developments along the OB Riley Road corridor will benefit from improvement of the entire OB Riley Road corridor, within the city limits, to city standards. Creation of an LID or other form of shared financing that would fairly apportion the costs according to benefits of the road improvements among all new pending and potential development would be roughly proportional to the impact that this land use application will have on the OB Riley Road transportation facility.

9. Evidence in this record shows that a cap of $5,000 LID assessment per residential lot for the applicant's property would provide an adequately funded LID or other shared financing mechanism to enable the city to construct the necessary improvements to the OB Riley Road corridor in the future.

10. This land use applicant will be a principal beneficiary of the improvement of OB Riley Road to City of Bend standards for collector streets, because residents of this development will be able to use the improvements along the entire OB Riley Road corridor.

11. Creation of a local improvement district (LID) or other method of financing that is proportional to all new users of OB Riley Road is a means to achieve a legitimate governmental interest – the interest in keeping OB Riley Road functioning at a level that is acceptable under existing city standards for collector streets.

12. In calculating the participation in the LID or other financing method for apportioning costs among new development, consideration should be given to any developer that improves any portion of OB Riley Road to city standards, and finances such improvements outside of the LID or other shared financing method, except to the extent that such improvement may have been required by the hearings officer as an exaction under *Dolan v. City of Tigard.*

13. Existing development located on OB Riley Road currently has, in OB Riley Road, a transportation facility that is adequate to the needs of the existing development, defined as houses and other structures with an occupancy permit issued as of the date of this Final Decision. Accordingly, the city finds that the existing development will not benefit to the extent that existing development should be required to participate in the funding of the OB Riley Road improvements, except to the extent that such financing may come from System development Charges, local property taxes, gasoline taxes, shared revenue and other (similar) funds.

Additional Condition of Approval Regarding LID or Other Shared Financing Method

EXHIBIT A

WAIVER OF REMONSTRANCE TO
THE FORMATION OF A LOCAL
IMPROVEMENT DISTRICT OR OTHER SHARED FINANCING MECHANISM FOR
IMPROVEMENT OF OB RILEY ROAD TO CITY OF BEND COLLECTOR
STANDARDS

STATE OF OREGON)
) ss File No. PZ 05-556
County of Deschutes)

WHEREAS, Rim Rock Riders, hereinafter Owner, seeks approval of a zone change in City of Bend land use file PZ 05-556 for the following described real property located within the Bend city limits, of Deschutes County, Oregon;

Tract 16, GLEN VISTA, Deschutes County, Oregon and further identified on Tax Assessor's Map 17-12-17C, Tax Lot 1300; and

WHEREAS, the City of Bend, has conditioned approval of PZ05-556 on the recording of Owner's Waiver of Remonstrance to the Formation of a Local Improvement District for the completion of said public improvements at some future date, as provided in the City of Bend land use decision dated April ___, 2006;

NOW THEREFORE,

1. Owner hereby waives its rights, as provided under Bend City Code, and ORS Sections 223.117, 223.118, 223.389 and ORS 223.391 to have its written or oral objection to a proposed local improvement counted for purposes of determining whether there are, by law, sufficient objections to force the relevant governing body to abandon the proposed improvement, including but not limited to the formation of a local improvement district. Owner, however, does not waive its right to submit written testimony or to appear before the Bend City Council at any public hearing to object or otherwise testify about the whether the assessment against the subject property represents that property's proportionate share of the improvement. Further, Owner does not waive the right to remonstrate against any LID or other financing mechanism that results in an assessment of more than $5,000 per residential lot. This waiver will not be effective unless the resolution, ordinance or other instrument creating the LID limits the final LID assessment to a maximum of $5,000 per residential lot.

2. It is the intent of Owner that this Waiver of Remonstrance shall be a condition and covenant that shall run with the land and be binding upon the real property described herein above and shall be binding upon Owner's heirs, executors, assigns and successors.

IN WITNESS WHEREOF, this document is executed this _____ of _____, 2006.

Rim Rock Riders

_____
By: _____
Title: _____

Underlined text is added to the draft ordinance that was the subject of a public hearing on March 15, 2006; ~~struckthrough~~ text is deleted from the draft previously distributed in the council packet.

ORDINANCE NO. NS-2006

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONING MAP DESIGNATION OF CERTAIN REAL PROPERTY FROM RESIDENTIAL SUBURBAN LOW DENSITY (SR 2 1/2) ZONE TO URBAN STANDARD DENSITY (RS) 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 change. The Bend City Council adopts the Decision and Recommendation of the Hearings Officer dated February 17, 2006, File Number PZ-05-703 and 05-704, subject to the additional findings and conditions of approval contained in the document entitled "Decision by the Bend City Council" that was made part of this ordinance by vote of the Bend City Council on March 15, 2006.

.

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 SR 2 1/2, Suburban Low Density Residential to RS, Urban Standard Density Residential. This zone change is subject to the conditions of approval imposed by the ~~Hearings Officer's Decision dated February 16, 2006, as modified by the additional findings and~~ condition of approval contained in the document entitled "Decision by the Bend City Council" that made part of this ordinance by vote of the Bend City Council on March 15, 2006.

.

Read for the first time the 5th day of April, 2006.

Read for the second time the 19th day of April, 2006.

Placed upon its passage the 19th day of April, 2006.

YES: 5 NO: 0

Authenticated by the Mayor the 19th day of April, 2006.

Bruce Abernethy, Mayor Pro Tem

ATTEST:

Patricia Stell, City of Bend Recorder

EXHIBIT A

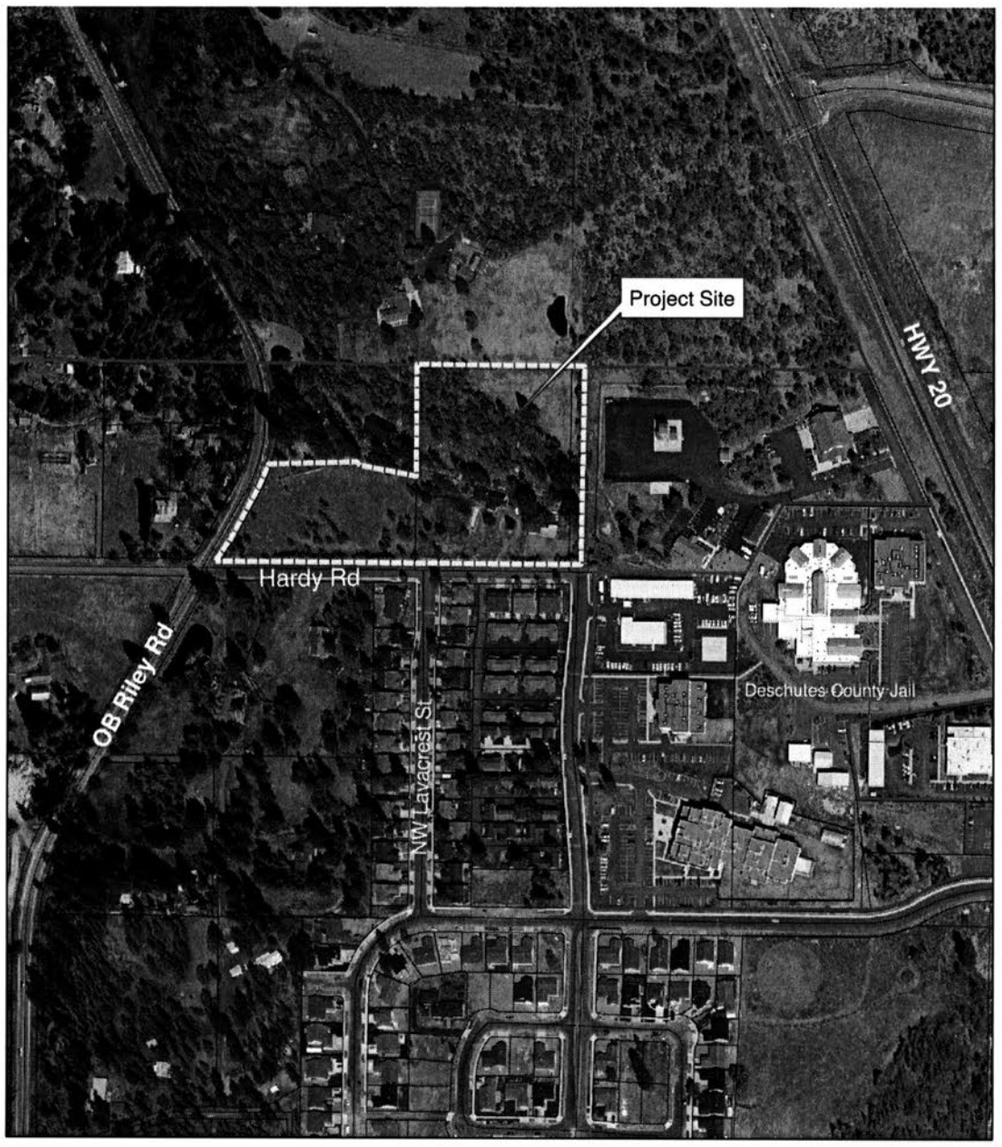
Proposed Tax Lot 100:

Beginning at the Northeast corner of Tract Two (2) of Glen Vista, a subdivision in Deschutes County, Oregon; thence South 0°0'33" West along said tract boundary 266.74 feet; thence North 73°7'40" West, 17.55 feet; thence North 77°7'14" West, 58.27 feet; thence North 81°4'10" West, 37.06 feet; thence North 57°14'33" West, 16.06 feet; thence South 89°58'33" West, 222.97 feet to the West boundary of said tract; thence along said West boundary through a non-tangent curve to the left having a radius of 388.12 feet, an arc length of 238.90 feet, a central angle of 35°16'2", a chord bearing and distance of North 2°35'45" West, 235.15 feet to the Northwest corner of said tract; thence South 89°4'17" East, 357.38 feet to the Point of Beginning.

