



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: September 10, 2015

Jurisdiction: City of Bend

Local file no.: PZ 15-0391

DLCD file no.: 003-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 09/03/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 36 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE	
File No.:	003-15 {23756}
	9/3/2015
Received:	9/4/2015

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption**. (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Bend

Local file no.: **PZ 15-0391**

Date of adoption: 09/02/2015

Date sent: 9/3/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 4/22/2015

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

No - it is the same.

Local contact (name and title): Amy Barry, Senior Planner

Phone: 541-693-2114

E-mail: abarry@bendoregon.gov

Street address: 710 NW Wall St

City: Bend

Zip: 97701-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

N/A

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from PF	to RM	5.36 acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): 17-12-22DA-00101

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from RS	to RM	Acres: 5.36
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address): 17-12-22DA-00101

List affected state or federal agencies, local governments and special districts: N/A

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

ORDINANCE NO. NS-2249

AN ORDINANCE AMENDING THE BEND AREA GENERAL PLAN MAP TO CHANGE THE DESIGNATION OF 5.36 ACRES OF PROPERTY FROM PUBLIC FACILITIES (PF) TO RESIDENTIAL MEDIUM DENSITY (RM) ALONG WITH A ZONING MAP AMENDMENT FROM RESIDENTIAL STANDARD DENSITY (RS) TO RM. THE PROPERTY IS LOCATED ON THE EAST SIDE OF THE FUTURE EXTENSION OF EMPIRE AVENUE/27TH STREET, NORTH OF BUTLER MARKET ROAD.

Findings

- A. On April 21, 2015, the City of Bend submitted a Type III Quasi-judicial application to change the designation of 5.36 acres of city-owned property from Public Facilities (PF) to Residential Medium Density (RM) along with a Zoning Map Amendment from Residential Standard Density (RS) to RM for consistency with the proposed General Plan designation.
- B. On May 28, 2015, the Hearings Officer held a public hearing on the proposed map amendments. Three neighbors testified at the hearing in opposition to the proposal, raising concerns addressed below. The written record was left open until June 4th for the Hearings Officer to submit a site visit report, until June 11 for additional written testimony, until June 18 for written rebuttal, and until June 25 for final legal argument. There were two additional comment letters received during the record extension opposing the application.
- C. On July 29, 2015, the Hearings Officer issued a recommendation that the City Council adopt an Ordinance to amend the General Plan Map designation of the subject property from PF to RM, and to amend the Zoning Map to change the subject property from RS to RM as proposed.
- C. The Bend City Council held a public hearing on August 19, 2015, to consider the Hearings Officer recommendation.
- D. The amendments to the Bend Area General Plan Map and Zoning Map approved by this Ordinance meet all applicable Development Code criteria, policies of the Bend Area General Plan, Oregon Statewide Planning Goals, and the Transportation Planning Rule.

THE CITY OF BEND ORDAINS AS FOLLOWS:

- Section 1. The Bend Area General Plan Map is amended to change and Zoning Map are amended to change the designation of 5.36 acres of property from PF to RM as contained in Exhibit A.
- Section 2. The Bend Zoning Map is amended to change the zoning of 5.36 acres of property from RS to RM for consistency with the proposed General Plan designation as contained in Exhibit B.
- Section 3. The City Council adopts the Hearings Officer Findings in support of this ordinance as contained in Exhibit C.

First reading: August 19, 2015.


Second reading and adoption by roll call vote: September 2, 2015.

Yes: Jim Clinton, Mayor
Sally Russell
Doug Knight
Barb Campbell
Casey Roats
Victor Chudowsky



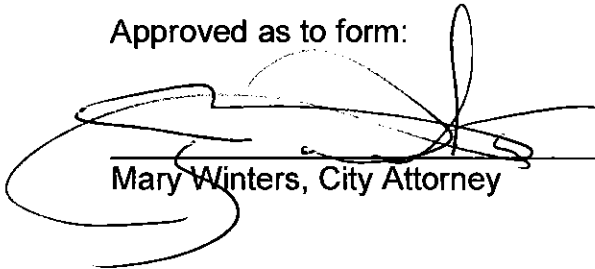
Jim Clinton, Mayor

Attest:



Robyn Christie, City of Bend Recorder

Approved as to form:



