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

05/20/2013

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 009-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. 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: Tuesday, June 04, 2013

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: Kevin Harrison, Deschutes County
Jon Jinings, DLCD Community Services Specialist
Karen Swirsky, DLCD Regional Representative

<paa> YA

FORM 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

DATE STAMP
☐ In person ☐ electronic ☐ mailed
DEPT OF
MAY 15 '13
LAND CONSERVATION AND DEVELOPMENT
For Office Use Only

Jurisdiction: Deschutes County
Local file number: PA-12-6
Date of Adoption: 5/8/13
Date Mailed: 5/13/13
Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date:

☐ 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".
Amend the City of Bend's UGB to include an approximate 12.5-acre parcel located within the city limits on the west side of Bend. The purpose of the amendment is to allow development of a church on the property.

Does the Adoption differ from proposal? Please select one
No

Plan Map Changed from: N/A to:
Zone Map Changed from: to:
Location: 17-11-36, tax lot 500 Acres Involved: 12.94 ac.
Specify Density: Previous: N/A New:
Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
☒	☒	☐	☐	☒	☒	☐	☐	☐	☐	☒	☒	☒	☒	☐	☐	☐	☐	☐

Was an Exception Adopted? ☐ YES ☒ NO
Did DLCD receive a Notice of Proposed Amendment...
35-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. 009-12 (19638) [17452]

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

Local Contact: Kevin Harrison Phone: (541) 385 1401 Extension:
Address: P.O. Box 6005 Fax Number: 541-385- 1764
City: Bend Zip: 97701 E-mail Address: kevinh@co.deschutes.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working 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 the adopted amendment, please print a completed copy of Form 2 on light **green paper if available**.
3. Send this Form 2 and **one complete paper copy** (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on **8½ -1/2x11 green paper only if available.** If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail **plan.amendments@state.or.us**.

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County Code Title 23, the Deschutes County Comprehensive Plan, to amend the Urban Growth Boundary for the City of Bend.	* * *	ORDINANCE NO. 2013-012

WHEREAS, the Unitarian Universalist Fellowship of Central Oregon applied for a Comprehensive Plan Amendment to Deschutes County Code ("DCC") Title 23, to amend the Urban Growth Boundary for the City of Bend; and

WHEREAS, after a duly noticed public hearing, on January 30, 2013, the Deschutes County Hearings Officer approved the comprehensive plan map amendment; and

WHEREAS, because no appeal was filed, the Board of County Commissioners ("Board") did not initiate review of the application and the decision does not require an exception to the goals or concern lands designated for forest or agricultural use, pursuant to DCC 22.28.030(B), the Board must approve the comprehensive plan change to include the subject property inside the Urban Growth Boundary for the City of Bend; and

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

NOW, THEREFORE,

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

Section 1. AMENDMENT. DCC Title 23, Deschutes County Comprehensive Plan Map, is amended to change the Urban Growth Boundary for the City of Bend to include certain property described in Exhibit "A" and depicted on the map set forth in Exhibit "B", with both exhibits attached and incorporated by reference herein.

Section 2. AMENDMENT. DCC Title 23, Deschutes County Comprehensive Plan is amended to read as described in Exhibit "C", attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 3. FINDINGS. The Board adopts as its findings in support of this decision, the Decision of the Hearings Officer, attached as Exhibit "D" and incorporated by reference herein.

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Section 4. AMENDMENT. Deschutes County Comprehensive Plan, Chapter 5, Supplemental Sections, is amended to read as described in Exhibit "E," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Dated this 8th of May, 2013

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Alan Unger
ALAN UNGER, Chair

TAMMY BANEY, Vice Chair

ATTEST:

Bonnie Baker
Recording Secretary

ANTHONY DeBONE, Commissioner

Date of 1st Reading: 24th day of April, 2013.

Date of 2nd Reading: 8th day of May, 2013.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Alan Unger	✓	—	—	—
Tammy Baney	✓	—	—	—
Anthony DeBone	✓			

Effective date: 8th day of August, 2013.

LEGAL DESCRIPTION

Tract 'E' of Skyliner Summit at Broken Top – Phase 11, as per the plat thereof, recorded August 12, 2004, in Volume 2004, Page 48218, Deschutes County, Oregon, Official Records, located in the Southwest Quarter of the Southwest Quarter of Section 36, Township 17 South, Range 11 East, Willamette Meridian;

Together with;

All that portion of Parcel 3 of Partition Plat 2006-23, recorded May 2, 2006, in Volume 2006, Page 30472, Deschutes County, Oregon, Official Records; located in the Southwest Quarter of the Southwest Quarter of Section 36, Township 17 South, Range 11 East, Willamette Meridian, more particularly described as follows:

All that portion of said Parcel 3 lying northerly of the following described line;

Beginning at the intersection of the west line of said Parcel 3(also being the east line of Skyline Ranch Road), and the south line of said Southwest Quarter of the Southwest Quarter of said Section 36;

Thence South 89°38'30" East 861.82 feet along said south line of said Southwest Quarter of the Southwest Quarter of said Section 36, to the northwesterly line of Tract 'D', Skyliner Summit at Broken Top – Phase 11, as per the plat thereof, recorded August 12, 2004, in Volume 2004, Page 48218, Deschutes County, Oregon, Official Records.