Proposed Tax Lot 200:

Parcel 1;

Beginning at the Northwest corner of Tract One (1) of Glen Vista, a subdivision in Deschutes County, Oregon; thence South 89°54'17" East, 369.99 feet to the Northeast corner of said Tract One; thence South 0°10'11" West, 467.60 feet to the Southeast corner of said Tract One; thence South 89°51'47" West, 833.39 feet to the Southwest corner of Tract Two (2) of Glen Vista; thence North 29°7'15" East, 169.08 feet along the West boundary of said Tract Two; thence continuing along said boundary through a tangent curve to the left having a radius of 388.12 feet, an arc length of 95.40 feet, a central angle of 14°5'2", a chord bearing and distance of North 22°4'44" East, 95.16 feet; thence North 89°58'33" East, 222.97 feet; thence South 57°14'33" East, 16.06 feet; thence South 81°4'10" East, 37.06 feet; thence South 77°7'14" East, 58.27 feet; thence South 73°7'40" East 17.55 feet to the West boundary of said Tract One; thence North 0°0'33" East along said tract boundary to the Point of Beginning.



PZ 05-703, 05-704
Hardy Rd Subdivision

Aerial photo acquired March 2004

Bend City Limits

N

0 250 500 Feet

DECISION BY THE BEND CITY COUNCIL

FILE NUMBER: **PZ 05-703 and PZ 05-704**

HEARING DATE: March 15, 2006, Public Hearing

APPLICANT: Alterra Investments, LLC
Jason Adams/Ben Hinchliffe
P.O. Box 1349
Bend, OR 97709

PROPERTY OWNERS: Miller, Mikel
Marcum-Miller, Lynn S.
20288 Hardy Road
Bend, OR 97701

Schulzke, Richard A.
63380 O.B. Riley Road
Bend, OR 97702

ENGINEER: Otak, Inc.
Paula M. Mason/Corey Charon
333 SW Upper Terrance Drive
Bend OR 97702

REQUEST: Applicant requests approval of a Zone Change from Suburban Low Density Residential (SR 2 1/2) Zone to Urban Standard Residential (RS) Zone for the 5.8-acre subject property. The applicant is also requesting approval of a 36 lot single family residential subdivision for the subject property.

LOCATION: The subject property is on the north side of Hardy Road, east of O.B. Riley Road and west of the future alignment of Brita Street. The subject property is identified on the Deschutes County Tax Assessor's Map 17-12-17DB, Tax Lot 100, the southern portion of Tax Lot 200; and Tax Map 17-12-17D, Tax Lot 105. A lot line adjustment to separate the northern portion of Tax Lot 200 from the site will be submitted separately.

After consideration of the written materials submitted by the City of Bend Public Works Department, in its letter dated March 15, 2006, and the decision of the hearings officer, the City Council affirms the written decision of the hearings officer as provided herein and as supplemented by the following additional findings and additional condition of approval. The facts stated in the Public Works Engineering Division letter of March 15, 2006 are hereby adopted by the City of Bend.

Any finding of the hearings officer that is inconsistent herewith is modified to be consistent with this decision. All conditions of approval imposed by the hearings officer are affirmed by this decision, to the extent such conditions are consistent herewith. Any condition of approval imposed by the hearings officer inconsistent with this decision is hereby modified to be consistent with this decision.

Additional Findings Regarding Zone Change Approval:

1. OB Riley Road is not currently constructed to City of Bend standards and specifications.

2. The present character of OB Riley Road is essentially rural, and it is lacking curbs, sidewalks, bicycle lanes, turn lanes, medians, drainage systems, site distances, road grades and ROW width necessary to bring it up to city standards.

3. OB Riley Road is expected to experience approximately 15,000 average daily vehicle trips per day, with the buildout of available residential land that will utilize the corridor.

4. OB Riley Road currently handles approximately 2,700 average daily vehicle trips, and is adequate for that intensity of use, but is not adequate to handle up to 15,000 average daily vehicle trips without extensive improvements, to bring it up to city standards for a city collector street in regard to curbs, sidewalks, turn lanes, bike lanes, sight distances, road grades and drainage facilities.

5. In addition to the land use applications in this land use application, there are numerous pending and potential developments along OB Riley Road that, when constructed, will add significantly more vehicle trips.

6. Because the instant land use application will contribute to the increase in vehicle trips that will, when combined with anticipated development, require the improvement of the entire OB Riley Road corridor to city standards for a collector street, a nexus exists between this land use application and the need to improve the OB Riley Road corridor to city standards.

7. Evidence in the record shows that the total cost of improving the OB Riley Road corridor to city standards within the existing city limits will be approximately $7.1 million.

8. Requiring this applicant to pay the entire cost of improving OB Riley Road within the Bend City Limits to city standards would be more than could be exacted from the applicant under *Dolan v. City of Tigard*, 512 US 374, 114 S Ct 2309, 129 L Ed2d 304 (1994). However, each of the pending and potential new developments along the OB Riley Road corridor will benefit from improvement of the entire OB Riley Road corridor, within the city limits, to city standards. Creation of an LID or other form of shared financing that would fairly apportion the costs according to benefits of the road improvements among all new pending and potential development would be roughly proportional to the impact that this land use application will have on the OB Riley Road transportation facility.

9. Evidence in this record shows that a cap of $5,000 LID assessment per residential lot for the applicant's property would provide an adequately funded LID or other shared financing mechanism to enable the city to construct the necessary improvements to the OB Riley Road corridor in the future.

10. This land use applicant will be a principal beneficiary of the improvement of OB Riley Road to City of Bend standards for collector streets, because residents of this development will be able to use the improvements along the entire OB Riley Road corridor.

11. Creation of a local improvement district (LID) or other method of financing that is proportional to all new users of OB Riley Road is a means to achieve a legitimate governmental interest – the interest in keeping OB Riley Road functioning at a level that is acceptable under existing city standards for collector streets.

12. In calculating the participation in the LID or other financing method for apportioning costs among new development, consideration should be given to any developer that improves any portion of OB Riley Road to city standards, and finances such improvements outside of the LID or other shared financing

method, except to the extent that such improvement may have been required by the hearings officer as an exaction under *Dolan v. City of Tigard.*

13. Existing development located on OB Riley Road currently has, in OB Riley Road, a transportation facility that is adequate to the needs of the existing development, defined as houses and other structures with an occupancy permit issued as of the date of this Final Decision. Accordingly, the city finds that the existing development will not benefit to the extent that existing development should be required to participate in the funding of the OB Riley Road improvements, except to the extent that such financing may come from System development Charges, local property taxes, gasoline taxes, shared revenue and other (similar) funds.

Additional Condition of Approval Regarding LID or Other Shared Financing Method

1. Applicant shall execute the Waiver of Remonstrance substantially in the form attached hereto as Exhibit A as a condition of approval of the zone change in this land use application.

Dated April _____, 20006

Bruce Abernethy

~~Bill Friedman~~, Mayor PIS Tem

Bruce Abernethy

EXHIBIT A

WAIVER OF REMONSTRANCE TO
THE FORMATION OF A LOCAL
IMPROVEMENT DISTRICT OR OTHER SHARED FINANCING MECHANISM FOR
IMPROVEMENT OF OB RILEY ROAD TO CITY OF BEND COLLECTOR
STANDARDS

STATE OF OREGON)
) ss
County of Deschutes)

File No. PZ 05-703 and PZ 05-704

WHEREAS, Mikel Miller, Lynn S. Markum-Miller and Richard A. Schulzke, hereinafter Owners, seeks approval of a zone change in City of Bend land use file PZ 05-703 and PZ 05-704 for the following described real property located within the Bend city limits, of Deschutes County, Oregon;

See: Exhibit A hereto; and

WHEREAS, the City of Bend, has conditioned approval of PZ 05-703 and PZ 05-704 on the recording of Owner's Waiver of Remonstrance to the Formation of a Local Improvement District for the completion of said public improvements at some future date, as provided in the City of Bend land use decision dated April ___, 2006;

NOW THEREFORE,

1. Owners hereby waive their rights, as provided under Bend City Code, and ORS Sections 223.117, 223.118, 223.389 and ORS 223.391 to have its written or oral objection to a proposed local improvement counted for purposes of determining whether there are, by law, sufficient objections to force the relevant governing body to abandon the proposed improvement, including but not limited to the formation of a local improvement district. Owners, however, do not waive their right to submit written testimony or to appear before the Bend City Council at any public hearing to object or otherwise testify about the whether the assessment against the subject property represents that property's proportionate share of the improvement. Further, Owners do not waive the right to remonstrate against any LID or other financing mechanism that results in an assessment of more than $5,000 per residential lot. This waiver will not be effective unless the resolution, ordinance or other instrument creating the LID limits the final LID assessment to a maximum of $5,000 per residential lot.

2. It is the intent of Owners that this Waiver of Remonstrance shall be a condition and covenant that shall run with the land and be binding upon the real property described herein above and shall be binding upon Owners' heirs, executors, assigns and successors.

IN WITNESS WHEREOF, this document is executed this _____ of _____, 2006.

