



Oregon  
Theodore R. Kulungoski, 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

10/12/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Bend Plan Amendment  
DLCD File Number 003-10

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: Monday, October 25, 2010

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: Aaron Henson, City of Bend  
Gloria Gardiner, DLCD Urban Planning Specialist  
Darren Nichols, DLCD Community Services Division Manager

<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 | <input type="checkbox"/> In person <input type="checkbox"/> electronic <input type="checkbox"/> mailed |
|            | <b>DEPT OF</b>   |
|            | <b>OCT 6 2010</b>  |
|            | <b>LAND CONSERVATION AND DEVELOPMENT</b><br>For Office Use Only  |

Jurisdiction: **City of Bend**Local file number: **PZ 10-50**Date of Adoption: **September 15, 2010**Date Mailed: **October 4, 2010**Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: **May 7, 2010**☐ 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".

A package of amendments to Chapters 1.2, 3.4, 3.5, 3.6, 4.2 and 4.3 of the Bend Development Code. The amendments to Chapters 1.2 & 3.6 deleted the Type I Permit requirement for keeping farm animals and added standards for beekeeping. The amendments to Chapters 3.4 & 3.5 clarified the City's "special setback standards". The amendments to Chapter 4.2 streamlined the City's Site Plan and Design Review regulations, and established "minimum development standards" for single-family and duplex dwellings, minor additions or expansions, and/or changes in use. The amendments to Chapter 4.3 modernized the City's regulations for subdivisions, partitions, replats, and property line adjustments. The changes to Section 4.3.300(D) were a continuation of work that began in 2003 (Periodic Review Work Task 3B), and the amendments were prepared in response to Remand Item #5 in DLCD Remand Order No. 001718.

Does the Adoption differ from proposal? **Yes.**

New definitions and standards for beekeeping were added, and the standards for keeping horses, rabbits and chickens were revised. Registered landscape architects were added to the list of professionals who may submit preliminary grading and drainage plans, surface water detention and treatment plans, and tentative plans for partitions, subdivisions and replats. The Public Facilities zone was added to the list of zones within which projects are subject to Design Review.

Plan Map Changed from: **N/A**to: **N/A**Zone Map Changed from: **N/A**to: **N/A**Location: **Citywide**

Acres Involved:

Specify Density: Previous: **N/A**New: **N/A**

Applicable statewide planning goals:

|                                     |                                     |                          |                          |                          |                          |                          |                          |                                     |                                     |                                     |                                     |                          |                          |                          |                          |                          |                          |                          |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>1</b>                            | <b>2</b>                            | <b>3</b>                 | <b>4</b>                 | <b>5</b>                 | <b>6</b>                 | <b>7</b>                 | <b>8</b>                 | <b>9</b>                            | <b>10</b>                           | <b>11</b>                           | <b>12</b>                           | <b>13</b>                | <b>14</b>                | <b>15</b>                | <b>16</b>                | <b>17</b>                | <b>18</b>                | <b>19</b>                |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ NoDLCD file No. 003-10 (18298) [16356]



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

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Local Contact: **Aaron Henson, AICP**

Phone: **(541) 383-4885** Extension:

Address: **710 NW Wall Street**

Fax Number: **541-388-5519**

City: **Bend**

Zip: **97701**

E-mail Address: **ahenson@ci.bend.or.us**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

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

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

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

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



ORDINANCE NO. NS-2150

AN ORDINANCE AMENDING THE TEXT OF CHAPTERS 4.2 RELATED TO SITE PLAN AND DESIGN REVIEW REGULATIONS; AND 4.3 RELATED TO REGULATIONS FOR SUBDIVISIONS, PARTITIONS, REPLATS AND PROPERTY LINE ADJUSTMENTS; 1.2 AND 3.6 RELATED TO BEE KEEPING AND STANDARDS FOR KEEPING FARM ANIMALS; 3.4 AND 3.5 RELATED TO SPECIAL SETBACK STANDARDS IN THE BEND DEVELOPMENT CODE, ORDINANCE NO. NS-2016

Findings:

A. The City of Bend adopted its Development Code, Ordinance No. NS-2016, on July 5, 2006. On October 9, 2006, an attorney representing the Central Oregon Builders Association and Palmer Homes submitted objections to the Bend Periodic Work Task 3A submittal that was received by the Department of Land Conservation and Development (DLCD) on September 20, 2006. DLCD found that Section 4.3.300(D) of the Bend Development Code violated ORS 197.307(6) and ORS 197.195(1). A portion of this Ordinance includes changes to Section 4.3.300(D) that address this last remaining remand item from DLCD Order 001718.

B. The Bend Planning Commission held a duly noticed public hearing on the proposed amendments on June 28, 2010, and the public hearing was continued to July 12 and July 26, 2010. Following the public hearings, the Planning Commission refined the proposed amendments to address comments from interested citizens and local development professionals such as landscape architects and surveyors.

C. The City Council held a duly noticed public hearing on September 1, 2009. Based on the entire record, including all testimony, evidence, and the recommendation of the Planning Commission, the Council concluded that the application meets all criteria for approval and should be granted.

Based on these findings,

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council held a public hearing to consider the proposed text amendments and the Planning Commission's recommendation and found that the proposed amendments to the Development Code are consistent with the applicable criteria in Chapter 4.6 of the Development Code. In addition to the findings listed above, the Bend City Council adopts the findings in Exhibit B.

Section 2. Chapters 1.2, 3.4, 3.5, 3.6, 4.2 and 4.3 of the Bend Development Code (Ordinance NS-2016) are hereby amended as shown in Exhibit A.

Read for the first time the 1st day of September, 2010.

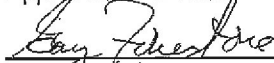
Read for the second time the 15th day of September, 2010.


Placed upon its passage the 15th day of September, 2010.

YES: 7                      NO: 0                      ABSTAIN: 0

Authenticated by the Mayor the 15th day of September, 2010.

Approved as to form:

  
\_\_\_\_\_  
Legal Counsel

Attest:   
\_\_\_\_\_  
Patricia Stell, City of Bend Recorder

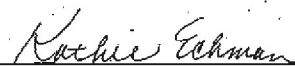
  
\_\_\_\_\_  
Kathie Eckman, Mayor



Exhibit A

City of Bend  
Development Code  
Tune-Up Package #3

City Council Second Reading  
September 15, 2010

Prepared by:  
City of Bend Planning Division

Note:

Text in underlined typeface is proposed to be added.

Text in ~~strikethrough~~ typeface is proposed to be deleted.

Text in ***Bold Italic*** typeface is staff commentary.

\*\*\* Indicates where text from the existing code has been omitted.



## Chapter 1.2 Definitions

\*\*\*

Bee means any stage of development of the common domestic honey bee, *Apis mellifera* species.

\*\*\*

Beekeeper means a person owning, possessing or controlling one or more colonies of bees.

\*\*\*

Colony means a bee hive and its equipment and appurtenances, including one queen, bees, comb, honey, pollen and brood.

\*\*\*

Dwelling, single-family attached housing means single-family dwellings on their own lots or parcels, sharing a common side-wall.

Dwelling, single-family detached house means a single family dwelling on its own lot or parcel that does not share a wall with any other building.

\*\*\*

Hive means any Langstroth type structure with movable-frames intended for the housing of a bee colony. A hive typically consists of a cover, honey supers, brood chambers and a bottom board.

\*\*\*



**Table 1.2.100  
Summary of Development Application Types**

| Development Application   | Type I | Type II* | Type III | Type IV |
|---|--------|----------|----------|---------|
| Change of Use – Site Conforms to All Existing Standards         | X      |          |          |         |
| Condo Plat/Condo Change of Use                                  | X      |          |          |         |
| Design Review CB Zone – Minor Façade Change                     | X      |          |          |         |
| Design Review – Minor Alteration                                | X      |          |          |         |
| Final Plat – Partition or Subdivision                           | X      |          |          |         |
| Home Occupation Type I (Minor)                                  | X      |          |          |         |
| Keeping of Farm Animal Permit                                   | X      |          |          |         |
| Lot of Record Verification                                      | X      |          |          |         |
| Property Line Adjustment  | X      |          |          |         |
| Site Plan – Mini (ADU, 2nd Dwelling)                            | X      |          |          |         |
| Site Plan Minor Alteration                                      | X      |          |          |         |
| Temporary Use   | X      |          |          |         |
| Vacation Home Rental  | X      |          |          |         |
| Cemetery Subdivision  |        | X        |          |         |
| Change of Use – Site Does Not Conform to All Existing Standards |        | X        |          |         |
| Conditional Use Permit  |        | X        |          |         |
| Declaratory Ruling- Administrative Decision                     |        | X        |          |         |
| Design Review CB Zone – Track 1                                 |        | X        |          |         |
| Design Review Deschutes River, Administrative                   |        | X        |          |         |
| Design Review for New Construction/Major Alterations            |        | X        |          |         |
| Home Occupation Type II (Major)                                 |        | X        |          |         |
| Partition (Tentative Plan)                                      |        | X        |          |         |
| Planned Unit Development (PUD) Modification                     |        | X        |          |         |
| Residential Compatibility Exception, Administrative             |        | X        |          |         |
| Site Plan Major Alteration                                      |        | X        |          |         |
| Site Plan New Development                                       |        | X        |          |         |
| Solar Access Permit   |        | X        |          |         |
| Solar Shade Exemption   |        | X        |          |         |
| Subdivision (Tentative Plan)                                    |        | X        |          |         |
| Surface Mining Permit   |        | X        |          |         |
| Temporary Permit  |        | X        |          |         |
| Duplex or Triplex Review  |        | X        |          |         |
| Variance (Class A, B, C)  |        | X        |          |         |
| Declaratory Ruling – Hearings Officer or Planning Commission    |        |          | X        |         |
| Design Review CB Zone – Track 2                                 |        |          | X        |         |
| Deschutes River Design Review – Planning Commission Hearing     |        |          | X        |         |
| Master Development Plan or Special Planned District             |        |          | X        |         |
| MR Zone Review – Facilities or Master                           |        |          | X        |         |
| Residential Compatibility Exception, Hearings Officer           |        |          | X        |         |
| River Setback Exception   |        |          | X        |         |
| Zone Change   |        |          | X        |         |
| General Plan Map Amendment                                      |        |          |          | X       |
| General Plan Text Amendment                                     |        |          |          | X       |
| Refinement Plan/Development Agreement per ORS Chapter 94        |        |          |          | X       |
| Urban Growth Boundary (UGB) Expansion                           |        |          |          | X       |

\*Unless elevated by the Community Development Director as authorized in Chapter 4.1.



## Chapter 3.4 Public Improvement Standards

### Sections:

|         |   |
|---------|---|
| 3.4.100 | Purpose and Authority                                   |
| 3.4.150 | Waiver and Modification of Public Improvement Standards |
| 3.4.200 | Transportation Improvement Standards                    |
| 3.4.300 | Public Use Areas  |
| 3.4.400 | Sanitary Sewer and Water Service Improvements           |
| 3.4.500 | Storm Drainage Improvements                             |
| 3.4.600 | Utilities   |
| 3.4.700 | Easements   |
| 3.4.800 | Construction Plan Approval and Assurances               |
| 3.4.900 | Installation  |

\*\*\*

### 3.4.200 Transportation Improvement Standards

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#### I. Future Street Plan and Extension of Streets.