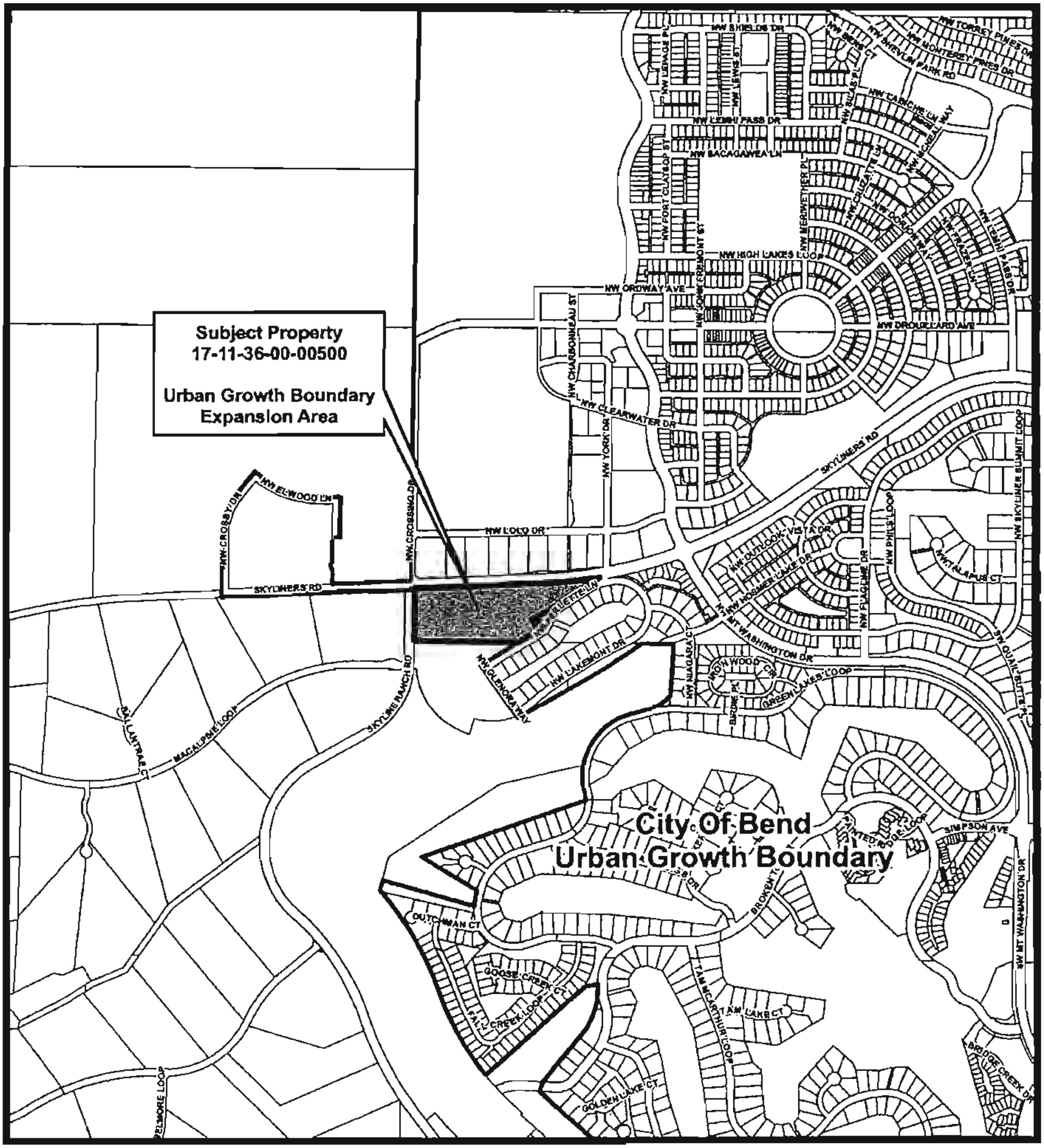

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Exhibit "B" of Ordinance 2013-012

Legend

Subject Property 17-11-36-00-00500

Bend Urban Growth Boundary

0 275 550 1,100 1,650 Feet

Chapter 23.01 COMPREHENSIVE PLAN

23.01.010. Introduction.

A. The Deschutes County Comprehensive Plan, adopted by the Board in Ordinance 2011-003 and found on the Deschutes County Community Development Department website, is incorporated by reference herein.

B. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2011-027, are incorporated by reference herein.

C. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-005, are incorporated by reference herein.

D. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-012, are incorporated by reference herein.

E. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-016, are incorporated by reference herein.

F. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-002, are incorporated by reference herein.

H. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-007, are incorporated by reference herein.

I. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-012.

(Ord. 2013-012 §2, 2013; Ord. 2013-002 §1, 2013; Ord. 2012-016 §1, 2012; Ord. 2012-013 §1, 2012; Ord. 2012-005 §1, 2012; Ord. 2011-027 §1 through 12, 2011; Ord.2011-003 §3, 2011)

Click here to be directed to the Comprehensive Plan (http://www.deschutes.org/compplan)

DECISION OF DESCHUTES COUNTY HEARINGS OFFICER

FILE NUMBER: PA-12-6

APPLICANT/
PROPERTY OWNER: Unitarian Universalist Fellowship of Central Oregon
P.O. Box 428
Bend, Oregon 97709

APPLICANT'S AGENTS: Duncan Brown
61487 S.W. Elder Ridge Street
Bend, Oregon 97702

Greg Winterowd
Winterbrook Planning
310 W Fourth Avenue, Suite 1100
Portland, Oregon 97204

REQUEST: The applicant requests approval of a comprehensive plan amendment to expand the Bend Urban Growth Boundary to include a 12.44-acre property zoned Urban Area Reserve for the purpose of establishing an institutional use (house of worship and related facilities) on the property, and to obtain city sewer service.

STAFF REVIEWER: Kevin Harrison, Principal Planner

HEARING DATES: January 30 and February 6, 2013

RECORD CLOSED: February 6, 2013

I. APPLICABLE STANDARDS & CRITERIA:

A. Title 22 of the Deschutes County Code, the Deschutes County Procedures Ordinance

1. Chapter 22.28, Land Use Action Decisions

B. Title 23 of the Deschutes County Code, the Deschutes County Comprehensive Plan

1. Chapter 4, Urban Growth Management

* Section 4.2, Urbanization Policies

C. Bend Area General Plan

D. Oregon Revised Statutes (ORS)

1. Chapter 197, Comprehensive Land Use Planning Coordination

   * ORS 197.298, Priority of Land to Be Included Within Urban Growth Boundary

E. Oregon Administrative Rules (OAR), Chapter 660

1. Division 4, Interpretation of Goal 2 Exceptions Process
2. Division 12, Transportation Planning
3. Division 15, Statewide Planning Goals
4. Division 24, Urban Growth Boundaries

II. FINDINGS OF FACT:

A. Location: The subject property does not have an assigned address. It is located at the southeast corner of the intersection of Skyliners Road and Skyline Ranch Road in Bend, and is further identified as Tax Lot 500 on Deschutes County Assessor's Map 17-11-36 and Tax Lot 400 on Assessor's Map 17-11-36CC.

B. Zoning and Plan Designation: The subject property is located outside the Bend Urban Growth Boundary (UGB) but within the Bend city limits. It is zoned Urban Area Reserve (UAR-10), and is designated Urban Area Reserve by the Bend Area General Plan Map.

C. Site Description: The subject property is 12.44 acres in size and irregular in shape. It slopes from northwest to southeast. Vegetation consists primarily of ponderosa pine and western juniper trees, bitterbrush, rabbit brush, and native grasses. There are scattered rock outcroppings on the site. The property is undeveloped. However, there is a dirt trail on the northern property boundary parallel to Skyliners Road, and another trail along the western property boundary parallel to Skyline Ranch Road.

D. Surrounding Land Uses: The subject property is bounded on the north by Skyliners Road, a designated arterial road, and on the west by Skyline Ranch Road, a designated collector road. To the east is residential development within Skyliner Summit at Broken Top Phase II planned development. To the north across Skyliners Road is Northwest Crossing, a planned mixed-use development that includes single-family residences, commercial uses and schools. To the west is scattered residential development within the Highlands at Broken Top subdivision. To the south is undeveloped land located primarily within the Tetherow Destination Resort.