Mikel Miller

_____

STATE OF OREGON)
) ss
County of Deschutes:)

I certify that I know or have satisfactory evidence that Mikel Miller is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

DATED this _____ day of _____, 2006

_____
Notary Public for Oregon
My commission expires: _____

Lynn S. Markum-Miller

_____

STATE OF OREGON)
) ss
County of Deschutes:)

I certify that I know or have satisfactory evidence that Lynn S. Markum-Miller is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

DATED this _____ day of _____, 2006

_____
Notary Public for Oregon
My commission expires: _____

Richard A. Schulzke

_____

STATE OF OREGON)
) ss
County of Deschutes:)

I certify that I know or have satisfactory evidence that Richard A. Schulzke is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

DATED this _____ day of _____, 2006

_____
Notary Public for Oregon
My commission expires: _____

ACCEPTANCE BY CITY OF BEND

Accepted:_____
Harold A. Anderson, City Manager

STATE OF OREGON)
)ss
County of Deschutes)

This instrument was acknowledged before me on _____
by _____.

_____
NOTARY PUBLIC FOR OREGON
My Commission Expires: ___

ORDINANCE NO. NS-2007

AN ORDINANCE AMENDING THE CITY OF BEND SIGN CODE NS-1767 TO REPLACE REGULATIONS REGARDING BILLBOARD SIGNS AND DECLARING AN EMERGENCY

WHEREAS, on March 24, 2006, the Oregon Supreme Court invalidated Oregon Department of Transportation ~~certain~~ regulations pertaining to the content of billboard signs;

AND WHEREAS, the City of Bend sign code contains similar regulations ~~that~~ and the City desires to modify the Sign Code to meet the minimum requirements established by the Oregon Supreme Court~~;~~.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section One. Section 3 entitled "DEFINITIONS AND INTERPRETATIONS OF THE BEND SIGN CODE" is amended in the following manner:

A. The Definition of Billboard is amended to read as follows: **Billboards** ~~refer to *Off-Premise Sign*~~ **are only those freestanding sign structures which are identified in Attachment No. 1**.

B.~~–~~. <The definitions of On Premises Signs and Off Premise Sign are deleted>. ~~**Off-Premise Sign** means a sign which directs attention to a business, commodity, service or entertainment not conducted, sold or offered on the premises where the sign is located. A "*billboard*" is considered an off-premise sign and is further described as a sign structure erected for the purpose of leasing advertising space to promote an interest other than that of an individual, business, product or service available on the premise the billboard is located on.~~

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

Section Two. Section 5 "Signs Exempt From Permits" is amended by deleting the phrase "Off-Premise Sign" to read as follows:

"SECTION 5. SIGNS EXEMPT FROM PERMITS.

(2) Public service and official signs.

(a) Official signs. Official and legal notices required by a court or government agency:

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

Section Three. Section 14 entitled "TYPE OF SIGNS PERMITTED IN EACH SIGN DISTRICT" is amended by substituting the word "billboard" for the phrases "off-premise" or "off-premises" wherever the latter appears in Section 14

Section Four. Section 15 entitled "STANDARDS FOR SPECIFIC TYPES OF SIGNS" specifically only Subsection (4) is amended as follows:

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

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

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

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

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

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

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

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

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

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

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

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

Section Five. The City Council finds and declares because of the Oregon Supreme Court decision in Outdoor Media Dimensions, Inc., v. Department of Transportation, (March 24, 2006) which invalidated certain ODOT regulations pertaining to billboards that an emergency exists requiring this ordinance to become effective immediately upon its adoption.

Read for the first time the 19th day of April, 2006.

Read for the second time the 3rd day of May, 2006.

Placed upon its passage the 3rd day of May, 2006.

YES: 5 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 3rd day of May, 2006.

Bruce Abernethy

Bruce Abernethy, Mayor Pro Tem

Attest:

Patricia S Stell

Patricia Stell
City Recorder

ORDINANCE NO. NS-2008

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF -DISTRICTS THAT ENABLE PARTIAL RECOVERY OF COSTS OF CONSTRUCTING PUBLIC IMPROVEMENTS IN CASES NOT INVOLVING LOCAL IMPROVEMENT DISTRICTS AND NOT INVOLVING IMPROVEMENTS PAID FROM SYSTEM DEVELOPMENT CHARGES

WHEREAS, the City of Bend is a home rule city, with the authority to provide for financing programs for public improvements, where such programs do not conflict with state law, and

WHEREAS, the City of Bend desires to encourage the development of infill properties, and properties in areas where Local Improvement Districts (LIDs) or System Development Charges (SDCs) do not provide the most beneficial means of financing the improvement, as determined by the Bend City Council, and

WHEREAS, the City believes that development of the kind described in the above finding is encouraged by providing for the partial cost recovery to developers who construct public improvements that benefit other properties, and

WHEREAS, the City desires to establish a uniform procedure to allow reimbursement to persons who make public improvements that benefit more than one property, but which are not paid for through SDCs or LIDs, -and

WHEREAS, The purpose of a recovery district is to provide a method to pay a person who finances the construction of a sewer, water, stormwater or street improvement in whole or in part for the cost of those improvements which benefit other properties. Recovery Districts are intended to be used to mitigate the cost of financing such public improvements by distributing those costs to other benefited property owners at the time those benefited property owners connect to or make use of the improvements. Now therefore,

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1: The Bend Code is hereby amended to add the following chapter.

REIMBURSEMENT DISTRICTS.

Sections:

1. **Definitions.**
2. **Application For A Reimbursement District.**
3. **City Engineer's Report.**
4. **Amount To Be Reimbursed.**
5. **Public Hearing.**
6. **Notice Of Public Hearing.**
7. **City Council Action.**
8. **Notice Of Adoption Of Resolution.**
9. **Recording The Resolution.**
10. **Contesting The Reimbursement District.**
11. **Final Public Hearing.**

12. Obligation To Pay Reimbursement Fee.

13. Annual Fee Adjustment.

14. Administration.

1. **Definitions.**

1.1 "City Engineer" or "Engineer" means the person holding the position of City Engineer or any officer or employee designated by the City Manager to perform duties stated within this chapter.

1.2 "City" means the City of Bend.

1.3 "Person" means a natural person, the person's heirs, executors, administrators, or assigns; a firm, partnership, corporation, association or legal entity, its or their successors or assigns; and any agent employee or any representative thereof.

1.4 "Applicant" means a person, as defined in Subsection 1.3, who is required or chooses to finance some or all of the cost of a street, water or sewer improvement which is available to provide service to property, other than property owned by the person, and who applies to the City for reimbursement for the expense of the improvement. The "applicant" may be the City.

1.5 "Street Improvement" means a street or street improvement conforming with City standards and including but not limited to streets, storm drains, curbs, gutters, sidewalks, bike paths, traffic control devices, street trees, lights and signs and public right-of-way.

1.6 "Water Improvement" means a water or water line improvement conforming with City standards and including but not limited to extending a water line to property, other than property owned by the applicant, so that water service can be provided for such other property without further extension of the line.

1.7 "Sewer Improvement" means a sewer or sewer line improvement conforming with City standards and including but not limited to extending a sewer line to property, other than property owned by the applicant, so that sewer service can be provided for such other property without further extension of the line.

1.8 "Reimbursement District" means the area which is determined by the City Council to derive a benefit from the construction of street, water or sewer improvements, financed in whole or in part by the applicant and includes property which has the opportunity to utilize such an improvement.

1.9 "Reimbursement Fee" means the fee required to be paid by a resolution of the City Council and the reimbursement agreement. The term Reimbursement Fee does not include any Local Improvement District Assessment or any System Development Charge established by Oregon Law.

2. Application For A Reimbursement District.

2.1 ~~2.1~~ Any person who is required to or chooses to finance some or all of the cost of a street, water or sewer improvement which is available to provide service to property, other than property owned by the person, may, by written application filed with the City Finance Department, request that the City establish a reimbursement district. The street, water and sewer improvements must include improvements in addition to or in a size greater than those which would otherwise ordinarily be required in connection with an application for permit approval and must be available to provide service to property other than property owned by the applicant. Examples include but shall not be limited to full street improvements instead of half street improvements, off site sidewalks, connection of street

sections for continuity, extension of water lines and extension of sewer lines. The City may also initiate formation of a reimbursement district. The application shall be accompanied by a fee, as established by resolution, sufficient to cover the cost of administrative review and notice pursuant to this Chapter.

2.2. The application must be filed with the City Finance Department before improvements are constructed.

~~2.2~~2.3 The application shall include the following:

~~2.2.1~~2.3.1 A description of the location, type, size and cost of the public improvement to be eligible for reimbursement.

~~2.2.2~~2.3.2 A map showing the properties to be included in the proposed reimbursement district; the zoning district for the properties; the front footage or square footage of said properties, or similar date necessary for calculating the apportionment of the cost; and the property or properties owned by the applicant.

~~2.2.3~~2.3.3 The estimated cost of the improvements as evidenced by bids, projections of the cost of labor and materials, or other evidence satisfactory to the City Engineer.

~~2.2.4~~2.3.4 The estimated date of completion of the public improvements.

~~2.2.5~~2.3.5 Applicant may request a discretionary annual fee adjustment, which, if granted, will be administered pursuant to Section 13.

~~2.2.6~~2.3.6 An acknowledgement by the applicant that the applicant agrees to indemnify, defend and hold harmless the City of Bend, its elected officials, appointed officials, employees and agents from any and all claims that may arise from the creation or administration of the district. This acknowledgement shall release the City of Bend, its elected officials, appointed officials, employees and agents from any and all claims that reimbursements fees were improperly collected, collected in the wrong amount, or not collected at all, for any reason, including negligence on the part of the City of Bend, its elected officials, appointed officials, employees and agents. The applicant shall acknowledge that the applicant accepts all risk that reimbursement will not occur, or will not occur in the amount expected by the applicant.

