



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

February 26, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Bend Plan Amendment
DLCD File Number 013-07

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: March 6, 2008

This amendment was submitted to DLCD for review 45 days 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 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.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Mark Radabaugh, DLCD Regional Representative
Matthew Martin, City of Bend

<paa> ya

DLCD

Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
 PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

☐ In person ☐ electronic ☐ mailed

DATE STAMP

FEB 19 2008

LAND CONSERVATION AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **City of Bend**

Local file number: **PZ 07-325**

Date of Adoption: **2/6/2008**

Date Mailed: **2/14/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **6/6/2007**

☐ 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".

The adopted amendment changes the Bend Area Zoning Map by rezoning 4.26 acres from Residential Urban Standard Density (RS) to Public Facilities (PF) in conformance with the City of Bend Comprehensive Plan.

Does the Adoption differ from proposal? Yes, Please explain below:

The original request was to rezone 15 acres. This area was reduced to the approved 4.26 acres.

Plan Map Changed from:

to:

Zone Map Changed from: **RS**

to: **PF**

Location: **1250 NE Bear Creek Rd. Bend, Oregon**

Acres Involved: **4.26**

Specify Density: Previous: **2-7.3 units/acre**

New: **N/A**

Applicable statewide planning goals:

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

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

DLCD #013-07 (16203)

DLCD file No. _____

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

City of Bend

Local Contact: **Matthew Martin**

Phone: (541) 388-5554 Extension:

Address: 710 NW Wall St

Fax Number: 541-388-5519

City: **Bend**

Zip: 97701-

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

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. **Send this Form and TWO Complete Copies** (documents and maps) 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**
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

**FINDINGS AND RECOMMENDATION
OF
CITY OF BEND HEARINGS OFFICER**

PROJECT NUMBER: PZ 07-325

HEARINGS OFFICER: Tim Elliott

**APPLICANT/
PROPERTY OWNER:** City of Bend
575 NE 15th Street
Bend, Oregon 97701

**APPLICANT'S
AGENT:** David Evans and Associates, Inc.
Attn: Karen Swirsky
320 SW Upper Terrace Drive, Suite 200
Bend, Oregon 97702

LOCATION: The property has an assigned property address of
1250 NE Bear Creek Road and is identified as Tax
Lot 100 on County Assessor's Map 17-12-33DD.

REQUEST: The applicant requests a zone change to change the
designation of 4.33 acres of the subject property from
Residential Standard Density (RS) to Public Facilities
(PF) in conformance with the Bend Area General
Plan.

STAFF REVIEWER: Matthew Martin, Associate Planner
mmartin@ci.bend.or.us

APPLICABLE CRITERIA:

- (1) City of Bend Development Code, Ordinance NS-2016
 - (a) Chapter 2.1; Residential Land Uses
 - (b) Chapter 2.6; Public Facilities
 - (c) Chapter 3.1; Access, Circulation and Lot Design
 - (d) Chapter 4.1; Land Use Review and Procedures
 - (e) Chapter 4.6; Land Use District Map and Text Amendments
 - (f) Chapter 4.7; Transportation Analysis
- (2) The Bend Area General Plan
- (3) Oregon Administrative Rules, Chapter 660-12-060

II. FINDINGS OF FACT

1. **LOCATION:** The site is located north of Bear Creek Road and west of 15th Street. The property has an assigned property address of 1250 NE Bear Creek Road and is identified as Tax Lot 100 on County Assessor's Map 17-12-33DD.
2. **ZONE AND PLAN DESIGNATION:** The subject property is zoned RS NS designated PF on the Bend Area General Plan map.
3. **SITE DESCRIPTION AND SURROUNDING USES:** The map below demonstrates the location of the area of the proposed rezone. Staff also conducted a site visit and provided the information below based on observations made on the site. The hearings officer is familiar with the site and concurs with staff's findings.



The entire property is approximately 29.34 acres. The revised area proposed to be rezoned is a portion of the southwest corner of the property consisting of 4.33 acres. The subject property slopes slightly to the south. Vegetation consists of juniper and ponderosa pine trees and native ground cover. There is grass and other landscaping in the area of the existing cemetery, along with a cemetery office and an accessory structure in the western portion. There is a water well and related structure located in the northeast corner of the proposed rezone area. The existing cemetery access to Bear Creek Road extends along the western property line of the subject property. An access road also

traverses the property and extends to the City Public Works facility to the north.