1. When a street plan has been developed and adopted by City Council along with an area plan, such as a Refinement Plan, that street plan shall guide the location and spacing of future streets pursuant to City of Bend Standards and Specifications.
2. When no adopted street plan exists for the site, a future street plan shall be filed by the applicant in conjunction with an application for a subdivision, in order to facilitate orderly development of the street system. The plan shall show the pattern of existing and proposed future streets from the boundaries of the proposed land division and shall include other parcels within not less than 400 feet of the site boundaries, and other developed streets or public rights-of-way or natural barriers surrounding and adjacent to the proposed land division. The street plan is not binding; rather it is intended to show potential future street extensions with future development.

\*\*\*

#### J. Special Setbacks

1. Purpose. The purpose of this subsection is to ensure that adequate rights of way will be available for the appropriate street improvements as the city grows and that there will be no conflicts with the built environment.
2. Applicability. The special setback standards shall be applied to any lot or parcel that abuts a public right of way.
3. Setback.
  - a. Unless waived under Section 3.4.150, all buildings or structures shall be set back from planned future rights of way the minimum distance established in the applicable zoning district.
  - b. Unless waived under Section 3.4.150, the special setback from existing substandard width rights of way shall comply with Table F.

**Table F: Special Setback Standards**

| Street Classification | Additional Setback<br>from Centerline of Street |
|-----------------------|---|
|                       |   |



|   |                |
|---|----------------|
| <u>Local Street</u>                       | <u>30 feet</u> |
| <u>Collector</u>                          | <u>40 feet</u> |
| <u>Arterial (Principal, Major, Minor)</u> | <u>50 feet</u> |

NOTE: The additional setback line shall be an assumed property boundary for the purpose of sidewalk construction.

JK. Street Alignment and Connections.

\*\*\*

KL. Sidewalks, Planter Strips, Bicycle Lanes.

\*\*\*

LM. Intersection Angles.

\*\*\*

MN. Existing Rights-of-Way.

\*\*\*

NO. Cul-de-sacs.

\*\*\*

OP. Grades and Curves.

\*\*\*

PQ.

Curbs, Curb Cuts, Ramps, and Driveway Approaches.

\*\*\*

QR. Street Adjacent to Railroad Right-of-Way.

\*\*\*

RS. Development Adjoining Arterial Streets.

\*\*\*

ST. Alleys, Public or Private.

\*\*\*

TU. Private Streets.

\*\*\*

UV. Street Names.

\*\*\*

VW. Survey Monuments.

\*\*\*

WX. Street Signs.

\*\*\*

XY. Street Light Standards.

\*\*\*

## Chapter 3.5 Other Design Standards

### Sections:

|         |                            |
|---------|----------------------------|
| 3.5.100 | Density Transfers          |
| 3.5.200 | Outdoor Lighting Standards |
| 3.5.300 | Special Setbacks           |
| 3.5.400 | Solar Standards            |
| 3.5.500 | Solar Access Permits       |

\*\*\*

### 3.5.300 Special Setbacks

- A. ~~Purpose.~~ The purpose of this section is to ensure that adequate right of way will be available for the appropriate street improvements as the city grows and that there will be no conflicts with the built environment.
- B. ~~Applicability.~~ The following special setback standards shall be applied to any lot or parcel that abuts an arterial, collector or local street, in addition to the minimum setback required by the underlying zoning district.

#### Special Setback Standards

| Street Classification              | Additional Setback<br>from Centerline of Street |
|------------------------------------|---|
| Local Street                       | 30 feet   |
| Collector                          | 40 feet   |
| Arterial (Principal, Major, Minor) | 50 feet   |

NOTE: The additional setback line shall be an assumed property boundary for the purpose of sidewalk construction.

\*\*\*



## Chapter 3.6 Special Standards for Certain Uses

### Sections:

|         |                      |
|---------|----------------------|
| 3.6.100 | Purpose              |
| 3.6.200 | Residential Uses     |
| 3.6.300 | Non-residential Uses |
| 3.6.400 | Temporary Uses       |

\*\*\*

### 3.6.300 Non-residential Uses

\*\*\*

I. **Keeping Farm Animals.** The purpose of this section is to regulate the raising and breeding of farm animals on residential lots within the City of Bend. These activities are considered to be accessory uses and require a Type I Permit subject to the following standards.

1. Types of animals allowed.
  - a. One (1) horse shall have a corral or pasture with a usable area of at least 1 acre 7,500 square feet; and for each additional horse, an additional ½ acre 5,000 square feet is required.
  - b. Cows, goats, sheep, swine or other livestock shall not be kept on any parcel or lot with an area less than 5 acres.
  - c. No more than four (4) rabbits and/or chickens (hens only, no roosters) are permitted on parcels and lots greater than 6,000 5,000 square feet or greater.
2. Sanitation. Proper sanitation shall be maintained for all farm animals. Proper sanitation includes:
  - a. Accumulation of waste prohibited
  - b. Odors resulting from the keeping of farm animals prohibited beyond property lines, and
  - c. Storing all farm animal food in rodent-proof containers.
3. Fencing: All fencing shall be designed and constructed to confine all farm animals within the owner's property.
4. Setbacks: All structures that house large farm animals shall be located a minimum of 25 feet from all existing adjacent residences and at least least fifteen (15) feet from any interior or rear lot line.

\*\*\*

P. **Beekeeping.** The purpose of this section is to regulate the keeping of common domestic bees on residential lots within the City of Bend. This activity is considered to be an accessory use subject to the following standards.

1. Location, Density, and Maintenance of Colonies.
  - a. The number of colonies is limited to one (1) colony per legal lot of up to 5,000 sq. ft. of lot area, plus one (1) additional colony per each additional 5,000 sq. ft. of lot area, up to a maximum of eight (8) colonies regardless of lot size.
  - b. Colonies shall be located in the side or rear yard, and set back no less than 10 feet from the nearest property line, and shall comply with the following provisions:
    - i. The beehives are isolated from public access by a security fence; and
    - ii. The beekeeper establishes and maintains a flyway barrier at least 6 feet in height consisting of a solid wall, solid fencing material, dense vegetation or combination thereof that is parallel to the property line and extends 10 feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least 6 feet above ground level over the property lines in the vicinity of the colony; or
    - iii. The colony is situated 10 feet or more above the grade of the nearest adjoining property line.

- c. Colonies shall be maintained in movable-frame hives with adequate space and management techniques to prevent overcrowding.
- d. In any instance in which a colony exhibits aggressive behavior, the beekeeper must ensure that the colony is re-queened. Aggressive behavior is any instance in which unusual aggressive characteristics such as stinging or attacking without provocation occurs.
- e. Every beekeeper shall maintain an adequate supply of water for the bees located close to each hive.



## Chapter 4.2 Site Plan Review Development and Design Review

### Sections:

|          |  |
|----------|--|
| 4.2.100  | Purpose  |
| 4.2.200  | <u>Site Plan Development Review Applicability and Procedures</u> |
| 4.2.300  | <u>Design Review Applicability and Procedures</u>                |
| 4.2.400  | <u>Minimum Development Standards</u>                             |
| 4.2.4500 | <u>Bonding and Assurances</u>                                    |
| 4.2.5600 | <u>Development in Accordance With Permit Approval</u>            |

### 4.2.100 Purpose

The purpose of this Chapter is to:

- Provide rules, regulations and standards for efficient and effective administration of site development review Site Plan Review;
- Carry out the development pattern and plan of the City ~~and its~~ according to the General Plan policies;
- Promote the public health, safety and general welfare;
- Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision of public facilities and services ~~for transportation, water supply, sewage and drainage~~;
- Encourage the conservation of energy resources; and
- Encourage efficient use of land resources, full utilization of urban services, mixed uses, transportation options, and detailed, human-scaled design.

### 4.2.200 Site Plan Development Review Applicability and Procedure.

**A. Applicability.** Except as exempted in Subsection B, Site Plan Review shall apply to all new uses, buildings, outdoor storage or sales areas and parking lots. Site Plan Review shall also be required for expansions of existing buildings or uses that exceed 50 percent of the gross area of the existing buildings and/or use or are 5,000 square feet or more in size. (For minor additions or expansions and/or changes of use, or for single family and duplex dwellings, see Section 4.2.400, Minimum Development Standards.)

**B. Exemptions.** Single family detached dwellings and duplexes on their own lots or parcels in the Urban Area Reserve (UAR), Suburban Low Density Residential (SR2½), Residential Urban Low Density (RL), and Residential Urban Standard Density (RS) zoning districts are exempt from Site Plan Review. Single family and duplex dwellings on their own lot or parcel in Residential Urban Medium Density (RM) or Residential Urban High Density (RH) zoning districts are exempt from Site Plan Review if the minimum density requirements of the district are met.

***Duplexes must continue to meet the design standards of Section 3.6.200(H) which can be reviewed under a Type I duplex application. A full Site Plan application for duplexes isn't necessary.***

**A. Applicability.** ~~In all zones, Except for a single family unit on one lot, all new uses, buildings, outdoor storage or sales areas and parking lots shall be subject to the provisions of this section.~~

~~Site Development Review approval may not be required where a proposed alteration of an existing building does not exceed 10% or 1000 square feet, whichever is~~

greater, of the original structure unless the Planning Director finds the original structure or proposed alteration does not meet the requirements of this ordinance or other ordinances of the City of Bend. In the residential zones where duplexes and triplexes are allowed, such development may undergo a Type I review process if they meet minimum standards as set forth in subsection 3.6.200(H), Duplex and Triplex Development. ***Rather than requiring a full Site Plan application to change from one permitted use to another in an existing building, Section 4.2.400 Minimum Development Standards was added to address such changes of use and smaller expansions.***

**C. Existing Development.** Existing lawfully developed sites that do not conform to the current site development standards of this Code are only required to meet these current standards on the portions of the site development affected by the proposed alteration or expansion. Any alterations to the site must meet current Code standards. Development of such sites shall be in accordance with Section 5.2. ***This section has proven to be awkward to apply – Section 5.2 requires a Conditional Use Permit for expansion, even if the expansion meets the current code.***

**BD. General Submission Requirements.** The applicant shall submit a Site Plan application in conformance with the provisions of Chapter 4.1, Procedures.

**CE. Development Review Information Requirements.** An application for site development review Site Plan Review shall include the following additional information, as deemed applicable by the Community Development ~~City Planning~~ Director based on the size, scale and complexity of the development.

1. Site analysis Existing site conditions map. At a minimum the site analysis existing site conditions map shall contain the following:
  - a. The applicant's entire property and the surrounding property to a distance of 150 feet from the subject property sufficient to determine the location of the development in the City, and the relationship between the proposed development site and adjacent property and development. Existing aerial photos may be used. The property boundaries, dimensions and gross area shall be identified;
  - b. Topographic contour lines shown at 6-inch one-foot intervals for slopes 5% of 10 percent or less. For slopes greater than 5%, 10 percent, contour lines shall be shown at 4-foot two-foot intervals. ~~Identify-s~~Slopes greater than 25% shall be identified.
  - c. The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site for a distance of 150 feet. Existing aerial photos may be used;
  - d. Potential natural hazard areas, including any areas identified as subject to a 100-year flood, areas subject to high water table, and areas mapped by the City, County, or State as having a potential for geologic hazards;
  - e. Resource areas, including marsh and wetland areas, streams, surface mines, and wildlife habitat identified by the City or any natural resource regulatory agencies as requiring protection;
  - f. ~~Site-f~~Features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals and ditches both on the site and adjoining the site for a distance of 150 feet. Existing aerial photos may be used;
  - g. The location, size and species of trees and other vegetation having a caliper (diameter) of six (6) inches or greater at four feet above grade;
  - h. Locally or federally designated historic and cultural resources on the site and the adjacent parcels.
  - i. North arrow, scale, names and addresses of all persons listed as owners on the most recently recorded deed;
  - j. Name, address, email address and telephone number of project designer, engineer, surveyor, and/or planner, if applicable.
2. ~~Additional information, as determined by the City Planning Director. The City may require, at the applicant's expense, studies, reports or exhibits prepared by qualified professionals to address specific site features. Moved to subsection 11, below.~~



32. Proposed site development plan. The site development plan shall contain the following information (as applicable):

- a. The proposed development site, including boundaries, dimensions, and gross area;
- b. Existing site features, including trees, identified on the site analysis map, if any, which are proposed to be retained or modified by the proposed development;
- c. The location and dimensions of all existing and proposed structures, utilities, pavement and other improvements on the site and adjacent to the site for a distance of 150 feet. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;
- d. The location and dimensions of all site circulation for vehicles, pedestrians and bicycles including entrances and exits to the site, loading and service areas;
- e. The location and dimensions of all vehicle parking areas (show striping for parking stalls and wheel stops (if applicable) and bicycle facilities);
- f. ~~Other information determined by the City Planning Director. The City may require studies, reports or exhibits prepared by qualified professionals to address specific site features (e.g., traffic, noise, environmental features, natural hazards, etc.), in conformance with this Code. Redundant, covered in #11, below.~~
- g. The location, type and height of exterior lighting fixtures.
- h. Locations of bus stops and other public or private transportation facilities. Moved from Design Review.