3. City Engineer's Report.

3.1 The City Engineer shall review the application for the establishment of a reimbursement district and evaluate whether a district should be established. The Engineer may require the submittal of other relevant information from the applicant in order to assist in the evaluation. The Engineer shall prepare a written report for the City Council, considering and making recommendations concerning the following factors:

3.1.1 Whether the applicant will finance some or all of the cost of a street, water or sewer improvement, thereby making service available to property, other than property owned by the applicant;

3.1.2 The area to be included in the reimbursement district;

3.1.3 The estimated cost of the street, water or sewer improvements within the area of the proposed reimbursement district and the portion of the cost for which the applicant should be reimbursed;

3.1.4 A methodology for spreading the cost among the parcels within the reimbursement district and where appropriate defining a"unit" for applying the reimbursement fee to property which may, with City

approval, be partitioned, altered, modified, or subdivided at some future date. The methodology should include consideration of the cost of the improvements, prior contributions by property owners, the value of the unused capacity, rate-making principles employed to finance public improvements, and other factors deemed relevant by the City Engineer. Prior contributions by property owners will only be considered if the contribution was for the same type of improvement and at the same location (example: a sewer-related contribution in the same location as a sewer improvement would be considered, a water-related contribution in the same location as a sewer improvement would not be considered);

3.1.5 The amount to be charged by the City for administration of the district by the City. The administration fee shall be fixed by the City Council and will be included in the resolution approving and forming the reimbursement district. If the applicant is other than the City, the administration fee is due and payable to the City at the time the agreement in Section 7.2 is signed. If the City is the applicant, the administration fee shall be included in the reimbursement fee and is due and payable at the time there is an obligation to pay the reimbursement fee as required by Section 12.

3.1.6 The period of time that the right to reimbursement exists, if the period is less than ten years.

4. Amount To Be Reimbursed.

4.1 The cost to be reimbursed to the applicant, if other than the City, shall be limited to the cost of construction, engineering, and off-site right of way. If the applicant is the City, the costs to be reimbursed shall also include an administration cost and all costs associated with the acquisition of easements and rights of way. Engineering shall include surveying and inspection and shall not exceed 13.5% of eligible construction cost. If the applicant is other than the City, the costs to be reimbursed for right of way shall be limited to the reasonable market value of land or easements purchased by the applicant from a third party to complete off-site improvements.

4.2 No reimbursement shall be allowed for financing costs, permits or fees required for construction permits, land or easements dedicated by the applicant, costs which are eligible for traffic impact fee credits or systems development charge credits, project management fees or any costs which cannot be clearly documented.

4.3 No reimbursement shall be allowed for construction costs that occur prior to the formation date of the reimbursement district.

4.4 Reimbursement for legal expenses shall be allowed only to the extent that such expenses relate to the preparation and filing of an application for reimbursement, and to working with the City through the Engineer's Report and formation public hearing stages of an application.

4.5 A reimbursement fee shall be computed by the City for all properties which have the opportunity to utilize the improvements, including the property of the applicant for formation of a reimbursement district. The applicant for formation of the reimbursement district shall not be reimbursed for the portion of the reimbursement fee computed for the property of the applicant.

5. Public Hearing.

Within a reasonable time after the City Engineer has completed the report required in Section 3, the City Council shall hold an informational public hearing in which any person shall be given the opportunity to comment on the proposed reimbursement district. Because formation of the reimbursement district does not result in an assessment against property or lien against property, the public hearing is for informational purposes only and is not subject to mandatory termination

because of remonstrances. The City Council has the sole discretion after the public hearing to decide whether a resolution approving and forming the reimbursement district shall be adopted.

6. Notice Of Public Hearing.

Not less than 10 nor more than 30 days prior to any public hearing held pursuant to this Chapter, the applicant and all owners of property within the proposed district shall be notified of such hearing and the purpose thereof. Such notification shall be accomplished by either regular mail or personal service. If notification is accomplished by mail, notice shall be mailed not less than 13 days prior to the hearing. Notice shall be deemed effective on the date that the letter of notification is mailed. Failure of the applicant or any affected property owner to be so notified shall not invalidate or otherwise affect any reimbursement district resolution or the City Council's action to approve the same.

7. City Council Action.

7.1 After the public hearing held pursuant to Section 5, the City Council shall approve, reject or modify the recommendations contained in the City Engineer's report. The City Council's decision shall be embodied in a resolution. If a reimbursement district is established, the resolution shall include the City Engineer's report as approved or modified.

7.2 When the applicant is other than the City, the resolution shall instruct the City Manager to enter into an agreement with the applicant pertaining to the reimbursement district improvements. The agreement shall be contingent upon the improvements being accepted by the City. The agreement, at a minimum, shall contain the following provisions:

7.2.3 The public improvement(s) shall meet all applicable City standards.

7.2.4 The estimated total amount of potential reimbursement to the applicant.

7.2.5 The applicant shall defend, indemnify and hold harmless the City from any and all losses, claims, damage, judgments or other costs or expense arising as a result of or related to the City's establishment of the district. The applicant shall acknowledge that the City is not obligated to collect the reimbursement fee from affected property owners, and that the applicant assumes all risk of every kind that the amount reimbursed may not be as much as anticipated, or that any particular reimbursement Fee may not be collected by the City. The applicant has a private cause of action for collection of a Reimbursement Fee against any person obligated to pay a Reimbursement Fee, and the applicant shall bear the entire cost of an action to collect the Reimbursement Fee, without any right to contribution by the City.

7.2.6 Other provisions as the City Council determines necessary and property to carry out the provisions of this Chapter.

7.3 If a reimbursement district is established by the City Council, the date of the formation of the district shall be the date that the City Council adopts the resolution forming the district.

7.4 The City Council resolution and reimbursement agreement shall determine the boundaries of the reimbursement district and shall determine the methodology for imposing a fee which considers the cost of reimbursing the applicant for financing the construction of a street, water or sewer improvement within the reimbursement district.

8. Notice Of Adoption Of Resolution.

The City shall notify all property owners within the district and the applicant of the adoption of a reimbursement district resolution. The notice shall include a copy of the resolution, the date it

was adopted and a short explanation of when the property owner is obligated to pay the reimbursement fee and the amount of the fee.

9. Recording The Resolution.

The City Recorder shall cause notice of the formation and nature of the reimbursement district to be filed in the office of the County Recorder so as to provide notice to potential purchasers of property within the district. The City shall also record the obligation of each benefited property to pay a reimbursement fee in the City's lien docket. Said recording shall not create a lien. Failure to make such a recording shall not affect the legality of the resolution or the obligation to pay the reimbursement fee.

10. Contesting The Reimbursement District.

No legal action intended to contest the formation of the district or the reimbursement fee, including the amount of the charge designated for each parcel, shall be filed after 60 days following adoption of a resolution establishing a reimbursement district. Legal challenge shall only be by writ of review pursuant to ORS 34.010 through 34.100. A decision by the City of Bend to create a reimbursement ~~covery~~ district is a quasi judicial decision.

11. Final Public Hearing.

11.1 Within three months after completion and acceptance of the improvements for a one-year maintenance period, the applicant shall submit to the City Engineer the actual cost of the improvements as evidenced by receipts, invoices, canceled checks and~~or~~ other similar documents. The City Engineer shall review the actual costs and shall prepare a written report for the City Council recommending revisions to the report prepared under Section 3.

11.2 The final cost shall not exceed by more than 10% the cost estimated at the time of reimbursement district formation unless an exception is approved by the City Council. An exception may be approved only if the applicant can show legitimate circumstances beyond the control of the applicant which cause the cost increase.

11.3 Within a reasonable time after the City Engineer has completed the report required in Subsection 11.1, the City Council shall hold an informational public hearing in which any person shall be given the opportunity to comment on the recommended revisions.

11.4 Failure to provide the documentation required by this section shall result in the automatic lapse of any resolution adopted by the City Council pursuant to Section 5. Following the final public hearing provided for herein, and subject to the limitations provided for herein, the City Council shall have the authority to approve, rescind, or modify the reimbursement district.

12. Obligation To Pay Reimbursement Fee.

12.1 The applicant for a permit related to property within any reimbursement district shall pay the City, in addition to any other applicable fees and charges, the reimbursement fee established by the Council, if within the time specified in the resolution establishing the district, the person applies for and receives approval from the City for any of the following activities:

12.1.1 A building permit for a new building;

12.1.2 Building permit(s) for any addition(s), modification(s), repair(s) or alteration(s) of a building, which exceed twenty-five percent (25%) of the value of the building within any 12-month period. The value of the building shall be the amount shown on the most current records of the County Department of Assessment and Taxation for the building's real market value. This paragraph shall not apply to repairs made necessary due to damage or destruction by fire or other natural disaster;

12.1.3 Any alteration, modification or change in the use of real property, which increases the number of parking spaces required under City standards in effect at the time of permit application;

12.1.4 Connection to or use of a water improvement, if the reimbursement district is based on the water improvement;

12.1.5 Connection to or use of a sewer improvement, if the reimbursement district is based on the sewer improvement;

12.1.6 Connection to or use of a street improvement, if the reimbursement district is based on the street improvement.

12.1.7 Approval of a land partition or final subdivision plat.

12.2 The City's determination of who shall pay the reimbursement fee is final. Neither the City nor any elected official, appointed official, agent or employee of the City shall be liable for payment of any reimbursement fee or portion thereof as a result of this determination, or as a result of failure, for any reason, of the City to collect a Reimbursement Fee.