Mary Winters, City Attorney

Exhibit A. General Plan Map Amendments

PZ-15-0391 Empire and Thornhill Plan Amendment and Zone Change



Legend



Proposed Area for Amendment

City Limits

Urban Growth Boundary

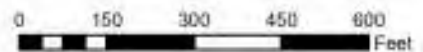
Convenience Commercial

Public Facilities

Residential Medium Density

Residential Standard Density

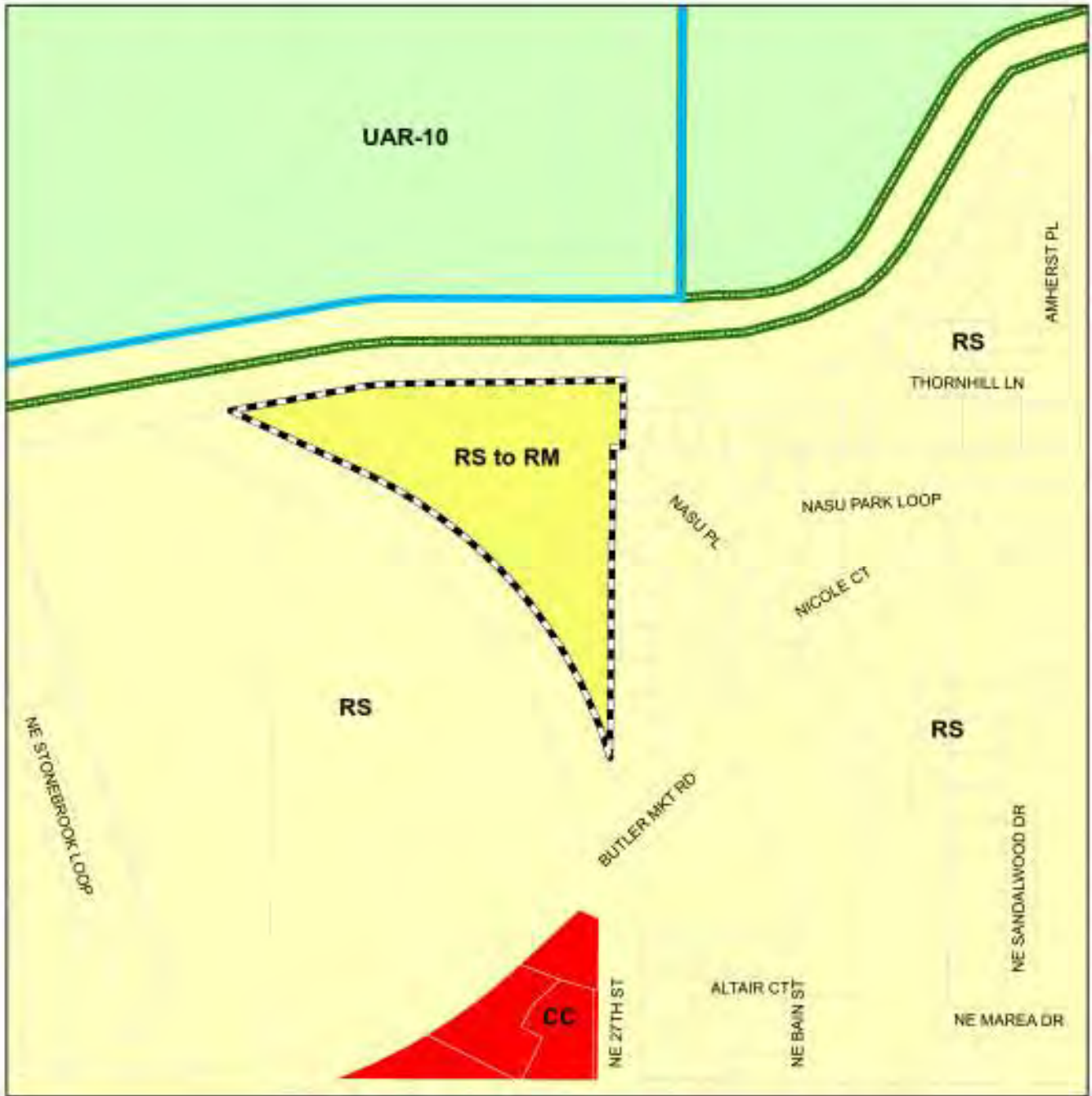
Urban Reserve Area



Map of Proposed General Plan Map Amendments
 Prepared Aug. 4, 2015 by R. Ruppel, City of Bend
 Planning Division, Community Development Dept.

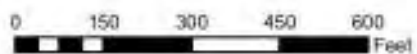
Exhibit B. Zoning Map Amendments

PZ-15-0391 Empire and Thornhill Plan Amendment and Zone Change



Legend

-  Proposed Area for Amendment
-  City Limits
-  Urban Growth Boundary
-  Convenience Commercial
-  Medium Density Residential
-  Standard Density Residential
-  Urban Area Reserve 10-Ac Min.



Map of Proposed Zoning Map Amendments
 Prepared Aug. 4, 2015 by R. Ruppel, City of Bend
 Planning Division, Community Development Dept.

**EXHIBIT C
CITY OF BEND HEARINGS OFFICER
FINDINGS AND RECOMMENDATION
PZ 15-0391**

APPLICABLE PROCEDURES AND CRITERIA:

Approval Criteria

- Bend Development Code (BDC)
 - Chapter 4.6, Land Use District Map and Text Amendments
- The Bend Area General Plan
- Oregon Administrative Rules
 - Chapter 660-012-060, Plan and Land Use Regulation Amendments
 - Chapter 660-015, Division 15, Statewide Planning Goals and Guidelines

Applicable Procedures

- Chapter 4.1, Land Use Review and Procedures

FINDINGS OF FACT:

1. **LOCATION:** The subject property is located north of the intersection of Butler Market Road and NE 27th Street, east of the future extension of NE 27th Street/Empire Avenue. The property is identified as Tax Lot 101 on Deschutes County Assessor's Map 17-12-22DA.
1. **ZONING AND PLAN DESIGNATION:** The subject property is zoned Residential Standard Density (RS) and is designated Public Facilities (PF) on the Bend Area General Plan map.
2. **SITE DESCRIPTION & SURROUNDING USES:** The 5.36 acre subject property contains a cul-de-sac in the northeast corner, and the remnants of a baseball field in the southern corner, but is otherwise undeveloped. Vegetation on the site includes native scrub brush throughout, and juniper trees located in the center of the property. The property slopes to the north / northwest and is bordered by the North Unit Irrigation Canal to the north (with the Pine Nursery Park beyond), City owned property for a future 27th / Empire street connection to the west and south (with Trinity Lutheran Church beyond), and a residential neighborhood to the east.



3. **PROPOSAL:** Type III Quasi-Judicial General Plan Map Amendment to change the designation of 5.36 acres of property from Public Facilities (PF) to Residential Medium Density (RM) along with a Zoning Map Amendment from Residential Standard Density (RS) to RM for consistency with the proposed General Plan designation.
4. **PUBLIC NOTICE AND COMMENTS:** On March 20, 2015, the applicant mailed notification to the Neighborhood Association Representative and surrounding property owners for a public meeting which was held on April 7, 2015 at Trinity Lutheran Church. The notification and the meeting were completed as prescribed in BDC Section 4.1.200.