Property to the northeast is developed as the City of Bend Police Department offices and City of Bend Public Works and accessory buildings and parking, which is zoned Commercial General (CG). The property to the west is developed with the remaining portion of the cemetery. The properties to the south across Bear Creek Road are developed with single-family residential uses. The eastern half of the subject property, as well as land west and south of the subject property, is zoned RS and is designated RS on the General Plan.

4. **PROPOSAL:** The applicant requests an amendment to the Bend Urban Area Zoning Map in order to rezone the subject property from RS to PF to match the designation of the subject property on the Bend Urban Area General Plan Map. The applicant has revised its request to reduce the area proposed to be rezoned, which originally consisted of a 15 acre area to a 4.33 acre area. This request submitted concurrently with a site plan review application for a Transit Operations Center (PZ 07-411), which is being reviewed administratively and separately from this zone change request.
5. **PROCEDURAL HISTORY:** The initial public hearing for the proposed zone change was held on July 26, 2007. During the proceedings, the applicant indicated a desire to provide a revised traffic study addressing issues raised by the City Transportation Division and estimated that it would take 3 weeks to provide said study. Based on this information, the hearings officer continued the hearing to August 27, 2007. During the continued time period, the applicant and parties were given the opportunity to provide additional written testimony. Staff received additional comments from parties that are included in the record. The previously referenced traffic study and additional documents from the applicant were submitted the afternoon of Thursday, August 23, 2007. For the reason that the late submittal did not give staff, agencies and parties enough time to evaluate the new submittals, the hearings officer continued the hearing to September 10, 2007, when the final hearing was held. The applicant has also formally extended the 120 day time line by 60 days.

CONCLUSIONARY FINDINGS:

CONFORMANCE WITH CITY OF BEND DEVELOPMENT CODE

CHAPTER 2.6, PUBLIC FACILITIES DISTRICT

2.6.100 Permitted Land Uses

Table 2.6.200 Permitted Land Uses

Land Use	PF
Publicly owned buildings such as city hall, county courthouse, administrative buildings, library, museum, fire station, public safety training facilities, and similar structures, but excluding correctional facilities	P
Public parks, playgrounds, swimming pool, skateboard park, pedestrian/bicycle trails and similar public recreation facilities.	P
Public play fields, sports complexes and similar recreational facilities without night lighting for play fields, and without amplified sound systems.	P
Land Use	PF
Publicly owned and operated community meeting halls, lodges, and conference halls open to and used by the general public.	P
Public reservoirs, well sites, pump stations, and similar utility buildings or structures.	P
Elementary and Middle schools operated by the Bend-La Pine School District	P
Magnet schools or other special schools operated by the Bend-La Pine School District	C
Public college or university	P
Trails, natural areas, open space, future park sites, and similar public or special district owned lands with no or minimal improvements	P
Accessory uses and buildings customarily used to support a permitted use or an approved conditional use	P
Minor repairs and maintenance to any permitted or conditional use	P
Parking lots and parking areas to serve a permitted or conditional use	P
Public utility maintenance facilities and operation yards with outdoor storage of materials and supplies	C
High schools operated by the Bend-La Pine School District	C
Ball fields, sport complexes, and similar outdoor recreational areas that have night lighting or amplified sound systems	C
Public transmission tower sites	C
County solid waste disposal sites or solid waste transfer sites	C
Correctional facilities for adults and juveniles including work farms and training centers	C
Park sites with outdoor amphitheater or facilities for community events such as music or theater performances, and similar events.	C

Key to Permitted Uses

P = Permitted, subject to provisions of Chapter 4.1

N = Not Permitted

C = Conditional Use - Conditional Uses are subject to Conditional Use permit standards in Chapter 4.4

FINDING: The applicant has submitted a request for site plan review of a proposed transit operations center under application PZ 07-411. The site plan review is separate from this review of the zone change request and will be reviewed administratively for compliance with the standards of the PF zone and

all other applicable criteria. The site plan and the proposed use are not before the hearings officer. But any site plan approval will be contingent upon approval and adoption of this zone change.

Staff and comments received from the public noted that the PF zone does not list a cemetery as a permitted use. In response, the applicant has revised the proposed zone change area to exclude the area that is currently developed with a cemetery.