12.3 A permit applicant whose property is subject to payment of a reimbursement fee receives a benefit from the construction of street improvements, regardless of whether access is taken or provided directly onto such street at any time. Nothing in this ordinance is intended to modify or limit the authority of the City to provide or require access management.

12.4 No person shall be required to pay the reimbursement fee on an application or upon property for which the reimbursement fee has been previously paid, unless such payment was for a different type of improvement. ~~No permit shall be issued for any of the activities listed in Subsection 12.1 unless the reimbursement fee has been paid in full.~~Reimbursement fee must be paid in full when a permit or land division approval, including a final subdivision plat, is issued or approved. Where approval is given as specified in Subsection 12.1, but no permit is requested or issued, then the requirement to pay the reimbursement fee lapses if the underlying approval lapses.

12.5 Neither the City of Bend, Deschutes County, the State of Oregon nor the United States shall be required to pay a Reimbursement Fee without the consent of such governmental agency.

12.6 The right of reimbursement shall not extend beyond ten years from the district formation date. The applicant solely and exclusively bears the risk that the City may not collect from benefited property owners their respective share of the cost of the improvement, and that the total amount collected may be less than anticipated. Further the applicant acknowledges that by utilizing the procedures of this ordinance~~,~~ that the City shall be under no obligation to institute legal proceedings to collect unpaid amounts that may be due to the applicant. The applicant must institute and pay for such legal proceedings, and the City will not be obligated to share or pay the litigation costs associated with such proceedings.

12.7 The applicant shall warrant the improvement against defects in materials or quality of construction for a period of one year from the date of preliminary acceptance as provided in Section 11.1.

13. Annual Fee Adjustment.

13.1 The City Council may grant an annual fee adjustment at the time of application for formation of a reimbursement district as provided in this section.

13.2 An annual fee adjustment shall be applied to the reimbursement fee beginning on the first anniversary of the date of the reimbursement agreement as a return on the investment for the person or the City. The annual fee adjustment shall be fixed and computed against the reimbursement fee as simple interest and will not compound. The amount of the fee adjustment shall be determined at the time that a district is formed and shall be the same each year.

13.3 Each fiscal year, the Finance Director shall recommend to the City Council an interest rate to be used in determining the annual fee adjustment for reimbursement districts. The City Council shall consider the recommendation of the Finance Director and shall adopt an interest rate to be used in determining the annual fee adjustment. The interest rate adopted by the City Council shall be applied to all reimbursement districts formed during the fiscal year, for which annual fee adjustments are approved.

14. Administration.

14.1 The right of reimbursement is assignable and transferable after written notice is delivered to the City, advising the City to whom future payments are to be made, and after approval of assignment by the City.

14.2 The City shall establish separate accounts for each reimbursement district. Upon receipt of a reimbursement fee, the City shall cause a record to be made of that property's payment and remit the fee to the person who requested establishment of the reimbursement district or their assignee. on January 31st of each year.

14.3 The reimbursement fee is in lieu of a local improvement district charge for the improvements installed pursuant to the reimbursement district agreement. The reimbursement fee is not intended to replace or limit any other fee or charge collected by the city.

Section 2: The City Recorder may re-number and edit this chapter to conform to the format of the Bend Code.

Section 3: Severability. If any portion of this ordinance is found to be unenforceable, the remainder shall be enforceable to the fullest extent permitted by law.

Read for the first time the 3rd day of May, 2006.

Read for the second time the 17th day of May, 2006.

Placed upon its passage the 17th day of May, 2006.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 17th day of May, 2006.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

ORDINANCE NO. NS-2009

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF A 3.12 ACRE PARCEL OF LAND AT THE NORTHEAST CORNER OF PARRELL ROAD AND VASSAR PLACE FROM RS, URBAN STANDARD DENSITY RESIDENTIAL TO RM, URBAN MEDIUM DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, 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 Decision of the Hearings Officer dated April 12, 2006, file number PZ-05-675.

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 shown in "Exhibit A" described in "Exhibit B" from Urban Standard Density Residential (RS) to Urban Medium Density Residential (RM).

Read for the first time the 3rd day of May, 2006.

Read for the second time the 17th day of May, 2006.

Placed upon its passage the 17th day of May, 2006.

YES: 7 NO: 0

Authenticated by the Mayor the 17th day of May, 2006.

Bill Friedman, Mayor

ATTEST:

Patricia S Stell

Patricia Stell, City of Bend Recorder

Exhibit A



PZ 05-674 and 05-675
Zone Change RS to RM & Tentative Plan

RS - Residential Urban Standard Density
RM - Residential Urban Medium Density
CH - Commercial Highway

0 125 250 500 Feet

N

Map prepared by City of Bend, 4/18/2006.
Aerial imagery acquired March 2004.

EXHIBIT B

Legal Description:

A portion of Lot Six (6) of REED HIGHWAY ACREAGE, Deschutes County, Oregon, and a portion of the Northwest Quarter of the Northwest Quarter (NW ¼ NW ¼) of Section Nine (9), Township Eighteen (18) South, Range Twelve (12), East, of the Willamette Meridian, Deschutes County, Oregon, more particularly described as follows: Beginning at the Southwest (S.W.) corner of Lot 6 of REED HIGHWAY ACREAGE which is located on the East side of Parrell Road right of way; thence North 33°03'30" East, 314.13 feet along said right of way, thence South 56°56'30" East, 140.00 feet; thence North 33°03'30" East, 6.00 feet; thence South 56°56'30" East, 290.91 feet; thence South 34°17' West, 320.20 feet; thence North 56°56'30" West, 424.06 feet along the South line of said Lot 6 of said REED HIGHWAY ACREAGE to the point of beginning.

ORDINANCE NO. 2010

AN ORDINANCE OF THE CITY OF BEND TO MITIGATE THE PUBLIC HEALTH AND WELFARE IMPACTS OF FORCED EVICTIONS ASSOCIATED WITH CLOSURE OF MOBILE HOME PARKS

WHEREAS, the rising value of land in the Bend area has increasingly resulted in the sale, closure and conversion of mobile home parks for alternative uses. Closure of mobile home parks necessarily involves termination of the rental agreements mobile home owners have for spaces in the park, resulting in the forced eviction and displacement of park residents. Mobile home parks provide housing affordable for low and moderate income persons, and market forces suggest that when mobile home parks are closed, that kind of affordable housing inventory is lost forever. Most mobile home park residents own the mobile home in which they live, and the closure of the park forces most of them to abandon their mobile homes without recovery of the home's value. Current state and local law does not give sufficient recognition to the fact that mobile home park closures affect a particularly vulnerable portion of our society. Relying on impact studies, Census figures, State Department of Revenue and State Housing and Community Services data, the Council finds as follows:

WHEREAS, Bend has lost more than 700 of the 2,159 mobile home dwellings it had in 2000. Of the 1,885 mobile home park spaces listed in Bend in June 2005 by the Oregon Housing and Community Services Department, at least 243 spaces or 13 percent of the total are under eviction notices, and;

WHEREAS, the Council has heard from residents who are being evicted from the mobile home parks on Brosterhaus Road, Reed Market Road and Parrell Road about the financial and psychological hardships they are suffering, particularly seniors and disabled on fixed incomes as well as workers, and;

WHEREAS, the following factors applicable to Oregon support the need for additional protection for the rights of mobile home tenants;

- Forty seven mobile home parks were closed in Oregon between 2001 and 2005, resulting in a loss of 1,317 individual spaces.
- The average household income of mobile home residents in 1999 ranged between $27,000 and $45,000. Residents are typically poorer than the average renter household, with incomes of only roughly two thirds the renter levels.
- Mobile home tenants are more likely to be older and hence more likely to live on fixed incomes than their apartment renter counterparts.
- About 82% of mobile home units are owner occupied: 18% are renter occupied.
- The average assessed value of a mobile home in FY 2003-04 was $26,000.
- "Mobile homes," originally resembling and named after the recreational travel trailers of today, are rarely mobile, being designed for permanent placement, often being double-wide and triple wide, costing, if road worthy, substantial sums in the unsealing, mechanical separation, removal of porches and similar fixtures, disconnection of utilities, and often moved, in sections, by permit and specially trained movers. Many older mobile homes

which are mechanically capable of being moved, do not meet design requirements and restrictions of potential receiving parks, resulting in abandonment in place. Once placed in a park, only a small percentage of homes are ever moved during the lifetime of the home. When mobile homes are sold, they are almost universally sold in place to a new resident who buys the mobile home from the current owner and becomes the new renter of the park space. Closure of a mobile home park, and the practical immobility of the home, results in the owner's loss of the value of that home. Traditionally, mobile home residents are stable, being long time residents of the park, and commonly report that their current location is the first mobile home residence they have had. As noted above, many of the residents are elderly, whose friends, contacts, and community have centered on the park for years, if not decades, and;

WHEREAS, the foregoing demonstrates that in the event of park closure, the owners of mobile homes are not only forced from the park, but forced from their homes, and therefore lose their major asset. This is an especially serious problem in that a significant proportion of the owners of established parks are elderly and on fixed incomes, and;

WHEREAS, state law currently requires written notice to tenants of mobile home park spaces when the tenancy for a facility is terminated because the park is to be closed and the land or leasehold converted to a different use. No moving costs and set-up expenses are owed if the landlord provides more than 365 days notice of termination. When notice is provided between 180 and 365 days prior to termination, the statutes require that the landlord pay the cost of moving and set-up expenses or $3500, whichever is less. HB 2389, enacted this session and effective 1/1/2006, provides that a qualified owner of a mobile home valued at less than $110,000 may take a personal income tax credit of up to $10,000 over three to five years if the mobile home is involuntarily moved because of park closure. The amount of the credit is the lesser of $10,000 or the actual moving costs. Qualified homeowners are individuals who earn no more than $60,000 on the date that the mobile home is moved. If the homeowner earns less than 200% of the Federal Poverty Level, the entire amount of the moving expense is a credit against income tax liability in the year of the involuntary move. If the tax liability is less than the credit and tax prepayment amounts, the difference will be refunded to such taxpayer; and,

WHEREAS, current state law, as it will be amended, places a low cap on moving expenses, and, as found below, does not come near the actual costs of moving and set-up expenses occasioned by the forced relocation of the mobile home. Once taken, the tax credit is not available in the event that the owner is forced to move again. HB 2389 provisions sunset in 2008.

