



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

07/11/2011

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Deschutes County Plan Amendment
DLCD File Number 001-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, July 27, 2011

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Anthony Raguine, Deschutes County
Jon Jinings, DLCD Community Services Specialist
Karen Swirsky, DLCD Regional Representative
Jon Jinings, DLCD Community Services Specialist

<paa> YA



PROF 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person electronic mailed

DATE
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JUL 07 2011

DEPT OF
LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

Jurisdiction: *Deschutes County*

Local file number: *PA-11-3, ZC-10-1 (MA-11-3)*

Date of Adoption: *June 27, 2011*

Date Mailed: *July 5, 2011*

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: *10-30-08*

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Plan amendment and zone change from Urban Area Reserve to Public Facilities, and it includes an urban growth boundary expansion.

Does the Adoption differ from proposal? Please select one

NO.



Plan Map Changed from: *Urban Area Reserve* to: *Public Facilities*

Zone Map Changed from: *UAR-10* to: *Public Facilities (PF)*

Location: *Deschutes Market Road*

Acres Involved: *26*

Specify Density: Previous: *10-acre*

New: *N/A*

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | | |
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Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 001-11 (18676) [16700]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

City of Bend

Local Contact: *Nick Lelack*

Phone: *(541)395 1708* Extension:

Address: *117 NW Lafayette*

Fax Number: *541-385 1764*

City: *Bend, OR*

Zip: *97701*

E-mail Address: *Nick.Lelack@deschutes.org*

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)
per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this Form 2 on light green paper if available.
3. Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD of the Adopted Amendment to:**

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615);
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

Updated December 22, 2009

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Title 23, the Deschutes *
County Comprehensive Plan Map, to Expand the * ORDINANCE NO. 2011-21
City of Bend Urban Growth Boundary, and Declaring *
an Emergency *

WHEREAS, The Deschutes National Forest applied for a quasi-judicial plan amendment to Title 23 of the Deschutes County Code, the Deschutes County Comprehensive Plan Map, to expand the City of Bend Urban Growth Boundary ("UGB") to include approximately 26 acres of land for Deschutes National Forest facilities; and

WHEREAS, after notice was given in accordance with applicable law, public hearings were held before the Deschutes County Hearings Officer on May 2, 2011, and, on May 23, 2011, the Hearings Officer approved the Plan Amendment; and

WHEREAS, because no appeal was filed and the Board of County Commissioners ("Board") did not initiate review of the application, pursuant to Deschutes County Code ("DCC") 22.28.030(B), the Board must approve the plan amendment, and

WHEREAS, the Board considered this matter at a public meeting on June 27, 2011; and

WHEREAS, the Board declares an emergency due to the necessity of the Deschutes National Forest facilities to connect to the City of Bend sewer system to address effluent disposal in a timely manner; and

WHEREAS, Deschutes County Ordinance 2011-021 ordained the Deschutes County Comprehensive Plan Map to be a component of DCC Title 23 and, therefore, any amendment to the Plan Map is an amendment to DCC Title 23; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. The Deschutes County Comprehensive Plan Map, is amended to expand the City of Bend UGB as described in Exhibit "B" attached to Ordinance 2011-019, and incorporated by reference herein, and depicted on the map set forth as Exhibit "A" attached and incorporated by reference herein.

Section 2. FINDINGS. The Board adopts as its findings in support of this decision, the Decision of the Hearings Officer, attached as Exhibit "C" to Ordinance 2011-019 and incorporated by reference herein.


///

Section 3. EMERGENCY. This Ordinance being necessary for the public peace, health and safety, an emergency is declared to exist and this Ordinance takes effect on its passage.


Dated this 27th of June, 2011

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON


TAMMY BANEY, Chair


ANTHONY DEBONE, Commissioner

ATTEST:


Recording Secretary

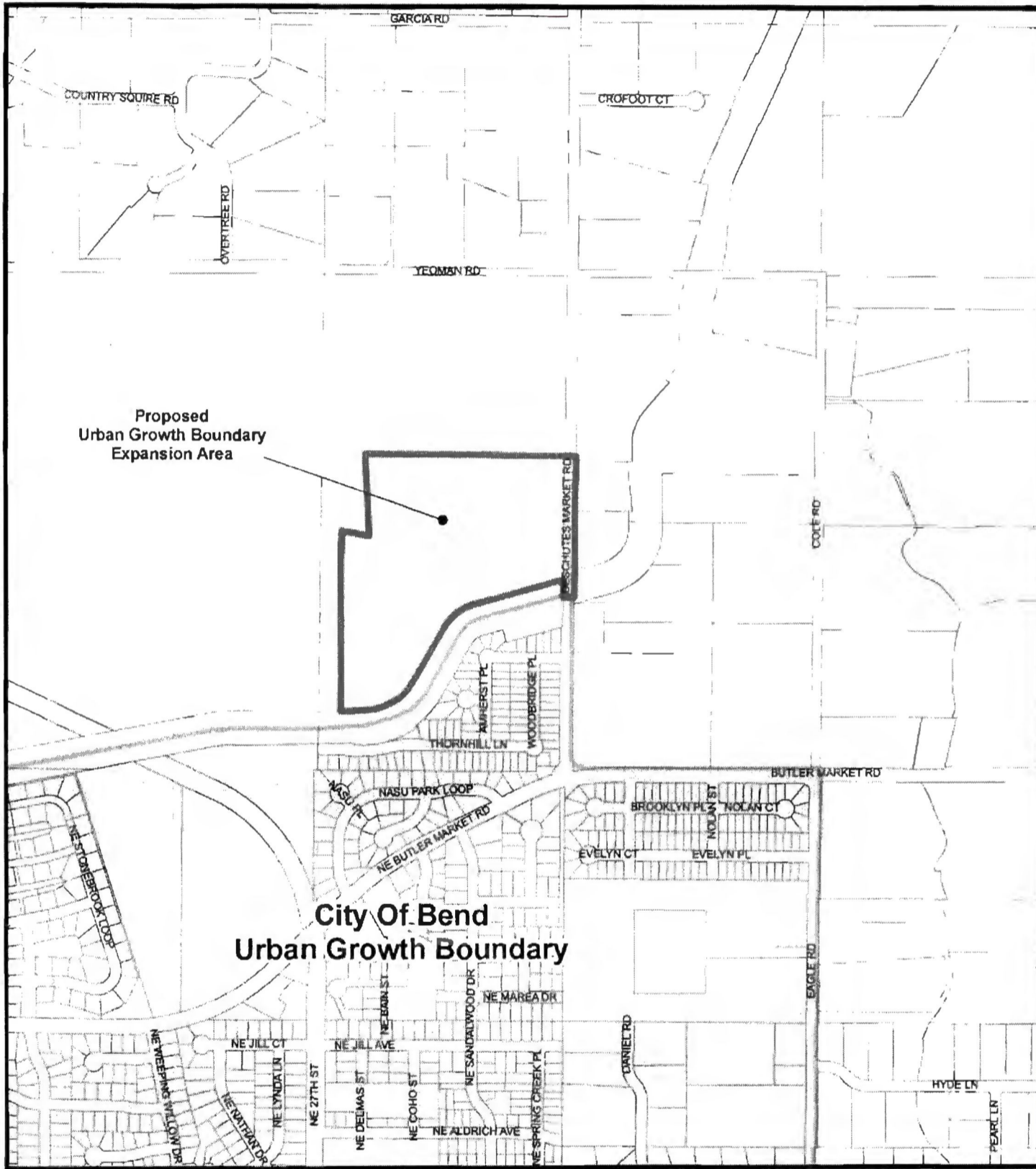

ALAN UNGER, Commissioner

Date of 1st Reading: 27th day of June, 2011.

Date of 2nd Reading: 27th day of June, 2011.

Commissioner	Record of Adoption Vote:			
	Yes	No	Abstained	Excused
Tammy Baney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony De Bone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Alan Unger	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Effective date: 27th day of June, 2011.





**City Of Bend
Urban Growth Boundary**

**Proposed
Urban Growth Boundary
Expansion Area**

COMPREHENSIVE PLAN MAP

Exhibit "A"
to Ordinance 2011-021

Legend

-  Urban Growth Boundary Expansion Area
-  Bend Urban Growth Boundary



BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON


Tammy Baney
Tammy Baney, Chair

Tony DeBons
Tony DeBons, Vice Chair

Alan Unger
Alan Unger, Commissioner

Bonnie Baker
ATTEST: Recording Secretary

Dated this 27th day of June, 2011
Effective Date: June 27, 2011

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County Code *
Title 19, the Deschutes County Zoning Map, to * ORDINANCE NO. 2011-020
Change the Zone Designation for Certain Property *
From Urban Area Reserve to Public Facilities, and *
Declaring an Emergency *

WHEREAS, The Deschutes National Forest applied for a quasi-judicial Deschutes County Code ("DCC") Zoning Map amendment to rezone certain property from Urban Area Reserve (UAR10) to Public Facilities (PF); and

WHEREAS, after notice was given in accordance with applicable law, public hearings were held before the Deschutes County Hearings Officer on May 2, 2011, and, on May 23, 2011, the Hearings Officer approved the Plan Amendment; and

WHEREAS, because no appeal was filed and the Board of County Commissioners ("Board") did not initiate review of the application, pursuant to Deschutes County Code ("DCC") 22.28.030(B), the Board must approve the zoning map amendment, and

WHEREAS, the Board considered this matter at a public meeting on June 27, 2011; and

WHEREAS, the Board declares an emergency due to the necessity of the Deschutes National Forest facilities to connect to the City of Bend sewer system to address effluent disposal in a timely manner; and

WHEREAS, a change to the Deschutes County Zoning Map is necessary to implement the amendment adopted in Ordinance; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. DCC Title 19, Zoning Map, is amended to change the zone designation from Urban Area Reserve (UAR10) to Public Facilities (PF) for certain property described in Exhibit "B" attached to Ordinance 2011-019 and incorporated by reference herein and depicted on the map set forth as Exhibit "A", and incorporated by reference herein.

Section 2. FINDINGS. The Board adopts as its findings in support of this decision, the Decision of the Hearings Officer, attached as Exhibit "C" to Ordinance 2011-019 and incorporated by reference herein.

///

Section 3. EMERGENCY. This Ordinance being necessary for the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.