E. Property History: The subject property has a somewhat unusual history. It was formerly located within the Bend city limits and UGB and was zoned Urban Standard Density

Residential (RS).[1] In 1999 the subject property was removed from the UGB and rezoned to UAR-10 as part of the development of the Skyliners Summit at Broken Top planned development.[2] The implementing ordinances indicate the subject property was removed from the UGB to create an equal exchange of land to be included in and excluded from the UGB. However, the implementing ordinances did not adjust the Bend city limits to exclude the subject property so it remained within the city limits although outside the UGB.[3]

In 2006, the subject property became part of Parcel 3 of Partition Plat 2006-23 consisting of 22.7 acres. The partition separated Parcel 3 from its parent parcel which became part of the Tetherow Destination Resort.[4]

In 2012 the applicant Unitarian Universalist Fellowship of Central Oregon (hereafter "applicant" or "Fellowship") acquired the subject property through a donation. The applicant obtained city approval of a lot line adjustment to reconfigure the subject property to its current size and shape.[5] The property line adjustment was reviewed by the city and county by mutual agreement.

F. Procedural History: In February of 1998, the county and the city entered into a joint management agreement (JMA) to handle land use applications, including UGB expansions, for property located within the Urban Area Reserve adjacent to the Bend UGB. Pursuant to this agreement, both the city and county have processed this application as a quasi-judicial land use application. The city's and county's applications were referred to the same hearings officer for decisions, and the decisions will be reviewed by the Bend City Council (council) and the Deschutes County Board of Commissioners (board) at public meetings/hearings before adoption of implementing ordinances to enact the UGB expansion.

The subject county application was submitted on December 10, 2012 and was accepted as complete on January 10, 2013. A joint public hearing on the city and county applications was scheduled for January 30, 2013. The hearing was opened and continued on the record to February 6, 2013 due to the Hearings Officer's illness. At the continued public hearing, the Hearings Officer received testimony and evidence on both the city and county applications, and closed the evidentiary record. The applicant waived submission of final

[1] The boundaries of the Bend city limits and Bend UGB are the same.

[2] County Ordinance No. 98-031; Bend Ordinance No. NS-1715; County File Nos. CU-94-131/PA-94-6/ZC-94-7.

[3] Robert Brell, representing the Cascade West Neighborhood Association, submitted an electronic mail message dated January 26, 2013, questioning whether the removal of the subject property from the UGB was subject to any "agreements or conditions." The Hearings Officer has reviewed the ordinance effecting the 1999 UGB amendment and finds no such agreements or conditions.

[4] County File Nos. MP-06-1, MA-06-7.

[5] City File No. PZ-12-265.

argument pursuant to ORS 197.763. Therefore, the record closed on February 6, 2013. Because the application involves a quasi-judicial comprehensive plan amendment, pursuant to Section 22.20.040(D) of the Deschutes County Code the application is not subject to the 150-day period for issuance of a final local land use decision under ORS 215.427.

G. Proposal: The applicant requests approval of a plan amendment to expand the Bend UGB to include the 12.44-acre subject property in order to establish an institutional use (house of worship and related facilities including outdoor activity areas), and to obtain city sewer service. The applicant's burden of proof states that if the UGB expansion is approved the applicant intends to construct a facility including a 350-seat sanctuary, 90-space parking lot, office space, fellowship hall with kitchen, educational and library facilities, and outdoor space for meditation, a community garden, and outdoor activities and gatherings. This use is permitted conditionally in the UAR-10 Zone. No development application was submitted concurrently with this plan amendment request.[6]

H. Public/Private Agency Comments: The Planning Division sent notice of the applicant's proposal to a number of public and private agencies and received responses from: the Deschutes County Property Address Coordinator and Transportation Planner; and the City of Bend Planning, Engineering, and Fire Departments. These comments are set forth verbatim at pages 3-4 of the staff report and/or are included in the record. No comments were received from: the Deschutes County Road Department; the City of Bend Planning, Engineering, and Public Works Departments; the Bend Metro Park and Recreation District; or the Department of Land Conservation and Development (DLCD).[7]

I. Public Notice and Comments: The Planning Division mailed individual written notice of the applicant's proposal and the initial public hearing to the owners of record of all property located within 250 feet of the subject property. The record indicates this notice was mailed to 32 property owners as well as to the Century West Neighborhood Association (CWNA). In addition, notice of the initial public hearing was published in the Bend "Bulletin" newspaper, and the subject property was posted with a notice of proposed land use action sign. As of the date the record in this matter closed, the city and county had received several comments from members of the public and the CWNA in response to these notices. In addition, two members of the public testified at the continued public hearing.

J. Lot of Record: The subject property is a legal lot of record having been created as Parcel

[6] Members of the public who commented on the application questioned why the applicant did not request approval to rezone the subject property from UAR-10 to RS. The applicant's burden of proof states no zone change was requested because its proposed use is permitted in the UAR-10 Zone, and because of the cost of the zone change application and potential additional infrastructure associated with development under the more dense RS zoning.

[7] Because the county and city applications were reviewed jointly by the Hearings Officer, I am considering all comments submitted into the record by agencies and members of the public to have been submitted for both applications.

3 of Partition Plat 2006-23, and subsequently reconfigured to its current size and shape through a property line adjustment (Bend File No. PZ-12-265).

III. CONCLUSIONS OF LAW:

In order to approve the applicant's requested expansion of the Bend UGB to develop its proposed facility, the Hearings Officer must find the proposal complies with UGB expansion approval criteria found in statutes, statewide planning goals and guidelines and their implementing administrative rules, the county's and city's comprehensive plans, and the county's land use procedures ordinance. The relevant approval criteria are addressed below.

A. Statewide Planning Goals and Guidelines, Oregon Administrative Rules (OAR) Chapter 660, Division 15

1. OAR 660-015-000, Statewide Planning Goals and Guidelines #1 Through #14

Goal 1: Citizen Involvement

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

FINDINGS: During this UGB expansion process, public notice has been provided by both the city and county to affected agencies, property owners and neighborhood associations in the surrounding area. As noted in the Findings of Fact above, the county both mailed and published notice of the proposal and the initial public hearing. The applicant conducted a public meeting as required by the city's development code about which all property owners and recognized neighborhood associations within 500 feet of the site were notified (Appendix G to applicant's burden of proof). The city and county held a joint public hearing before the Hearings Officer, and there will be separate meetings/hearings before the council and board before the UGB expansion is effected through the adoption of implementing ordinances. Therefore, the Hearings Officer finds Goal 1 is met.

Goal 2: Land Use Planning

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.

FINDINGS: In accordance with Goal 2, the applicant submitted an application to both the county and city to expand the UGB. The applicant submitted a detailed burden of proof that provides an adequate factual base to enable both jurisdictions to make an informed decision regarding the proposed expansion. Therefore, the Hearings Officer finds Goal 2 is met.