The primary deficiency in the state law respects the lack of assistance to the owner who is not able to relocate the home. The law does not require compensation *in any form* to the owners who, in the course of eviction, must abandon their homes in place. Council finds that, especially for the older parks, such individuals comprise the majority of park residents--many of whom are elderly, disabled, and on fixed incomes and stand to lose the entire value of their life's primary asset. State law therefore does not assist what is perhaps the most needy and vulnerable segment of the park population; and,

WHEREAS, state law only requires notice of termination of a rental agreement. It does not require notice to and involvement of tenants at a time and for the purpose of meaningful negotiation and sale to the tenants or tenant organization. Additionally, state law only encourages mobile home park landlords to inform the state of available spaces. Nothing requires the owner of a park being closed to analyze or assist displaced residents with information about space availability in comparable parks, to otherwise provide relocation assistance, or to compensate for the loss of home through forcible eviction and involuntary conversion; and,

WHEREAS, the Council finds that several mobile home parks have issued notice of closure and that others are vulnerable to closure. It is reasonable to assume that the other parks in the City will also be closed or redeveloped in ways that displace current residents, and

WHEREAS, in addition to the private costs assumed by displaced park residents and their families, closure of mobile home parks involve substantial public costs, including increased utilization of tax-supported state and local housing assistance, and costs for welfare, medical and social services; and

WHEREAS, the Council wishes to mitigate the social and fiscal impacts of mobile home park closures in a way not adequately provided for in existing law. To that end, Council asked City staff to develop a proposed ordinance addressing the shortcomings in state law described above, provided notice, and conducted a public hearing on the ordinance, at which time residents, owners and others interested in mobile home park closures offered testimony and evidence on the proposal; and,

WHEREAS, the Council recognizes that the provisions of this ordinance place added burdens and obligations on owners of mobile home parks. It is the singular act of closing the park that causes the kind of third party impacts which the public health and welfare demands be mitigated and become part of the closure decision. Nevertheless, the Council also recognizes that these provisions place significant burdens and responsibilities on a discrete group of individuals, and that in fairness and reason, these regulations must not be oppressive or impose undue burdens on affected property owners. Consequently, the proposed chapter provides a process for relief from those requirements to ensure that this ordinance is lawful on its face and as applied; and

WHEREAS, the Council finds that these provisions comport with applicable law and determines that the ordinance is not preempted by state law, does not constitute a land use regulation within the meaning of Measure 37, does not operate to be a barrier to conversion to a different land use, is rationally based, and is otherwise lawful ;and,

WHEREAS, upon consideration of evidence presented to and adduced at the public hearing, and in consideration of the foregoing findings of fact, Council declares that it is in the public health, safety and welfare interests of the City to provide that closure of an existing mobile home park is preceded by adequate notice, that the social and economic impacts of the proposed closure are adequately defined and mitigated prior to such closure and that relocation and other assistance is provided park residents.

NOW, THEREFORE, THE CITY OF BEND ORDAINS AS FOLLOWS:

SECTION ONE. Findings.

The above-mentioned recitals are incorporated as findings of the City Council. The Council further adopts as findings of fact that staff reports in this matter, City's Housing Inventory, and the report by Sheehan and Colton entitled "The Problem of Mass Evictions in Mobile Home Parks Subject to Conversion."

SECTION TWO

That Bend City Code is amended by adding the following sections thereto:

MOBILE HOME PARK CLOSURES

Section 1. Purpose and Intent.

(1) The purpose of these provisions is to restrict activities for the protection of public health and safety. The provisions are intended to mitigate the adverse impacts of mobile home park closures on park residents by ensuring that the closure is preceded by adequate notice, that the social and economic impacts of the involuntary relocation of tenants associated with the closure are adequately defined, and that relocation and other assistance is provided park residents.

Section 2. Definitions.

(1) The following words, terms and phrases have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

"Closure of a mobile home park" means to stop or cease leasing spaces in a mobile home park, to terminate mobile home space rental agreements for all or a portion of the park spaces, or to otherwise engage in activity to effect termination of rental agreements or leases or to evict tenants. Termination of tenancy under ORS 90.400, or actions required by the exercise of eminent domain or by order of State or local agencies shall not constitute closure of a mobile home park.

"Comparable mobile home park space" means any space, lot, or parcel of land within 100 miles of the park that is (1) decent, safe, and sanitary; (2) adequate in size to accommodate the manufactured dwelling; (3) within the financial means of the displaced tenant; (4) functionally equivalent; (5) in an area not subject to unreasonable adverse environmental conditions; and (6) in a location generally not less desirable than the location of the displaced tenant's space with respect to public utilities, facilities, services, and the displaced tenant's place of employment.

"Mobile home" means a manufactured home, mobile home or residential trailer as these terms are defined in ORS 446.003(26).

"Mobile home park" means place where four or more mobile homes are located, the primary purpose of which is to rent space or keep space for rent to any person for a fee.

"Owner" means a mortgagee in possession and means one or more persons, jointly or severally, in whom is vested all or part of the legal title to a mobile home park; or all or part of the beneficial ownership and a right to present use and enjoyment of the mobile home park. Owner includes an authorized representative of the Owner.

"Relocation costs" means and includes actual reasonable expenses in moving the tenant's manufactured dwelling and possessions to a comparable replacement space. Such expenses include:

1. Removal and reinstallation of skirting;
2. Disconnecting utilities;
3. Disconnecting and removing awning(s) and deck(s) from the manufactured dwelling;
4. Trip permit and public inspection fees;

5. Transportation costs;
6. Set up charges;
7. Utility connection expenses and fees;
8. Unit improvements to meet destination facility space standards;
9. Costs for packing and unpacking manufactured dwelling or residential vehicle contents as necessary for unit relocation for elderly and disabled persons, as defined in OAR 813-005-0005 and 813-060-00 10, respectively;
10. Temporary housing and meals for the tenant and permanent occupants during unit relocation and set up; and
11. Landlord expenses to secure the relocation space acceptable to the tenant from the time of tenant acceptance until the date the relocated manufactured dwelling or residential vehicle is approved for occupancy.

12. Disassembly and sealing of multi-unit manufactured homes.

Notwithstanding the above, relocation costs shall not include, and shall be offset by, relocation assistance received, including, but not limited to financial incentives to move into a new park, from a person or entity other than the owner.

"Tenant" means a person who owns and occupies a manufactured dwelling in a mobile home park. For the purpose of this chapter, a tenant does not include a tenant who has accepted an earlier termination date or contracted with the landlord as provided in ORS 90.630(6)(a) or (b).

Section 3. Mobile Home Park Closure Permit.

(a) Permit Required. No person may close a mobile home park unless a mobile home park closure permit has been obtained. Provided, however, that nothing in this section is intended to limit a person's ability **1)** to apply for and obtain a plan amendment, zone change, or other land use decision pursuant to the City's Comprehensive Plan or Zoning Ordinance; **2)** sell, convey or transfer a mobile home park; or 3) provide notification under ORS 90.630(5).

(b) Scope of Permit Requirement, Construction. These provisions shall apply to all closures commenced after March 7, 2006 by the notice provided for in ORS 90.630(5). These provisions shall be construed as not to conflict with state law, and shall be applied in a manner such that the provisions and state law operate concurrently.

(c) Application Filing. Applications for closure permits shall include the following and any additional relevant information as may be necessarily required by this chapter and the City Manager or City Manager's designee:

(a) A detailed narrative description of and timetable for the proposed closure.
(b) A report on the impact of the closure of the mobile home park on its residents pursuant to Section 4.
(c) The Relocation Plan pursuant to Section 5.
(d) Notice pursuant to Section 6.
(e) The application filing fee in an amount established by the City Council.

(d) Application processing. Upon receipt of a complete application, the City Manager or Designee shall review the application and forward a recommendation on the permit to City Council for final action. The Council will conduct a public hearing prior to acting on the application. This hearing will be conducted within 45 days after the submission of a complete application by the owner.

Section 4. Closure Impact Report.

(a) Any person filing an application for a Closure Permit shall file a Closure Impact Report on the impact of the closure, change of use, or cessation of use upon the residents of the mobile home park. At a minimum, the Closure Impact Report shall include the following, as well as any other information deemed necessary and appropriate by the City Manager or Designee.

(1) A detailed description of the mobile home spaces within the mobile home park, including but not limited to

i) The total number of mobile home spaces in the park and the number of spaces occupied,
ii) The length of time each space has been occupied by the present resident(s) thereof,
iii) The age, size, and type of mobile home occupying each space,
iv) The monthly rent currently charged for each space, including any utilities or other costs paid by the present resident(s) thereof,
v) Name and mailing address of the primary resident(s) and owner if different than occupant of each mobile home within the mobile home park.

(2) A list of all comparable mobile home parks spaces within the City of Bend and within 100 miles of the City. This list shall include the age of the mobile home park and the mobile homes therein, a schedule of rents for each park listed, a listing of the vacancies in the parks and the criteria of the management of each park for acceptance of new tenants and used mobile homes.