43. Deed restrictions. The applicant shall submit copies of all existing and proposed restrictions or covenants.

54. Architectural drawings. The City Planning Community Development Director may request architectural drawings showing one or all of the following:

- a. Building elevations (as determined by the City Planning Community Development Director) with building height and width dimensions;
- b. Floor Plans
- c. Building materials, colors and type;
- d. The name, address and phone number of the architect or designer.

65. Preliminary grading and drainage plan. A preliminary grading and drainage plan prepared by a registered professional engineer or registered landscape architect shall be required in conformance with the City's Grading Ordinance #NS-1979. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. ~~Surface water detention and treatment plans may also be required, in accordance with Section 3.4.500; Storm Drainage Improvements.~~

6. Surface water detention and treatment plan. A plan prepared by a registered professional engineer or registered landscape architect showing all drainage retention areas, catch basins, and storm piping prepared in accordance with Section 3.4.500; Storm Drainage Improvements shall be required.

7. Landscape plan. A landscape plan may shall be required, and at the direction of the City Planning Community Development Director shall show the following:

- a. A planting schedule containing the The location, size, and species of the existing and proposed plant materials (at time of planting);
- b. Existing and proposed building and pavement outlines;

- c. Irrigation plans. Specifications for written soil specifications at time of planting, irrigation if plantings are not drought-tolerant (may be automatic or other approved method of irrigation) and anticipated plant installation timeline, planting schedule;
  - d. The location, size, and species of the existing and proposed plant materials (at time of planting);
  - d.e. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
  - e. Existing and proposed abutting street right of way landscaping.
  - f. Other information as deemed appropriate by the City Planning Community Development Director. An arborist's report may be required for sites with mature trees that are protected under Chapter 3.2, Landscape, Street Trees, Fences and Walls of this Code.
8. Sign drawings. Depictions of proposed signs shall be required in conformance with the City's Sign Code. A separate sign permit will be required for all signs.
  9. Narrative. Letter or narrative report documenting compliance with the applicable approval criteria contained in Section (D) (F) Approval Criteria, listed below.
  10. Traffic Impact Study. A Traffic Impact Analysis shall be submitted if as required by Chapter 4.7.
  11. Water and Sewer Capacity Analyses. These analyses are provided by the City upon request and payment of fee, if required.
  12. Additional information. The Community Development Director may require, at the applicant's expense, studies, reports or exhibits prepared by qualified professionals to address specific site features or concerns.

**DF. Site Plan Development Approval Criteria.** Prior to issuance of building permits, the City shall approve, approve with conditions or disapprove/deny the proposed site development plan Site Plan application. In approving the plan, the City shall find that all provisions of the ordinance are met. The based on the following criteria shall be considered:

1. The proposed land use is a permitted or conditional use in by the underlying land-use zoning district;
2. The land use, building/yard setback, lot area, lot dimensions, density, lot coverage, building height and other applicable standards of the underlying land-use zoning district are met;
3. The minimum applicable standards in Chapter 3 Section 3.2.200; Landscape Conservation, Section 3.2.300; New Landscaping, 3.2.500; Fences and Walls and Chapter, 3.3; Vehicle and Bicycle Parking are met;
4. All applicable building and fire code standards are or will be met.
5. All required public facilities have adequate capacity as determined by the City, to serve the proposed use.
6. The proposal complies with the standards of the zoning district in which the project is located and the standards of the zoning district that implements the General Plan designation of the subject property.

**G. Final Site Plan.** A Final Site Plan shall be submitted to the Community Development Department. The Final Site Plan shall depict the proposal as approved and shall incorporate all conditions of approval contained in the decision. No building or engineering permits will be issued until the Final Site Plan is approved.

**H. Expiration of Approval.** In accordance with Chapter 4.1, the land use approval shall lapse, and a new application shall be required, if a building permit has not been issued within the duration of Site Plan Development Review approval, or if development of the site is in violation of the approved plan or other applicable codes. *(Section 4.1.1335 was recently amended to account for revocation of approvals for violation of the code or conditions of approval.)*

#### **4.2.300 Design Review Applicability and Procedures**

A. **Applicability.** This section shall apply within all commercial zoning districts including the (CC) Convenience Commercial, (CL) Limited Commercial, (CG) General Commercial, (ME) Mixed Employment, (PF) Public Facilities, and (PO) Professional Office zones and to all non-industrial uses within the (IL) Light Industrial and (IG) General Industrial zones and shall apply to the following building types:

1. Multi-family housing;
2. Public and institutional buildings, except buildings which are not subject to site development review Site Plan Review; and
3. Commercial and mixed-use buildings subject to site development review Site Plan Review as follows:
  - a. All new building construction
  - b. Any exterior modifications to existing buildings
  - c. All new parking lots
  - d. All storage and display areas
  - e. All new signage
  - f. All building expansions except as exempted below greater than 5,000 square feet.

~~This section shall not apply to the (CBD) Central Business District.~~ **Moved to top of section**

B. **Exemptions**~~Exemptions~~. The following activities or structures are not subject to Section 4.2.300; Design Review Applicability and Procedures:

1. Maintenance of the exterior of an existing structure such as re-painting, re-roofing or re-siding where similar materials and colors are used or materials and colors are used that comply with the provisions of this ordinance.
2. Interior remodeling or new tenant improvements.
3. Reconstruction of buildings subject to Commercial Design Review and considered to be non-conforming structures as determined in Chapter 5.2; Non-conforming Uses and Development.
4. Building expansions not exceeding 25% of the gross square footage of the original building and where the expansion does not exceed 5,000 square feet in area.
5. ~~Parking lots, lot expansions not exceeding 25% of the gross square footage of the original parking lot and where the total amount of parking does not exceed the parking allowed by the Zoning Ordinance by 50%.~~
6. Buildings that are subject to review by the Deschutes County Historical Landmarks Commission because they are listed in the Inventory of Historic sites within in the Bend Area General Plan, Exhibit "A", or buildings are listed in designated on the Historic National Landmarks Register National Register of Historic Places.

C. **General Submission Requirements.** The applicant shall submit an application in conformance with the provisions of Chapter 4.1; Land Use Review and Procedures. ~~In addition, the applicant shall attend a City of Bend Pre-application meeting prior to filing an application for Design Review.~~

D. **Design Review Information.** ~~In addition to the site development review information required in Section 4.2.300, information necessary to assess compliance with this Section is contained within the Site Plan Review submittal requirements. When Site Plan Review is not required under Section 4.2.200, an application for Design Review shall also include the following additional information, as deemed applicable by the City Planning Community Development Director based on the size, scale and complexity of the development: as presented to the City at the pre-application conference:~~

1. Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;
2. Loading and service areas for waste disposal, loading and delivery;
3. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements;
4. Location, type, and height of outdoor lighting;
5. ~~Location of mail boxes, if known;~~
6. ~~Locations of bus stops and other public or private transportation facilities;~~



7. Locations, sizes, and types of signs;

5. Architectural drawings. The Community Development Director may request architectural drawings showing one or all of the following:

a. Building elevations (as determined by the Community Development Director) with building height and width dimensions;

b. Floor Plans

c. Building materials, colors and type;

d. The name, address and phone number of the architect or designer.

E. Design Review Approval Criteria. The Review Authority shall ~~make written findings with respect to all of the following criteria when approving, approving with conditions, or denying approve, approve with conditions, or deny an application for Design Review based upon all relevant design standards contained in Chapter 2 of this Code.~~

1. ~~Design Standards. The application complies with all relevant design standards contained in Chapter 3 and 2. All of the following standards shall be met:~~

a. ~~Chapter 3.1 Access and Circulation;~~

b. ~~Chapter 3.2 Landscaping, Significant Vegetation, Street Trees, Fences and Walls;~~

c. ~~Chapter 3.3 Automobile and Bicycle Parking;~~

d. ~~Chapter 3.4 Public Facilities and Franchise Utilities;~~

e. ~~Chapter 3.6 Other Standards (Telecommunications Facilities, Solid Waste Storage, Environmental Performance, Signs), as applicable. The standards of Chapter 3 are evaluated under Site Plan Review. The design elements of Chapter 2 are reviewed under Design Review.~~

F. ~~Existing Development. The applicant shall be required to upgrade any existing development that does not comply with the applicable land use district Development standards in conformance with Chapter 5.2; Non-Conforming Uses and Development; Conflicts with 4.2.200C and with Chapter 5.2~~

F. Final Design Plan. A Final Design Plan shall be submitted to the Community Development Department. The Final Design Plan shall depict the proposal as approved and shall incorporate all conditions of approval contained in the decision. No building permits will be issued until the Final Design Plan is approved.

#### **4.2.400 Minimum Development Standards**

A. Purpose. Minimum Development Standards (MDS) are intended to streamline development review for minor additions or expansions and/or changes in use, and for single family and duplex dwellings. MDS shall ensure compliance with specific appearance, transportation safety and utility standards specified in this Code.

B. Applicability. This section applies to developed properties that do not require Site Plan Review as specified in Section 4.2.200(A) where there is:

1. A building or use expansion of 50 percent or less than the existing building or use area or there are 5,000 square feet or less of additional building or use gross area, or

2. A change in use of a building or property that increases demand on public facilities and/or requires additional parking spaces, or

3. The construction of a single family or duplex dwelling in the RL, RS or RM district that does not have existing full utility and street frontage infrastructure.

C. Exception. Where the property is currently in compliance, and will remain in compliance, with all standards specified in Section 4.2.400(E) or (F), the MDS section shall not apply.

D. Review. MDS are reviewed under the Type I process, unless the Community Development Director finds that the proposed use should be reviewed under the Type II review process.

**E. Applicable Commercial, Industrial, Multi-family and Institutional Standards.** MDS applications under this subsection shall only be subject to the following Development Code standards:

1. Equipment, outdoor storage, manufacturing and service/delivery areas shall be screened as specified in Chapter 3.2.
2. Parking and vehicle circulation areas shall be paved and striped as specified in Chapter 3.3.
3. Bicycle parking shall be installed or upgraded to meet the standards specified in Chapter 3.3.
4. Access to the public right of way shall comply with Chapter 3.1 unless exempted by Section 5.2.100E.
5. New parking areas shall meet the landscaping requirements of Chapter 3.2.
6. Sidewalks shall be constructed along the frontage(s) of the site when an existing public sidewalk exists within 300 feet of the site along the same frontage abutting the subject property.
7. Public utilities shall be adequate to serve the proposal. Where existing utilities are to be replaced, or new utilities are to be installed, construction shall comply with this Code and with the City's Standards and Specifications.