Dated this 27th of June, 2011

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON


TAMMY BANEY, Chair


ANTHONY DEBONE, Commissioner

ATTEST:


Recording Secretary


ALAN UNGER, Commissioner

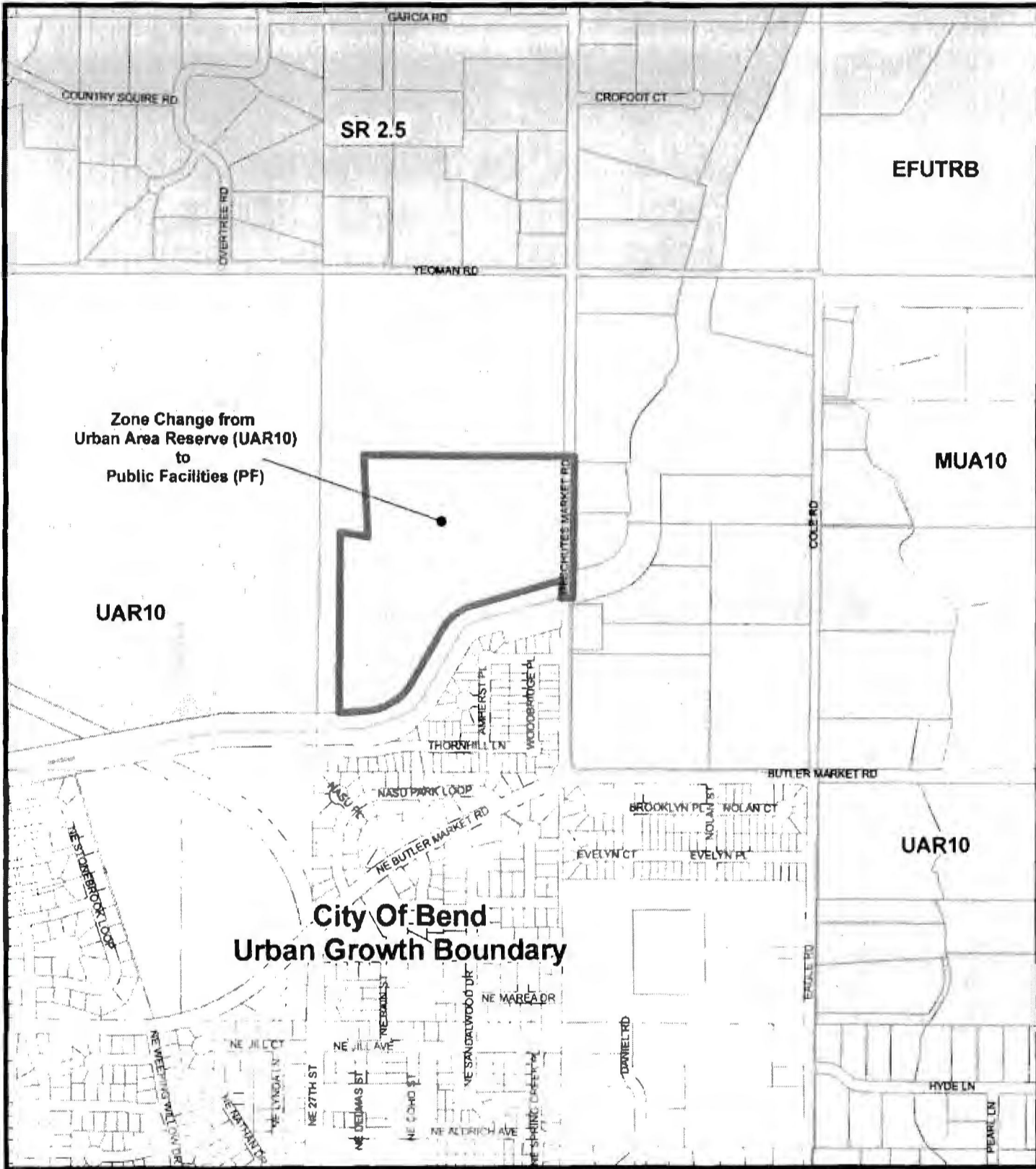
Date of 1st Reading: 27th day of June, 2011.

Date of 2nd Reading: 27th day of June, 2011.



Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Tammy Baney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony De Bone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Alan Unger	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Effective date: 27th day of June, 2011.

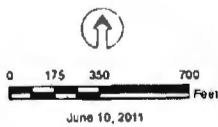


Legend

-  Subject Property 17-12-23-00-01800
-  Bend Urban Growth Boundary
- EFUTRB - Tumalo/Redmond/Bend Subzone
- PF - Public Facility
- MUA10 - Multiple Use Agricultural
- UAR10 - Urban Area Reserve - 10 Acre Minimum
- SR 2.5 - Residential 2.5 Acre Minimum

ZONING MAP

Exhibit "A"
to Ordinance 2011-020



BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Tammy Batey, Chair

Tony DeBone, Vice Chair

Alan Unger, Commissioner

ATTEST: Recording Secretary

Dated this 27th day of June, 2011
Effective Date: June 27, 2011

Paul Blikstad

From: GDahl@ci.bend.or.us
Sent: Friday, July 01, 2011 6:44 AM
To: Paul Blikstad
Subject: Re: FW: Tax Map 171125-CC-09500; Tax Acct #243450

Hi Paul, the address is indeed 2094 NW Pinot Ct, can you update DIAL and then I will email the customer back?

Thanks,

Gina Dahl
Administrative Specialist
City of Bend Community Development Department
(541) 330-4015

From: Paul Blikstad <Paul.Blikstad@deschutes.org>
To: "GDahl@ci.bend.or.us" <GDahl@ci.bend.or.us>
Date: 06/30/2011 04:37 PM
Subject: FW: Tax Map 171125-CC-09500; Tax Acct #243450

Gina,

This property is in the City. I'll let you respond to it.

Paul

-----Original Message-----

From: Loni Burk
Sent: Thursday, June 30, 2011 4:31 PM
To: Paul Blikstad
Subject: Tax Map 171125-CC-09500; Tax Acct #243450

Hi Paul,

I got a call from a title company who is needing a situs address for the above account. The title company shows it to be 2094 NW Pinot Ct. and they need something that ties that address to that tax account. I called Greg Bates and he referred me to you.

Can you help me with this?

Thanks,

Loni Burk
x.6538

PUBLIC RECORDS LAW DISCLOSURE: Emails are generally public records and therefore subject to public disclosure unless exempt from disclosure under Oregon Public Records Law.

Emails can be sent inadvertently to unintended recipients and contain confidential or privileged information. If you are not the intended recipient (or authorized to receive for the recipient), please advise by return email and delete immediately without reading or forwarding to others. Thank you.

REVIEWED
JL
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending the Deschutes County *
Comprehensive Plan Map Designation for Certain * ORDINANCE NO. 2011-019
Property From Urban Reserve Area to Public *
Facilities, and Declaring an Emergency *

WHEREAS, the Deschutes National Forest initiated a quasi-judicial plan amendment to change the comprehensive plan designation of certain property from Urban Reserve Area (URA) to Public Facilities (PF); and

WHEREAS, after notice was given in accordance with applicable law, public hearings were held before the Deschutes County Hearings Officer on May 2, 2011, and, on May 23, 2011, the Hearings Officer approved the Plan Amendment; and

WHEREAS, because no appeal was filed and the Board did not initiate review of the application, pursuant to Deschutes County Code ("DCC") 22.28.030(B), the Board must approve the plan amendment, and

WHEREAS, the Board considered this matter at a public meeting on June 27, 2011; and

WHEREAS, the Board declares an emergency due to the necessity of the Deschutes National Forest facilities to connect to the City of Bend sewer system to address effluent disposal in a timely manner; and

WHEREAS, Deschutes County Ordinance 2000-017 ordained the Deschutes County Comprehensive Plan Map to be a component of DCC Title 23 and, therefore, any amendment to the Plan Map is an amendment to DCC Title 23; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. The Deschutes County Comprehensive Plan Map is amended to change the Comprehensive Plan Map designation from Urban Reserve Area (URA) to Public Facilities (PF) for certain property described in Exhibit "B", and incorporated by reference herein, and depicted on the map set forth as Exhibit "A", and incorporated by reference herein.

Section 2. FINDINGS. The Board adopts as its findings in support of this decision, the Decision of the Hearings Officer, attached as Exhibit "C" and incorporated by reference herein.

///

Section 3. EMERGENCY. This Ordinance being necessary for the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

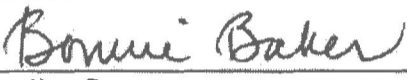
Dated this 27th of June, 2011

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON


TAMMY BANEY, Chair


ANTHONY DEBONE, Commissioner

ATTEST:


Recording Secretary


ALAN UNGER, Commissioner

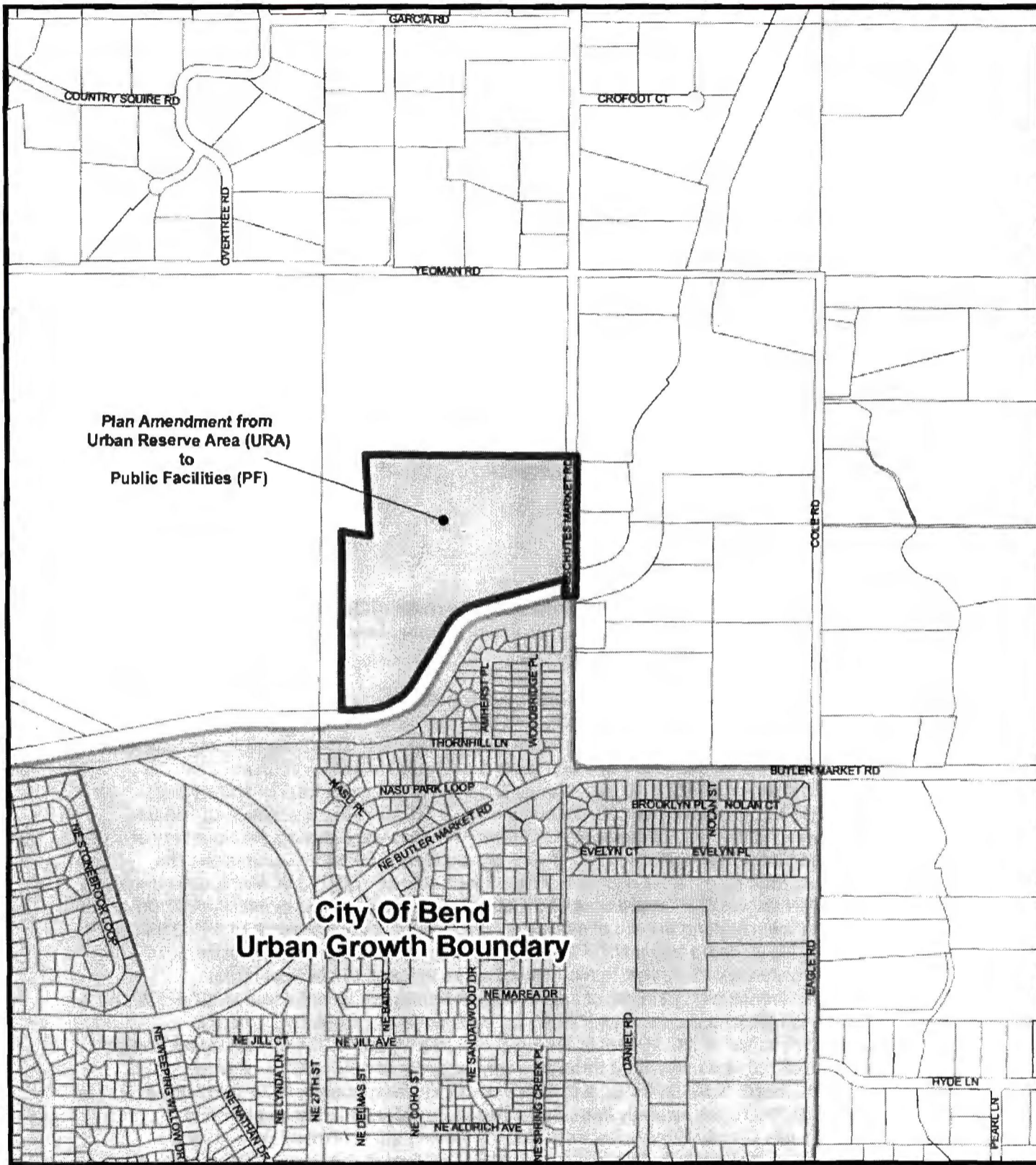
Date of 1st Reading: 27th day of June, 2011.

Date of 2nd Reading: 27th day of June, 2011.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Tammy Baney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony De Bone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Alan Unger	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Effective date: 27th day of June, 2011.





Plan Amendment from
Urban Reserve Area (URA)
to
Public Facilities (PF)

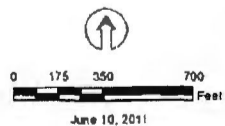
**City Of Bend
Urban Growth Boundary**

COMPREHENSIVE PLAN MAP

Exhibit "A"
to Ordinance 2011-019

Legend

-  Subject Property 17-12-23-00-01800
-  Bend Urban Growth Boundary



BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Tammy Baney
Tammy Baney, Chair

Tony DeBone
Tony DeBone, Vice Chair

Alan Unger
Alan Unger, Commissioner

Bonnie Baker
ATTEST: Recording Secretary

Dated this 27th day of June, 2011

Effective Date: June 27, 2011

EXHIBIT "B"
To Ordinance 2011-019

Description of Subject Property

Parcel 1 Deschutes Market Road

A strip of land, 60.00 feet wide, in the west one-half of Section 23, Township 17 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, said strip being more particularly described as follows:

That portion of Deschutes Market Road as shown in CS15641, Deschutes County Survey Records, lying between the northerly line of Butler Market Road and the easterly extension of the most northerly south line of Parcel 1 of Partition Plat No. 2007-74, recorded as Document No. 2007-61328, Deschutes County Official Records.