(3) A detailed analysis of the economic impact of the relocation on the tenants including comparisons of current rents paid and rents to be paid at comparable mobile home parks within the 100 mile relocation zone, the estimated costs of moving a mobile home and personal property and any direct or indirect costs associated with a relocation to another mobile home park.

(4) A list of the names, addresses and telephone numbers of one or more housing specialists, with an explanation of the services the specialists will perform at the applicant's expense for the residents to be displaced. These services shall include but not be limited to assistance in locating a suitable replacement mobile home park, coordination of moving the mobile home and personal property, and any other tasks necessary to facilitate the relocation to another comparable mobile home park.

Section 5. Relocation Plan.

(a) A Relocation Plan for tenants of the mobile home park shall be submitted for review and approval as part of the application for a Closure Permit. The Relocation Plan shall provide, at a minimum, for the following:

(1) The Relocation Plan shall provide for the owner to pay all reasonable relocation costs to a comparable mobile home park space within Bend and within 100 miles to any tenant who relocates from the park after City approval of the closure Permit. When any tenant has given notice of their intent to move prior to City approval of the Use Permit, eligibility to receive moving expenses shall be forfeited.

(2) The relocation plan shall identify those mobile homes that cannot be relocated to a comparable mobile home park space 100 miles. The owner shall be required to offer to purchase any mobile home that cannot be relocated in conformance with this chapter. The offer to purchase the mobile home will be made at the real market value of the home as reported on the most recent property tax assessment roll. ~~**In any case, if the in-place value of the home is less than $10,000, the tenant shall be paid a minimum of $10,000.**~~

(3) In order to facilitate a proposed closure, the tenants and owners may agree to mutually satisfactory conditions. To be valid, however, such an agreement shall be in writing, shall include a provision stating that the tenant is aware of the provisions of this ordinance, shall include a copy of this ordinance as an attachment, shall include a provision in at least

twelve-point type which clearly informs the tenants that they have the right to seek the advice of an attorney of their choice prior to signing the agreement with regard to their rights under such agreement and shall be drafted in the form and content otherwise required by applicable state law.

Should the owner provide evidence demonstrating to the City that two-thirds of the tenants have executed such agreements, and that the balance of tenants have been offered comparable agreement terms, the provisions of this Chapter shall not apply to the closure involving all tenants. Such evidence may include an agreement with or a sale to a tenant association or tenant non-profit corporation representing two-thirds or more of the tenants.

(4) In the event that no comparable mobile home park spaces are available for relocation in the City of Bend but are available within the 100 mile relocation zone, each tenant may decide to have his or her mobile home purchased pursuant to subparagraph (2). The tenant must exercise this discretion within 30 days of receiving notice from the owner that spaces are not available in Bend but are available within the relocation zone.

Section 6. Required Notifications.

(a) In the event the owner intends to sell the mobile home park, the owner shall notify, in writing, the tenants or the tenants' association and the City of Bend within 10 days of receipt of any written offer received by the owner or agent of the owner to purchase the park which the owner intends to consider or any listing agreement entered into by the owner to effect the sale of the mobile home park.

(1) The notice shall contain the name, address and phone number of the owner and the owner's representative, if any, who is authorized to negotiate the sale of the mobile home park.

(2) Within 90 days of the delivery by or on behalf of the owner of the notice required herein, a tenant may notify the owner by certified mail or personal service at the address disclosed in the notice that the tenant, a tenant's association or a tenant supported nonprofit organization is interested in purchasing the mobile home park.

(3) Upon delivery of the notice required herein, the owner shall negotiate in good faith with the tenant or tenant's association or organization and provide the tenant or organization an opportunity to purchase the facility as the owner would any bona fide third party potential purchaser.

(4) The section does not apply to those sales and transfers described in ORS 90.820(4) or to any offer or listing agreement made before this section was adopted.

Section 7. Required Findings.

(1) In approving a Permit for a mobile home park closure, the City Council shall find that the proposed closure meets the following requirements in addition to the other requirements of this Chapter.

(a) That the tenants or tenant's association of the mobile home park have been adequately notified of the proposed closure, including information pertaining to the anticipated timing of the proposed closure.

(b) That the age, type size, and style of mobile homes to be displaced as a result of the closure will be able to be relocated into other comparable mobile home parks within a 100 mile radius of the City of Bend, or that the owner has agreed to purchase any mobile home that cannot be relocated or if the tenant chooses the

purchase alternative described in Section 5 at its in-place value as provided for in this Chapter.

(c) That any mobile home tenants displaced as a result of the closure shall be compensated by the owner for all reasonable relocation costs, excluding the value of tax credits owing the tenant under state law.

(d) That if the owner files a tentative plat or plan for a land division to be created from the closure of a rental mobile home park, the owner provides tenants such offers and other information required by law.

Section 8. Conditions of Approval.

The City Council may impose any necessary and appropriate conditions of approval to satisfy and implement the intent, purpose, and content of this Chapter. In addition, any other necessary and appropriate conditions of approval to protect the health, safety and welfare of the residents of the City of Bend may be imposed. The Council shall not deny, but may approve or conditionally approve, the permit involving the closure of the park or cessation of the use of the land as a mobile home park, provided the applicant has properly complied with the requirements of this ordinance and there is no evidence that the applicant or prior owners have attempted to evict or otherwise cause the removal of residents for the purpose of avoiding the requirements of this Chapter.

Section 9. Owner Relief.

The owner of a mobile home park may apply for relief from the requirements of this Chapter. Upon receipt of an owners application for relief setting forth facts demonstrating how application of the ordinance is unduly oppressive under the circumstances then and there existing, together with an application filing fee in an amount established by City Council, the City Manager shall make a recommendation to the City Council, and based upon the record of a public hearing, the City Council shall determine the extent to which application of this Chapter, or portions thereof, is unduly oppressive. In making that determination, the Council shall consider the amount and percentage of value loss, the extent of remaining uses, past, present and future, the seriousness of the public problem caused by the owner's acts of closure, the degree to which these provisions mitigate the problem and the feasibility of less oppressive solutions. The Council shall consider other factors as may be relevant or necessary to achieve a lawful application of these provisions. The Council shall make written findings, supported by substantial evidence, of the extent to which application of these provisions are unduly oppressive, and articulate those requirements or payments that the owner need not bear to avoid such oppression. As to these requirements or payments, the owner shall be relieved. As to the remaining owner obligations, the Council shall, considering the record of the proceedings, the unmitigated impacts upon the tenants, and the intent and purpose of this Chapter, declare the manner in which such obligations shall appear in the Relocation Plan or other conditions of the mobile home park closure permit.

Appeal of Council action under this Section shall be by Writ of Review or other appropriate procedure.

Section 10. Enforcement.

(1) Violations. Any person who closes a mobile home park without a permit, who fails to comply with the requirements of this chapter or the conditions of the permit, or who willfully makes an untrue or misleading statement of material fact or willfully omits to provide required information in the process of application or whose actions, through the raising of rent or otherwise, objectively manifests a intent or effort to avoid the requirements to this Chapter, shall be guilty of a violation. Notwithstanding any other provision of this code, the penalty for any such violation shall **be not greater than $1,000**. Each day of non compliance shall constitute a separate violation.

(2) Private Right of Action. Except with respect to relief granted by the City Council under the provisions of Tenants-Owner Agreements in Section 5 or Owners Relief in Section 8 any tenant of a mobile home park, or any owner of a mobile home in a park subject to closure shall have a right of action in a court of competent jurisdiction for such equitable and legal remedies as the court may grant, and shall be entitled to recover reasonable attorney fees, expenses, costs and other disbursements reasonably incurred.

(3) Cumulative Remedies. The foregoing is in addition to any other remedies that may exist at law or in equity.

Section 11. Rulemaking Authority.

(1) The City Manager or Designee is authorized to promulgate any rules necessary for the implementation of this Chapter of the code.

SECTION THREE. Severability.

If any section, subdivision, sentence, clause, phrase of portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION FOUR. SUNSET CLAUSE.

This Ordinance shall become null and void on December 7, 2006, unless City Council adopts an ordinance to continue the effectiveness of this ordinance beyond that date.

SECTION FIVE. COMMITTEE FORMATION.

The Mayor with the advice and consent of Council shall appoint a committee of stakeholders to include mobile home park owners and tenants to study the issue of mobile home park closures and recommend appropriate measures to mitigate the harm caused by such closures.

Read for the first time the 17th day of May, 2006.

Read for the second time the 7th day of June, 2006.

Placed upon its passage the 7th day of June, 2006.

YES: 5 NO: 2 ABSTAIN: 0

Authenticated by the Mayor the 7th day of June, 2006.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

ORDINANCE NO. NS-2011

AN ORDINANCE BANNING POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGES ON OR IN THE DESCHUTES RIVER

WHEREAS: The City of Bend has experienced an increase in persons using the Deschutes River for recreational activities in recent years; and

WHEREAS: Alcohol use and/or possession is a nuisance if allowed on the Deschutes because it increases the likelihood of breaches of the peace, and constitutes a safety hazard.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1: Bend Code Chapter 5 is amended by adding a new section to read as follows:

5.246 Prohibition of Possession or Consumption of Alcoholic Beverages on or in the Deschutes River

(1) No person may possess or consume any alcoholic beverage while on or in the Deschutes River. This prohibition applies to both open and closed containers of alcoholic beverages.

(2) Violation of this Section is a Class A Civil Infraction.

Section 2: Emergency declaration. Because this ordinance is necessary for the preservation of the public health, safety and welfare, it shall take effect immediately upon its passage.

Read for the first time the 17th day of May, 2006.