**F. Applicable Single Family and Duplex Dwelling Standards:** MDS applications under this subsection shall only be subject to the following Development Code standards:

1. Where available, public water and sewer mains shall be extended through the length of the property frontage.
2. A full street and/or alley improvement shall be constructed along the frontages of the property when an improved street and/or alley has been built to the property line. The Community Development Director may grant a waiver of this requirement under Section 3.4.150. In such cases, an agreement to not remonstrate against the formation of a local improvement district shall be recorded against the property.
  - a. For properties over one acre in size where future division of the property is allowable, street and/or alley improvements are not required if the any portion of the dwelling is located more than 300 feet from an improved street or alley. In such cases, an agreement to not remonstrate against the formation of a local improvement district shall be recorded against the property.
3. Sidewalks shall be extended through the site when an existing public sidewalk is within 600 feet along the same street frontage abutting the subject property. The Community Development Director may grant a waiver of this requirement under Section 3.4.150 if it is determined that there is little likelihood that a functioning network of sidewalks will be installed in the area. In such cases, an agreement to not remonstrate against the formation of a local improvement district shall be recorded against the property.

**4.2.4500 Bonding and Assurances for All Developments.**

- A. Performance Bonds for Public Improvements.** On all projects where public improvements are required, the City will allow concurrent construction of public and private improvements if the owner enters into a Site Plan Development Agreement stating that all private and public improvements shall be completed prior to certification of final occupancy. The City shall may require a bond or other adequate assurances in an amount not greater than 400% 120 percent of the construction cost, as determined by the City, or other adequate assurances as a component of condition of site development approval the Site Plan Development Agreement in order to guarantee the public improvements.
- B. Release of Performance Bonds.** The bond or assurance shall be released when the City Planning Community Development Director finds the completed project conforms to the site development approval approved Site Plan, including all conditions of approval.
- C. Warranty Bond.** The developer shall file with the City a warranty bond executed by a surety company, or other financial security acceptable to the Community Development Director, to cover any public improvements constructed as part of the approved development. The

warranty period shall be one year beginning on the date of initial acceptance of the public improvements by the City. The bond shall guarantee the workmanship of the public improvements and shall be in the amount of twelve percent of the value of the improvements. The Warranty Bond shall be effective for no less than eighteen months.

**DC. Completion of Landscape Installation.** Landscaping shall be installed in accordance with the land use approval prior to issuance of an occupancy permit. A security equal to 120% of the cost of the landscaping as determined by the City Planning Community Development Director ~~may be accepted if winter weather prevents installation of the approved landscaping.~~ or a qualified professional ~~may be accepted at the discretion of the Director.~~ The security shall assure such installation within six months after occupancy. If the installation of the landscaping is not completed within the six-month period, the security may be used by the City to complete the installation.

#### **4.2.5600 Development in Accordance With Permit Approval.**

**A. Final Approvals.** Development shall not commence until the applicant has received all of the appropriate land use and development approvals (~~i.e., including but not limited to: site development review approval~~ Site Plan Approval), grading permits and building permits. Construction of public improvements shall not commence until the City has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The City may require the applicant to enter into a development ~~an~~ agreement (e.g., for phased developments and developments with required off-site public improvements), and may require bonding or other assurances for improvements, in accordance with Section 4.2.500; Bonding and Assurances. ~~Site Development Plan Review and Site Design Review approvals shall be subject to all of the limitations found in Chapter 4.1; Land Use Review and Procedures.~~

**B. Phased Development.** Phasing of development may be approved with a Site Plan Development Review application, subject to the following standards and procedures:

1. A proposed phasing plan shall be submitted with the Site Plan Development Review application.
2. The ~~Review Authority proposal~~ shall ~~approve~~ include a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than five years from the date of final approval without reapplying for Site Plan development Review.
3. Approval of a phased site development proposal requires satisfaction of all of the following criteria:
  - a. **The public facilities required to serve each phase are constructed in conjunction with or prior to each phase;**
  - b. The phased development shall not result in requiring the City or other property owners to construct public facilities that are required as part of the approved underlying development proposal; and
  - c. An application for phasing may be approved after Site Plan Development Review approval as a modification to the approved plan, in accordance with Chapter 4.1; Land Use Review and Procedures.

[Section 4.2 amended by Ord. NS-2122, adopted June 3, 2009]

## Chapter 4.3

## Subdivisions, Partitions, Replats ~~Land Divisions and Property Line Adjustments~~ Procedures

### Sections:

|         |  |
|---------|--|
| 4.3.100 | <u>Purpose and Applicability</u>       |
| 4.3.200 | <u>General Requirements</u>            |
| 4.3.300 | <u>Tentative Plan Approval Process</u> |
| 4.3.400 | <u>Submission of Final Plat</u>        |
| 4.3.500 | <u>Replats</u>                         |
| 4.3.600 | <u>Property Line Adjustments</u>       |

### 4.3.100 Purpose and Applicability

#### A. Purpose. The purpose of this chapter is to:

1. Provide rules, regulations and standards governing the review and approval of subdivisions, partitions, replats and property line adjustments, ~~as defined below and in Chapter 1.2; Definitions:~~
  - a. ~~Subdivisions are the creation of four or more lots from one parent lot, parcel or tract, within one calendar year.~~
  - b. ~~Partitions are the creation of two or three parcels within one calendar year.~~
  - c. ~~Property line adjustment means the relocation or elimination of a common property line between abutting properties. (Previously moved to Chapter 1.2)~~
2. Carry out the City's development pattern, as envisioned by the Bend Area General Plan;
3. Encourage efficient use of land resources, full utilization of urban services, and transportation options;
4. Promote the public health, safety and general welfare through orderly and efficient urbanization;
5. ~~Reduce~~ Lessen or avoid traffic congestion, and secure safety from fire, flood, pollution and other dangers;
6. Provide adequate light and air, prevent overcrowding of land, provide open space opportunities, and facilitate adequate provision for transportation, water supply, sewage and drainage; and
7. Encourage the conservation of energy resources.

#### B. Applicability. Units of land shall only be created or reconfigured in conformance with the standards of this Chapter and Oregon Revised Statutes Chapter 92.

### 4.3.200 General Requirements

#### A. Pre-application Meeting. Prior to submitting a tentative plan, each applicant or his representative is required to meet with the Planning Division to review the proposal. The intent of this meeting is to advise the applicant of the requirements and standards of this ordinance.

#### A.B. Application Submission Processes. Any person proposing a land division or reconfiguration, or his authorized agent or representative, shall be approved with an application and filing fee for a land division or reconfiguration, tentative plan prepared by a licensed surveyor or engineer together with improvement plans and other supplementary material as may be required. A master development plan may also be required in accordance with subsection 4.3.200(C) below. The applicant must submit 15 copies of any plan required together with all required accompanying material to the Planning Division. The first step for all subdivisions, partitions and replats is the review of a tentative plan. Upon approval of a tentative plan, the applicant must submit engineered plans to the City for construction of any public improvements approved as part of the tentative plan. The construction plans shall be reviewed by the City for conformance with the City's Standards and Specifications. Upon approval of the construction plans, the applicant shall build the improvements or provide a financial security guaranteeing the future construction of the improvements. Upon completion of the infrastructure construction and fulfillment of any conditions of approval, the final step is the City's review and approval of a final plat and recordation of the final plat with Deschutes County.



**C. Informational Requirements.** The following information shall be shown on the tentative plan or provided in accompanying materials. No tentative plan shall be considered complete unless all such information is provided.

**1. General information required:**

- a. Proposed or existing name of the land division.
- b. Names, addresses and phone numbers of the owner of record, authorized agents or representatives, engineer or surveyor, and any assumed business names filed or to be filed with the Corporation Commission by the applicant.
- c. Date of preparation, true north, scale, and gross area of the proposed subdivision.
- d. Appropriate identification of the drawing as a tentative plan for a subdivision.
- e. Location and tract designation sufficient to define its location and boundaries, and a legal description of the tract boundaries in relation to existing plats and streets.
- f. Certified copy of the recorded instrument under which the applicant claims an ownership interest, or copy of a land sales contract which binds the applicant in the event of tentative approval.
- g. A Title Report and/or a Subdivision Guarantee prepared within the previous ninety (90) days.
- h. If a tract of land has water rights, the application shall be accompanied by a water rights division plan approved by the irrigation district or other water district holding the water rights, or when there is no such district, by the County Watermaster.
- i. A letter or other written documentation from the Bend Metro Parks and Recreation District which indicates that the applicant has met with the District to discuss the proposed land division or reconfiguration and provide the District an opportunity to review the design for options to enhance existing parks and trails, and develop new parks and trails.
- j. If a proposed subdivision contains more than 10 lots, the application shall be accompanied by a computer water analysis prepared by the City of Bend Engineering Division.

**2. Existing Conditions.** Information concerning existing on-site conditions and conditions within 300 feet of all property included in the proposed land division or reconfiguration:

- a. Location, names, and widths of existing improved and unimproved streets and roads, bikeways, and access corridors.
- b. Location of any existing features such as section lines, section corners, city and special district boundary lines, and survey monuments.
- c. Location of existing structures, irrigation canals and ditches, pipelines, waterways, railroads, and any natural features such as rock outcroppings, designated wetlands, wooded areas, and natural hazards.
- d. Location and direction of water courses, and the location of areas subject to flooding and high water tables, including areas lying below the 100-year flood elevation as indicated on the most recent Flood Insurance Rate Maps as prepared by the Federal Emergency Management Agency.
- e. Location, width, and use or purpose of any existing easement or right-of-way for utilities, bikeways, and access corridors within and adjacent to the proposed land division or reconfiguration.
- f. Existing sanitary and storm sewer lines, water mains, septic facilities, culverts, and other underground and overhead utilities within and adjacent to the proposed land division or reconfiguration.
- g. Contour lines related to City datum and having minimum intervals of two feet.
- h. Bend Area General Plan and Zoning Map classification of lands within and adjacent to the proposed land division or reconfiguration.
- i. Names and addresses of all property owners within 100 feet of the property.

**3. Information concerning proposed land division or reconfiguration:**

- a. Location, names, width, typical improvements, cross sections, bridges, culverts, approximate grades, curve radii and centerline lengths and reserve strips of all

proposed streets, and the relationship to all existing and projected streets within 300 feet.

- b. ~~Location, width, and purpose of all proposed easements or rights of way for utilities, bikeways, and access corridors, and relationship to all existing easements and rights of way within 300 feet.~~
  - c. ~~Location of at least one permanent bench mark within the existing or proposed land division boundary.~~
  - d. ~~Location, approximate area, and dimensions of each lot, parcel, or designated unit of land and proposed lot or parcel numbers.~~
  - e. ~~Location, approximate area, and dimensions of any lot, parcel, or unit of land proposed for public use, the use proposed, and plans for improvements or development thereof.~~
  - f. ~~Proposed use, location, approximate area, and dimensions of any lot, parcel, or unit of land intended for nonresidential use within a residential land division.~~
  - g. ~~Phasing — show phase lines on the tentative plan.~~
  - h. ~~Source, method, and preliminary plans for domestic and other water supplies, sewage disposal, storm water disposal and other drainage facility plans, and all utilities.~~
  - i. ~~Description and location of any proposed common area and community facility.~~
  - j. ~~Proposed deed restrictions including access restrictions or protective covenants if such are proposed to be utilized.~~
  - k. ~~Statement from each utility company proposed to serve the proposed land division or reconfiguration stating that each such company is able and willing to serve the proposed subdivision as set forth in the tentative plan, and the conditions and estimated costs of such service. Each utility purveyor shall be noted on the tentative plan.~~
  - l. ~~Proposed fire protection system for the land division or reconfiguration, including fire hydrant locations and sizes of water mains.~~
  - m. ~~Solar Access. Provide a statement relative to the solar access to be provided by the subdivision plan.~~
4. ~~Future Subdivision. Where a tract is proposed to be divided into parcels, lots, or units of land of an acre or more, the Review Authority may require an arrangement of parcels, lots, units of land and streets such as to permit future subdivision in conformity to the street requirements and other requirements contained in this ordinance.~~  
***Moved to Section 4.3.300(B)***

#### **4.3.300      Approval Process Tentative Plan**

**A. Tentative Plan Process** Proposed partitions, subdivisions and replats shall be processed as Type II applications in accordance with Section 4.1.400.