Goal 3: Agricultural Lands

To preserve and maintain agricultural lands.
Goal 4: Forest Lands

To conserve forest lands. . . .

FINDINGS: The Hearings Officer finds these goals are not applicable to the applicant's proposal because the subject property is not identified as either agricultural or forest land on the city's and county's comprehensive plan maps.

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

To protect natural resources and conserve scenic and historic areas and open spaces.

FINDINGS: Goal 5 resources are identified in the county's acknowledged comprehensive plan. There are no identified Goal 5 natural or cultural resources on the subject property. The Hearings Officer finds the proposed UGB amendment will have no impact on open space or scenic views. Therefore, I find Goal 5 is met.

Goal 6: Air, Water and Land Resources Quality

To maintain and improve the quality of the air, water, and land resources of the state.

FINDINGS: The Hearings Officer finds the proposed UGB expansion will have no effect on the quality of air, water and land resources. The staff report states, and I agree, that maintaining and improving the quality of such resources will be assured through enforcement of state and local regulations at the time of development of the subject property. In addition, the proposed UGB expansion would allow any development on the subject property to be connected to the city's water and sewer facilities, thereby protecting water resources. Therefore, I find Goal 6 is met.

Goal 7: Areas Subject to Natural Disasters and Hazards

To protect people and property from natural disasters and hazards.

FINDINGS: The record indicates there are no areas within the subject property that are identified as subject to flooding or landslide activity. The wildfire hazard for the property is the same as other properties on the west side of Bend. Future development of the subject property within the Bend UGB will allow connection to the city's water system, and the applicant has demonstrated there is adequate water supply and pressure to meet the city's fire flow requirements. In addition, because the property is located within the city limits, it is served by the Bend Fire Department which submitted comments in support of the applicant's proposal. The applicant's burden of proof states it has received a grant to reduce wildfire hazard through brush thinning and removal of low-hanging tree limbs, and that inclusion of the subject property in the UGB will result in development-related vegetation maintenance that will decrease wildfire hazard both on the property and in the surrounding area. For these reasons, the Hearings Officer finds Goal 7 is met.

Goal 8: Recreational Needs

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.

Goal 9: Economic Development

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

Goal 10: Housing

To provide for the housing needs of citizens of the state.

FINDINGS: The staff report states, and the Hearings Officer agrees, that in light of the relatively small size of the subject property, and the specific need addressed by the proposed UGB expansion, Goals 8, 9, and 10 are not relevant to this quasi-judicial plan amendment application.

Goal 11: Public Facilities and Services

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.

FINDINGS: The record indicates there are existing water and sewer lines serving the adjacent Skyliner Summit at Broken Top Phase II development, located along N.W. Perlette Lane. Appendix C to the applicant's burden of proof includes a sewer and water analysis performed by the city that concludes water and sewer service are available and adequate for the institutional use proposed by the applicant. In addition, because the property is within the city limits it will be served by the Bend Fire Department which submitted comments in support of the applicant's proposal. As noted in the Findings of Fact above, the subject property abuts existing transportation facilities, including Skyliners Road, a designated arterial, Skyline Ranch Road, a designated collector, and N.W. Perlette Lane, a designated local road. For these reasons, the Hearings Officer finds Goal 11 is met.

Goal 12: Transportation

To provide and encourage a safe, convenient and economic transportation system.

FINDINGS: Goal 12 is implemented by the Transportation Planning Rule (TPR) found in OAR 660-012. Among other things, this rule requires the city to prepare and adopt a Transportation System Plan (TSP) as part of its comprehensive plan. The record indicates the Bend Urban Area TSP was adopted October 11, 2000. In addition, in general applicants for plan amendments must

demonstrate compliance with the TPR. However, OAR 660-024-0020(d) provides that where, as here, the subject property is zoned as urbanizable land – i.e., UAR-10 – the applicant's proposed use is permitted conditionally in the UAR-10 Zone, and the applicant does request a change to the property's zoning from UAR-10, the proposed UGB expansion is exempt from review under the TPR. For these reasons, the Hearings Officer finds Goal 12 is met.

Goal 13: Energy Conservation

To conserve energy.

FINDINGS: As discussed in the findings below, the applicant's application and burden of proof state the subject property was chosen, in part, because of its proximity to the residences of current Fellowship members, therefore facilitating a reduction in energy used traveling to and from the proposed facility. In addition, the record indicates the subject property has a substantial southern exposure that will permit solar access in the design of new buildings. For these reasons, the Hearings Officer finds Goal 13 is met.

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

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.

UrbanGrowthBoundaries

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.

LandNeed

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

FINDINGS: The city has adopted coordinated population projections. Based upon these projections, the city identified the need to provide housing, employment opportunities, public

facilities, streets and roads, schools, parks or open space, and other institutional facilities for an additional 38,515 residents expected by 2028.

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).

FINDINGS: The city and county are engaged in a legislative process to update it's the Bend comprehensive plan and UGB and has prepared an analysis of future residential land needs, including related supportive development such as schools, parks, and institutional uses. The city inventoried all residential lands within the UGB (17,695 acres). The city found that approximately 15 percent of the inventoried residential lands are developed with institutional uses other than schools and parks, and 2,909 acres were determined to be either vacant or available for redevelopment (*See* Draft Bend Area General Plan Chapter 5: Housing and Residential Lands). In the city's land need analysis for its comprehensive plan update, it concluded that 442 acres of additional land would be needed for institutional uses to accommodate the 20-year planning horizon (*See:* Bend Findings in Support of UGB Expansion, Table III-14).

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.

FINDINGS:

Need for New Facility

The applicant's burden of proof describes the need for its new facility as follows:

> *"The Fellowship is presently renting the Old Stone Church located on Franklin Avenue* [in downtown Bend] *for its services and activities. In recent years there has been significant membership growth, and the sanctuary with its seating capacity of approximately 150 is no longer large enough to meet congregational needs. Holiday and other significant services often attract more congregants than seats. Critically, the Old Stone Church, a protected historic building, has no ADA-accessible bathrooms, classrooms, or staff office space. Also, adequate onsite or nearby parking for motor vehicles and bicycles is not available."*

Characteristics of Land Needed for New Facility

The applicant's burden of proof described the characteristics of land needed for its proposed new facility as follows:

> *"Several years ago the Fellowship recognized the need for larger facilities and*

formed a committee charged with assessing future needs. Ten-year projections based on both population growth of the Bend area and Fellowship growth indicate an increase in membership from 167 at present to 448 (Appendix D). A site that would accommodate not only short and intermediate range projections, but also allow for future expansion beyond the ten-year time period was the optimal solution. A building fund was started and, through a generous gift from an anonymous donor, the Fellowship has been able to implement the plan for a new home.