Contains 2.31 acres, more or less.

Parcel 2 U.S. Forest Service Property

A tract of land in the west one-half of the northwest one-quarter of Section 23, Township 17 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, said tract being more particularly described as follows:

Beginning at the intersection of the westerly line of Deschutes Market Road as shown in CS15641, Deschutes County Survey Records, with the most northerly south line of Parcel 1 of Partition Plat No. 2007-74, recorded as Document No. 2007-61328, Deschutes County Official Records; thence tracing the boundary of said Parcel 1 along the following courses: S.89°59'26"W., a distance of 1072.10 feet; thence S.03°32'10"E., a distance of 433.81 feet; thence N.81°03'45"W., a distance of 153.10 feet; thence S.00°13'18"E., a distance of 955.81 feet to the northerly right of way of the North Unit Main Canal; thence leaving the boundary of said Parcel 1 and tracing the northerly right of way of said North Unit Main Canal along the following courses: N.88°32'17"E., a distance of 70.98 feet; thence N.01°13'51"W., a distance of 5.00 feet; thence N.88°40'02"E., a distance of 60.21 feet to the point of curve left of a 297.00 foot radius curve; thence along the arc of said curve left through a central angle of 35°52'08", a distance of 185.93 feet (chord bears N.70°44'20"E., a distance of 182.91 feet); thence S.37°11'45"E., a distance of 5.00 feet to the point of curve left of a 302.00 foot radius nontangent curve; thence along the arc of said curve left through a central angle of 22°51'05", a distance of 120.45 feet (chord bears N.41°22'42"E., a distance of 119.65 feet); thence N.29°57'09"E., a distance of 337.60 feet to the point of curve right of a 271.00 foot radius curve; thence along the arc of said curve right through a central angle of 43°55'06", a distance of 207.73 feet (chord bears N.52°04'45"E., a distance of 202.68 feet); thence N.74°02'18"E., a distance of 495.04 feet to the westerly line of said Deschutes Market Road as shown in CS15641, Deschutes County Survey Records; thence leaving said northerly right of way, N.00°13'54"E. along said westerly line, a distance of 657.63 feet to the Point of Beginning.

Contains 25.67 acres, more or less.

**EXHIBIT C
TO ORDINANCE 2011-019**

DECISION OF THE DESCHUTES COUNTY HEARINGS OFFICER

FILE NUMBERS: PA-11-1, ZC-10-1, MA-11-3

APPLICANT: Deschutes County
117 NW Lafayette Avenue
Bend, OR 97701

OWNER: Deschutes National Forest
1001 SW Emkay Drive
Bend, OR 97702

REQUEST: Proposed amendments to change the Comprehensive Plan map designation of the subject property from Urban Reserve Area (URA) to Public Facilities (PF), change the zone of the subject property from Urban Area Reserve (UAR10) to Public Facilities (PF), and expand the City of Bend Urban Growth Boundary to include the 26-acre Deschutes National Forest property.

HEARING DATE: May 2, 2011

RECORD CLOSED: May 2, 2011

STAFF CONTACT: Nick Lelack, Planning Directory

I. APPLICABLE STANDARDS & CRITERIA:

- A. Oregon Administrative Rules (OAR) Chapter 660
Division 2, Interpretation of Goal 2 Exception Process
Division 12, Transportation Planning
Division 15, Statewide Planning Goals
Division 24, Urban Growth Boundaries
- B. Oregon Revised Statutes
Chapter 197, Comprehensive Land Use Planning Coordination
Section 298, Priority of Land to be Included Within Urban Growth Boundary
- C. Bend Urban Growth Boundary Zoning Ordinance, Title 19
Chapter 19.116, Amendments, Appeals and Procedures
Section 19.116.010, Amendments
Section 19.116.020, Standards for Zone Change

PA-11-1, ZC-10-1, MA-11-3
Deschutes National Forest

- D. Deschutes County Development Procedures Ordinance, Title 22
Chapter 22.28, Land Use Action Decisions
Section 22.28.030, Decision on Plan Amendments and Zone Changes
- E. Deschutes County Comprehensive Plan, Title 23
Chapter 23.48, Urbanization
Section 23.48.030, Urban Growth Boundary Policies
Section 23.68.020, Public Facilities and Services Policies
- F. Bend Area General Plan
- G. Joint Management Agreement between the City of Bend and Deschutes County.

II. FINDINGS OF FACT:

- A. **LOCATION:** The subject property is located at 63095 Deschutes Market Road, Bend, and is identified on Deschutes County Assessor map 17-12-23, as tax lot 1800.
- B. **LOT OF RECORD:** The subject property is part of the former United States Forest Service (USFS) Bend Pine Nursery. Consistent with prior Hearings Officers decisions in PA-07-5, PA-08-2/ZC-08-2/MA-08-8 and LR-07-52, I find the subject site is not a lot of record, but that it need not be in order to be re-designated and rezoned.
- C. **SITE DESCRIPTION:** The subject property is a 26-acre portion of the former Bend Pine Nursery site which originally consisted of 210 acres. The Deschutes National Forest (DNF) sold 184 acres of the original Pine Nursery to the Bend Metro Park and Recreation District (park district) for development of public parks. The park district then conveyed 15 acres to the Bend-La Pine School District for Ponderosa Elementary. The 26-acre parcel subject to this plan amendment application, is generally level, irregular in shape, and developed with twelve buildings that serve a variety of Forest Service programs. Water is available to the subject property from the Avion Water Company (Avion) and city sewer facilities are located nearby. The subject property has direct access from Deschutes Market Road, a designated rural collector road in the County, and a major collector in the City of Bend.

Site History

The United States of America acquired the subject property in 1943, and beginning in the late 1940's the property housed the facilities of the Bend Pine Nursery. Subsequent to the closure of the Bend Pine Nursery as a production nursery in 1999, the property continued to be the location for warehouse and other support facilities for DNF and the Bend-Fort Rock Ranger District.

- D. **SURROUNDING USES:** The subject site is surrounded to the north and west by the Bend Metro Park and Recreation District Pine Nursery community park. To the east are primarily residential uses on lands zoned UAR-10. To the south are the North Unit Irrigation Canal and residential uses on lands within the City of Bend zoned RS (Urban Standard Residential).

PA-11-1, ZC-10-1, MA-11-3
Deschutes National Forest

- E. PROCEDURAL HISTORY:** The application for ZC-10-1 was submitted on March 11, 2010. The first evidentiary hearing was scheduled for April 27, 2010. Due to the nature of the applications, notice of application along with a number of notices of public hearing were mailed to property owners within 250 feet of the subject property. The Planning Division also published notice of the public hearings in the *Bend Bulletin*. No comments were received to any of the mailed or published notices.

The initial public hearing was continued six times to May 2, 2011.¹ File number PA-11-1 was submitted on January 11, 2011 with the intent that the zone change and plan amendment be processed concurrently. County file PA-11-1 was modified via MA-11-3 on April 12, 2011 for the proposed 26-acre UGB amendment. At the first public hearing and each of the continued hearings, the hearings officer provided opportunity for testimony by the applicant and the public. Other than some preliminary comments made at the first public hearing by the applicant, no other public testimony was offered at any of the public hearings.

- F. ADDITIONAL PROCEDURE:** Land use actions adjacent to the City UGB in the Urban Area Reserve are governed by a joint management agreement (JMA) adopted by the City and Deschutes County (County) on February 24, 1998. This document calls for cooperation between the City and County in planning for the UAR10 zone. For land use decisions within the urban reserve and, therefore, outside of the UGB, the County retains jurisdiction with a requirement that the City receive notice of the application. At this time, the subject property is within the urban reserve. Therefore, the County retains jurisdiction over the proposed plan amendment and zone change.

In addition to the proposed plan amendment and zone change, the applicant proposes to expand the City UGB to include the 26-acre DNF site. Per the JMA, the City and County share responsibility for processing UGB expansions. Quasi-judicial applications are reviewed by a hearings officer at both the City and the County. Then, if approved, both the County Commissioners and City Council will hold public hearings and adopt implementing ordinances to enact the UGB expansion. Finally, the amendment must be transmitted to the Oregon Department of Land Conservation and Development (DLCD) for acknowledgement of compliance with applicable state land use laws.

As noted previously, the County only retains jurisdiction over those land use decisions within the urban reserve and outside of the UGB. For this reason, if the proposed amendments are approved they must be approved in the following order:

1. Plan Amendment and Zone Change
2. UGB expansion.

- G. PROPOSAL:** At this time, the DNF desires to locate all of its administrative functions at one site in the vicinity of the City to improve efficiency and reduce costs. Currently, administrative functions occupy four sites: Forest Headquarters office on Emkay Drive;

¹ Each request for continuance is included in the record.

Bend-Fort Rock District office on NE 3rd Street; Scott Street Work Center on SW 2nd Street; and Bend Pine Work Center on Deschutes Market Road (subject property). John Allen, Forest Supervisor, in a Decision Notice dated January 17, 2008, authorized the implementation of Alternative 2 of *Environmental Assessment for the Collocation of the Bend-Fort Rock Ranger District Office, Forest Headquarters Office, and Work Center* (no date). This decision would require the construction of a new office and expanded work center at the Bend Pine Work Center, also known as Bend Pine Administrative Site.

A total of 12 sites were considered for the new collocated office and work center. Due to the high cost of real estate, the Regional Forester and Forest Supervisor decided to consider only sites owned by the Forest Service, which eliminated seven sites. The remaining five sites were then analyzed in the Environmental Assessment (see below).

The applicant is proposing amendments to change the Comprehensive Plan Map designation of the subject property from Urban Reserve Area (URA) to Public Facilities (PF), change the zone of the subject property from Urban Area Reserve (UAR10) to Public Facilities (PF), and expand the City UGB to include the 26-acre DNF property. The 26-acre expansion site would accommodate the co-location of several DNF operations including the construction of: 43,000-square-foot office, 12,000-square-foot fire management building, 17,000-square-foot warehouse, 10,000 square feet of road and maintenance shops, 5,600-square-foot crew quarters for seasonal employees, and approximately 7.5 acres of paving for parking, access, and walkways. In addition to the above-referenced construction, three existing buildings (packing shed, office, and north pre-cooler) would be removed.

No development is proposed as part of these applications. The application materials and supporting documents are incorporated herein by this reference.

H. AGENCY COMMENTS: The Planning Division mailed notice to several public agencies and received the following comments.

Environmental Soils Division. [Deschutes National Forest] could apply for a Wastewater Pollution Control Facility (WPCF) permit from DEQ.

[STAFF COMMENT: The above comment from Environmental Soils was based on the original DNF relocation project which planned for on-site sewage disposal. The current relocation project would connect to City sewer. No WPCF permit would be required.]

County Senior Transportation Planner. I've reviewed the materials for PA-11-1, ZC-10-1 regarding transportation findings. I have limited my comments to facilities under the jurisdiction of Deschutes County. I agree with the proposed mitigation of a northbound left-turn lane on Deschutes Market Road at the site's access. I will defer to City of Bend staff regarding comments and mitigations for affected intersections that are under the City's jurisdiction.

County Road Department. Deschutes Market Road is a County Road (rural collector classification) with an ADT of 4784 (2008 count) and a paved width of 30 feet. If the UGB expansion is approved, Deschutes Market Road would be under the City of Bend's jurisdiction along the eastern frontage of the subject property. Any road improvement to Deschutes Market Road will have to meet City of Bend standards for an urban collector street.