Notice of the proposed General Plan Amendment and Zone Change was sent to DLCD on April 22, 2015. Notice for the public hearing before the Bend Hearings Officer was mailed on May 5, 2015, and a Notice of Proposed Land Use Action was posted on the subject site. Notices were also sent to City Departments and other affected agencies for comment. Various agency comments and recommendations are contained in the project file and were considered in this staff report. No public comments were received at the time the staff report was written. A hearing was held on May 28, 2015. The Applicant presented evidence and testimony. Three neighbors testified in opposition to the proposal raising concerns regarding compatibility with abutting single family development, impact to views, noise and traffic, safety of pedestrian crossing, wildlife, extension of 27th. A representative of the neighbor Trinity Church requested the record remain open for 2 weeks. The written record was left open until June 4th for the hearings officer to submit a site visit report, until June 11 for additional written testimony, until June 18 for written rebuttal, and until June 25 for final legal argument. Hearings Officer submitted a summary of the site visit. There were 2 written comments submitted opposing the application. The Applicant submitted a rebuttal letter and waived final legal argument.

5. **HEARINGS OFFICER'S SITE VISIT REPORT:** The following is a summary of my site visit. I drove to the site, observing the surrounding area, starting at the intersection of 27th and Butler Market Road. I observed the church at the corner of 27th and Butler Market Road and a commercial development on the south side of the church across Butler Market Road. I then drove along Nasu Park Loop, observing the single family residential development abutting the subject property. I then drove along Butler Market Road and down Thornhill lane to the end where there is a cul-de-sac bulb. I walked onto the site observing that there were a series of rocky outcrops and scattered juniper trees between the residential development along Nasu Park Loop and the future location of the extension of 27th Street. Further to the West beyond the rocky outcrop is a level grassy field. I observed the Pine Nursery Park to the north. The traffic in the abutting neighborhood was very light. The traffic along 27th and Butler Market Road was fairly heavy. The time was approximately 4 p.m. on a weekday.

FINDINGS OF CONFORMANCE WITH APPLICABLE CRITERIA AND PROCEDURES

Chapter 4.6 Land Use District Map and Text Amendments

4.6.100 Purpose.

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this Code, the Bend Area General Plan, the Bend Area General Plan map and the land use district map. These will be referred to as "map and text amendments." Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law.

FINDING: The proposal is for an amendment to the Bend Area General Plan Map and the Bend Zoning Map. Applicant argues that the proposal will increase the available RM land and that will increase the land available for multi-family and affordable housing. Applicant further argues that the lack of affordable housing is a changing community condition. Staff noted that there have been numerous reports and studies over the past year of rental vacancy rates being at or below 1% throughout the City of Bend. Furthermore, the City of Bend Affordable Housing Committee has found that land availability is becoming increasingly constrained. This proposal is requested in an effort to address housing needs and to entitle land that can be developed with affordable housing for low, moderate, and middle income families in the City of Bend. A post hearing submittal argued that: The applicant has not proven (adequately documented) a need for affordable housing. The applicant responded that BDC 4.6.100 is a purpose statement and does not contain any approval criteria. The hearings officer concurs that this purpose statement is not an approval criterion. However the hearings officer also finds that the information submitted by applicant demonstrates that the lack of multi-family and affordable housing is an increasing problem and constitutes changing community conditions and needs. The following material submitted by applicant documents these changing conditions: The Bend Consolidated Plan, the Central Oregon Rental Owners Association Rental Survey, surveys and forums in the community (by Bend 2030 and the Bend Chamber of Commerce), articles in local media (Bend Bulletin, KTVZ, and Oregon Public Broadcasting).

This chapter allows such amendments as needed to reflect these changing community conditions, needs and desires.

4.6.300 Quasi-Judicial Amendments

A. Applicability, Procedure and Authority. Quasi-judicial amendments generally refer to a plan amendment or zone change affecting a single or limited group of properties and that involves the application of existing policy to a specific factual setting. Quasi-judicial amendments shall follow the Type III procedure, as governed by Chapter 4.1, Land Use Review and Procedures using the standards of approval in Section 4.6.300.B, Criteria for Quasi-judicial Amendments below. Based on the applicant's ability to satisfy the approval criteria, the applicant may be approved, approved with conditions, or denied.

FINDING: The Type III review procedure is applicable because the proposal is site specific, the application was initiated by a single property owner, and the proposal is subject to existing approval criteria; the application can therefore be reviewed by applying existing policy to a specific factual setting. Type III applications follow the procedures identified in BDC 4.1.400 and are required to conform to the approval criteria detailed in BDC 4.6.300.B.

B. Criteria for Quasi-Judicial Amendments. The applicant shall submit a written narrative which explains how the approval criteria will be met. A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

Criterion #1 Approval of the request is consistent with the relevant Statewide Planning Goals that are designated by the Planning Director or designee;

FINDING: There are 19 Statewide Planning Goals that express Oregon's land use policies. Each local government throughout Oregon, including the City of Bend, must adopt a

comprehensive plan to implement these Statewide Planning Goals. The City of Bend has adopted a Comprehensive Plan (the Bend Area General Plan), and as detailed below, the proposed General Plan Map Amendment and Zoning Map Amendment conform to all applicable General Plan policies. Additionally, the City of Bend has adopted other local land use regulations, including the Bend Development Code (BDC) and City Standards and Specifications to implement the policies of the General Plan. As documented in the applicant's narrative, the proposal conforms to the approval criteria of the BDC and is consistent with the relevant policies of the General Plan; therefore the proposal is consistent with the relevant Statewide Planning Goals.

City of Bend Planning Staff (designated by the Planning Director) and the hearings officer concur that goals 1, 2, 9, 10, 11, and 12 are relevant for discussion in this General Plan Map Amendment and Zoning Map Amendment proposal. All other goals have been determined to either not apply to this application, or are clearly satisfied through the City's acknowledged comprehensive plan, local land use regulations, and/or functional plans.

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."*

Conformance with Goal 1 is achieved through the Bend Area General Plan *Chapter 1 - Citizen Involvement*, and through the implementation procedures that have been adopted in the Bend Development Code, and those procedures have been acknowledged by the Land Conservation and Development Commission (LCDC). The BDC contains provisions to ensure an appropriate level of citizen involvement is achieved.