Required Fellowship Site Development and Location Characteristics

In addition to the need for a larger sanctuary for the projected increase in membership, facilities to support existing and future Fellowship activities and the mission of the Unitarian Universalist church in general, are needed. A vision workshop was held to identify and rank desired Fellowship activities, physical needs to support those activities, and conceptual design suggestions for a site development (notes found in Appendix E). Committees were formed to detail specific needs (site location, site design, building design, financing, etc.) and site location and development criteria were developed. Following is a brief list (not necessarily in order of importance) of the more important requirements for site selection:

- Central location for existing Fellowship members. *Many members are located on the west side of Bend, making a west side location desirable.*

- Room for expansion. *The site will need to be large enough to accommodate not only the short and intermediate needs of the Fellowship (ten years), but allow room for future expansion as the Fellowship grows and expands in its service to the surrounding community. A minimum of ten acres, and preferably more, are needed to accommodate long term development of buildings and outdoor activities.*

- Safe and convenient access by all transportation modes. *Direct access to major streets (arterials and collectors) and convenient connections to Highway 97 for out-of-town members is required. Existing or planned pedestrian facilities and designated bicycle paths for nearby members is a high priority. The site should be easily accessible to the surrounding community. Nearby existing or potential bus routes are highly desirable.*

- Adequate parking for both motor vehicles and bicycles. *Minimum required motor vehicle parking for the 350-seat sanctuary is almost 90 vehicle spaces, requiring approximately one acre alone. With nearby members walking or bicycling, covered bicycle parking is a priority.*

- In or adjacent to a residential neighborhood. *The Fellowship should be*

part of the neighborhood fabric for convenient access and to be part of the residential community. A commercial setting is not appropriate and is not supportive of the Fellowship covenant or goals of service to the community.

- Sanctuary with seating for at least 350. *Based on the projected membership increase over the next ten years, minimal seating will need to be 350.*

- Church employee offices. *Several offices and small meeting, storage, or related rooms are required for business functions of the Fellowship.*

- Fellowship hall with kitchen and storage facilities. *This will provide an activity space for a variety of functions without having to compromise the design and use of the sanctuary.*

- Education facilities including classrooms and storage. *These facilities will not only serve youth programs, but will also support adult education classes and discussions, as well as meeting space for small groups.*

- Library. *A quiet space for reading and contemplation.*

- Peaceful and quiet. *Although there is a need for convenient access, a site should be located in a quiet and peaceful setting for contemplative outdoor mediation and activities.*

- Natural beauty. *The site should reflect the Unitarian belief in the beauty of nature and respect for the environment. Where possible, utilizing and showcasing the existing natural elements in the development is important.*

- Sustainability. *The site as well as the proposed Fellowship buildings must meet the needs of the present without compromising the ability of future generations to meet their own needs. Specifically, solar access is a high priority, as is access via walking, bicycling, and existing and potential public transit.*

- Outdoor spaces. *The site should allow for outdoor activities including youth recreation, picnicking, outdoor meeting space, meditation and contemplation areas, wildlife refuge, and potential for a garden. It should be large enough to accommodate community uses on occasions.*

- Visual experience. *The site must be attractive to the casual passer-by, a first-time visitor, and member or site user, and reflect the Unitarian values and beliefs. The site must be large enough so that parking, utilities, and*

storage buildings are screened.

- Developable in the short term. *The site must have adequate streets, sewer, and water services available or able to be extended so that development can occur as soon as land use approvals are given in response to the growing Fellowship and commitments to donors.*

Based upon these requirements and the size of the building necessary to accommodate the anticipated congregants at worship service, a minimum site size of ten acres is needed."

Alternative Sites Evaluation Process

The applicant's burden of proof describes its search for suitable sites meeting its identified need and site characteristics in relevant part as follows:

"The Fellowship initially investigated numerous vacant and developed sites throughout the Bend area, working through realtors and individually. Generally, available developed sites within the City were considered too small to allow for even modest growth or were sold before an adequate study of site benefits could be completed. A list of 23 vacant sites greater than 10 acres in size (a size considered the minimum to accommodate the required site characteristics listed above) and within the existing UGB were reviewed. Because of zoning (public facilities, industrial and surface mining zones do not allow a place of worship), proximity to membership, adjacency to a residential neighborhood, access to sewer, convenient transportation routes, insufficient road and pathway improvements, and lack of solitude and/or natural amenities, it was concluded that none of the sites met the required site characteristics discussed above. A more detailed analysis of individual sites is contained in Appendix F.

With elimination of the 23 vacant sites within the UGB, the Fellowship investigated sites outside of the UGB but within the Urban Area Reserve. Most did not meet the more important locational criteria: convenient access to Fellowship members; direct access from other than local residential street; safe and convenient access for bicycles and pedestrians; availability to public transit; availability to services; and ability to be developed within the near term. However, two sites that met most of the general locational and development criteria were identified for consideration (Figure 7). One site (SE-1) is outside of the city limits and UGB but within the UAR, and the other is inside the city limits and UAR but outside of the UGB (Skyliners). A more thorough analysis of site characteristics measured against Fellowship requirements was completed (Appendix F).

Site SE-1, located south of Bear Creek Road east of the city limits, was eliminated because of distance from Fellowship members, lack of visibility, potential

problems with services extension, and limited accessibility (no existing or short-term potential for pedestrian, bicycle or public transit facilities, and poor access from Highway 97). The Skyliners site [the subject property] *was the preferred site because of its location relative to the Fellowship membership, accessibility from the surrounding neighborhood and City as a whole, size for both near-term and long-term expansion opportunities, and natural amenities."*

Based on the foregoing analysis and conclusions, the applicant argues that available land within the existing UGB either is too small (less than 10 acres) or does not meet the applicant's locational and development criteria, and therefore land outside the existing UGB must be considered. The applicant's proposed UGB amendment would provide 12.44 acres toward meeting the city's identified need for 442 additional acres for institutional uses that cannot be accommodated within the existing UGB.

The staff report states, and the Hearings Officer concurs, that the applicant has demonstrated a land need for the proposed UGB expansion. The adequacy of the applicant's alternative sites analysis is discussed in detail in the findings below under OAR 660-24-0060.

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:

FINDINGS: 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;

FINDINGS: The purpose of the proposed UGB expansion is to provide suitable land for the applicant's proposed institutional use (place of worship and related facilities). The subject property, because of its size, location within the city limits and adjacent to the UGB, would have access to required urban infrastructure including roads, water and sewer service. Additionally, it is located adjacent to residential development and is proximate to Fellowship members' residences. For these reasons, the Hearings Officer finds the proposed UGB amendment is an efficient accommodation of identified land needs.