Bend Fire Department.

Fire Safety During Construction and Demolition – 2007 IFC Chapter 14

Approved fire department access roads, required water supply, fire hydrants, and safety precautions shall be made available prior to the issuance of a building permit.

Water Supply - 2004 Oregon IFC Section 508

An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction. See the City of Bend Fire Marshal for approval of firefighting water supply.

Obstruction & Protection of Fire Hydrant – 2007 Oregon IFC 508.5.4 through 508.5.6

A 3-foot clear space shall be maintained around the circumference of fire hydrants. When exposed to vehicular damage, concrete curbing, sidewalks, or 4 inch concrete filled bollards placed 3 feet from hydrants shall suitably protect fire hydrants. Hydrants shall be coated with approved red paint color and markings.

Premises Identification - 2007 Oregon IFC 505.1

Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall contrast with their background and visible at night.

Street or Road Signs - 2007 Oregon IFC 505.2

Streets and roads shall be identified with approved signs. Signs shall be of an approved size and weather resistive construction.

Fire Lanes - 2007 Oregon IFC 503.3

Approved signs or other approved notices shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. Such signs or notices shall be kept in legible condition at all times. Fire lane curbs shall be painted bright red with white letters. The stroke shall be 1 inch with letters 6 inches high to read "No Parking Fire Lane". Spacing for signage shall be every 50 feet.

Fire Apparatus Access Roads (General) - 2007 Oregon IFC Section 503 and Appendix D

Fire apparatus access roads shall be placed within 150 of all exterior walls of the first floor of all buildings. Fire apparatus access roads shall have an unobstructed width of not

less than 20 feet designed with an approved driving surface to support the imposed GVW of 60,000 lbs. and a vertical clearance of not less than 13 feet 6 inches. Turning radius shall not be less than 45 feet and gradient shall not exceed 12 percent unless the authorities having jurisdiction approve a variance. Dead-end access roads in excess of 150 feet in length shall be provided with approved provisions for the turning around of fire apparatus. A cul-de-sac, hammerhead or other means for the turning around of fire apparatus may be approved.

Aerial Access Roads – 2007 Oregon IFC Appendix D, Section D105

Buildings or portions of buildings or facilities exceeding 30 feet in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway. At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet and a maximum of 30 feet from the building, and shall be positioned parallel to one entire side of the building.

Key Boxes - 2007 Oregon IFC Section 506

Key Box (Knox Box) for Fire Department access is required to be installed at all locked gates and barriers. An application for the Knox Box is available by calling the Fire Prevention office at (541) 322-6309.

Portable Fire Extinguishers - 2007 Oregon IFC Section 906

Fire extinguishers rating shall not be less than a 2A:10BC. Maximum unobstructed travel distance to any approved extinguisher shall not be more than 75 feet.

Dumpsters - 2007 Oregon IFC 304.3

Dumpsters and containers with an individual capacity of 1.5 cubic yards or more shall not be stored in buildings or placed within 5 feet of combustible walls, openings, or combustible roof eaves unless area is protected by an approved automatic fire sprinkler system.

Gas Meters & Piping - 2007 Oregon IFC Section 312

Aboveground gas meters, regulators and piping exposed to vehicular damage due to proximity to alleys, driveways or parking areas shall be protected in an approved manner.

The following agencies and individuals did not respond to the notice: County Assessor, County Building Division, Central Oregon Irrigation District, Swalley Irrigation District, Avion Water Company, City of Bend Planning Department, City of Bend Public Works Department, Department of Environmental Quality, Department of Land Conservation and Development, and Oregon Department of Transportation.

III. CONCLUSIONS OF LAW

A. Statewide Planning Goals

1. Goal 1: Citizen Involvement

Oregon Statewide Planning Goal 1 seeks “To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.”

FINDING: During this land use process, public notice was provided by the county to affected agencies and surrounding property owners. The County Hearings Officer held a public hearing on May 2, 2011. The Board of County Commissioners will also hold a public hearing. The City of Bend will also provide notice for their concurrent process. Goal 1 is met.

2. Goal 2: Land Use Planning

Oregon Statewide Planning Goal 2 seeks “To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

FINDING: In compliance with Goal 2, concurrent applications were processed with the City and County to expand the Bend UGB. Based on the record, there is sufficient information to demonstrate an adequate factual basis and to enable both jurisdictions to make an informed decision regarding the proposed amendments. Goal 2 is met.

3. Goal 3: Agricultural Lands; Goal 4: Forest Lands

Oregon Statewide Planning Goal 3 seeks “To preserve and maintain agricultural lands.”

Oregon Statewide Planning Goal 4 seeks “To conserve forest lands”

FINDING: The subject property is not identified as agricultural or forest land on either the Bend Area General Plan or Deschutes County Comprehensive Plan Maps. The subject property is identified as Urban Area Reserve in both Plans. Under OAR 660-024-0020(1)(b), Goals 3 and 4 do not apply to UGB amendments. The application is consistent with Goals 3 and 4.

4. Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources

Oregon Statewide Planning Goal 5 seeks “To protect natural resources and conserve scenic and historic areas and open spaces.”

FINDING: Goal 5 resources are listed in the county’s acknowledged Comprehensive Plan. There are no identified Goal 5 resources on the site. Utilizing the selected site as proposed will have no significant adverse impact on the amount of open space or scenic views available in the County. Goal 5 is met.

Impacts on related resources:

Mineral and aggregate resources: The subject property has never been zoned for mineral or aggregate resources.

Energy sources: There are no known energy resources on the site such as natural gas, oil, coal or geothermal heat.

Fish and wildlife habitat: The property has no fish or wetland habitat. The site is unlikely to contain threatened or endangered species. The site is already developed and surrounded by development that limits its potential for threatened or endangered species.

Ecologically and scientifically significant natural areas, including desert areas: Nothing about the selected site make it ecologically or scientifically significant.

Outstanding scenic views: Nothing about the site indicates it has a significantly better view than other sites in the vicinity.

Water areas, wetlands, watersheds, and groundwater resources: There are no wetlands or watersheds within the subject site. Although the North Unit Canal borders the subject property to the south, there are no anticipated impacts to the canal or its waters. No watersheds will be affected by the amendments. The site will be served by City sewer and will not adversely affect the groundwater due to septic discharge.

Wilderness areas: The site does not meet the definition of “wilderness areas” as described within the Oregon State Goals and Guidelines. The property is currently developed with the Forest Service’s Bend Pine Work Center, and does not contain pristine surroundings or old growth trees.

Historic areas, sites, structures and objects: The subject property has no structures listed on the National Register of Historic Places. No structures or places of historical significance have been determined to exist on or near the property selected.

Cultural areas: The site has no known cultural resources.

5. Goal 6: Air, Water and Land Resources Quality

Oregon Statewide Planning Goal 6 seeks “To maintain and improve the quality of the air, water, and land resources of the state.”

FINDING: Maintaining or improving the quality of the community's air, water and land resources will be assured through enforcement of state and local regulations. Expansion of the UGB and annexation of the parcel to the City of Bend will ensure connection to City sewer services. The record shows that noise levels are unlikely to exceed DEQ noise regulations.

6. **Goal 7: Areas Subject to Natural Disasters and Hazards**

Oregon Statewide Planning Goal 7 seeks "To protect people and property from natural disasters and hazards"

FINDING: There are no areas within the site that are subject to flooding or landslide activity. The wildfire hazard for the site is the same as other areas where junipers, pine and native brush exist. Development of the site will reduce the potential for wildfires by providing adequate water to meet the fire flow requirements for the proposed Forest Service operations.

7. **Goal 8: Recreational Needs; Goal 9: Economic Development; Goal 10: Housing**

Oregon Statewide Planning Goal 8 seeks "To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts."

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

Oregon Statewide Planning Goal 10 seeks "To provide for the housing needs of citizens of the state."

FINDING: Given the small size and specific need addressed by the proposed UGB expansion, staff found, and I agree, that Goals 8, 9, and 10 are not relevant.

8. **Goal 11: Public Facilities and Services**

Oregon Statewide Planning Goal 11 seeks "To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."

FINDING: The record shows that the existing water lines and sewer service near the site will allow for the efficient and cost effective extension of these needed services to the site. As discussed in more detail below, planned improvements to City roadways will provide adequate access to the site. For these reasons, the record is sufficient to show that public facilities and services are available to serve the needs of the proposed Forest Service operations.

9. **Goal 12: Transportation**

Oregon Statewide Planning Goal 12 seeks “To provide and encourage a safe, convenient and economic transportation system.”

FINDING: OAR 660-012 implements Oregon Statewide Planning Goal 12. This rule requires the City to prepare and adopt a Transportation System Plan (TSP) as part of its comprehensive plan. The Bend Urban Area Transportation System Plan was adopted October 11, 2000. The proposal’s compliance with OAR 660-012 is discussed below.

10. **Goal 13: Energy Conservation**

Oregon Statewide Planning Goal 13 seeks “To conserve energy.”

FINDING: The proposed amendments and co-location of multiple Forest Service functions at a single site will improve operational efficiency and reduce operational costs. In addition, co-location will eliminate Forest Service personnel trips between the four current sites. Goal 13 is met.

11. **Goal 14: Urbanization (amended effective April 28, 2005)**

Oregon Statewide Planning Goal 14 seeks “To provide for orderly and efficient transition from rural to urban use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

Urban Growth Boundaries

Urban growth boundaries shall be established and maintained by cities, counties and regional governments to provide land for urban development needs and to identify and separate urban and urbanizable land from rural land. Establishment and change of urban growth boundaries shall be a cooperative process among cities, counties and, where applicable, regional governments. An urban growth boundary and amendments to the boundary shall be adopted by all cities within the boundary and by the county or counties within which the boundary is located, consistent with intergovernmental agreements, except for the Metro regional urban growth boundary established pursuant to ORS chapter 268, which shall be adopted or amended by the Metropolitan Service District.

Land Need

Establishment and change of urban growth boundaries shall be based on the following:

1. **Demonstrated need to accommodate long-range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and**
2. **Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection (2).**

In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.

FINDING: The application materials include an *Environmental Assessment for the Collocation of the Bend-Fort Rock Ranger District Office, Forest Headquarters Office, and Work Center* (EA), which details the proposed co-location and the alternative sites considered. According to the EA, current Forest Service regional policy and direction is to co-locate facilities when those facilities are located within 35 miles of each other. Forest Service administrative functions occupy four sites: Forest Headquarters office on Emkay Drive; Bend-Fort Rock District office on NE 3rd Street; Scott Street Work Center on SW 2nd Street; and Bend Pine Work Center (BPWC) on Deschutes Market Road. The greatest distance between these sites is seven miles (Forest Headquarters Office to BPWC).

Twelve sites were considered for the co-location project. Due to the high cost of real-estate, the Regional Forester and Forest Supervisor decided to consider only sites owned by the Forest Service. This eliminated seven sites from further consideration. The remaining five sites are mapped in the EA and were identified as:

1. Bend Pine Work Center
2. Cascade Lakes site (Cascade Lakes Highway near the Entrada Lodge)
3. Scott Street Work Center
4. Knott Road/Baker Road interchange site
5. China Hat Road site

All of these sites were evaluated using the following criteria:

1. Ability to locate all Forest Service administrative functions at one site
2. Located within the Bend Urban Growth Boundary or Urban Reserve areas
3. Easy public access by major arterial roads or highways
4. Costs and level of complexity of development
5. A minimum of 10 acres in size

The record shows that the Scott Street site is the only Forest Service-owned site currently within the Bend UGB. As required by the above criteria, the applicant must demonstrate

why the proposed need cannot be reasonably accommodated on land already inside the UGB. In this case, the 6.4-acre Scott Street site would not be large enough to accommodate the co-location proposal. The EA estimates that approximately 10-15 acres of land are required to co-locate the various operations onto a single site.