A side issue that has been raised is that Chapter 4 of the City municipal code, which includes a description of the City Cemetery in Section 4.102. This description includes the subject property. If the property is developed with something other than a cemetery, this description would be inaccurate. No development proposal is before the hearings officer and as such this issue is best addressed with the site plan application as it will address the actual use and development of the property. Staff believes that if the zone change and site plan review are approved this issue can be resolved by amending Section 4.102 of the City Code to correctly re-describe the cemetery's dimensions. Again, no development review is being requested here.

CHAPTER 4.6, LAND USE DISTRICT MAP AND TEXT AMENDMENTS

4.6.300 Quasi-Judicial Amendments.

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

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

FINDING: There are 19 Statewide Planning Goals which express Oregon's land use policies. Each local government throughout Oregon, including the City of Bend, must adopt a comprehensive plan implementing these Statewide Planning Goals. Once LCDC finds the comprehensive plan is consistent with the Statewide Planning Goals, the agency acknowledges the plan. The applicant makes an argument that has been repeatedly made when addressing this criterion by applicants in the past. The argument goes that because the City of Bend has an acknowledged Comprehensive Plan and the requested zone change is in conformance with that Comprehensive Plan, Statewide Planning Goals are met and/or not directly applicable to this quasi-judicial zone change decision. Put another way, by demonstrating compliance with the City's

acknowledged Comprehensive Plan, the applicant is demonstrating compliance with Statewide Goals.

Nevertheless, the applicant has adequately addressed the Goals. Statewide Planning Goals 15 through 19 do not apply because these goals are focused on the Willamette River (Goal 15), and Coastal areas (Goals 16 through 19).

The findings below outline how the proposed zone change is consistent with the relevant Statewide Goals.

Goal 1, Citizen Involvement was met when the Comprehensive Plan was adopted and amended by the County and City. Public hearings were held when the Plan was adopted and amended. Additionally, the Code requires notices to be mailed to property owners within a defined notice area and those affected by the proposal. Although there was an error in the original notice of neighborhood meeting prepared by the applicant, the applicant is conducting a second neighborhood meeting with a corrected mailing list that includes those properties originally omitted from the mailing list. The City also provides published notice in a newspaper of general circulation, and on the City's website. The public hearings of this matter were also postponed in order to give the public ample time to review and consider this application. Thus, the proposal is consistent with Goal 1.

Goal 2, Land Use Planning is met by the application review and decision process, with findings made as to conformance with the Development Code. The findings in this report address all applicable Development Code criteria.

Goal 3, Agricultural Lands and Goal 4, Forest Lands do not apply to this review as the subject property is located within an urban growth boundary and the property is not designated as agricultural or forest land by the comprehensive plan.

Goal 5, Open Spaces, Scenic and Historic Areas and Natural Resources is met by Plan policies that preserve open space, scenic, historic and natural resources. There are no Goal 5 resources within the subject property.

Goal 6, Air, Water and Land Resources Quality requires the County and City to develop a comprehensive plan that would not degrade air, water and land resources in applicable airsheds and river basins. Rezoning the subject property to comply with the plan designation of Public Facility will further comply with the comprehensive plan.

Goal 7, Areas Subject to Natural Disasters and Hazards. The subject property is not located in an area recognized for natural disaster or a hazard area.

Goal 8, Recreational Needs. The City of Bend met its obligation to provide for the recreational needs of its citizens by adopting a park systems development charge for all development within the Bend urban area.

Goal 9, Economic Development. The zone change application assists the City to meet Goal 9 because the subject property will be re-zoned PF, as it is designated on the Plan. The designation of the property is what counts in terms of meeting the Statewide Planning Goals. Because the applicant requests a zone change from RS to PF, this proposal does not remove any lands currently zoned for economic, commercial or industrial uses.

Goal 10, Housing is not relevant to this proposal because the subject property is not designated for use to meet "needed housing" requirements. The Residential Lands Study dated June 30, 2005 excluded the subject property from the Buildable Lands Inventory because the existing cemetery use type is public and not housing.

Goal 11, Public Facilities and Services requires the City to plan and develop the Bend urban area in a timely, orderly and efficient fashion, based upon the availability of public services. The proposed zone change will increase land available for public facilities, furthering compliance with Goal 11.

Goal 12, Transportation. Compliance with the Transportation Planning Rule is addressed below. In addition, no comments were received from the Oregon Department of Transportation (ODOT) or City Long Range Planning with concerns about impacts on Highway 20, a nearby state transportation facility.

Goal 13, Energy Conservation. The proposed project does not affect Goal 13.