**B.C. Informational Requirements** A tentative plan shall be prepared by a professional land surveyor, a registered professional engineer or a registered landscape architect and contain the following information listed below. shall be shown on the tentative plan or Some information may be omitted from the tentative plan if it is provided in accompanying materials. No tentative plan shall be considered complete unless all such the required information is provided.

- 1. General information required:
  - a. ~~Proposed or existing name of the land division subdivision.~~
  - b. ~~Names, addresses and phone numbers of the owner of record, authorized agents or representatives, engineer or surveyor, and any assumed business names filed or to be filed with the Corporation Division Commission by the applicant.~~
  - c. ~~Date of preparation, true north, scale, and gross area of the proposed subdivision, partition or replat.~~
  - d. ~~Appropriate identification of the drawing as a tentative plan for a subdivision, partition or replat.~~
  - e. ~~Location and tract designation sufficient to define its location and boundaries, and a legal description of the tract boundaries in relation to existing plats and streets.~~

- f. Certified copy of the recorded instrument under which the applicant claims an ownership interest, or copy of a land sales contract which binds the applicant in the event of tentative approval.
  - g. A Title Report and/or a Subdivision Guarantee prepared within the previous ninety (90) days.
  - h. If a tract of land has water rights, the application shall be accompanied by a water rights division plan approved by the irrigation district or other water district holding the water rights, or when there is no such district, by the County Watermaster.
  - i. A letter or other written documentation from the Bend Metro ~~Park Parks~~ and Recreation District which indicates that the applicant has met with the District to discuss the proposed ~~land division or reconfiguration~~ subdivision, partition or replat and provide the District an opportunity to review the design for options to enhance existing parks and trails, and develop new parks and trails.
  - j. If a ~~proposed~~ an application is for a subdivision, ~~contains more than 40 lots,~~ the application shall be accompanied by a ~~computer~~ sewer and water analysis prepared by the City of Bend Engineering Division.
2. Existing Conditions. Information concerning existing on-site conditions and conditions within ~~150 300~~ feet of all property included in the proposed subdivision, partition or replat ~~land division or reconfiguration~~:
  - a. Location, names, and widths of existing improved and unimproved streets and roads, bikeways, and access corridors.
  - b. Location of any existing features such as section lines, section corners, city and special district boundary lines, and survey monuments.
  - c. Location of existing structures, irrigation canals and ditches, pipelines, waterways, railroads, and any natural features such as rock outcroppings, designated wetlands, wooded areas, and natural hazards.
  - d. Location and direction of water courses, and the location of areas subject to flooding and high water tables, including areas lying below the 100-year flood elevation as indicated on the most recent Flood Insurance Rate Maps as prepared by the Federal Emergency Management Agency.
  - e. Location, width, and use or purpose of any existing easement or right-of-way for utilities, bikeways, and access corridors within and adjacent to the proposed ~~land division or reconfiguration~~ subdivision, partition or replat.
  - f. Existing sanitary and storm sewer lines, water mains, septic facilities, culverts, and other underground and overhead utilities within and adjacent to the proposed ~~land division or reconfiguration~~ subdivision, partition or replat.
  - g. Topographic contour lines shown at one-foot intervals for slopes of 10 percent or less. For slopes greater than 10 percent, contour lines shall be shown at two-foot intervals. Slopes greater than 25% shall be identified. Contour lines related to City datum and having minimum intervals of two feet. **Made consistent with Chapter 4.2**
  - h. Bend Area General Plan and Zoning Map classification of lands within and adjacent to the proposed ~~land division or reconfiguration~~ subdivision, partition or replat.
  - i. ~~Names and addresses of all property owners within 100 feet of the property.~~
3. Information concerning proposed subdivision, partition or replat ~~land division or reconfiguration~~:
  - a. Location, names, width, typical improvements, cross sections, bridges, culverts, approximate grades, curve radii and centerline lengths and reserve strips of all proposed streets, and the relationship to all existing and projected streets within 150 300 feet.
  - b. Location, width, and purpose of all proposed easements or rights-of-way for utilities, bikeways, and access corridors, and relationship to all existing easements and rights-of-way within 150 300 feet.
  - c. Location of at least one permanent bench mark within the existing or proposed ~~land division~~ subdivision, partition or replat boundary.
  - d. Location, approximate area, and dimensions of each lot, parcel, or designated unit of land and proposed lot or parcel numbers.

- e. Location, approximate area, and dimensions of any lot, parcel, or unit of land proposed for public use, the use proposed, and plans for improvements or development thereof.
- f. Proposed use, location, approximate area, and dimensions of any lot, parcel, or unit of land intended for nonresidential use within a residential land division.
- g. ~~Phasing show phase lines on the tentative plan.~~ ***In phased tentative plan section.***
- g h. Source, method, and preliminary plans for domestic and other water supplies, sewage disposal, storm water disposal and other drainage facility plans and all other utilities.
- h i. Description and location of any proposed common area and community facility.
- i j. Proposed deed restrictions including access restrictions or protective covenants if such are proposed to be utilized.
- j k. Statement from each utility company proposed to serve the proposed land division or reconfiguration stating that each such company is able and willing to serve the proposed subdivision as set forth in the tentative plan, and the conditions and estimated costs of such service. Each utility purveyor shall be noted on the tentative plan.
- k l. Proposed fire protection system for the land division or reconfiguration, including fire hydrant locations and sizes of water mains.
- l m. Solar Access. Provide a statement relative to the solar access to be provided by the subdivision plan in accordance with Chapter 3.5.

- 4. Future Subdivision. Where a tract is proposed to be divided into parcels, lots, or units of land of an acre or more, the Review Authority may require an arrangement of parcels, lots, units of land and streets such as to permit future subdivision in conformity to the street requirements and other requirements contained in this Code ordinance.

**C.A. Phased Tentative Plan** An overall development tentative plan shall be submitted for all developments affecting land under the same ownership for which a phased subdivision of the land development is proposed contemplated. The Review Authority shall review all phases of a phased development tentative plan at the same time the tentative plan for the first phase of a phased subdivision is reviewed. The final plat for each phase shall be filed in accordance with the applicable provisions of Section 4.3.400(A) of this Code. The phased development tentative plan shall include, but not be limited to, the informational requirements of Section 4.3.2300(B); ~~General Requirements of this ordinance,~~ as well as the following elements:

- 1. Overall development tentative plan, including phase or unit sequence, and the schedule for initiation of improvements and projected completion date.
- 2. ~~Show compliance with the Bend Area General Plan and implementing land use ordinances and policies.~~
- 2.3. Overall facility development phasing plan, including transportation and utility facilities plans that specify the traffic pattern plan for motor vehicles, bicycles, and pedestrians, water system plans, sewer system plans and utility plans.
- 3. 4. Development and phasing plans for any common elements or facilities.
- 4. 5. ~~The Review Authority may require a potential~~ Plan of development pattern for streets, bikeways, and access corridors for adjoining lands as required by the Review Authority to be submitted together with the phased tentative plan as part of the overall development plan.
- 5. ~~The final plat for each phase shall be filed in accordance with the applicable provisions of Chapter IV of this Code.~~ **Moved to section C, above.**

**B. Approval of a Master Planned Development.** As an alternative to a phased tentative plan, a Master Planned Development plan may be submitted in conformance with Chapter 4.5. Any tentative plan submitted subsequently for the Master Planned Development area shall substantially conform to the approved Master Planned Development plan unless approved otherwise by the City. ***Already a criterion of approval.***

**D. C. Development Options.** If the subject property and the surrounding area is are eligible for Mid-block Development, the proposed development plan design shall enable the future development of Mid-block Development, as allowed by Section 4.5.200, for the adjoining properties.



**E. D. Required Findings Criteria For Land Division or Reconfiguration Subdivision,**

**Partition or Replat Approval.** The Review Authority shall not approve a tentative plan for a proposed land division subdivision, partition or replat reconfiguration unless the Review Authority finds, in addition to other requirements and standards set forth in this ordinance, that the land division subdivision, partition or replat reconfiguration as proposed or modified will satisfy the intent and requirements of this ordinance, and Bend Zoning Ordinance, and be in compliance with the Bend Area General Plan. Such findings shall include the following: following criteria of approval:

1. No application for a new or reconfigured subdivision or partition shall be approved unless the following requirements are met:
  1. a. The proposal contributes to orderly development and land use patterns in the area, and provides for the preservation of natural features and resources such as streams, lakes, natural vegetation, special terrain features, and other natural and historic resources to the maximum degree practicable, as determined by the City of Bend.
  2. The proposal allows for the development of adjacent property in accordance with the provisions of this Code.
  3. The proposal meets all standards and requirements of this Code.
  4. b. All required public facilities have adequate capacity, as determined by the City, to serve the proposed land division subdivision, partition or replat reconfiguration, will not create excessive demand on public facilities and services required to serve the development. *Changed to read similarly to criterion #5 under Chapter 4.2, Site Plan Approval.*
  5. e. The proposal land division or reconfiguration contributes to the orderly development of the Bend area transportation network of roads, bikeways, and pedestrian facilities, and allows for continuation and expansion of does not conflict with existing public access easements within or adjacent to the subdivision, partition or replat land division.
    - d. The proposed land division or reconfiguration provides a variety of lot sizes in conformance with the following standards:
      - i. No more than 50% of the lots are the same size with a size differential of 40% or more except for zero lot line attached housing.
  6. e. Each lot, parcel, or designated unit of land is suited for the use its intended use or offered.
    - f. An approved water rights division plan.
    - g. If the land division or reconfiguration adjoins an SM or SMR zone, the existence and location of such zone shall be entered on the deed for the lots or parcels created by the land division or reconfiguration. *Moved to Section 4.3.300(H), below.*
    - h. The tentative plan for the proposed subdivision meets the requirements of ORS 92.090.
    - i. If the tentative plan is approved with phasing, the final plat for each phase shall be filed in accordance with the applicable provisions of Article IV of this ordinance. *Moved to Section 4.3.300(B).*
  2. The Review Authority shall deny an application for partitioning when it appears the partitioning is part of a plan or scheme to create more than three (3) parcels without going through subdivision, or is part of a development pattern having the effect of creating more than three (3) parcels without subdividing.
  7. 3. Additional Factors to be Considered. In addition to the requirements set forth in subsections one (1) and (2) of this section, the following additional factors shall be considered by the Review Authority when appropriate:
    - a. That the placement and availability of utilities is in accordance with the adopted city standards.
    8. b. The proposal meets the requirements of the Safety from Fire Code, adopted flood protection standards, and other adopted standards intended to protect against natural hazards.
    - c. Adequate provision of public facilities and services. *Covered in #4, above.*
    - d. Possible affects on natural, scenic, and historical resources. *Covered in #1, above.*

- e. Need for onsite or offsite improvements such as, but not limited to, access corridors, pedestrian facilities, and bikeways. **Covered in #5, above.**
- f. Need for additional setback, screening, landscaping, and other requirements relative to the protection of adjoining and area land uses. **This should only come up if needed for a Conditional Use Permit**

9. ~~g.~~ The proposal is in substantial conformance with the any applicable approved master development plan, master facilities plan, and refinement plan and/or special area plan.