With regard to the other sites, the EA identified specific characteristics which are necessary for a site to be selected for the proposed co-location. Based upon these characteristics, the applicant chose the Bend Pine Work Center (BPWC) as the preferred alternative. The EA indicates that the BPWC site has a number of advantages including sufficient land to accommodate the co-location, adjacency to the existing UGB, readily available utilities such as sewer and water, and easy access to Highway 97 via Empire Avenue (an urban arterial). Unlike the BPWC site, the three alternative sites which are outside of the Bend UGB (Cascade Lakes, Knott Road, and China Hat Road) are not adjacent to the existing UGB. Although the remaining sites (Cascade Lakes, Knott Road, and China Hat Road) are all large enough to accommodate the co-location, the applicant indicates that necessary public services such as City sewer and water are not readily available at these sites.

In addition to the lack of available sewer and water service, the EA identifies other considerations. With regard to the Cascade Lakes property, the EA cites relatively poor access to Highway 97 because the Cascade Lakes property is located approximately four miles from Highway 97, with the most direct route to the site via Reed Market Road (primarily a local road). For the Knott Road site, there is no current road access. Development of this site would require acquiring easements through private property.

The EA provides a sufficient basis for concluding that land needed for a proposed public facility cannot be obtained at alternative sites within the Bend UGB.

Boundary Location

The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:

FINDING: This criterion requires an evaluation of alternative boundary locations consistent with ORS 197.298. This discussion is detailed below.

1. Efficient accommodation of identified land needs;

FINDING: DNF has identified a need to consolidate multiple Forest Service Operations at a single site to increase efficiency and reduce costs. The subject property will have ready access to necessary utilities such as sewer and water, and easy access to an arterial (Empire) and highway (Highway 97). Additionally, the 26-acre BPWC site is large enough to accommodate all of the applicant's administrative functions.

The record shows that the DNF has demonstrated efficient accommodation of an identified land need.

2. Orderly and economic provision of public facilities and services;

FINDING: Public facilities and services are available to the site. Avion water currently serves the existing Forest Service operations on-site. A City sewer interceptor exists along the south property line and the North Unit Canal. If the UGB expansion is approved, DNF will extend and connect to these utilities. Fire protection service would be provided by the Bend Fire Department, with police service provided by the Bend Police Department. The record shows that stormwater runoff will be contained on-site. The subject property has frontage along, and existing access to, Deschutes Market Road, a publicly dedicated road.²

With regard to traffic impacts, a traffic study in the record (Ferguson & Associates, Inc.; February 2008) reached the following conclusions:

- The project is forecast to generate 172 AM peak hour trips, 164 PM peak hour trips, and 1,394 daily trips.
- The warrant for adding a northbound left-turn lane on Deschutes Market Road to the entrance of the site was met for the year 2008³ with the project during the a.m. and p.m. peak hour for both driveways⁴. The proposed driveway with left-turn lane for northbound traffic would meet City of Bend operational standards for the years 2011 and 2024 for both AM and PM peak hours.
- City of Bend Standards and Specifications are met for all study intersections with two exceptions:
 1. The intersection of Deschutes Market Road and Butler Market Road would not meet City of Bend operational standards for PM peak hour traffic for the year 2008 with or without the project. Traffic signal warrants for both AM and PM peak traffic would be met for the year 2024 with or without the project.
 2. The intersection of Butler Market Road at 27th Street would not meet City of Bend operational standards for PM peak hour traffic for the year 2024 with or without the project.

² If the UGB expansion is approved, Deschutes Market Road along the frontage of the subject property would become a city facility.

³ The traffic study was completed in 2008 with an expected construction completion date in 2008. Therefore, the traffic study references the project year as 2008. For the purposes of this staff report, the project year is 2011.

⁴ The original proposal contemplated two access driveways from Deschutes Market Road, one at the southern end of the site near the North Unit Canal and one at the northern end. The revised Master Site Plan submitted on December 2, 2008 shows only the north driveway. The revised plan still proposes a northbound left-turn lane on Deschutes Market Road to the subject property.

- Traffic mitigation improvements for intersections not meeting City standards include:
 1. A southbound right-turn lane on Deschutes Market Road at the Butler Market Road intersection will meet the City of Bend operational standards for 2008.
 2. The City of Bend has a long term plan to widen 27th Street to five lanes at the intersection with Butler Market Road and extend 27th Street north to connect with Empire Avenue. The added capacity of a five-lane cross section on 27th Street would offset anticipated traffic impacts.
- The applicant expects to pay their commensurate share of the above improvements.

Subsequent to this traffic study, DNF and the City worked on transportation mitigation measures to address the deficiencies at the intersections of Deschutes Market Road/Butler Market Road and Butler Market Road/27th Street. As a result of these negotiations, DNF has agreed to the following:

- Pay \$130,000 to the City for the construction of the southbound right-turn lane at Deschutes Market Road/Butler Market Road.⁵ This improvement would meet the City of Bend operational standards for the project year.
- Pay \$253,100 to fund future roundabout improvements to the Butler Market Road/Deschutes Market Road and Butler Market Road/27th Street intersections. According to the letter from Mr. Nick Arnis, City Transportation Manager, with this contribution, in addition to the collection of system development charges and future anticipated proportionate share contributions from other developments, the planned transportation improvements for the Butler Market Road/Deschutes Market Road and Butler Market Road/27th Street intersections are reasonably likely to be provided by the end of the planning period. These two intersections are under the jurisdictional responsibility of the City and are identified in the City's Transportation System Plan as planned facilities.
- Pay \$68,152.60 for DNF's proportionate share of the Empire Road Corridor Project.

All of this information indicates that public facilities will be adequate to accommodate the proposed use. The record shows that although the traffic study was conducted in 2008, and the application relies on that study, there is no evidence in the record that circumstances have changed significantly such that the analysis in the 2008 study would no longer be sufficient to respond to Goal 14. In fact, testimony at the public hearing indicated that due to the economic

⁵ Based on staff's conversation with Mr. Colin Stephens, City Planning Manager, the city plans a sewer pipeline improvement project along the Butler Market Road right-of-way. Rather than have DNF construct the turn lane and then have the pipeline project impact the roadway improvement, DNF has agreed to pay for the city to construct the roadway improvement either after or concurrently with the pipeline project. Reference April 6, 2011 memo from Ms. Mary Winters, City Attorney, and Mr. Stephens attached to April 6, 2011 email from Mr. Nick Lelack.

downturn beginning in 2008, demand for capacity in and around the roadways in question is likely to have decreased from 2008 to the time of this decision.

3. Comparative environmental, energy, economic and social consequences;

FINDING: The environmental, economic, social and energy consequences resulting from the proposed amendments and expansion of existing DNF operations at the site are discussed below.

Environmental: The 26-acre expansion site is flat and currently developed with the Bend Pine Work Center, including a number of existing structures. No known rare or endangered species occupy the site, and the site does not possess any significant natural features such as wetlands, waterways (the North Unit Canal borders the site to the south), or rim rock. Stormwater runoff will be contained on-site. The record shows that the proposed amendments and DNF co-location of operations will have no significant adverse impact on the environment.

Energy: The BPWC site is not known to contain energy resources such as known deposits of oil and natural gas, or geothermal resources. The availability of other potential energy sources, such as wind and solar, is equal to any other property in the surrounding area. Since the site will allow the co-location of numerous administrative and operational functions at a single site, employee trips between the four existing sites will be greatly reduced. Therefore, the proposed amendments and DNF co-location of operations will not have a significant adverse impact on energy resources.

Economic: According to the EA, both the Forest Headquarters and Bend-Fort Rock (BFR) offices are leased. The combined lease payment for these two locations is approximately \$1,000,000 per year. The proposed UGB expansion and co-location will allow DNF to save that money for their operations. Additionally, the co-location will reduce travel time and costs associated with DNF personnel commuting between the four existing sites. The proposed co-location will provide an economic benefit to DNF and the public.

Social: The Statewide Planning Goals define Social Consequences as follows:

The tangible and intangible effects upon people and their relationships with the community in which they live resulting from a particular action or decision.

According to the record, one tangible effect will be increased traffic. An intangible effect could include a feeling from the community that the development is significantly more intense than what would be expected given the predominantly residential and community park uses that surround the site. An additional intangible effect could be an increased level of frustration from the community due to increased vehicle trips. However, once the proposed amendments are approved, the subject property will be annexed into the City and zoned PF to allow greater development density, and as discussed in the findings above, DNF will contribute to the cost of transportation facility improvements.

For all these reasons, I find that the Environmental Assessment is sufficient to demonstrate the comparative environmental, energy, economic and social consequences of DNF's project were considered.

4. Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

FINDING: The BPWC site is not located near agricultural or forest activities. The site is surrounded on the north and west side by the Pine Nursery community park, on the east side by Deschutes Market Road and rural residential uses on UAR-zoned lands, and on the south by the North Unit Canal and urban residential development on lands within the City of Bend zoned RS (Urban Standard Residential). The record shows that the proposed amendments or co-location will not adversely impact farm and forest land outside the UGB.

Urbanizable Land

Land within urban growth boundaries shall be considered available for urban development consistent with plans for the provision of urban facilities and services. Comprehensive plans and implementing measures shall manage the use and division of urbanizable land to maintain its potential for planned urban development until appropriate public facilities and services are available or planned.

FINDING: Both the City and the County have developed comprehensive plans and implementing ordinances to manage the use and division of urbanizable land in order to maintain its potential for planned urban development. Based on all the information in the record, the proposal is consistent with those plans.

Unincorporated Communities

FINDING: The expansion site is not located within an unincorporated community.

Single-Family Dwellings in Exception Areas

FINDING: No single-family dwellings are proposed.

Rural Industrial Development

FINDING: No industrial development is proposed.

12. Goal 15: Willamette River Greenway; Goal 16: Estuarine Resources; Goal 17: Coastal Shorelands; Goal 18: Beaches and Dunes; Goal 19: Ocean Resources

FINDING: These Goals are not applicable.

B. Oregon Revised Statutes, 197.298

Priority of Land to be Included Within Urban Growth Boundary.

- (1) In addition to any requirements established by rule addressing urbanization, land may not be included within an urban growth boundary except under the following priorities:**
 - (a) First priority is land that is designated urban reserve land under ORS 195.145, rule or metropolitan service district action plan.**
 - (b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of land needed, second priority is land adjacent to an urban growth boundary that is identified in an acknowledged comprehensive plan as an exception area or nonresource land. Second priority may include resource land that is completely surrounded by exception areas unless such resource land is high-value farmland as described in ORS 215.710.**

FINDING: As noted in foregoing findings, Goal 14 requires the proposed expansion to be consistent with ORS 197.298. Although the subject property is designated as Urban Area Reserve in both the Bend Area General Plan and the Deschutes County Comprehensive Plan, these lands were not designated under ORS 195.145. Rather, these lands were designated prior to implementation of ORS 195 and, therefore, the City does not have any 'first priority' lands available for the proposed need-specific UGB expansion. The subject property is considered an exception area and consequently is categorized as a 'second priority' land, which is the highest priority land available.

- (c) If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247 (1991 Edition).**
- (d) If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan for agriculture or forestry or both.**

FINDING: Because the subject property is classified as second priority, these sections do not apply.

- (2) Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.**

FINDING: The EA included in the record indicates the soils on the subject property “are mainly Deskamp series,” described as loamy sands for which wind erosion and high permeability are concerns. The EA states “manure and chemicals were added to the soils during the former nursery operations.” The EA also states that with the proposed development of the site, approximately 10 acres of soil would be placed in a non-productive state due to construction of buildings, and the remaining approximately 16 acres would be landscaped and irrigated to maintain soil productivity. The record does not indicate the National Resource Conservation Service (NRCS) capability rating or classification for these soils or how those ratings compare with ratings for soils on other potential sites. It is likely that without the soil amendments that have occurred over time, that the soil capability of the subject site would be no better than the alternative sites considered. This provision is met.