The first step for citizen involvement for a Type III application is the public meeting required by BDC Section 4.1.215, which the applicant conducted on April 7, 2015. Notice of the public meeting was mailed to owners of record of property located within 500 feet of the subject site, as well as the designated representative of the Mountain View Neighborhood Association.

Public notice for this hearing was conducted in conformance with the Type III notice requirements of BDC 4.1.423-425. On May 5, 2015, the applicant posted a Notice of Land Use Action on the subject property, and the City of Bend Planning Division mailed notice of the application and public hearing to surrounding property owners of record, as well as to the Mountain View Neighborhood Association land use chair.

The Type III citizen involvement procedures were followed in the City's review of this application, which ensure consistency with Statewide Planning Goal 1.

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."*

The proposal includes a plan to amend the General Plan Map and Zoning Map by changing 5.36 acres of land from a PF designation to a RM designation and zone. The proposal will be reviewed in accordance with the planning processes and policy framework that have been established in the adopted Bend Development Code (an acknowledged local land use regulation). Because the proposed General Plan Map Amendment and Zoning Map Amendment will follow the established local planning process, and it will neither alter the process for administration of the Development Code, nor the acknowledged procedural requirements (which ensure a factual base for all decisions), the proposal is therefore consistent with Statewide Planning Goal 2.

Goals 3, 4, and 5 are not applicable because the properties do not include any agricultural land, forest land, or inventoried open spaces, scenic areas, historic resources, or natural resources.

Goal 6 is not applicable because the proposed General Plan Map Amendment and Zoning Map Amendment will not have any impacts on air, water or land resources. Also, air and water quality are regulated by the Oregon Department of Environmental Quality, outside of the local land use review process.

Goals 7 and 8 are not applicable because the subject properties are not within an identified natural hazard area or area identified for recreational use.

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.”*

OAR 660-009 implements Goal 9. In Bend, the objectives of Goal 9 and OAR 660-009 are primarily achieved through implementation of the acknowledged General Plan and local land use regulations. The acknowledged General Plan designates the subject property as Public Facilities (PF) and the acknowledged General Plan is supported by the 2000 Economic Lands Study. The referenced Economic Lands Study was written to evaluate economic lands in Bend; it studied regional trends, the inventory of buildable lands and forecasts future economic lands needs over a 20 year time horizon. This study did not identify properties designated PF as economic lands in any of the trends, inventory, calculations or forecast. Thus, amending the Public Facility (PF) land to RM land will not change the availability of any measured economic lands in Bend, and therefore will not directly impact economic development. After consultation with City of Bend Growth Management Staff, the applicant understands that because this document is the most recent Economic Lands Study associated with the acknowledged General Plan, this is the document to review to understand if Economic Development will be impacted by the proposed General Plan Map Amendment.

Based on the above discussion, the proposal will not impact economic lands in Bend, and therefore will be consistent with this statewide planning goal.

Goal 10, Housing, *“To provide for the Housing Needs of the citizens of the State”*.

Goal 10 ensures that steps are taken, including inventories and plans, to encourage the availability of needed housing units at price ranges and levels that are commensurate with the financial capabilities of Oregon households. The proposed General Plan Map Amendment and Zoning Map amendment is being requested with the specific intent of entitling land for the creation of more affordable housing units in Bend. The proposal will add 5.36 acres of land to the inventory of residential lands, thus will increase the availability of residential lands at a variety of price points. Opponents argue that the applicant has not provided any data or studies that show that there is an additional need for housing to warrant the proposed zone change.

The hearings officer finds that the proposal adds lands to the residential lands supply, it does not remove residential land. Goal 10 does not require data or studies to show that there is a need for additional land for Plan Amendments and Zone Changes within an acknowledged UGB, when the amendment is completed in conformance with the adopted implementing ordinances. The need for additional residential lands is well documented as described above. The current request is consistent with the Development Code and the applicable General Plan

Policies. Because the proposal adds to the residential lands inventory, the proposal is consistent with this statewide goal.

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.”*

OAR 660-11 implements Goal 11, and notes, “Cities or counties shall develop and adopt a public facility plan for areas within an urban growth boundary containing a population greater than 2,500 persons...” The City of Bend has adopted water, wastewater, and transportation master plans. The Public Facilities Plans (PFPs) detail long-range infrastructure needs, along with a path to completion and financing mechanisms. In addition to the adopted public facilities plans, the City has adopted the Bend Development Code (BDC), which ensures that site specific development occurs in conformance with the adopted public facilities plans. The BDC provisions dictate that needed public improvements are made concurrent with site development, which ensure a timely, orderly and efficient arrangement of public facilities, provided in a manner that is consistent with the adopted public facilities master plans.

Water -

There is an existing 16-inch water main within Butler Market near the southern edge of the property and an 8” water main stubbed to the northeast corner of the property from Thornhill Lane. The Water Master Plan does not include any planned facilities though this site, thus paying SDCs and connecting to the existing system at time of development (in accordance with Development Code Requirements and City standards) is sufficient to provide timely, orderly, and efficient water facilities.

Sewer -

Currently a sewer main stubbed to the northeast corner of the property. The Sewer Master Plan does not include any planned facilities though this site, thus paying SDCs and connecting to the existing system at time of development (in accordance with Development Code Requirements and City standards) is sufficient to provide timely, orderly, and efficient sewer facilities.

Transportation -

Currently, Butler Market Road is developed as a minor arterial road south of the subject property. The Transportation System Plan (TSP) identifies an extension of NE 27th as a “Proposed Major Arterial” adjacent to the subject property. Although this extension is identified on the TSP map, it is not on the City’s current Capital Improvement Project (CIP) list. The City owns a piece of property intended for this future street extension that is 100 feet in width and sufficient for the construction of the proposed roadway.

Collectively, the adopted local land use regulations (PFPs, the Development Code, and City Standards and Specification) provide a framework that ensures that a timely, orderly, and efficient arrangement of public facilities and services are achieved throughout the City, including needed public facilities improvements made concurrent with development.