10. The proposal complies with the standards of the zoning district in which the project is located and the standards of the zoning district that implements the General Plan designation of the subject property.

**F. F. Supplemental Improvement Requirements For Partitions.**

1. In the approval of a land partition, the Review Authority may require as a condition of approval any improvements that may be required for a subdivision under the provisions of this ordinance. All roads in partitions shall be dedicated to the public without reservation or restriction.
2. Easement Access. The Review Authority may require the applicant to improve an easement access serving two or more parcels according to the City's street standards.

**G. F. Special Partitioning Regulations.**

1. The partitioning of a tract of land in which not more than one (1) additional parcel is created and transferred to a public or semi-public agency for the purpose of a road, utility, railroad, electric substation, park, trail or canal right-of-way may be approved by the Review Authority without the parcel to be transferred meeting the minimum lot/parcel size standards of this Code and without the need for a variance, proceeding through the land division process as outlined in this ordinance without proceeding through the tentative plan review process as specified in this ordinance. Such tracts may be smaller than the minimum lot and/or parcel size allowed in the zone in which the tract is located without need for variance.

**H. G. Land Divisions Subdivisions, partitions, replats and property line adjustments within the Urban Holding Districts (UH-2 ½ and UH-10).** The following standards shall apply to all ~~land divisions subdivisions, partitions, replats~~ and property line adjustments within the Urban Holding Districts (UH-2 ½ and UH-10) where development is permitted in conformance with Table 2.1.1100B. New residential development shall not exceed the allowed density of the zone as identified in Table 2.1.1100A.

1. Development Options. In order to preserve the urbanizable land within the Urban Holding zones to the greatest extent practical prior to master planning and/or rezoning, new development involving a ~~land division subdivision, partition, replat~~ or property line adjustment shall conform to the following development standards listed below.

a. ~~New land partitions and subdivisions, partitions and replats~~ shall develop as a Cluster Development. "Cluster Development" is defined as a residential development pattern consisting of smaller lots not to exceed ½ acre in size, which abut one another and whereby one single family home is permitted on each lot consistent with the overall maximum density for the area of the original land division. The larger parent parcel is retained for re-development and the overall development after the property is re-zoned. Cluster development will allow for more efficient use of the land and preserve the greatest potential for redevelopment in the future.

b. New lots and parcels or lots and/or parcels adjusted through property line adjustment in an Urban Holding Zone shall meet the lot requirements below:

|                    |               |
|--------------------|---------------|
| Minimum Lot size:  | 15,000 sq ft. |
| Maximum Lot size:  | ½ acre        |
| Minimum lot width: | 60 feet       |
| Minimum lot depth: | 100 feet      |

Example: A 40 acre property in the UH-10 could be subdivided into 4 lots consistent with the allowed density. The Cluster Development provision will require the development of three (3) small lots with a maximum size of ½ acre and the remaining parent parcel. Cluster Development will allow one single family home to be constructed on each lot. The lots would be served with an on-site sewage disposal system.

- a. A "shadow plat" or re-development plan is required prior to approval of the subdivision, partition or replat land division.
- b. No further land division can occur on the parent parcel until the property is re-zoned with an urban zoning designation and an approved development plan.
- c. Exceptions:
  - i. Properties which are 20 acres or larger and have a Framework Plan designation for future economic use shall be permitted to apply for a two lot partition where the parcel size for one lot is a minimum of 5 acres. No further land division can occur on the parent parcel until the property is re-zoned with an urban zoning designation and an approved development plan.

I. Special Regulations for Lands Abutting the Surface Mining District. If the subdivision, partition or replat adjoins the SM zone, the existence and location of such zone shall be entered on plat for the lots or parcels created by the subdivision, partition or replat.

#### **4.3.400 Submission of the Final Plat**

**A. Filing Time Period Requirements.** Except as provided for herein in this Chapter, the applicant shall prepare and submit to the City, a final plat that is substantially in conformance with the approved tentative plan as approved. Final plats shall be processed as Type I applications in accordance with Section 4.1.300.

**B. Submission/Recordation of Final Plats**

1. If a tentative plan is approved for a single phased development, the final plat shall be filed with the City within one (1) year two years of the approval date of the tentative plan. A one-year extension may be approved in accordance with Section 4.1.1310.
2. If a tentative plan is approved for phased development, the final plat for the first phase shall be filed within one (1) year two years of the approval date for of the tentative plan.
3. The final plats for any subsequent phase shall be filed within three (3) years of the approved date for the tentative plan, unless a longer period of time is allowed through the tentative plan approval process. In no case shall the final plat be recorded more than five years from the date of the tentative approval.
4. If the applicant fails to file a final plat within the specified timelines, the tentative plan for those phases shall become null and void.

**B. C. Form of Final Plat Submittal of the Final Plat** Prior to recordation with Deschutes County, the final plat shall be submitted to the City for review in the form prescribed by state statute, the Deschutes County Surveyor and this Code ordinance. All plats and other writings or dedications made a part of such plats offered for recording shall be made in conformance with state statute, upon material that is 18 inches by 24 inches, suitable for binding and copying, have such characteristics of strength and permanency as may be required by the City. The plan shall be of such a scale, and the indication of the approvals thereof and of the dedication and affidavit of the surveyor, shall be of such size or type as will be clearly legible, but no part shall come nearer any edge of the sheet than one inch. The plat may contain as many sheets as necessary, but a fact sheet and index page shall be included for plats of two or more sheets.

**C. D. Requirements of Survey and Plat of Land Division or Reconfiguration.** Any final subdivision plat submitted shall meet the survey and monumentation requirements of the applicable Oregon Revised Statutes.

**D. E. Information on the Final Plat.** In addition to the requirements of the tentative plan approval or otherwise required by law, the following information shall be shown on the final plat:

1. Name of subdivision or partition.
2. Name of owner, applicant, and engineer or surveyor.
3. The date, scale, north point, legend, controlling topography such as bluffs, creeks and other bodies of water, and existing highways and railroads.
4. Legal description of the tract boundaries.

5. Reference points of existing surveys, identified, related to the plat by distances and bearings, and reference to a field book or map as follows:
    - a. Stakes, monuments, or other evidences found in the ground and used to determine the boundaries of the subdivision, partition or replat.
    - b. Adjoining corners of adjoining subdivisions, partitions or replats.
    - c. Other monuments found or established in making the survey or required to be installed by provisions of this ordinance.
    - d. The exact location and width of rights-of-way and easements intercepting the boundary of the tract.
  6. Tract boundary lines, and street rights-of-way and center lines, with dimensions, bearing or deflecting angles, radii, arcs, points of curvature and tangent bearings. Normal high water lines for any river, creek, bay, or other body of water. Tract boundaries and street bearings shall be shown to the nearest 0.01 feet. No ditto marks shall be used.
  7. ~~Streets.~~ The width of the streets being dedicated and the curve data shall be based on the street center line. In addition to the center line dimensions, the radius and central angle shall be indicated together with the long chord distance and bearing.
  8. ~~Easements.~~ Easements shall be noted by short dashed fine-dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not of record, a statement of the easement shall be given. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision shall be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication.
  9. ~~Lot and Parcel Numbers.~~ Lot and parcel numbers beginning with the number "1" and numbered consecutively.
  10. ~~Public Lands.~~ Public lands, including strips and easements shall be clearly marked to distinguish it from lots intended for sale.
  11. ~~Access Restrictions.~~ Limitations on rights of access to and from streets, lots, and other parcels of land.
  12. ~~Area.~~ The area of each lot, parcel or unit of land, if larger than one acre, to the nearest hundredth of an acre; and the area of each lot, parcel or unit of land less than one acre, to the nearest square foot.
  13. ~~Certificates and Signatures.~~ Appropriate space for all signatures as specified by the Deschutes County Surveyor shall be included on the final plat. The following certificates and signatures are required and shall be combined where appropriate:
    - a. ~~A signature by each party having any record title interest in the land, consenting to the preparation and recording of the plat.~~
    - b. ~~The seal and signature of the surveyor responsible for the survey and final map.~~
    - c. ~~The signature of the County Surveyor.~~
    - d. ~~The signature of the County Tax Assessor.~~
    - e. ~~The signature of the County Tax Collector.~~
    - f. ~~A signature of an authorized representative of the irrigation district, where applicable. All plans, plats or replats of land divisions located within the boundaries of an irrigation district, drainage district, water control district, district improvement company, or similar service district shall be submitted to the board of directors of the district or company and its approval thereof shall be indicated thereon by the board before City approval of such plan, plat, or replat of any subdivision. Except, that if the applicant is unable to obtain action or approval of any district or company within 45 days, the applicant shall notify the governing body in writing and thereafter the governing body shall serve notice on that district or company by certified mail advising the district or company that any objections to the plan, plat, or replat must be filed in writing with the governing body within 20 days. Failure of the district or company to respond shall be considered an approval of such plan, plat, or replat.~~
    - g. ~~The signature of the City Engineer.~~
    - h. ~~The signature of the City Planning Director.~~
    - i. ~~A signature of approval by the Board of County Commissioners.~~
    - j. ~~Other certificates or signatures that may be required by state regulations.~~
- E. F. Supplemental Information with the Final Plat.** The following data, if applicable, shall accompany the final plat.



1. Title Report. A preliminary title or subdivision guarantee report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises; such report shall show evidence of a clear and marketable title and shall have been prepared within 30 days prior to submitting the final plat for review.
2. Survey Closure Data Sheets. A copy of the surveyor's survey closure sheets. Sheets and drawings shall contain the following information:
  - a. ~~Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any. A survey control work sheet may be substituted for this item.~~
  - b. ~~The computation of distances, angles, and courses shown on the plat.~~
  - c. ~~Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners, and state highway stationing.~~
3. Deed Restrictions. A copy of any deed restrictions<sup>a</sup> applicable to the subdivision, or partition or replat.
4. Homeowner's Association. A copy of any homeowner's association agreements proposed or required for the subdivision.
5. Dedications. A copy of any dedication requiring separate documents with specific reference to parks, playgrounds, etc.
6. Taxes. A list of all taxes and assessments on the tract which have become a lien on the land subdivided or partitioned.
7. ~~Improvements. If grading, street improvements, sidewalks, pedestrian access corridors, bikeways, sewer or water facilities are required as a condition of approval of the final plat, the following shall be required to be submitted with final plat:~~
  - a. ~~Improvement Plan in accordance with Chapter 3.4; Public Improvement Standards of this ordinance.~~
  - b. ~~Plans and profiles of sanitary sewers, location of manholes, and drainage system.~~
  - c. ~~Plans and profiles of the water distribution system showing pipe sizes and location of valves and fire hydrants.~~
  - d. ~~Specifications for the construction of all utilities.~~
  - e. ~~Grading plans and specifications as required for areas other than streets and ways.~~
  - f. ~~Planting plans and specifications for street trees and other plantings in public areas.~~
  - g. ~~Plans for improvements, design factors, or other provisions for fire protection or fire hazard reduction.~~
8. Subdivisions, partitions or replats adjoining SM or SMR Zones. Any final plat of which adjoins an SM or SMR zone must clearly show where such zone is located in relation to the subdivision boundaries. ***The SMR zone does not exist.***
9. Condominium Plats. Any final plat for a condominium shall be accompanied by a copy of the condominium declaration.