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

FINDING: As discussed above, there is no first priority land, and the subject property constitutes second priority land and the highest priority land available.

C. Oregon Administrative Rules (ORS)

1. Section 660-004-0010, Application of the Goal 2 Exception Process to Certain Goals.

- C. When a local government changes an established urban growth boundary applying Goal 14 as amended April 28, 2005, a goal exception is not required unless the local government seeks an exception to any of the requirements of Goal 14 or other applicable goals.**

FINDING: The County has applied Goal 14 as amended April 28, 2005. Since the applicant does not seek any goal exception, a goal exception is not required for the proposed UGB expansion.

2. Section 660-012-0060, Plan and Land Use Regulation Amendments.

- (1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of**

this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. A plan or land use regulation amendment significantly affects a transportation facility if it would:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);**
 - (b) Change standards implementing a functional classification system; or**
 - (c) As measured at the end of the planning period identified in the adopted transportation system plan:**
 - (A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;**
 - (B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or**
 - (C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.**
- (2) Where a local government determines that there would be a significant effect, compliance with section (1) shall be accomplished through one or a combination of the following:**
- (a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.**
 - (b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.**
 - (c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.**
 - (d) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.**
 - (e) Providing other measures as a condition of development or through a development agreement or similar funding method, including transportation system management measures,**

demand management or minor transportation improvements. Local governments shall as part of the amendment specify when measures or improvements provided pursuant to this subsection will be provided.

- (3) Notwithstanding sections (1) and (2) of this rule, a local government may approve an amendment that would significantly affect an existing transportation facility without assuring that the allowed land uses are consistent with the function, capacity and performance standards of the facility where:
- (a) The facility is already performing below the minimum acceptable performance standard identified in the TSP or comprehensive plan on the date the amendment application is submitted;
 - (b) In the absence of the amendment, planned transportation facilities, improvements and services as set forth in section (4) of this rule would not be adequate to achieve consistency with the identified function, capacity or performance standard for that facility by the end of the planning period identified in the adopted TSP;
 - (c) Development resulting from the amendment will, at a minimum, mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development through one or a combination of transportation improvements or measures;
 - (d) The amendment does not involve property located in an interchange area as defined in paragraph (4)(d)(C); and
 - (e) For affected state highways, ODOT provides a written statement that the proposed funding and timing for the identified mitigation improvements or measures are, at a minimum, sufficient to avoid further degradation to the performance of the affected state highway. However, if a local government provides the appropriate ODOT regional office with written notice of a proposed amendment in a manner that provides ODOT reasonable opportunity to submit a written statement into the record of the local government proceeding, and ODOT does not provide a written statement, then the local government may proceed with applying subsections (a) through (d) of this section.
- (4) Determinations under sections (1)-(3) of this rule shall be coordinated with affected transportation facility and service providers and other affected local governments.
- (a) In determining whether an amendment has a significant effect on an existing or planned transportation facility under subsection (1)(c) of this rule, local governments shall rely on existing transportation facilities and services and on the planned transportation facilities, improvements and services

set forth in subsections (b) and (c) below.

- (b) **Outside of interstate interchange areas, the following are considered planned facilities, improvements and services:**
 - (A) **Transportation facilities, improvements or services that are funded for construction or implementation in the Statewide Transportation Improvement Program or a locally or regionally adopted transportation improvement program or capital improvement plan or program of a transportation service provider.**
 - (B) **Transportation facilities, improvements or services that are authorized in a local transportation system plan and for which a funding plan or mechanism is in place or approved. These include, but are not limited to, transportation facilities, improvements or services for which: transportation systems development charge revenues are being collected; a local improvement district or reimbursement district has been established or will be established prior to development; a development agreement has been adopted; or conditions of approval to fund the improvement have been adopted.**
 - (C) **Transportation facilities, improvements or services in a metropolitan planning organization (MPO) area that are part of the area's federally-approved, financially constrained regional transportation system plan.**
 - (D) **Improvements to state highways that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when ODOT provides a written statement that the improvements are reasonably likely to be provided by the end of the planning period.**
 - (E) **Improvements to regional and local roads, streets or other transportation facilities or services that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when the local government(s) or transportation service provider(s) responsible for the facility, improvement or service provides a written statement that the facility, improvement or service is reasonably likely to be provided by the end of the planning period.**

FINDING: The traffic study identifies impacts to Deschutes Market Road, the intersection of Deschutes Market Road/Butler Market Road, and the intersection of Butler Market Road/27th Street that would reduce the performance of these existing transportation facilities. The traffic study also identifies a number of mitigation measures to address these impacts:

1. A northbound left-turn lane on Deschutes Market Road to the site would meet City of Bend operational standards for the years 2008 and 2024 for both AM and PM peak hours.
2. A southbound right-turn lane on Deschutes Market Road at the Butler Market Road intersection would meet the City of Bend operational standards for 2008.
3. The City of Bend has a long term plan to widen 27th Street to five lanes at the intersection with Butler Market Road and extend 27th Street north to connect with Empire Avenue.

As previously detailed, DNF proposes to construct the northbound left-turn lane and pay the City to construct the southbound right-turn lane.

To address future improvements to the Butler Market Road/27th Street and Butler Market Road/Deschutes Market Road intersections, the City proposes the following findings (see January 28, 2011 letter from Mr. Stephens),

The City of Bend's Transportation System Plan (TSP) states that where arterial streets intersect other arterial streets, traffic signals or roundabouts are to be installed (6.5.2.1). Deschutes Market Road, Butler Market Road, 27th Street and Empire Street are all classified as arterial streets in the TSP. The Bend City Council's Transportation Implementation Plan contains a policy that directs staff to consider roundabouts as the preferred intersection option. The planned improvement to the Butler Market/27th Street Intersection is a double-lane roundabout. The planned improvement to the Butler Market/Deschutes Market intersection is also a roundabout. These two intersections are under the jurisdictional responsibility of the City of Bend and are included in the City's TSP as planned facilities.

When the roundabouts described above are constructed, they will operate within the acceptable level of service with the addition of the trips produced by re-designating and rezoning the Forest Service site from Urban Area Reserve (UAR) to Public Facilities (PF). Under Oregon Administrative Rule (OAR) Transportation Planning Rule (TPR) section 660.012.0060(4)(b)(E) these intersections are considered "planned" facilities when the jurisdiction responsible for the facilities provides a statement in writing that the improvements are reasonably likely to be provided by the end of the planning period. On January 28, 2011 the City of Bend provided a letter to Deschutes County stating that these facilities are reasonably likely to be provided by the end of the planning period. The funding to construct these improvements will come from a combination of the calculated proportionate share payment of \$251,100 from the Forest Service to the City to ameliorate the impacts of their new trips, System Development Charge (SDC) collections and "proportionate share contributions" from future development authorized under Bend Development Code section 4.7.400 C. and 4.7.500 B. which require a development to pay the incremental cost of the final intersection improvements needed to accommodate the new trips generated by the development. This payment is made at the time of site plan review or subdivision approval.

Under ORS 660.012.0060(4)(b)(E), the City of Bend provided a written statement that the improvements to Deschutes Market Road/Butler Market Road intersection and the 27th Street/Butler Market Road intersection are reasonably likely to be provided by the end of the planning period. Therefore, there is no "significant effect" on these facilities under ORS 660.012.0060(1) and the Transportation Planning Rule is satisfied.

The information in the traffic study and the identified mitigation measures are sufficient to demonstrate that the requirements of the Transportation Planning Rule are met.

3. Section 660-024-0000, Purpose and Applicability.

- (1) The rules in this division clarify procedures and requirements of Goal 14 regarding local government adoption or amendment of an urban growth boundary (UGB).**
- ...
- (3) The rules in this division are effective April 5, 2007, except as follows:**
 - (a) A local government may choose to apply this division prior to April 5, 2007;**
 - (b) A local government may choose to not apply this division to a plan amendment concerning the evaluation or amendment of a UGB, regardless of the date of that amendment, if the local government initiated the evaluation or amendment of the UGB prior to April 5, 2007;**

FINDING: These rules became effective April 5, 2007. The proposed plan amendment application for the UGB expansion was submitted on April 7, 2011, therefore, these rules apply.

4. Section 660-024-0020, Adoption or Amendment of a UGB

- (1) All statewide goals and related administrative rules are applicable when establishing or amending a UGB, except as follows:**
 - (a) The exceptions process in Goal 2 and OAR 660, division 4, is not applicable unless a local government chooses to take an exception to a particular goal requirement, for example, as provided in OAR 660-004-0010(1);**

FINDING: The applicant is not seeking any goal exception.

- (b) Goals 3 and 4 are not applicable;**

FINDING: Goals 3 and 4 are not applicable.

- (c) Goal 5 and related rules under OAR 660, division 23, apply only in areas added to the UGB, except as required under OAR 660-023-0070 and 660-023-0250;**

FINDING: As noted in foregoing findings, there are no Goal 5 resources impacted by the proposed expansion area.

- (d) **The transportation planning rule requirements under OAR 660-012-0060 need not be applied to a UGB amendment if the land added to the UGB is zoned as urbanizable land, either by retaining the zoning that was assigned prior to inclusion in the boundary or by assigning interim zoning that does not allow development that would generate more vehicle trips than development allowed by the zoning assigned prior to inclusion in the boundary;**

FINDING: As noted in foregoing findings, the 26-acre expansion site is currently zoned UAR10, and the applicant proposes a zone change to Public Facilities which would allow more vehicle trips. Staff concluded, and I agree that OAR 660-012-0060 applies and is satisfied.

- (e) **Goal 15 is not applicable to land added to the UGB unless the land is within the Willamette River Greenway Boundary;**

FINDING: Goal 15 is not applicable.

- (f) **Goals 16 to 18 are not applicable to land added to the UGB unless the land is within a coastal shorelands boundary;**

FINDING: Goals 16 and 18 are not applicable.

- (g) **Goal 19 is not applicable to a UGB amendment.**

FINDING: Goal 19 is not applicable.

- (2) **The UGB and amendments to the UGB must be shown on the City and County plan and zone maps at a scale sufficient to determine which particular lots or parcels are included in the UGB. Where a UGB does not follow lot or parcel lines, the map must provide sufficient information to determine the precise UGB location.**

FINDING: Several maps included in the record illustrate the property to be added. Staff believes the maps provide sufficient information to determine the precise UGB location. This criterion is met.

5. Section 660-024-0030, Population Forecasts

- (1) **Counties must adopt and maintain a coordinated 20-year population forecast for the county and for each urban area within the county consistent with statutory requirements for such forecasts under ORS**

195.025 and 195.036. Cities must adopt a 20-year population forecast for the urban area consistent with the coordinated county forecast, except that a metropolitan service district must adopt and maintain a 20-year population forecast for the area within its jurisdiction. In adopting the coordinated forecast, local governments must follow applicable procedures and requirements in ORS 197.610 to 197.650 and must provide notice to all other local governments in the county. The adopted forecast must be included in the comprehensive plan or in a document referenced by the plan.

FINDING: The County adopted a coordinated population forecast through 2025 on September 8, 2004 (reference Ordinance 2004-12). The City adopted the same forecast. These are sufficient to demonstrate compliance with this section.

6. Section 660-024-0040, Land Need

- (1) The UGB must be based on the adopted 20-year population forecast for the urban area described in OAR 660-024-0030, and must provide for needed housing, employment and other urban uses such as public facilities, streets and roads, schools, parks and open space over the 20-year planning period consistent with the land need requirements of Goal 14 and this rule. The 20-year need determinations are estimates which, although based on the best available information and methodologies, should not be held to an unreasonably high level of precision.**

FINDING: The City and County are currently evaluating all of the above-referenced needs as part of a larger legislative UGB expansion plan. Delays in the legislative UGB expansion process have necessitated this need-specific UGB expansion request.