Goal 14, Urbanization. This Goal is furthered by the proposed project because it supports land development within the existing Urban Growth Boundary.

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

FINDING: The applicant's burden of proof notes that the General Plan describes several land use categories that provide for the various types of development expected to occur within the urban area during the 20-year planning period. These land use categories are graphically portrayed on the General Plan Map. The major land use categories – residential, commercial, industrial and mixed use – have very specific boundaries that are shown on the General Plan Map. The City and County apply zoning to property based on the General Plan map categories.

The Preface of the General Plan states that plan policies will be implemented by the City's land use regulations. In this case, the City has chosen to require, in its land use regulations, that relevant policies of the Comprehensive Plan be followed during the rezoning process. This makes it clear that while the Comprehensive Plan policies are not mandatory approval criteria for most land use applications, they must be applied to this zone change application. The General Plan Preface also makes it clear that the General Plan Map is meant to dictate the zoning of land. As stated therein, "[t]he city and county apply zoning to property based on the General Plan map categories." The following are the Plan policies that are relevant to the review of this land use application:

Chapter 1: Development within the Urban Growth Boundary

Policy 2. The city and special districts shall work toward the most efficient and economical method for providing their services within the UGB.

One of the services now provided within the UGB is a fixed route transit system, launched on September 27, 2006. The system is named Bend Area Transit (BAT). Although no development is proposed here, the applicant intends to use the 4.33 acre site as a transit center for the BAT. Currently, the BAT buses and vans are serviced and stored at the City of Bend's Public Works center off of Forbes Street, north of the subject property. The Forbes Street site has insufficient space and facilities to service the existing fleet. The location of this property, directly adjacent to the existing public works facility, provides an efficient and economical method for continuing and expanding transit service to the City of Bend. This policy is met.

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

The proposed rezone and transit center are located on the outer edge of the core area of Bend. The property is already designated as Public Facilities on the Bend General Plan. The applicant states that the City has no plans to make any changes to the cemetery grounds or facilities, but believes that the southern portion of this property is the best location for the transit center to redevelop and serve both the core and outer areas of Bend. In this regard the application will allow infill development.

Chapter 8: Public Facilities and Services

The City of Bend's Transportation System Plan (2000) recommended the implementation of a fixed route transit system. Implementing the proposed zone change and project will allow the City to continue to meet this goal.

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

FINDING: Section 4.6.300(B)(3) provides that either the subject property be presently provided with adequate public facilities, services and transportation networks to support the use, or the applicant plans to provide these concurrently with development. Generally zone change applications are concerned with the impact to the existing facilities, services and transportation networks from the change in zoning designation and the potential uses available in the existing zone. The City can evaluate the impacts based upon the proposed use because the applicant submitted a development application concurrently with this zone change request, though no actual development or site plan is at issue here. As noted above, this will be addressed administratively. Furthermore, the subject property is already designated for PF development. The impact of development was necessarily and actually considered when the Plan was updated in 1998.

Streets: The subject property abuts Bear Creek Road, a Minor Arterial street. The submitted traffic impact analysis indicates the PF zone would generate much lesser traffic impacts than the RS zone, the current zoning. Despite this fact, several parties have raised concerns about increased traffic, and the location of Bear Creek Elementary School. The transportation planning rule is addressed further below.

Water: City of Bend water currently serves the property. The record indicates that the proposed project would have a significantly lower impact on water use than a standard residential development. But, in any event the property can be adequately served by City water service.

Sewer: City of Bend sewer currently serves the property. The record also reflects that proposed project would have a significantly lower impact on sewer capacity than a standard residential development. In any event, the property is already served with City service.

Schools: The project will have little impact the Bend LaPine School District compared to a standard residential development because no additional students will be generated by uses allowed in the PF zone. This portion of the criterion does not address the transportation system plan, which will be addressed below.

Parks and Libraries: The project will have little or no impact on parks or library services compared to a standard residential development.

Fire and Police Protection: Fire and police protection is available for the subject property from the City of Bend.

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

FINDING: There is an inconsistency between the Comprehensive Plan designation and the zoning map regarding the subject property. The subject property is zoned RS, but the Comprehensive Plan designates this property PF. Approval of this zone change is needed to bring the zoning of the property into conformance with its Comprehensive Plan designation.