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

FINDINGS: As discussed in the findings above, urban infrastructure and public facilities and services are available to the subject property, including city water and sewer service and fire protection. The subject property has frontage on, and direct access to, Skyliners Road (an arterial), Skyline Ranch Road (a collector), and N.W. Perlette Lane (a local street). Since the property is already within the city limits it is served by the Bend Fire Department which submitted comments in support of the applicant's proposal. With respect to impacts on

transportation facilities, the applicant's proposed UGB amendment will not change the subject property's current UAR-10 zoning, and therefore, as discussed in the findings above, compliance with the TPR is not required. The staff report states, and the Hearings Officer agrees, that traffic impacts associated with the proposed institutional use will be evaluated by the city in its future conditional use and site plan review process.

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

FINDINGS: The applicant's burden of proof addresses the environmental, economic, social and energy consequences that would result from the proposed UGB expansion, summarized as follows.

Environmental: As discussed in the findings above, there are no identified Goal 5 resources on the subject property. The property also does not contain any significant natural features such as wetlands, waterways or rimrock. There are no identified natural hazards present at the site, other than wildfire, which would be present to the same extent throughout the west side of Bend. Development of the subject property with a place of worship is possible without the proposed UGB amendment because it is a use permitted in the UAR-10 Zone, but inclusion within the UGB would allow the use to be connected to city's sewer system, therefore eliminating the need for what could be a large on-site sewage disposal system with its attendant risk of adverse environmental consequences.

Energy: The subject property is not known to contain energy resources such as known deposits of oil and natural gas, or geothermal resources. The property has a southern aspect which will allow for solar access for future buildings. The property is adjacent to existing transportation facilities and to the homes of many Fellowship members, thus providing opportunities for reduced energy usage in travel to and from the property.

Economic: Since development of the property with a place of worship is possible without amending the UGB, it is difficult to discern a distinct *economic* advantage from development of the subject property instead of another site. However, the UGB amendment would allow the Fellowship to stop paying rent at its current site and to grow in membership and activities which could provide an economic benefit to the Fellowship and the community.

Social: The statewide planning goals define "social consequences" as:

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

A tangible effect from the proposed UGB expansion would be increased traffic in this particular part of Bend following development of the applicant's proposed place of worship. An intangible effect could include a sense of loss of open space by neighbors. However, the applicant argues the UGB expansion will facilitate development of religious, cultural, social, and educational opportunities to the nearby residential areas and the community as a whole, and that, in general, churches are complementary to residential areas and the overall community.

Based on the above analysis from the applicant's burden of proof, the Hearings Officer finds the applicant has demonstrated the comparative environmental, energy, economic and social consequences of the proposed UGB amendment have been adequately considered.

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

FINDINGS: As discussed above, the subject property is not located near agricultural or forest activities or farm or forest land. Rather, the property is surrounded primarily by residential uses within subdivisions, planned developments, and a destination resort. Therefore, the Hearings Officer finds the proposed UGB expansion and ultimate use of the property for a place of worship will not adversely impact farm and forest land outside the UGB.

UrbanizableLand

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.

FINDINGS: As discussed above, the subject property can be efficiently served by all necessary public facilities and services.

Unincorporated Communities

FINDINGS: The Hearings Officer finds this criterion is not applicable because the subject property is not located within an unincorporated community.

Single-Family Dwellings in Exception Areas

FINDINGS: The Hearings Officer finds this criterion is not applicable because no single-family dwellings are proposed.

Rural Industrial Development

FINDINGS: The Hearings Officer finds this criterion is not applicable because no industrial development is proposed.

Guidelines

FINDINGS: This section of Goal 14 outlines factors to be considered when planning for the initial UGB creation and expansion of an existing UGB. The staff report states, and the Hearings Officer agrees, that these guidelines were intended to be applied to legislative UGB

establishment and amendment, and not to site-specific, quasi-judicial UGB expansion applications such as the subject application. I find that interpretation is supported by the fact that OAR 660-024-0040(3), discussed in the findings below, expressly allows UGB expansion to address a specific need, such as that requested by the applicant. Therefore, I find these guidelines do not apply to the applicant's proposal.

Based on the foregoing findings and conclusions, the Hearings Officer finds the applicable provisions of Goal 14 are met by the applicant's proposal.

Goal 15: Willamette River Greenway.

Goal 16: Estuarine Resources.

Goal 17: Coastal Shorelands.

Goal 18: Beaches and Dunes.

Goal 19: Ocean Resources.

FINDINGS: The Hearings Officer finds these goals are not applicable to the applicant's proposal because the subject property is not located within the Willamette Greenway, and does not possess any estuarine areas, coastal shorelands, beaches and dunes, or ocean resources.

For the foregoing reasons, the Hearings Officer finds the applicant's proposed UGB expansion satisfies the applicable statewide planning goals.

B. Oregon Revised Statutes, Chapter 197, Comprehensive Land Use Planning Coordination

1. ORS 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.

FINDINGS: As noted in foregoing findings, Goal 14 requires the proposed UGB expansion to be consistent with ORS 197.298. Although the subject property is designated as Urban Area Reserve on both the city's and County's comprehensive plans, these lands were not designated as such pursuant to ORS 195.145. Rather, they were designated prior to implementation of ORS
195, and therefore the city does not have any "first priority" lands as defined in Subsection (1)(a) of this statute that are available for the proposed need-specific UGB expansion. The subject property is considered an exception area and therefore is categorized as "second priority" land, which is the highest priority land available. For these reasons, the Hearings Officer finds the applicant's proposal satisfies the requirements of ORS 197.298.

C. Oregon Administrative Rules (OAR), Chapter 660, Land Conservation and Development Commission

1. Division 4, Interpretation of Goal 2 Exception Process

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

* * *

(1)(d) Goal 14 "Urbanization" as provided for in the applicable paragraph (1)(c)(A), (B), (C), or (D) of this rule:

* * *

(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.

FINDINGS: As discussed in the findings above, the county has applied Goal 14 as amended April 28, 2005. And inasmuch as the applicant is not seeking a goal exception, no goal exception is required for approval of the proposed UGB expansion.

2. Division 12, Transportation Planning

a. 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.

FINDINGS: As discussed in findings elsewhere in this decision, under OAR 660-024-0020(1)(d) the proposed UGB amendment is exempt from review under the TPR because the proposed amendment will not change the zoning of the subject property. Therefore, the Hearings Officer finds the proposed amendment will not significantly affect an existing or planned transportation facility.

3. Division 24, Urban Growth Boundaries

a. 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;

FINDINGS: These rules became effective April 5, 2007. The applicant's proposed UGB amendment was submitted to the county on December 10, 2012. Therefore, the Hearings Officer finds these rules apply.

b. 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);

FINDINGS: The Hearings Officer finds this rule is not applicable to the applicant's proposal because the applicant is not seeking a goal exception.

(b) Goals 3 and 4 are not applicable;

FINDINGS: Based on this paragraph, 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;

FINDINGS: As discussed in the findings above, there are no Goal 5 resources identified on the subject property, and the Hearings Officer has found no Goal 5 resources will be impacted by the proposed UGB expansion.