As noted previously, the City is concurrently processing a zone change to Public Facilities (PF). Additionally, one of the stated characteristics in the alternative sites analysis was that the site must be owned by the Forest Service. None of the five Forest Service-owned sites which were analyzed is currently zoned PF. The record shows that there are no existing PF-zoned lands available for the proposed use. Subsection (3) of this section allows for need-specific UGB expansion.

- (2) If the UGB analysis or amendment is conducted as part of a periodic review work program, the 20-year planning period must commence on the date initially scheduled for completion of the appropriate work task. If the UGB analysis or amendment is conducted as a post-acknowledgement plan amendment under ORS 197.610 to 197.625, the 20-year planning period must commence either:**
 - (a) On the date initially scheduled for final adoption of the amendment specified by the local government in the initial notice of the amendment required by OAR 660-018-0020; or**

- (b) **If more recent than the date determined in subsection (a), at the beginning of the 20-year period specified in the coordinated population forecast for the urban area adopted by the City and County pursuant to OAR 660-024-0030, unless ORS 197.296 requires a different date for local governments subject to that statute.**

FINDING: In a prior Hearings Officer's decision for a quasi-judicial plan amendment to expand the City of Bend UGB for a school site (PA-07-5), the Hearings Officer found that this criterion did not apply because the applicant's proposal was not being requested as part of periodic review work program. I agree.

- (3) **A local government may review and amend the UGB in consideration of one category of land need (for example, housing need) without a simultaneous review and amendment in consideration of other categories of land need (for example, employment need).**

FINDING: The applicant seeks to amend the UGB for a specific public facility need. No other needs are under review with this application.

- (4) **The determination of 20-year residential land needs for an urban area must be consistent with the adopted 20-year coordinated population forecast for the urban area, and with the requirements for determining housing needs in Goal 10, OAR 660, division 7 or 8, and applicable provisions of ORS 197.295 to 197.314 and 197.475 to 197.490.**

FINDING: The proposed expansion is not for residential land needs. This criterion does not apply.

- (5) **Except for a metropolitan service district described in ORS 197.015(14), the determination of 20-year employment land need for an urban area must comply with applicable requirements of Goal 9 and OAR 660, division 9, and must include a determination of the need for a short-term supply of land for employment uses consistent with OAR 660-009-0025. Employment land need may be based on an estimate of job growth over the planning period; local government must provide a reasonable justification for the job growth estimate but Goal 14 does not require that job growth estimates necessarily be proportional to population growth.**

FINDING: The proposed expansion is not for employment land needs. This criterion does not apply.

- (6) **The determination of 20-year land needs for transportation and public facilities for an urban area must comply with applicable**

requirements of Goals 11 and 12, rules in OAR 660, divisions 11 and 12, and public facilities requirements in ORS 197.712 and 197.768. The determination of school facility needs must also comply with ORS 195.110 and 197.296 for local governments specified in those statutes.

FINDING: Consistency with Goals 11 and 12 are adequately addressed in foregoing findings. ORS 197.712 and 197.768 require an analysis of general public facilities such as sewer and water to be included in the Comprehensive Plans of cities and counties. Both the City and County plans include the required analysis.

7. **Section 660-024-0050, Land Inventory and Response to Deficiency**

- (1) **When evaluating or amending a UGB, a local government must inventory land inside the UGB to determine whether there is adequate development capacity to accommodate 20-year needs determined in OAR 660-024-0040. For residential land, the buildable land inventory must include vacant and redevelopable land, and be conducted in accordance with OAR 660-007-0045 or 660-008-0010, whichever is applicable, and ORS 197.296 for local governments subject to that statute. For employment land, the inventory must include suitable vacant and developed land designated for industrial or other employment use, and must be conducted in accordance with OAR 660-009-0015(3).**

FINDING: As noted above, the only need being evaluated by this specific UGB expansion application is the need for public facilities land to allow co-location of multiple DNF functions. Additionally, the City and County are currently evaluating a regional UGB expansion which would ensure a 20-year land supply for all other needs.

- (5) **When land is added to the UGB, the local government must assign appropriate urban plan designations to the added land, consistent with the need determination. The local government must also apply appropriate zoning to the added land consistent with the plan designation, or may maintain the land as urbanizable land either by retaining the zoning that was assigned prior to inclusion in the boundary or by applying other interim zoning that maintains the land's potential for planned urban development until the land is rezoned for the planned urban uses. The requirements of ORS 197.296 regarding planning and zoning also apply when local governments specified in that statute add land to the UGB.**

FINDING: As noted in foregoing findings, the proposed expansion area is currently zoned Urban Area Reserve, and has a Plan designation of Urban Reserve Area. Consistent with the specific need to provide land for an expanded public facility, the applicant is proposing a zone change to Public Facilities and a plan amendment change to Public Facilities.

8. **Section 660-024-0060, Boundary Location Alternatives Analysis**

- (1) **When considering a UGB amendment, a local government must determine which land to add by evaluating alternative boundary locations. This determination must be consistent with the priority of land specified in ORS 197.298 and the boundary location factors of Goal 14, as follows:**
- (a) **Beginning with the highest priority of land available, a local government must determine which land in that priority is suitable to accommodate the need deficiency determined under 660-024-0050.**

FINDING: The proposed expansion area is designated as exception land, Urban Area Reserve. As noted in foregoing findings, although this land is classified as ‘second priority’, it is the highest priority land available for consideration when expanding the City of Bend’s UGB.

- (b) **If the amount of suitable land in the first priority category exceeds the amount necessary to satisfy the need deficiency, a local government must apply the location factors of Goal 14 to choose which land in that priority to include in the UGB.**
- (c) **If the amount of suitable land in the first priority category is not adequate to satisfy the identified need deficiency, a local government must determine which land in the next priority is suitable to accommodate the remaining need, and proceed using the same method specified in subsections (a) and (b) of this section until the land need is accommodated.**

FINDING: As discussed previously, there are no ‘first priority’ lands available. The subject 26-acre site is considered a second priority land that is of sufficient size to accommodate the need.

- (2) **Notwithstanding OAR 660-024-0050(4) and subsection (1)(c) of this rule, except during periodic review or other legislative review of the UGB, a local government may approve an application under ORS 197.610 to 197.625 for a UGB amendment proposing to add an amount of land less than necessary to satisfy the land need deficiency determined under OAR 660-024-0050(4), provided the amendment complies with all other applicable requirements.**

FINDING: The proposed expansion is need- and site-specific, and would not satisfy the 20-year land need. As noted in foregoing findings, the City and County are evaluating the amount of land necessary to satisfy the 20-year land need as part of a regional UGB expansion.

- (3) **The boundary location factors of Goal 14 are not independent criteria. When the factors are applied to compare alternative boundary locations and to determine the UGB location, a local government must show that all the factors were considered and balanced.**

FINDING: The boundary location factors of Goal 14 are addressed in foregoing findings.

- (4) **In determining alternative land for evaluation under ORS 197.298, "land adjacent to the UGB" is not limited to those lots or parcels that abut the UGB, but also includes land in the vicinity of the UGB that has a reasonable potential to satisfy the identified need deficiency.**

FINDING: As identified in the EA, the Forest Service analyzed five Forest Service-owned sites for the proposed co-location (Bend Pine Work Center, Cascade Lakes, Scott Street, Knott Road, and China Hat Road). Although the Scott Street site is already within the City limits, the site is not large enough to accommodate the proposed use. The remaining four sites are all outside of the Bend UGB, with only the Bend Pine Work Center abutting the UGB. This criterion is been met.

- (5) **If a local government has specified characteristics such as parcel size, topography, or proximity that are necessary for land to be suitable for an identified need, the local government may limit its consideration to land that has the specified characteristics when it conducts the boundary location alternatives analysis and applies ORS 197.298.**

FINDING: Previous findings discussed the specific characteristics used to evaluate a number of alternative sites for the identified need.

- (6) **The adopted findings for UGB adoption or amendment must describe or map all of the alternative areas evaluated in the boundary location alternatives analysis. If the analysis involves more than one parcel or area within a particular priority category in ORS 197.298 for which circumstances are the same, these parcels or areas may be considered and evaluated as a single group.**

FINDING: The submitted EA describes and maps all five of the alternative sites.

- (7) **For purposes of Goal 14 Boundary Location Factor 2, "public facilities and services" means water, sanitary sewer, storm water management, and transportation facilities.**

FINDING: Water, sewer, storm water management and transportation facilities are adequately addressed above in the findings for Goal 14 Boundary Location Factor 2.

- (8) **The Goal 14 boundary location determination requires evaluation and comparison of the relative costs, advantages and disadvantages of alternative UGB expansion areas with respect to the provision of public facilities and services needed to urbanize alternative boundary locations. This evaluation and comparison must be conducted in coordination with service providers, including the Oregon Department of Transportation with regard to impacts on the state transportation system. "Coordination" includes timely notice to service providers and the consideration of evaluation methodologies recommended by service providers. The evaluation and comparison must include:**
- (a) **The impacts to existing water, sanitary sewer, storm water and transportation facilities that serve nearby areas already inside the UGB;**
 - (b) **The capacity of existing public facilities and services to serve areas already inside the UGB as well as areas proposed for addition to the UGB; and**

FINDING: The application materials include a “will serve” letter from Avion for water service. The City and DNF have reached an agreement to provide sewer service to the subject property. The submitted traffic study indicates necessary road improvements to mitigate expected impacts. Foregoing findings show that DNF will mitigate anticipated transportation impacts including constructing a northbound left-turn lane on Deschutes Market Road, paying the City to construct the southbound right-turn lane at Deschutes Market Road/Butler Market Road, and contributing monies to fund future improvements at the Butler Market Road/27th Street and Butler Market Road/Deschutes Market Road intersections. Fire protection service will be provided by the Bend Fire Department, with police services provided by the City of Bend Police Department. These criterion are met.

- (c) **The need for new transportation facilities, such as highways and other roadways, interchanges, arterials and collectors, additional travel lanes, other major improvements on existing roadways and, for urban areas of 25,000 or more, the provision of public transit service.**

FINDING: The traffic analysis identifies a number of necessary improvements to mitigate traffic impacts including:

1. A northbound left-turn lane on Deschutes Market Road to the site will meet City of Bend operational standards for the years 2008 and 2024 for both AM and PM peak hours.
2. A southbound right-turn lane on Deschutes Market Road at the Butler Market Road intersection will meet the City of Bend operational standards for 2008.

3. The City of Bend has a long term plan to widen 27th Street to five lanes at the intersection with Butler Market Road and extend 27th Street north to connect with Empire Avenue.

As discussed above, DNF will construct the left-turn lane, paying the City to construct the right-turn lane, contribute monies to fund future improvements at the Butler Market Road/27th Street and Butler Market Road/Deschutes Market Road intersections. For these reasons, I find that the necessary transportation facility improvements have been addressed.

D. Title 19, Bend Urban Growth Boundary Zoning Ordinance

1. Chapter 19.12, Urban Area Reserve Zone.

FINDING: The applicant proposes a zone change from UAR10 to Public Facilities.

2. Section 19.116.010, Amendments.

- B. Any proposed quasi-judicial map amendment or change shall be handled in accordance with the applicable provisions of DCC Title 22.**

FINDING: The applicable provisions of Title 22 are addressed below.

3. Section 19.116.020, Standards for Zone Change.

The burden of proof is upon the applicant. The applicant shall in all cases establish:

- A. That the change conforms with the Comprehensive Plan. Specifically, the change is consistent with the plan's intent to promote an orderly pattern and sequence of growth.**

FINDING: The applicable policies of the Comprehensive Plan regarding urban growth boundaries and public facilities and services are addressed below. I find that the information provided in the staff report is substantial evidence that an orderly pattern and sequence of growth will occur. Specifically, the zone change to Public Facilities will more accurately reflect the existing and future DNF uses on-site. Additionally, the DNF project will provide for necessary improvements to City roadway facilities.