Read for the second time the 7th day of June, 2006.

Placed upon its passage the 7th day of June, 2006.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 7th day of June, 2006.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

Ordinance No. NS-2012

AN ORDINANCE ESTABLISHING A FEE TO PROVIDE FUNDING FOR AFFORDABLE HOUSING AND DEDICATING THAT FEE TO THE DEVELOPMENT OF AFFORDABLE HOUSING UNITS WITHIN THE CITY OF BEND

WHEREAS the Bend City Council finds that affordable housing for its citizens is in increasingly short supply; and

WHEREAS the City of Bend recognizes that under Goal 10 of Oregon's Statewide Planning Goals & Guidelines (OAR 660-015-0000(10)) that:

> Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density; and

WHEREAS the City of Bend Affordable Housing Task Force recommended that supply of affordable housing and funding mechanisms for affordable development is a top priority for the City of Bend; and

WHEREAS the lack of workforce housing has negatively affected local businesses' ability to recruit and retain employees; and

WHEREAS the future economic viability of Bend is directly linked to the availability of workforce housing; and

WHEREAS the median house price in the City of Bend has increased 36% in the last year; and

WHEREAS a National Low Income Housing Coalition annual study indicates that almost 40 percent of Central Oregon renters are paying more rent than they can afford; and

WHEREAS the City of Bend understands that for a healthy community the provision of a range of affordable housing opportunities is a priority;

WHEREAS. City Council finds that the promotion of affordable housing is a legitimate governmental function and/or purpose and that the affordable housing fee furthers this legitimate governmental purpose;

NOW THEREFORE, THE CITY COUNCIL ORDAINS AS FOLLOWS;

THAT THE FOLLOWING FEES, TO BE UTILIZED TO AID IN THE DEVELOPMENT OF WORKFORCE AND AFFFORDABLE HOUSINGSHALL BE ESTABLISHED:

SECTION 1: A fee of 1/3 of 1% of permit valuation, for all building permits, shall be assessed at time of Building Permit Application.

SECTION 2: Funding received from this source shall be deposited in special revenue fund and only be spent for affordable housing programs and projects evaluated pursuant to the priorities established through the City of Bend Consolidated Plan and administration of the affordable housing programs and projects. Any loan proceeds from this source shall be returned to the fund. Using the existing cost allocation methodology, the administrative costs charged to this fund will not exceed 5 percent. ~~Administration of this funding shall not exceed 10% of total annual fund proceeds~~. Applications for and awarding of this funding shall be done on an annual basis by the City Council and will utilize the City of Bend's Affordable Housing Advisory Committee's recommendations.

SECTION 3: All funding from this source must be targeted for housing opportunities for residents at or below 80% of median income.

SECTION 4: This ordinance will expire five years from date of implementation unless re-authorized by Council.

Read for the first time the 7th day of June, 2006.

Read for the second time the 21st day of June, 2006.

Placed upon its passage the 21st day of June, 2006.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 21st day of June, 2006.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

ORDINANCE NO. NS-2013

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, on March 1, 2006, the Bend City Council agreed with the Sisters Forest Planning Committee (SFPC) on amendments to Street Policy 21 that would enable the Land Conservation Development Commission (LCDC) to acknowledge Policy 21 for the appeal by SFPC to be withdrawn; and

WHEREAS, on May 12, 2006, the LCDC approved the settlement agreement which resulted in the acknowledgement of Street Policy 21 subject to the City's adoption of those Policy amendments in the Transportation System Plan (TSP); and

WHEREAS, on June 7, 2006, the Bend City Council held a public hearing, which public notice was provided, to receive public testimony about the proposed ordinance changes that incorporated the agreed upon settlement language of the Policy and fulfilled the Order by the Commission to amend TSP Policy 21.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

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 bold strike-out font):

SECTION ONE

Paragraph 1
The City shall evaluate the effect of transportation demand management (TDM) and transportation system management (TSM) measures that would successfully eliminate or delay the need for minor arterial street widening beyond 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**~~ **incorporated into this analysis** 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 measures ~~**alone**~~ **from the previous analysis** are determined to be insufficient in meeting the transportation system needs along the subject roadway corridor, the City shall undertake an evaluation of the consequences that additional roadway widening may have on adjoining neighborhoods as well as the benefits gained by additional street construction.

Paragraph 4
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**~~**, as selected by the City Council,** shall be implemented either in

conjunction with, or before, the road widening project. **The City Council after providing notice and opportunity to be heard at a public hearing shall decide whether to authorize the street widening based upon this policy and the evaluation report. Written notice shall be provided to property owners within 250 feet of the proposed widening and to affected neighborhood associations. In addition, notice of the hearing shall be posted in conspicuous locations along the proposed widening and published at least ten days prior to the hearing.**

Paragraph 5
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 6
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.

Paragraph 7
Intersection widening and improvements, that are necessary for vehicle turning lanes or pedestrian safety, are exempt from this policy.

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.

SECTION TWO

The City Council adopts this Staff Report and the analysis contained therein.

Read for the first time the 7th day of June, 2006.

Read for the second time the 21st day of June, 2006.

Placed upon its passage the 21st day of June, 2006.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 21st day of June, 2006.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

Underlined text is inserted;
~~struckthrough~~ text is deleted

ORDINANCE NO. NS-2014

AN ORDINANCE CLARIFYING THE AUTHORITY OF THE BEND MUNICIPAL COURT TO ISSUE WARRANTS IN CONNECTION WITH NUISANCE VIOLATIONS OF THE BEND CODE

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. The Bend Code is amended by adding new section 5.430 as follows:

5.430 Administrative Warrants Authorized.

The Bend Municipal Court shall have the authority to issue warrants authorizing any Bend Police Officer, or city official authorized by the City Manager to enforce provisions of the Bend Code, to make searches and seizures reasonably necessary to enforce any provision of the Bend Code pertaining to nuisances. Every warrant authorized by this section shall be supported by affidavit or sworn testimony establishing probable cause to believe that a nuisance violation has occurred. Searches and seizures authorized by this section may be executed by any city official authorized to apply for a warrant under this section. All searches and seizures authorized by this section shall be conducted according to requirements of Oregon Law relating to search warrants.

Read for the first time the 7th day of June, 2006.

Read for the second time the 21st day of June, 2006.

Placed upon its passage the 21st day of June, 2006.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 21st day of June, 2006.

Bill Friedman, Mayor

Attest:

Patricia Stell, City Recorder

Underlined text is inserted;
~~struckthrough~~ text is deleted

ORDINANCE NO. NS-2015

AN ORDINANCE EXPANDING AND CLARIFYING THE AUTHORITY OF THE BEND MUNICIPAL COURT TO ISSUE WARRANTS FOR SEIZURE OF NUISANCE ANIMALS; AND REPEALING CODE PROVISIONS DEALING WITH RABID DOGS BY RECOGNIZING THAT STATE LAW GOVERNS RABIES CONTROL

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code Section 5.280 is amended to read as follows:

Seizing Certain Animals.

(a) Any animal found biting, attacking or injuring or which has injured a person may be summarily seized by any person and promptly delivered to a member of the Bend Police Department.

(b) ~~Further, a~~ Any member of the Bend Police Department, including community service officers, may apply to the Bend Municipal Court for a warrant authorizing the search for and seizure of any animal that has violated Bend Code 5.270 ~~(2), (3) or (7)~~ or Bend Code 5.272. The Bend Municipal Court shall have the authority to issue a warrant authorizing the search for and seizure of any animal found to be in violation of any order of the court then in effect.

(c) Nothing in this section is intended to limit the search and seizure authority of City police officers otherwise provided by law.

Section 2. Bend Code Section 5.285 is amended to read:

5.285 Rabid Dogs. Management and disposition of rabid animals shall be as prescribed by Oregon Law.

~~(1) To safeguard the public from the dangers of rabies, the mayor shall, when necessary, issue a proclamation ordering every person owning or keeping a dog to confine it securely on the person's premises unless the dog has a muzzle of sufficient strength to prevent its biting a person. An unmuzzled dog running at large during the time of proclamation shall be seized and impounded, unless noticeably infected with rabies. All dogs noticeably infected with rabies may be killed by the city without notice to the owner.~~

~~(2) If a dog is believed to have rabies or has been bitten by a dog suspected of having rabies, the dog shall be confined by a leash or chain on the owner's premises and shall be placed under the observation of a veterinarian at the expense of the owner for a period of ten days. The owner shall notify the poundmaster of the fact that his dog has been exposed to rabies, andthe poundmaster may have the dog removed from the owner's premises to a veterinary hospital and there placed under observation for a period of ten days at the expense of the owner.~~

~~(3) No person, knowing or suspecting a dog has rabies, shall allow the dog to be taken off the person's premises or beyond the city limits without written permission of the poundmaster. An owner, or other person, on ascertaining a dog is rabid, shall immediately notify the poundmaster or a police officer, who shall remove the dog to the pound or summarily destroy it.~~

~~(4) If a dog bites a human being, the owner of the dog shall display proof of a current rabies vaccination. If the dog owner fails to display proof of vaccination, the Bend Police Department shall impound the dog for ten days at the owner's expense. If the dog owner~~

~~displays proof of a current rabies vaccination, the City may impound the dog for ten days at the owner's expense or may require the owner to quarantine the dog for ten days. Failure by the owner to pay impound fees required by this section is a violation of this code.~~

Read for the first time the 7th day of June, 2006.

Read for the second time the 21st day of June, 2006.

Placed upon its passage the 21st day of June, 2006.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 21st day of June, 2006.

Bill Friedman Mayor

Attest:

Patricia Stell, City Recorder