(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;

FINDINGS: As discussed above, the subject property is currently designated Urban Area Reserve and zoned UAR-10, and therefore it constitutes urbanizable land. The applicant proposes that the property's current zoning be retained. Therefore, the Hearings Officer has found OAR 660-012-0060 is not applicable to this proposed UGB amendment.

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

FINDINGS: The Hearings Officer has found Goal 15 is not applicable because the subject property is not located within the Willamette River Greenway Boundary.

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

FINDINGS: The Hearings Officer has found Goals 16 to 18 are not applicable because the subject property is not located within a coastal shorelands boundary.

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

FINDINGS: Based on this paragraph, Goal 19 is not applicable to the applicant's proposal.

(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.

FINDINGS: The applicant submitted several maps showing the property proposed to be added to the UGB. The Hearings Officer finds these maps provide sufficient information from which the precise UGB location can be determined, therefore satisfying this criterion.

c. 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.

FINDINGS: The staff report states, and the Hearings Officer agrees, that the adoption and maintenance of a coordinated 20-year population forecast as required by this paragraph relates to legislative UGB expansions rather than to site-specific quasi-judicial expansions. Nevertheless, the record indicates that, in conjunction with the city, the county adopted a coordinated population forecast through 2025 on September 8, 2004 (County Ordinance No. 2004-12).

d. 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.

FINDINGS: The record indicates the city and county currently are engaged in a legislative UGB amendment process that includes an evaluation of all of the above-referenced needs. The applicant's burden of proof states delays in completing this legislative UGB expansion process have necessitated the filing of this quasi-judicial, site- and need-specific UGB expansion request. As discussed below, Subsection (3) of this section authorizes applications for such quasi-judicial need-specific UGB expansions.

(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.

FINDINGS: In a previous decision concerning a request for a site-specific quasi-judicial amendment to the Bend UGB,[8] this Hearings Officer held this criterion did not apply because the application was for a quasi-judicial UGB amendment and not as part of periodic review work program. The Hearings Officer adheres to that holding here and finds this criterion does not apply to the applicant's proposal.

(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).

FINDINGS: The applicant requests a quasi-judicial, site- and need-specific UGB amendment pursuant to this subsection.

(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.

FINDINGS: The Hearings Officer finds this criterion does not apply because the proposed UGB expansion is not for the purpose of meeting residential land needs.

(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

[8] Bend-La Pine Schools (Miller Elementary), PA-07-5.

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.

FINDINGS: The Hearings Officer finds this criterion is not applicable because the applicant's proposed quasi-judicial UGB amendment is not for the purpose of meeting employment land needs.

(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.

FINDINGS: The applicant's proposal's consistency with Goals 11 and 12 is addressed in detail in the findings above. ORS 197.712 and 197.768 require an analysis of general public facilities such as sewer and water to be included in city and county comprehensive plans. Both the city's and county's plans include this required analysis.

e. 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).

FINDINGS: As discussed above, the only need identified and evaluated in this quasi-judicial UGB expansion request is the need for land to accommodate an institutional use – i.e., a place of worship and related facilities. As also discussed above, the city and county currently are undertaking a legislative process to expand the Bend UGB which will include the inventory and analysis necessary to ensure a 20-year land supply for all other needs.

(6) 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.

FINDINGS: As discussed above, the subject property is zoned UAR-10 and has a plan designation of Urban Reserve Area. Since places of worship are a conditional use in the UAR-10 Zone, no zone change is required or requested.

f. 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.

FINDINGS: The subject property is designated Urban Area Reserve which is exception land. As discussed above, although Urban Area Reserve land is classified as "second priority," it is the highest priority land available for siting the applicant's proposed place of worship and related facilities. Therefore, the Hearings Officer finds the applicant's proposal satisfies these requirements.

(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.

FINDINGS: As discussed above, there are no "first priority" lands available for the applicant's proposed UGB expansion.

(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.

FINDINGS: The Hearings Officer finds this subsection authorizes the city and county to expand the Bend UGB to address a specific need with a specific piece of property as proposed by the applicant. The proposed expansion would not satisfy the 20-year land need, but the city and county are undertaking a legislative UGB expansion process including an evaluation of the amount of land necessary to satisfy the 20-year land need.

(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.

FINDINGS: The proposal's compliance with the boundary location factors of Goal 14 is addressed in findings above. As discussed there, the Hearings Officer has found the applicant has demonstrated the proposed UGB expansion satisfies all applicable requirements of Goal 14.

(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.

FINDINGS: The subject property abuts the Bend UGB. The applicant's burden of proof states, and the Hearings Officer agrees, that the subject property has a reasonable potential to satisfy the identified need deficiency as required by this subsection. The applicant's alternative sites analysis, discussed in detail in findings elsewhere in this decision, includes a review of sites both adjacent to and in the vicinity of the Bend UGB and concluded that for several reasons the subject property was preferable to all other sites reviewed. For example, the analysis concluded the subject property is the highest priority land available under ORS 197.298. In addition, the property is close to existing municipal public facilities and services such as water, sewer and transportation. And the applicant acquired the subject property through a donation.

(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.

FINDINGS: As discussed in the findings above, incorporated by reference herein, the

applicant's burden of proof identified a number of specific land characteristics required for the siting of its proposed house of worship and related facilities. The applicant's analysis, summarized here, shows how the subject property satisfies the majority of those characteristics. The property is located on the west side of Bend near the residences of a majority of Fellowship members. At 12.44 acres in size, the property is large enough to accommodate the Fellowship's current and future congregations, and to develop the 350-seat sanctuary, offices, kitchen and storage facilities, classrooms, a library, outdoor spaces, off-street parking for vehicles and bicycles, and other necessary and desired facilities. The property has safe and convenient access to an arterial and a collector street. The property is surrounded by residential neighborhoods. It is located in a scenic part of Bend and has a moderate cover of natural vegetation. The property can be served by city water and sewer service and fire protection.

Finally, the applicant already acquired the subject property through a donation, allowing development of its proposed facility without the expense of purchasing property. The Hearings Officer finds that Subsection (8) of this rule, set forth below, expressly authorizes consideration of "relative costs" in the alternative site/boundary analysis, and such consideration has been a part of the alternative site/boundary analyses in previous Bend UGB expansion decisions. For example, this Hearings Officer considered relative cost in two previous decisions approving UGB expansions requested by the Bend-La Pine School District to site new schools on property offered to the district at reduced prices.[9] In addition, Bend Hearings Officer Tim Elliott considered relative costs and existing property ownership in approving a UGB expansion to permit development of the Deschutes National Forest headquarters on federal land.[10]

For the foregoing reasons, the Hearings Officer finds the applicant has demonstrated the subject property clearly meets its identified land characteristic needs.

> (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.