Opponents argued that although the Transportation System Plan contemplates the extension of 27th, the applicant does not propose to build it and therefore the additional traffic will be using and congesting local roads and more transportation planning is warranted. The application included a Traffic Study that documented that there is sufficient capacity in the existing roads. Future site specific transportation analysis will be required with a development application. The re-zone itself will not generate traffic.

Opponents also argued that the site would be a great future site for a fire station and the city should keep it in their inventory as PF. Applicant stated that the Fire Department has reviewed this site and found that it is not a desirable location for a fire station. There is no basis to require the city to use this for a fire station.

The hearings officer finds that because there are no PFP planned facilities crossing the subject property, additional improvements or right of way dedications are not needed at this time. Conformance with the adopted Development Code regulations at the time of development will provide consistency with Goal 9.

Goal 12 Transportation, *“To provide and encourage a safe, convenient and economic transportation system.”*

Goal 12 is implemented through the Transportation Planning Rule and OAR 660-12-0060, in addition to local land use regulations. The current proposal includes a TPR analysis and detailed findings are included under BDC 4.6.600 below. As detailed in the TPR Analysis, the anticipated additional trips generated by the proposed amendment will not significantly impact a transportation facility, and therefore will comply with the TPR.

The City of Bend TSP is implemented through the adopted policies in the Bend Area General Plan and the proposal is consistent with all of the applicable the TSP policies as addressed in the findings further on in this report. BDC Chapters 4.2 and 4.3 also require that transportation capacity exist or be provided concurrent with new developments or land divisions, ensuring compliance with Goal 12.

Goal 13 Energy, *“To conserve energy.”*

This goal is not relevant to the proposed amendment. The proposed amendment will not have an impact on energy conservation.

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

The subject property is located within the urbanized city limits. Therefore this goal is not relevant to the proposed amendment.

Goals 15 through 19 are not applicable because they only pertain to areas in western Oregon.

4.6.300.B Criteria for Quasi-Judicial Amendments. (Continued)

Criterion #2. Approval of the request is consistent with the relevant policies of the Comprehensive Plan that are designated by the Planning Director or designee;

FINDING: This criterion addresses consistency with the policies of the Comprehensive Plan (Bend Area General Plan). As described on Page P-5 of the Preface of the Bend Area General Plan, the term “policy” has a specific meaning within the General Plan; a policy is a statement of public policy.

As described on Page P-5 of the Preface: *“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.”*

As described on Page P-7 of the Preface: *“Changes proposed by individuals or other agencies. A proposal by an individual, corporation, or public agency to change to the Plan text, land use map, other exhibits, or policies shall be considered as determined by the procedures ordinance. A person or agency proposing a change has the burden to demonstrate a public need and benefit for the change.”*

The General Plan establishes a set of policies at the end of each chapter. The policies relevant to the proposal are addressed below.

CHAPTER 1 – PLAN MANAGEMENT AND CITIZEN INVOLVEMENT

The transportation ↔ land use connection

Policies

- 4. New developments shall pay to extend planned sewer, water, and transportation facilities to and through the property if the development occurs prior to the scheduled construction of those facilities shown in the capital improvement plan.***

FINDING: The proposal includes an amendment to the General Plan Map and the Zoning Map; the proposal does not include any new development at this time. It is anticipated that new residential development will occur on the property at some point in the future, however the timing of the anticipated development is uncertain at this time. Future site development will be required to complete additional analyses to ensure capacity is available concurrent with development. This General Plan policy is therefore addressed through BDC provisions that will be based upon conditions at time of development. Conformance with applicable BDC standards will therefore ensure consistency with this policy.

- 5. The city and county will encourage compact development and the integration of land uses within the Urban Growth Boundary to reduce trips, vehicle miles traveled and facilitate non-automobile travel.***

FINDING: The subject property is surrounded by residentially developed properties to the east, a commercial node to the south, a church to the west, and a park to the north. These amenities are within walking distance of the site, and pedestrian and bike system connectivity will be provided with future development. One opponent argued that placing higher density residential housing out in suburban areas causes greater traffic than building the higher density closer to services, highways, and employment. The application does not sufficiently justify the appropriateness of locating higher density housing far away from services, employment and highways. The hearings officer finds that this property is not suburban in that it is near services and employment. Moreover, with the extension of 27th Street, bus service may be available nearby in the future as well. The amendments are being proposed to entitle the land for future medium density residential uses. Furthermore, the higher density residential development may enhance the vitality of the adjacent commercial node, making development of that site more economically vibrant. Based upon the foregoing reasons, the proposal will be consistent with this policy.

6. *The city and county will encourage infill and redevelopment of the core area of the city.*

FINDING: Although not in the central core of the City, the property is within the current Urban Growth Boundary, near a commercial node and at the intersection of a minor arterial and a planned principle arterial. The City has owned this property for a number of years and has no need to develop the property for a public use, furthermore the park district owns a property immediately to the north, thus their interest in the property is limited. Given that there are a limited number of potential public users, it is unlikely that this property will spur infill development opportunities under the PF designation in the near future. Amending the property to a RM zone would change the property from a zone where development will likely not happen in the near future, to one where there is a high demand. The proposed amendments will therefore encourage infill development and thus be consistent with this policy.

Citizen Involvement

16. *The city will use other mechanisms, such as, but not limited to, meetings with neighborhood groups, planning commission hearings, design workshops, and public forums, to provide an opportunity for all the citizens of the area to participate in the planning process.*

FINDING: In conformance with Chapter 4.1.215 of the Bend Development Code which implements this plan policy, the applicant met with the neighborhood association and interested parties on April 7, 2015. Public notice is also provided by the City, including posted and mailed notice of public hearings before the Hearings Officer and City Council. The mechanisms that have been established and prescribed within the Development Code provide an opportunity for all citizens of the area to participate in the planning process.