#### **F. G. Technical Review of Plat Criteria for Final Plat Approval.**

1. ~~Ordinance Check. Upon receipt by the Planning Division, the plat and other data shall be reviewed by the Review Authority to determine that the following criteria have been met:~~
  1. ~~The land division subdivision, partition or replat as shown is substantially the same as it appeared on the approved tentative plan, and for compliance with provisions of this ordinance and other applicable laws, all conditions of tentative plan approval have been or will be met.~~
  2. ~~Field Check. The City Engineer and Planning Director or their designated representatives may make such checks in the field as are desirable to verify that the map is sufficiently correct. The Engineer or Planning Director, or representatives thereof, may enter the property for this purpose.~~
  3. ~~Reimbursement. Expenses incurred by the City Engineer in the technical plat review shall be reimbursed by the applicant prior to final approval of the plat.~~

#### **H. Conditions of Plat Approval.**

1. ~~The Review Authority shall determine whether the final plat conforms with the approved tentative plan and with these regulations. If the Review Authority does not approve the plat, the Review Authority shall advise the applicant of the changes or additions that must be made and shall afford the applicant an opportunity to make corrections. If the Review Authority determines that the plat conforms to all requirements the Review Authority shall recommend approval, provided supplemental documents and provisions for required improvements are satisfactory.~~
2. That the final plat contains the following elements: ~~No plat of a proposed land division or reconfiguration shall be approved unless:~~
  - a. ~~Streets and roads for public use are to be dedicated to the public without any reservation or restriction.~~
  - b. ~~Streets and roads held for private use and indicated on the tentative plan have been approved by the City.~~
  - c. ~~The plat contains provisions for dedication to the public of all streets, roads, bikeways, access corridors, parks, sewage disposal, and water supply system, if made a condition of the approval of the tentative plan.~~
  - d. ~~Explanations of all common improvements required as conditions of approval of the tentative plan shall be are recorded and referenced on the plat.~~
  - e. ~~If the land division adjoins an SM or SMR zone, the existence and location of such zone shall be entered on the deeds for all lots or parcels created by the land division.~~
3. ~~No plat of a land division or reconfiguration shall be approved unless That the developer has either constructed and had accepted by the City the required improvements or the developer has executed an improvement agreement pursuant to the provisions of Section (E) above filed with the City a financial security acceptable to the Community Development Director in accordance with Section J in lieu of constructing the improvements. If the developer chooses to construct the improvements, he shall also file with the City a warranty bond executed by a surety company to cover the one (1) year warranty periods following acceptance by the City. Said bond shall be in the amount of twelve (12%) percent of the value of the improvements. Some of this was moved to Subsection Q, below.~~

G. K. Final Plat Approval. After the final plat has been checked reviewed and approved by the City as provided in this article and when all signatures appear thereon, ~~except those of the Planning Director, County Clerk, and Board of County Commissioners, and when all signatures as required by the Deschutes County Surveyor other than the Community Development Director, City Engineer and County Commissioner appear on the mylar, the Planning Manager Director and City Engineer shall certify sign the final plat mylar and return it to the applicant to file with Deschutes County, and submit it to the Board of County Commissioners for final approval.~~

#### H. L. Filing Recording of Plat.

1. ~~No plat shall have any force or effect until the same has been finally approved by the Board of County Commissioners. No title to any property described in any offer of dedication shall pass until the final plat has been filed. Moved to #3, below.~~
2. Within 60 days of City approval, the applicant shall file submit the approved final plat, including an exact copy thereof as described in subsection four (4) of this section, with the Deschutes County Clerk for recordation.
3. ~~No plat shall be filed unless all ad valorem taxes and all special assessments fees or other charges required by law to be placed upon the tax roll, which have become a lien upon the land division or which will become a lien during the calendar year, have been paid. This is a County requirement and enforcement item – it shouldn't be in the City's Code.~~
4. The applicant shall also submit with the final plat an exact photo mylar copy thereof. The engineer or surveyor who made the plat shall make an affidavit to indicate that the photocopy or tracing is an exact copy of the plat. The copy shall be filed with the County Recorder and shall be certified to him to be an exact copy and then shall be filed in the archives of the County, and be preserved by filing without folding. The applicant shall provide exact copies of the recorded plat to the County Assessor, County Sanitarian, City Engineer and City Planning Division, and appropriate postal and fire protection agencies. One original exact copy shall be filed with the City Engineer.
3. The plat shall not be in effect until it has been recorded with the Deschutes County Clerk

**L. M. Errors in the Final Plat.** If an error in the final plat is discovered after the plat has been filed with the County Clerk, said ~~the~~ error shall be corrected by the filing of an affidavit of correction, a correction plat which shall be submitted in the same manner as a final plat.

**N. Notice of Filing of Final Plat.** The applicant shall provide notice of the filing of the final plat to all parties who participated in the land use proceedings leading up to the filing of the final plat. *This is an antiquated provision – notice is provided to surrounding property owners of the tentative plan application, and notice of the tentative plan decision is mailed to parties of record. Type I proceedings on a plat don't have parties or opportunity to participate, so notice isn't warranted.*

**I. Improvement Agreement**

1. ~~The developer may, in lieu of completion of the required improvements and repair to existing streets and facilities, request the City to approve an agreement between himself and the City specifying the schedule by which the required improvements and repairs shall be completed. Provided, however, any schedule of improvements agreed to shall not exceed one (1) year from the date the final plat is recorded. The agreement shall provide the follow information:~~
  - a. ~~A list of all the contractors who will construct or complete the improvements and repairs required, and the cost of the project.~~
  - b. ~~That the City may call upon the security filed to construct or complete the improvements and repairs if the schedule of improvements is not adhered to.~~
  - c. ~~That the City shall recover the full cost and expense of any work performed by the City to complete construction of the improvements and repairs, including, but not limited to, attorneys' and engineering fees.~~
  - d. ~~That a warranty period for such improvements shall be in effect for one (1) year following the completion and acceptance of the improvements. A form of surety shall be deposited with the City following acceptance of the improvements. Said form of surety shall be in the amount of twelve (12) percent of the value of the improvements and shall be for a minimum time period of eighteen (18) months.~~
  - e. ~~That building permits will not be issued for construction on any lot or parcel within the land division until such time as all required improvements are completed, unless otherwise authorized by the City.~~
2. ~~The City may reject an agreement authorized by this section for any reason the City deems sufficient.~~

**J. Bond or Cash Deposit Financial Security in Lieu of Construction.**

1. In lieu of completion of the required improvements, the developer may request the City approve a financial security between the developer and the City guaranteeing the construction of the required improvements and specifying the schedule by which the required improvements shall be completed. The developer shall file, with any agreement specified in Section (I) above, The acceptance of financial security in lieu of construction is at the discretion of the Community Development Director. To assure his full and faithful performance thereof, of the construction of the required improvements, the developer shall file provide one of the following:
  - a. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney. -
  - b. A cash deposit in a City account at an approved lending institution.
  - c. An irrevocable standby letter of credit in a form approved by the City Attorney from a federally insured banking institution or savings & loan operating in Oregon that unconditionally promises to pay the funds pledged upon demand by the City. Such obligation must be unaffected by the financial status of the person who has obtained the letter of credit.
  - d. An "Assurance Provider" arrangement between the developer, the City and a federally insured financial institution which assures the City that funds to complete the performance of the developer's improvement agreement will be provided by the federally insured financial institution to the City in the event the developer does not complete performance of the improvement agreement. The form of the Assurance Provider arrangement, and the federally insured financial institution must be satisfactory to the City. Other irrevocable financial security acceptable to the Community Development Director.
2. Such assurance of full and faithful performance The financial security shall be for 120% of the cost of the improvements and repairs as determined by the City.

3. If the developer fails to carry out the provisions of the agreement, the City shall call upon the bond, or letter of credit or cash deposit or Assurance-Provider arrangement other financial security to finance any cost or expenses resulting from said failure. If the amount of the deposit, letter of credit or bond or Assurance-Provider arrangement other financial security exceeds the cost and expense incurred by completing the improvements, the City shall release the remainder. If the amount of the deposit, letter of credit or bond or Assurance-Provider arrangement other financial security is less than the cost and expense incurred by the City for the improvements and repairs, the developer shall be liable to the City for the difference.

**K. Warranty Bond.** Prior to final plat approval, the developer shall file with the City a warranty bond executed by a surety company, or other financial security acceptable to the Community Development Director, to cover a one-year warranty period beginning on the date of acceptance of the public improvements by the City. The bond shall guarantee the workmanship of the public improvements and shall be in the amount of twelve percent of the value of the improvements as determined by the City. The Warranty Bond shall be effective for no less than eighteen months.

#### **4.3.500      Replats**

##### **A. Applicability**

1. A replat is the act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in a subdivision.
2. The relocation of a common boundary line between two lots/parcels within a recorded subdivision or partition shall not be considered a replat. A property line adjustment may occur in a platted subdivision or partition as provided for in Section 4.3.600.

##### **B. Replat Process**

1. A replat tentative plan and plat shall comply with the land division process specified in Sections 4.3.300 and 4.3.400 with the following exceptions:
  - a. The word "Replat" shall be shown in the title block;
  - b. The name or reference number of the previous plat and any additional recording information shall be retained in the title of the replat;
  - c. Blocks, lots/parcels and portions thereof which are being replatted shall be identified where applicable; and
  - d. Original plat information being deleted, abandoned or changed by the replat shall be shown lightly sketched or dotted on the drawing with a note of explanation.

#### **4.3.5600      Property Line Adjustments**

##### **A. Applicability**

1. The relocation or elimination of a common property line between abutting properties may be granted in accordance with the provisions of this section. The Property Line Adjustment provisions of this section shall not apply to:
  - a. A property line adjustment that affects more than two abutting units of land.
  - b. A property line adjustment that adjusts a property which was approved and/or created as open space, common area, private park, private road, or other specifically required and/or designated unit of land specifically required and/or designated by a previous land use approval.

##### **B. Filing Procedures and Requirements.**

1. Property line adjustments shall be processed as Type I applications in accordance with Section 4.1.300.
2. ~~Any person proposing a Property Line Adjustment shall prepare and submit two (2) copies of the documents hereinafter described, an application~~ in accordance with the prescribed procedures and the appropriate filing fee, to the Planning Division.
3. ~~An application for a Property Line Adjustment shall be accompanied by the following materials:~~

- a. A scale drawing prepared by a licensed surveyor or engineer showing the existing property lines, the proposed property lines, existing water, sewer and utility lines, and the footprint of all existing structures with setbacks to the existing and proposed property lines noted.
- b. Legal descriptions for the existing properties and for the properties as adjusted.
- c. ~~A copy of the current property tax status from the County Tax Assessor. All taxes must be paid in full.~~ ***This is a County issue to be tracked by the Assessor's Office prior to the County's approval of the plat.***
- cd. A copy of the deed or other recorded instrument that signifies ownership of the affected properties.
- de. If the properties are not served by the City sewer system, provide documentation from the County Environmental Health Division which indicates that the proposed adjustment will be in compliance with all applicable requirements for sanitary septic systems when such systems exist on the properties affected by the adjustment.