FINDINGS: Appendix F to the applicant's burden of proof describes and maps all of the alternative sites considered for UGB expansion in order to meet the applicant's identified need. The Hearings Officer has reviewed the alternative site/boundary analysis in Appendix F and concurs with its analysis and conclusions. Specifically, I find the 23 sites within the UGB and site SE-1 located outside the UGB either do not meet the applicant's identified land characteristics and requirements, or meet them far less comprehensively and effectively than the subject property. I further find the information and analysis in Appendix F is incorporated by

[9] Bend-La Pine Schools (Pine Nursery Elementary), County File No. PA-07-5; City File No.PZ-070284; Bend-La Pine Schools (Miller Elementary), County File No. PA-07-7; City File No. PZ-07-298.

[10] Deschutes National Forest, County File Nos. PA-11-1/ZC-10-1/MA-11-3; City File No. PZ-08-34.

reference herein, and will be included in the adopted findings supporting approval of the applicant's proposed UGB expansion.

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

FINDINGS: The adequacy of public facilities and services for the subject property is discussed in the Goal 14 findings above. Based on those findings, incorporated by reference herein, the Hearings Officer finds adequate public facilities and services will be available to the applicant's proposed house of worship and related facilities on the subject property.

(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;

FINDINGS: As discussed in the findings above, incorporated by reference herein, the Hearings Officer has found that water and sewer service and transportation facilities are available to the subject property, and the record indicates they will be adequate to serve the applicant's proposed house of worship and related facilities, with connections and/or improvements the applicant and/or others will install or construct. With respect to storm water, I find the applicant will be required at the time of development of its proposed institutional use to comply with the city's storm water master plan. Necessary improvements for storm water control would be addressed during the city's future conditional use and site plan review process for uses on the subject property. And as discussed above, no TPR analysis is required for the proposed UGB amendment because no zone change is requested or needed. Traffic impacts associated with the development of the house of worship and related facilities also will be addressed by the city in its conditional use and site plan review process. Finally, as noted previously, the subject property will be served by the Bend Fire Department which submitted comments in support of the applicant's proposal.

(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

FINDINGS: The record indicates there is existing public facility capacity to serve areas inside the UGB as well as the subject property located outside, and proposed for inclusion in, the UGB.

(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.

FINDINGS: As discussed in the findings above, no zone change is required or proposed as part of the UGB amendment and therefore no analysis under the TPR is required. Moreover, traffic impacts associated with development of the property will be addressed by the city through future conditional use and site plan review.

For the foregoing reasons, the Hearings Officer finds the applicant's proposed UGB expansion satisfies all applicable administrative rule provisions.

D. Deschutes County Code

1. Title 22 of the Deschutes County Code, the Development Procedures Ordinance

a. Chapter 22.28, Land Use Action Decisions

(1) Section 22.28.030, 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.

FINDINGS: Joint city-county public hearings on the applicant's proposal were held on January 30 and February 6, 2013. The Hearings Officer's decision will be considered by the board at a public meeting at which my decision will be adopted in the absence of an appeal or review initiated by the board.

2. Title 23 of the Deschutes County Code, the Deschutes County Comprehensive Plan-2011

a. Chapter 4, Urban Growth Management

(1) Section 4.2, Urbanization Policies

1. Goal 1. Coordinate with cities, special districts and stakeholders to support urban growth boundaries and urban reserve areas that provide an orderly and efficient transition between urban and rural lands.

2. Policy 4.2.1. Participate in the process initiated by cities in Deschutes County to create and/or amend their urban growth boundaries.

FINDINGS: The Hearings Officer finds these comprehensive plan policies are aspirational and/or require action *by the county* rather than by an applicant for a quasi-judicial plan amendment. Therefore, I find they are not relevant to the applicant's proposal. Nevertheless, I find these policies have been met through the review process for this application because it has provided the county with the opportunity to coordinate with the city and participate in the process of amending the city's UGB. In addition, affected agencies and departments have been notified of the application and notice has been given to the public. Findings to address the orderly and efficient transition between urban and rural lands are found elsewhere in this decision and are incorporated herein by reference.

F. Bend Area General Plan

1. PrefacetotheBendAreaGeneralPlan

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 . . . .

FINDINGS: In several previous City of Bend decisions, this Hearings Officer has held that the preface of the city's comprehensive plan makes clear the plan's goals and policies are aspirational and/or directed toward actions to be undertaken *by the city*, and therefore they cannot be considered mandatory approval criteria for the applicant's proposed quasi-judicial plan amendment to expand the Bend UGB to include the subject property. I adhere to those decisions here.

IV. DECISION:

Based upon the foregoing Findings of Fact and Conclusions of Law, the Hearings Officer hereby APPROVES the applicant's proposed plan amendment to expand the Bend Urban Growth Boundary to include the subject property, SUBJECT TO THE FOLLOWING CONDITION OF APPROVAL:

1. Prior to the hearing before the Deschutes County Board of Commissioners to consider approval of the proposed plan amendment, the applicant/owner shall submit to the Planning Division a metes-and-bounds description of, and surveyed acreage calculation for, the property subject to the plan amendment.

Dated this 28th day of February, 2013.

Mailed this 1st day of March, 2013.

Karen H. Green

Karen H. Green, Deschutes County Hearings Officer

Section 5.12 Legislative History

Background

This section contains the legislative history of this Comprehensive Plan.

Table 5.11.1 Comprehensive Plan Ordinance History

Ordinance	Date Adopted/ Effective	Chapter/Section	Amendment
2011-003	8-10-11/11-9-11	All, except Transportation, Tumalo and Terrebonne Community Plans, Deschutes Junction, Destination Resorts and ordinances adopted in 2011	Comprehensive Plan update
2011-027	10-31-11/11-9-11	2.5, 2.6, 3.4, 3.10, 3.5, 4.6, 5.3, 5.8, 5.11, 23.40A, 23.40B, 23.40.065, 23.01.010	Housekeeping amendments to ensure a smooth transition to the updated Plan
2012-005	8-20-12/11-19-12	23.60, 23.64 (repealed), 3.7 (revised), Appendix C (added)	Updated Transportation System Plan
2012-012	8-20-12/8-20-12	4.1, 4.2	La Pine Urban Growth Boundary
2012-016	12-3-12/3-4-13	3.9	Housekeeping amendments to Destination Resort Chapter
2013-002	1-7-13/1-7-13	4.2	Central Oregon Regional Large-lot Employment Land Need Analysis
2013-009	2-6-13/5-8-13	1.3	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2013-007		3.10, 3.11	Newberry Country: A Plan for Southern Deschutes County.
<u>2013-012</u>	<u>TBD</u>	<u>23.01.010</u>	<u>Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary.</u>

Deschutes County Community Development Department

Plan Amendment Specialist
Dept. of Land Conserv & Develpmnt
635 Capitol St., N.E., Suite 150
Salem, OR 97301-2540