CHAPTER 2: NATURAL FEATURES AND OPEN SPACES

FINDING: The proposal will not impact any existing or planned natural features or open spaces. Therefore, the policies of this section are therefore not applicable. Future development will be required to conform the landscaping, tree preservation, and natural features standards contained in the Development Code, which will ensure consistency with this Chapter at the next phase of development.

CHAPTER 3: COMMUNITY CONNECTIONS

FINDING: Chapter 3 addresses Historical Features, Cultural Amenities, Parks and Receptions and Public Education. The property is vacant, does not contain any historic or cultural amenities, parks or planned parks or trails, and is not an identified school site. Therefore the policies of this section are not applicable.

CHAPTER 4: POPULATION AND DEMOGRAPHICS

FINDING: This section addresses population history, growth, age distribution, persons per household, education, income levels, and population forecasts and demographics. Within this chapter there are two policies related to population forecasts and data updates, neither of which directly apply to this proposal.

CHAPTER 5: HOUSING AND RESIDENTIAL LANDS

Residential Compatibility

- 1. Future development and local development standards shall recognize and respect the character of existing areas.***

FINDING: These amendments are proposed in response to a growing need in our community for quality affordable housing. The character of the area surrounding the property is generally residential. Many of the concerns raised by the opponents argue that medium density residential development is not appropriate in this location. The neighbors in the single family residential neighborhood argue that RM density is not appropriate. Opponents also argued that there is not any higher density residential development along 27th or Butler Market.

The hearings officer finds that this location is nearby single family development as well as commercial development across Butler Market and adjacent to a large church and school. The City typically follows a development pattern of higher density residential or commercial development along arterial and collectors, with lower density areas further away from the primary corridors. The subject property is just north of an existing arterial street and adjacent to a planned arterial street, thus is well suited for a more dense residential use. The medium density use is compatible with the neighborhood as a whole now and as it will develop with the future extension of 27th street. The proposed amendments will therefore address a need in our community, while respecting the existing conditions in the surrounding area. Conformance to Development Code compatibility standards will further ensure consistency with this policy.

- 2. In areas where existing urban level development has an established lot size pattern, new infill subdivision or PUD developments shall have compatible lot transition that respects the number of adjoining lots, lot size and building setbacks of the existing development while developing residential densities within the range for the underlying zone. New developments may have smaller lots or varying housing types internal to the development.***

FINDING: While the current proposal is not a subdivision or PUD, it does re-establish the area to a designation with a planned housing density range of 7.3-21.7 units per acre. The planned density range is consistent with the needs of the community and compatibility with the surrounding area will be assessed in accordance with future development on the site. The BDC contains development standards to ensure that new lots and development will be compatible with existing urban development. Future development will be assessed for compliance with the BDC which will ensure consistency with this policy.

- 11. Residential areas shall offer a wide variety of housing types in locations best suited to each housing type.***

FINDING: Although it is unknown at this time what type of units will be proposed, the requested RM zoning and General Plan designation will allow for a broader range of housing types in conformance with this policy, in an area currently lacking diversity in housing types other than detached single-family dwellings.

Housing density and affordability

21. Densities recommended on the Plan shall be recognized in order to maintain proper relationships between proposed public facilities and services and population distribution.

FINDING: The proposal will result in 5.36 additional acres of RM zoned property in the City of Bend. The RM zoning district has a density range of 7.3-21.7 units per acres. Future development will be required to meet the established density requirements, meeting the policy of this section and providing much needed housing in our community. BDC requirements applied to subsequent development will ensure consistency with this policy.

25. The city and county will work with public and non-profit organizations that provide affordable housing within the urban area.

FINDING: Currently there is an inadequate supply of affordable housing in the City of Bend. This proposal is intended to entitle the land with zoning designation so that the City can make the property available to the public and non-profit community for development. This proposal therefore contributes towards consistency with this policy.

Transportation connectivity

31. Medium and high density developments shall be located where they have good access to arterial streets and be near commercial services, employment and public open space to provide the maximum convenience to the highest concentrations of populations.

FINDING: The subject property is situated near a minor arterial and a planned principle arterial, and is adjacent to a commercial node and a public park. Pursuant to this section, the property is therefore located in an area where RM zoned properties should be located. The proposed amendment will therefore be consistent with this policy.

36. Sidewalks shall be required in all new residential developments. Separated sidewalks shall be required, as practical, on streets that provide or will provide access to schools, parks, or commercial areas. However, an alternative system of walkways and trails that provide adequate pedestrian circulation may be approved.

37. Efforts shall continue to complete or connect existing walks along routes to schools, parks, or commercial areas.

38. Bikeways shall be considered as both circulation and recreation element in the Plan and adequate facilities should be obtained for this purpose in all new development.

39. Efforts shall be made to extend trails, pedestrian ways, and bikeways through existing residential areas.

40. To encourage connectivity and pedestrian access, residential block length shall not exceed 600 feet except for topographic constraints. When existing conditions or topography prevent a cross street, a pedestrian accessway to connect the streets shall be required.

41. Residential local streets shall be developed whenever practicable to increase connectivity within and between neighborhoods.

42. Cul-de-sac and “hammer-head” residential streets may be allowed only where existing development, steep slopes, open space, or natural features prevent

connections, or when the objectives of connectivity are met within the neighborhood.

43. Emergency equipment access shall be considered during any new residential development.

FINDING: The BDC standards required to be met for all new development implement these General Plan policies. Any future development of the site will be required to meet all applicable BDC standards and criteria which will require construction of streets, sidewalks, and bikeways that will provide connectivity and access to nearby schools, parks, and commercial areas.

Public utilities and services

44. All residential areas shall be provided with community water and sewer services and other facilities necessary for safe, healthful, convenient urban living consistent with the density of development.

FINDING: Water, sewer, and transportation systems have been stubbed to the property. The current proposal does not include site development, however it is expected that development will occur in the future. In association with future site development, the nearby public facilities will be required to be extended through the site, which will ensure consistency with this policy. Application of the BDC requirements for future development will ensure consistency with this policy.