**C. Requirements Criteria for Tentative Approval.**

- 1. No application for property line adjustment shall be approved unless the following standards criteria are met:
  - a. The adjustment does not result in property sizes that are less than those established by the underlying zoning designation.
  - b. Nonconforming properties that are less than the minimum size established for the zone shall not be further reduced in size.
  - c. Existing structures shall not be made nonconforming with regard to setbacks, lot coverage or other requirements of the underlying zone, or this ordinance.
  - d. Existing water and sewer service lines to the adjusted lots or parcels shall be in conformance with current City standards or shall be constructed to conform with current City standards.
  - e. The applicant has submitted documentation from the Deschutes County Environmental Health Division that any existing ~~Existing~~ sanitary septic systems on the adjusted properties shall meet all requirements of the County Environmental Health Division.

**D. Requirements for Final Approval.**

- 1. In order to obtain final approval of a property line adjustment, the following requirements shall be completed within one (1) year of the tentative approval:
  - a. New deeds or other instrument conveying ownership containing the legal descriptions for the adjusted properties shall be recorded with the County Clerk, if applicable.
  - b. A survey drawing containing the stamp and signature of a licensed surveyor or engineer shall be recorded with the County Surveyor.
  - c. ~~All property taxes on the adjusted properties shall be paid in full.~~
  - cd. Verification of acceptance of water and sewer line construction to the adjusted properties by the City Engineering Division if applicable.
  - d. ~~The applicant shall provide notice of the filing of the final plat to all parties who participated in the land use proceedings leading up to the filing of the final plat.~~ ***Property Line Adjustments are Type I proceedings – there are no participants except the applicant.***

[Chapter 4.3 amended by Ord. NS-2068, adopted August 15, 2007]  
 [Chapter 4.3 amended by Ord. NS-2113, adopted January 5, 2009]



## Exhibit B

### BEND CITY COUNCIL FINDINGS FOR DEVELOPMENT CODE TEXT AMENDMENT

**PROJECT**

**NUMBER:** 10-50

**HEARING DATE:** Wednesday, September 1, 2010  
City of Bend Council Chambers  
710 NW Wall Street  
Bend, OR 97701

**APPLICANT:** City of Bend  
710 NW Wall Street  
Bend, OR 97701

**REQUEST:** A proposal to amend the text of Chapters 1.2, 3.4, 3.5, 3.6, 4.2 & 4.3 of the Bend Development Code (Ordinance NS-2016).

**STAFF:** Aaron Henson, AICP, Senior Planner

#### I. APPLICABLE CRITERIA:

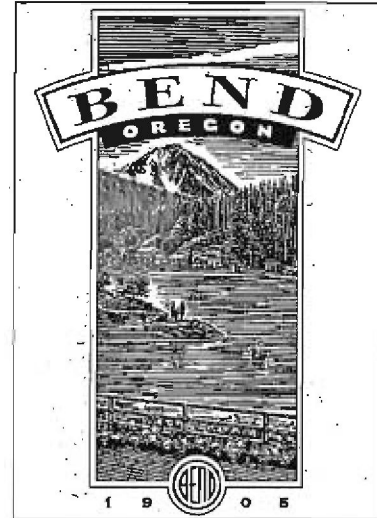
- (1) The Bend Area General Plan
- (2) Bend Code Chapter 10; City of Bend Development Code, Ordinance NS-2016
  - (a) Chapter 4.6, Land Use District Map and Text Amendments;  
Section 4.6.200(B), Criteria for Legislative Amendments

#### II. APPLICABLE PROCEDURES:

- (1) Bend Code Chapter 10; City of Bend Development Code, Ordinance NS-2016
  - (a) Chapter 4.1, Land Use Review and Procedures

#### II. FINDINGS OF FACT:

- 1. **PLANNING COMMISSION RECOMMENDATION:** A package of amendments to the text of Chapters 1.2, 3.4, 3.5, 3.6, 4.2 & 4.3 of the City of Bend Development Code (Ordinance NS-2016), which are intended to improve the City's development review process and increase efficiency and effectiveness. The proposed amendments to the land division approval criteria in Section 4.3.300(D) of the Development Code are a continuation of work that began back in 2003 under Periodic Review Work Task 3B, and these amendments were prepared in response to Item #5 in DLCD Remand Order No. 001718.



2. **PUBLIC NOTICE AND COMMENTS:** The Planning Division published notice of the City Council public hearing on the proposed text amendments in the Bulletin on August 10, 2010. Notice was also mailed to all Neighborhood Associations and parties to the record. Comments received in response to the City's notices are included in the record.
3. **BACKGROUND:** The proposed changes to Chapters 1.2 & 3.6 revise the city's standards for keeping farm animals in the city limits. The proposed changes to Chapters 3.4 & 3.5 clarify the city's existing "special setback standards" and move these standards from Section 3.5.300 to Section 3.4.200(J). The proposed changes to Chapter 4.2 streamline and clarify the city's site plan and design review regulations, and establish "minimum development standards" that apply to single-family and duplex dwellings, minor additions or expansions, and/or changes of use. The proposed changes to Chapter 4.3 modernize and clarify the city's regulations for subdivisions, partitions, replats, and property line adjustments.

### **III. CONCLUSIONS OF LAW:**

#### **CONFORMANCE WITH CITY OF BEND COMMUNITY DEVELOPMENT CODE, CHAPTER 4.6, LAND USE DISTRICT MAP AND TEXT AMENDMENTS**

##### **4.6.200 Legislative Amendments.**

- A. **Applicability, Procedure and Authority.** Legislative amendments generally involve broad public policy decisions that apply to other than an individual property owner. These include, without limitation, amendments to the text of the comprehensive plan and map, Development Code and changes in the zoning map not directed at a small number of properties. They are reviewed using the Type IV procedure in accordance with Chapter 4.1, Land Use Review and Procedures and shall conform to Section 4.6.600, Transportation Planning Rule Compliance. A Legislative Amendment may be approved or denied.

**FINDING:** The amendments to the text of the Development Code involve broad public policy rather than an individual property owner. Therefore, the Legislative Amendment Procedures of this section are the appropriate procedures for this review.

- B. **Criteria for Legislative Amendments.** The applicant shall submit a written narrative which explains how the approval criteria will be met. A recommendation or a decision to approve or to deny an application for a Legislative Amendment shall be based on all of the following criteria:

1. The request is consistent with the applicable State land use law;

**FINDING:** The proposed amendments are consistent with the applicable State land use law. In particular, they will satisfy Goal 1: Citizen Involvement, Goal 2: Land Use Planning, Goal 9: Economy of the State, Goal 10: Housing, and Goal 11: Public Facilities and Services.

- Goal 1 will be satisfied through the City's text amendment process that includes a Planning Commission public hearing, followed by a City Council public hearing.
- Goal 2 was reviewed by Planning Division staff for compliance and determined to be consistent with the City's land use policies regarding housing and economic development. Pursuant to ORS 197.195, Section 4.3.300(D) of the Development Code is being revised so that it no longer imposes a General Plan standard on limited land use decisions. The proposed amendments to Section 4.3.300(D) of the Development Code were also reviewed by the City Attorney and determined to be clear and objective as required by ORS 197.307(6).
- The intent of Goal 9 is to provide an adequate land supply for economic development and employment growth. The proposed text amendments to Chapters 1.2, 3.4, 3.5, 3.6, 4.2 & 4.3 of the Bend Development Code will not have any impact on the City's land supply for economic development and employment growth.
- The intent of Goal 10 is to provide for the housing needs of the citizens of the state. The proposed text amendments are expected to improve the City's development review process and increase efficiency and effectiveness, including the City's review of development applications for new housing.
- The intent of Goal 11 is to ensure efficient planning for public facilities and services, including sewer and water. The basic aim of the goal is that public facilities and services should be planned in accordance with a community's projected needs and capacities. The proposed amendments requiring land use applications to include a sewer and water capacity analysis support Goal 11.
- The intent of Goal 12 is to provide a safe, convenient, and economic transportation system. The proposed amendments that clarify the City's special setback standards that apply to the development of any lot or parcel that abuts an arterial, collector, or local street – and authorize the Review Authority to grant waivers to the special setback standards – will assist the City's efforts to provide a network of streets that are safe, convenient, and economic.
- The other Statewide Goals 3 through 8 and 13 through 19 were reviewed and are not applicable to this proposal.

Based on the above discussion, the Planning Commission finds that the proposed text amendments to the Development Code comply with the above criterion.

## **2. The request is consistent with the applicable Bend Area General Plan goals and policies;**

**FINDINGS:** The "goals" established in the general plan express the desires of the residents of Bend as the City progresses into the future. The "goals" are generally carried out through "policies", which are statements of public policy.

Staff reviewed the General Plan and found only Chapter 5: Housing and Residential Lands, Chapter 6: The Economy and Lands for Economic Growth, Chapter 8: Public Facilities and Services, and Chapter 9: Community Appearance to be directly applicable to the proposed text amendments.

Chapter 5 of the Bend Area General Plan includes the following goal:

“Goal 2: Encourage the Development of Needed Housing.”

The proposed text amendments include new approval criteria for land divisions that are clear and objective, as well as streamlined final plat procedures which will indirectly help to encourage the development of needed housing by making the development review process for subdivisions, partitions, and replats more straightforward and predictable.

Chapter 6 of the Bend Area General Plan includes the following goals:

- ☐ have a vital, diverse and sustainable economy, while enhancing the community's overall livability.

A subsection of Chapter 6 specifically addresses Commercial Corridor Areas. This subsection includes the following policy statement:

“The city will continue to improve the appearance of the commercial corridors.”

The proposed text amendments clarify the application requirements and approval criteria for Design Review applications, which are a tool for improving the appearance of the City's commercial corridors.

Chapter 8 of the Bend Area General Plan includes the following goals:

- ☐ To have public and private utility systems provide adequate levels of service to the public at reasonable cost;
- ☐ To ensure that public facilities and services will not have negative impacts on the environment or the community;

The proposed amendments requiring land use applications to include a sewer and water capacity analysis support the goals of Chapter 8. The proposed amendments that clarify the City's special setback standards that apply to the development of any lot or parcel that abuts an arterial, collector, or local street – and authorize the Review Authority to grant waivers to the special setback standards – will assist the City's efforts to provide a network of public streets that are safe, convenient, and economic.

Chapter 9 of the Bend Area General Plan includes the following goal:

- ☐ To make a concerted effort to improve the appearance of the community, particularly in the commercial, industrial and multifamily areas;

As previously noted, the proposed text amendments to Chapter 4.2 will significantly improve the City's existing Site Plan Review and Design Review regulations, which in turn will assist the City's efforts to improve the appearance of commercial, industrial, and multifamily areas as they grow and redevelop over time.

**3. The applicant can demonstrate a public need or benefit for the proposed amendment.**

**FINDING:** There is a demonstrated public need for further streamlining and improvement of the Bend Development Code, and the proposed text amendments will provide a public benefit through increased efficiency and effectiveness of the Current Planning Division.

**4.6.500 Record of Amendments.**

**The City Recorder shall maintain a record of amendments to the text of this Code and the land use districts map in a format convenient for public use.**

**FINDING:** The proposed text amendments will be adopted by ordinance, so the requirements of this section will be met.

**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.**

**FINDING:** The City's proposal to amend Chapters 1.2, 3.4, 3.5, 3.6, 4.2 and 4.3 of the Development Code does not significantly affect a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060.

**IV. CONCLUSIONS:**

Based on the above Findings of Fact and Conclusions of Law, the City Council finds that the proposed Development Code text amendments will meet, with maintenance of a record, all applicable criteria for adoption.



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OCT 04 2010

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**CITY OF BEND  
COMMUNITY DEVELOPMENT DEPARTMENT**

710 NW WALL STREET  
BEND, OR 97701

TO:

Attn: Plan Amendment Spec.  
DLCD  
635 Capitol St NE Ste 150  
Salem OR 97301