- B. That the change will not interfere with existing development, development potential or value of other land in the vicinity of the proposed action.**

FINDING: The subject property is currently used for a portion of DNF's operations. While future consolidation of DNF operations could result in an increase in traffic, these impacts would likely be mitigated via construction and funding of City roadway improvements. There is no information in the record to suggest that the proposed zone change will interfere with existing development, development potential, or value of other land in the vicinity of the proposed action.

C. That the change in classification for the subject property is consistent with the purpose and intent of the proposed zone classification.

FINDING: As noted above, the current UAR10 zoning does not allow the consolidation of DNF operations on-site. Staff concluded, and I agree, that the proposed zone change to Public Facilities will accurately reflect existing and future DNF uses on-site.

D. That the change will result in the orderly and efficient extension or provision of public services. Also, that the change is consistent with the County's policy for provision of public facilities.

FINDING: The record includes a “will serve” letter from Avion Water. The City and DNF have reached an agreement to facilitate connection to City sewer. The subject property is served by Bend Fire Department and will be served by the City of Bend Police Department. The specific Comprehensive Plan policies for provision of public facilities are addressed below.

E. That there is proof of a change of circumstance or a mistake in the original zoning.

FINDING: The subject property has been in use since the late 1940s by DNF, primarily as their plant nursery. The nursery use was discontinued in 1999, with DNF warehousing and other support operations continuing at the site. The close of the nursery use allowed for other uses and development on the property. As demonstrated in the EA, the Forest Service has expressed a desire and need to own rather than lease or rent property for their multiple operations sites, and consolidate operations at a single location. These changes in circumstance reasonably warrant the proposed zone change.

FINDING: The applicable provisions of Title 22 are addressed below.

E. Title 22, Deschutes County Development Procedures Ordinance

1. Section 22.28.030, Land Use Action Decisions

Decision on plan amendments and zone changes.

...

B. In considering all quasi-judicial zone changes and those quasi-judicial plan amendments on which the Hearings Officer has authority to make a decision, the Board of County Commissioners shall, in the absence of an appeal or review initiated by the Board, adopt the Hearings Officer’s decision. No argument or further testimony will be taken by the Board.

FINDING: A public hearing before the Hearings Officer was held May 2, 2011.

F. Title 23, the Deschutes County Comprehensive Plan

1. Section 23.48.030. Urban Growth Boundary Policies.

1. Urbanization. Urbanization policies refer to unincorporated urban growth areas within an urban growth boundary but outside the boundaries of a City, and are intended to assist in the decision making about the conversion of rural to urban uses, and to help in the development of consistent urban area plan. More detailed policies for the urban areas of Bend, Redmond and Sisters are specified in the urban area plans and they shall be the primary documents for coordination and land use decisions in their respective areas.

...

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

FINDING: These criteria are adequately addressed by the findings for Goal 14 and related goals, statutes and rules discussed above and I incorporate those findings here by this reference. Conformance with the Bend Area General Plan is discussed below.

- 8. Facilities and services.**
 - a. Efforts should be made over a sustained period of time to place utility lines underground in existing and new residential areas.**
 - b. Parks should be located within walking distance of every dwelling unit in the community. Parks should be centrally located and easily accessible to the areas they are intended to serve (see Recreation).**
 - c. Certain private recreational uses such as golf**

courses or riding stables can be successfully integrated into residential areas provided the location, design and operation are compatible with surrounding residential developments.

- d. Fire protection in the planning area should be considered as a common problem by the City, County, water district and the fire protection district, and equipment should reflect the character of land uses in the community.**
- e. Efforts should be made to encourage Federal and State agencies to locate in urban areas.**
- f. Efforts should be made to group public offices in a more or less common location as a convenience to the public.**

FINDING: Staff concluded, and I agree, that policies 8(a-d) do not apply. If approved, the UGB expansion will allow the consolidation of multiple Forest Service functions onto a single location within the Bend UGB.

2. Section 23.68.020, Public Facilities and Services Policies.

1. General.

- a. Public facilities and services shall be provided at levels and in areas appropriate for such uses based upon the carrying capacity of the land, air and water, as well as the important distinction that must be made between urban and rural services. In this way public services may guide development while remaining in concert with the public's needs.**

FINDING: The record includes a “will serve” letter from Avion Water. The City and DNF have reached an agreement to facilitate connection to City sewer. The subject property is served by Bend Fire Department and would be served by City of Bend Police Department. As part of the co-location project, DNF proposes to construct roadway improvements on Deschutes Market Road and Butler Market Road, and contribute monies to fund future improvements on Butler Market Road. According to the EA, the subject property is large enough to accommodate DNF’s proposed co-location. Staff concluded, and I agree, that public facilities and services will be provided at sufficient levels to serve the DNF project.

- b. While clear distinctions are not always possible between urban and rural services, those facilities (such as sewage treatment plants, water systems, schools and fire stations), which are necessary to service concentrations of people shall be known as key facilities and shall be located in urban areas or in rural service centers, if necessary, to meet the needs of existing rural residents. Key facilities shall be built to encourage urban,**

rather than increased rural, residential development. Rural services such as sheriff's patrol, snowplowing, schools and school busing shall be kept at levels adequate to meet public needs but not in excess to encourage additional development. Rural Service Centers are a logical location for future rural key facilities so that services may be used and constructed in as efficient a manner as possible (see Rural Development Chapter). Key facilities outside urban areas or Rural Service Centers shall be discouraged unless the facility is needed to serve existing development, is at the most efficient and economic location and is consistent with the capabilities of the land and the planned growth of the County.

FINDING: No key facilities, as defined above, are proposed. This criterion does not apply.

- c. Future development shall depend on the availability of adequate local services in close proximity to the proposed site. Higher densities may permit the construction of more adequate services than might otherwise be true. Cluster and planned development shall be encouraged.**

FINDING: A water pipeline for Avion Water exists within the Deschutes Market Road right-of-way, allowing for efficient connection. A City sewer pipeline runs along the southern boundary of the property also allowing for efficient connection. The subject property is already within the Bend Rural Fire Protection District, allowing for easy annexation into the Bend (City) Fire Protection District. To the south are residential lots within the City limits that are currently served by the Bend Police Department. Staff concluded, and I agree, that the proximity of the subject property to lands already served by Bend Police would make inclusion of the subject property reasonable.

- d. The County shall prepare a Capital Improvements Plan which considers the costs and benefits of construction at various sites. Sites which are less expensive in the long run shall be given priority to less efficient sites.**
- e. Deschutes County shall encourage the formation of special service districts to serve rural needs rather than becoming involved with serving those needs. The County will foster coordination and mutual planning between the County, special districts, utility companies and service corporations. This shall include common trenching where appropriate.**

FINDING: No utilities are proposed. These policies do not apply.

- f. Deschutes County shall coordinate with the cities and other service providers in urban areas to assure that all urban**

services are provided in an equitable manner and construction phased, based upon the time required to provide the service, the reliability of the service, the financial cost, and the levels of service needed. All services shall be provided consistent with the provisions of all other required services.

FINDING: City staff has kept the County apprised of negotiations and agreements with DNF to provide adequate sewer and transportation facilities. Comments from the Bend Fire Department are in the record. The record also includes a “will serve” letter from Avion Water. As part of the concurrent City process, the City has sent notice to the Bend Police Department. At the time of this staff report, no comments have been received.

- g. Because of the increasing cost of development which must be borne by local residents, the County shall investigate various methods to control or obtain funds for providing new public service levels. This investigation is to include review of a Systems Development Charge. The County shall conduct a review of systems development charges for areas outside the urban growth boundary by January 1, 1995.**

FINDING: This policy does not apply.

2. Utilities.

- a. Utility companies shall be offered an opportunity to comment on their ability to serve proposed developments.**
- b. New development shall not be located so as to overload existing or planned facilities, and developers or purchasers should be made aware of potentially inadequate power facilities in rural areas.**
- c. When feasible all utility lines and facilities shall be located on or adjacent to existing public or private rights-of-way so as to avoid dividing existing farm units, and transmission lines should be located within existing corridors as much as possible.**
- d. Power generation sites shall be landscaped and the site plan reviewed as part of the conditional use applications.**
- e. Electrical substations shall be a permitted use in all appropriate zones with final approval based upon County Planning Department acceptance of a detailed site plan. Minimum lot sizes shall not apply to substations, but adequate area for equipment, storage, buffer and potential expansion shall be required.**
- f. All new development shall be consistent with adopted sewage plans, and new community systems in urban areas shall be designed to fit into the municipal system. Also, in urban areas, where connection to a sewer system is not appropriate now but will be required in the future, dry sewer lines may be required**

for future use (this does not apply in larger lot subdivisions where no future sewers are anticipated).

FINDING: No new development or utility facilities are included as part of the applications. These policies do not apply.

- g. Mutual agreements between the County and the cities shall assure sewer and water systems are extended in a planned manner.**

FINDING: As noted previously, the City and DNF have reached an agreement for connection to City sewer service. Additionally, Avion Water has indicated an ability to serve the property.

- h. Sewage treatment plants offer both problems and opportunities. To decrease the impact of noise and odor a large buffer area shall be required. The treated sewage (both septic tank sludge and municipal water) should be used as a resource and drill hole disposal discouraged.**
- i. Well marked recreational vehicle dump stations are needed locally and the County shall encourage such facilities in parks, service stations and other appropriate locations.**

FINDING: No new development or utility facilities are included as part of the applications. These policies do not apply.

- j. The capability for County land to be annexed into a city shall depend upon the availability of adequate services, such as water.**

FINDING: As detailed in the foregoing findings, adequate public services are available.

- k. Metering of existing and future water systems shall be fostered.**
- l. Oregon Water Wonderland Unit 2 Sewer District. Through County file nos. PA-02-5 and ZC-02-3, the Board of County Commissioners approved a zone change for certain property in Section 25 of Township 20 South, Range 10 E.W.M. to Rural Residential with a Limited Use Combining Zone. The Board adopted the Limited Use Combining Zone to limit the uses that could be established on the subject property to those approved through its written decision dated March 28, 2003 and listed as follows: a sewage treatment facility, effluent ponds, ground application of treated effluent, agricultural use, and propagation and harvesting of a forest product.**

FINDING: These policies do not apply.

G. Bend Area General Plan

1. Preface to the Bend Area General Plan

Format of the Plan

At the end of each chapter are policies that address issues discussed in the chapter. The policies in the General Plan are statements of public policy, and are used to evaluate any proposed changes to the General Plan. Often these statements are expressed in mandatory fashion using the word “shall”. These statements of policy shall be interpreted to recognize that the actual implementation of the policies will be accomplished by land use regulations such as the city’s zoning ordinance, subdivision ordinance and the like...

FINDING: Based on the above language, it is not necessary to analyze specific Bend Area General Plan policies because those policies are implemented by the City of Bend’s zoning ordinance.

IV. CONCLUSION AND RECOMMENDATION:

Based on the record and the Findings of Fact and Conclusions of Law set forth above, I find that the proposal complies with the applicable Statewide Planning Goals, Oregon Revised Statutes, Oregon Administrative Rules, the Bend Area General Plan, and the Deschutes County Zoning Ordinance and Comprehensive Plan.



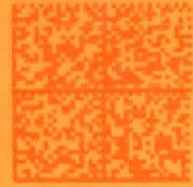
Kenneth D. Helm, Hearings Officer

A DECISION BY THE HEARINGS OFFICER BECOMES FINAL TWELVE (12) DAYS AFTER THE DATE OF MAILING, UNLESS APPEALED BY A PARTY OF INTEREST.

Dated this 23rd day of May, 2011

Mailed this _____ day of May, 2011

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LAND CONSERVATION
AND DEVELOPMENT

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