CHAPTER 6: THE ECONOMY AND LANDS FOR ECONOMIC GROWTH

FINDING: This chapter of the acknowledged General Plan is supported by the 2000 Economic Lands Study. The referenced Economic Lands Study was written to evaluate economic land needs in Bend. It studied regional trends and, the inventory of buildable lands, and forecasts future economic lands needs over a 20 year time horizon. This study did not identify properties designated PF as economic lands in any of the trends, inventory, calculations or forecast. Thus, amending the PF land to RM land will not change the availability of any measured economic lands in Bend, and the proposal will not directly impact economic development. Therefore, this Chapter of the General Plan is not applicable.

CHAPTER 7: TRANSPORTATION SYSTEMS

6.9.1 Transportation and Land Use

1. Medium and high density residential developments shall be located where they have good access to arterial streets and being near commercial services employment and open space to provide the maximum convenience to high concentrations of population.

FINDING: The subject property is situated near a minor arterial and a planned principle arterial, adjacent to a commercial node and a public park, and therefore is appropriate for medium density residential development, consistent with this policy.

7. The City should be receptive to innovative development proposals, including zone changes, plan amendments and text changes that promote alternatives to vehicular traffic thus reducing vehicle trips and reduced trip lengths.

FINDING: Future subdivision and/or site development applications will be required to comply with the standards of the Development Code, ensuring consistency with this policy.

6.9.2 TRANSPORTATION SYSTEM MANAGEMENT

FINDING: Currently, Butler Market Road is developed as a Minor Arterial road south of the subject property. Furthermore the Transportation System Plan identifies an extension of NE 27th as a “Proposed Major Arterial” near the subject property. Although this “Proposed Major Arterial” extension is identified on the map, it is not on the City’s current Capital Improvement Project (CIP) list and has not been financially programmed for. The City does own a piece of property (separate from the property subject to this review) that is 100 feet in width and sufficient for the construction of the proposed roadway, pedestrian trails, and other elements of this chapter, when financially programmed, and/or when site specific development warrants its improvement. Because the City has sufficient right of way to accommodate the future NE 27th Street extension and additional collector or arterial facilities are not planned through this site, paying SDCs and connecting to the existing system at time of development (in accordance with Development Code Requirements and City standards) is sufficient to provide timely, orderly, and efficient transportation facilities, and the majority of the policies of this section do not apply to this proposal. The policies that warrant discussion are addressed below.

Policies:

- 1. The City shall adopt land use regulations to limit the location and number of driveways and access points, and other access management strategies on all major collector and arterial streets.***

FINDING: This policy is carried out through the standards that have been adopted into the BDC and are implemented at time of land division or site development. The site is adequately serviced by a transportation network, which will allow access to be provided in a manner that is consistent with the BDC. The applicant is aware of this policy and anticipates that future development will be designed to meet the standards that have been adopted to implement this policy.

6.9.6 STREET SYSTEM

Policies:

- 1. Streets shall be located, designed and constructed to meet their planned function and provide space for adequate planting strips, sidewalks, motor vehicle travel and bike lanes (where appropriate). Specific effort should be made to improve and enhance east-west circulation patterns for all modes of travel throughout the community.***
- 2. Where a subdivision or partition is adjacent to land likely to be divided in the future, streets, bicycle paths, and accessways shall continue through to the boundary line of the subdivision or partition in order to achieve connectivity within the grid system.***
- 3. Streets shall be classified and generally located according to the Bend Urban Area - Roadway System Plan (Map Exhibit B), the Street Functional Classification (Table 12), and the Street Grid System (Figure 29). Street right-of-ways and improvements standards shall be developed to meet the needs of the***

Transportation Plan and Functional Classification System. Transportation project development review and approval shall be subject to the provisions of the Bend Development Code and Oregon Administrative Rule 660-012, Section 0050, as applicable.

- 6. Access control shall be part of the design standards for major collectors, arterials, principal arterials and expressways to ensure that adequate public safety and future traffic carrying capacity are maintained while at the same time preserving appropriate access to existing development and providing for appropriate access for future development.***
- 13. Residential block lengths shall not exceed 600 feet without a connecting cross street. When existing conditions or topography prevent a cross street, a pedestrian accessway to connect the streets shall be required.***
- 14. A grid-like pattern of residential local streets shall be developed whenever practical in order to increase street connectivity within a neighborhood. A system of local streets shall be developed within a framework that is defined by the Bend Urban Area - Bicycle and Pedestrian System Plan (TSP: Map Exhibit B), as much as practical.***
- 15. The City may require adjustment to the street pattern or installation of traffic calming devices in order to discourage high speed and volume vehicular traffic on local residential streets.***
- 16. Street widths on public residential local streets may vary depending on topography, anticipated traffic volume, natural features that warrant protection, and existing street patterns in the neighborhood. Right of way shall be a minimum of sixty (60) feet except in special circumstances. Narrower streets may have limited on-street parking to ensure emergency vehicle access.***
- 17. New alleys should be developed to City standards and shall be maintained by the property owners.***
- 18. Cul-de-sac or "hammer-head" residential streets may be allowed only where existing development, steep slopes, open space, or natural features prevent through street connections, or when the objectives of connectivity are met within the neighborhood.***

FINDING: The standards adopted in the BDC implement and ensure compliance with these access, design, and connectivity related policies, and will be addressed and evaluated with a development proposal for the subject property.

CHAPTER 8: PUBLIC FACILITIES AND SERVICES

Sanitary Sewer Facilities and Systems

- 1. The city shall encourage development of serviced land prior to unserved land or require the extension of sewer lines as part of any development within the UGB.***

FINDING: The subject property is located within the UGB and sewer facilities have been stubbed to the property. Entitlement and future development of this site would therefore be encouraged by this policy.

2. All development within the Urban Growth Boundary shall be sewerred or provide for sewers through a binding sewer service agreement with the city.

FINDING: The BDC implements this policy by requiring sewer main extensions and/or sewer services to be constructed to serve all development. Provision of sewer infrastructure will be addressed with future development applications.

Water Facilities and Systems

12. Within the urban planning area, public and private water systems shall be consistent with City Standards and Specifications for construction and service capabilities.

FINDING: The property is surrounded by a network of City of Bend water facilities that have been constructed to City standards. The BDC implements this policy by requiring water main extensions and/or services to be constructed to serve all development. Provision of water system infrastructure will be addressed with future development applications.

CHAPTER 9: COMMUNITY APPEARANCE

FINDING: Chapter 9 addresses the appearance of the community and promotes better designs for all types of development. Chapter 9 is implemented through BDC design standards and the adopted land use regulations for development. Future development will be required to follow the adopted land use regulations, which will ensure consistency with this policy.

CHAPTER 10: NATURAL FORCES

FINDING: Chapter 10 addresses air quality, noise issues, energy conservation, natural hazards and steep slopes. The proposed amendment will not impact any of these elements. Development of the site has the potential to impact some of the components of this section. BDC criteria and standards implement the policies in this chapter and will be required to be addressed through the review processes required with future development applications.

(Section 4.6.300(B) Criteria for Quasi-Judicial Amendments continued below.)

Criterion #3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property;

FINDING: The property is within the incorporated area of the City of Bend. The City's police and fire departments are required to provide services within the City limits and the services they provide are adequate and will not need to be increased as a result of the proposed map amendment. Fire hydrants and emergency vehicle access will need to be provided with development to ensure adequate fire flows and consistency with the Uniform Fire Code.

The property currently has roads, water, and sewer facilities stubbed to the property and the City owns land to the west of the property that is planned for a future extension of NE 27th Street. The BDC ensures conformance with this criterion by requiring land division and/or site development approval for any development on the site other than a single-family or two-family dwelling. The approval criteria in BDC Chapter 4.3, *Subdivisions, Partitions, Replats and Property Line Adjustments*, and BDC Chapter 4.2 *Site Plan and Design Review* require that adequate public facilities, services, and transportation networks to support the use will be provided with development of the property.

Criterion #4. Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use district map regarding the property that is the subject of the application; and the provisions of Section 4.6.600; Transportation Planning Rule Compliance.

FINDING: The General Plan Map and Zoning Map amendments are proposed to address a change in the community, specifically the change in the need for a park or public use on the subject property, and the increased demand for affordable housing in our community.

Prior to 2006, the subject property was owned by the Bend Park and Recreation District (BPRD) as a site for a potential future park. With the plans for development of the Pine Nursery Park in 2006, the Park District realized that they no longer needed the subject site for a park land. In May of 2006, the Park District conveyed the property to the City of Bend. Currently, the City of Bend does not have a need for the property and does not intend on using the property under the PF plan designation. Additionally, the City has a pressing need for affordable housing, and the Council has identified this property as one which would be suitable for providing this housing type.

Given the need for housing at a variety of price points in the community, the City would like to entitle the property to address this current need and change in our community. Given that the City and other public entities do not need this property, and given its location adjacent to arterial streets, a commercial node, parks, churches, and other residential uses, it is well suited for residential development at RM district density.

4.6.600 TRANSPORTATION PLANNING RULE COMPLIANCE

When a development application includes a proposed comprehensive plan amendment or land use district change, or both, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060.

OAR 660-12-0060 - Plan and Land Use Regulation Amendments

- (1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. 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) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified**

in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

- (A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
- (B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or
- (C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

FINDING: In association with this proposal, a Transportation Planning Rule (TPR) analysis was conducted by Kittelson and Associates, Inc. The findings indicate that the proposed amendments will increase the number of potential pm peak hour trips on the site from 34 to 63, a result that will not significantly affect an existing or planned facility, thus in conformance with the TPR.

Opponents argued traffic impacts and safety concerns from additional density. Currently over 80 lots in Monticello Subdivision use a single point of ingress/egress on Monticello Drive off of Deschutes Market Road. Adding additional traffic to this subdivision will only create a potentially dangerous traffic situation. The proposal includes a TPR analysis and traffic assessment. As documented in the study, capacity exists in the existing infrastructure. Additional assessment and analysis of traffic impacts and safety are will occur concurrent with Site Development Review and/or land division. If future development does not meet City standards for traffic capacity, safety, pedestrian connectivity, and circulation, the development will not be approved. The plan amendment and re-zone will not, in itself, generate traffic and applicant has sufficiently addressed the TPR requirements.

OTHER ISSUES RAISED BY OPPONENTS

Opponents argued that apartments on the subject site would lower the value of homes within several blocks in all directions. No applicable criteria require that the impact on property values be considered. Moreover, the PF designation allows for a wide range of uses, from schools, to public buildings and parks, to utility buildings, solid waste sites and correctional facilities. There is nothing in the record that documents that an RM designated and zoned property will reduce the value of homes in the surrounding area beyond that of the current PF designation.

Some neighbors expressed concern regarding the future extension of 27th and noise, traffic and safety issues. The extension of 27th is on the city's TSP and this application will have no impact on that extension. Any such mitigation concerns should be directed to city staff during the future design and planning of the road.

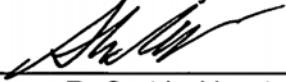
One concern was expressed regarding impact to wildlife. No code criteria requires a consideration of wildlife in the city.

Finally concerns regarding views, traffic circulation, pedestrian connectivity and buffering will be addressed as part of a future site plan review.

CONCLUSIONS: Based on the findings above, the applicant has documented that the request to change 5.36 acres of PF designated property to RM meets the applicable approval criteria for a General Plan Map Amendment and Zoning Map Amendment.

RECOMMENDATION: The Hearings Officer recommends the City Council adopt an Ordinance to amend the General Plan Map designation of the subject property from PF to RM, and the amending Zoning Map to change the subject property from RS to RM.

Dated this 29th day of July, 2015



Sharon R. Smith, Hearings Officer