Although the Code at Section 4.6.300(B)(4) clearly allows a change in zoning to correct inconsistency in the Comprehensive Plan and land use district map, there are also changes of circumstances that justify the zone change in this case. In 1998, the Bend Urban Area General Plan was updated. At that time, the City created a new designation called Public Facilities. The PF Zone recognized the importance of preserving land for public uses such as infrastructure, public buildings, parks, and schools. The subject property is zoned RS but was recognized as an appropriate location for public facilities because of the existing public use (cemetery) and the adjacent existing public uses (police station and Public Works Department building). Thus, there is both an inconsistency that approval of this zone change will correct and a change in circumstances, the creation and designation of the PF zone here, that justifies approval of this application within the meaning of the above criterion.

Section 4.4.600 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: For the reasons discussed below, the hearing officer finds that approval of this zone change is consistent with Section 4.6.600 of the Code, which requires compliance with the Transportation Planning Rule.

CHAPTER 4.7, TRANSPORTATION ANALYSIS

4.7.100 Purpose and Authority.

- B. City's Authority. The City Engineer may, at his/her discretion, modify or waive the required content of this chapter when in his/her judgment, special circumstances dictate such change. The City Engineer may at his/her discretion expand the requirements and/or study area if needed to address any issue that comes to light after the initial approval of a

scope of work. Certain information may come to light over the course of the analysis that causes the City to require additional analysis to address traffic operations or safety issues that had not been anticipated.

C. Applicability. Land use actions will be reviewed for impacts and potential mitigation through a Transportation Impact Study.

1. Land Use Actions. A Transportation Impact Study (TIS) shall be required for development projects when the land use involves one or more of the following actions:

b. A zone change

3. Exceptions. A trip generation letter may be provided in lieu of a Transportation Impact Study for applications that do not involve a General Plan map amendment or zone change provided that the applicant can demonstrate that the project will generate fewer than 100 vehicle trips per day, and that the site access driveways meet sight distance, operations and safety requirements.

4.7.200 Transportation Impact Study

2. Scope of Work. The Transportation Impact Study Scope of Work shall include these elements:

a. Study Area. The Study area shall include:

- i. The existing street infrastructure along the property frontage (i.e. right-of-way, sidewalks, bicycle lanes, medians, driveway aprons);**
- ii. All driveway access points except single family residential dwellings;**
- iii. All street connection points to abutting arterials or collectors;**
- iv. Any intersection with an interchange, or ramp terminal, and any arterial-arterial intersection, arterial-collector intersection or collector-collector intersection, that is within one-mile driving distance of the site and has more than 15 peak hour trips added to any lane group. The driving distance shall be measured from each access point (driveway or street) of the development onto the transportation system.**

v. Other transportation facilities required to be studied by the Transportation Planning Rule OAR 660-012-0060.

- (1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility.

FINDING: First, although no actual impact comes from a zone change itself, the above rule requires the applicant to provide a Traffic Impact Study. Further, where no use is actually proposed, a worst case scenario standard must be met. Questions were raised about the applicant's study and trip generation count, whether rates for government office standards should have been used, etc. One of the issues was whether the trip count, based solely upon the development proposal, was sufficient. The Traffic Engineer felt that a worst case scenario standard should include all acres to be included in the zone change, as opposed to only the actual proposed construction area. In response the applicant supplemented the study and reduced the area of the proposed zone change from 15 acres to 4.33 acres. The applicant has also left a 104 foot swath of land fronting Bear Creek Rd. as RS. This is intended to assure the neighbors that this area will not be used for the construction of the intended transit center buildings. The applicant also revised the portion of the application to remove certain access locations on Bear Creek, although that issue is more appropriately addressed with site plan. As a result of the changes, the Traffic Engineer, Julia Wellner revised her comments, which are included in a memo dated 10/11/07. Ms. Wellner, also testified that the TPR had now been met. Her most recent comments state:

The revised site plan now accounts for improvements on essentially all buildable area within the proposed zone change area. Areas for future accesses to Bear Creek Rd. have also been removed, although accesses are shown on the site plan. Previously noted concerns regarding access locations remain, but unlike the previous submittal, the revised zone change proposal allows for flexibility in access placement. Approval of accesses will require additional traffic analysis, to be required through the Site Plan Review and Variance processes.

At issue here is whether, under a worst case scenario, the proposal will cause any related facility to fail. I find that it will not. The Traffic Impact Study anticipated that the transit operations center would generate traffic at rates comparable to a light industrial facility. This also seems most appropriate to me. Buses tend to arrive and leave outside of the peak hour, since transit operators

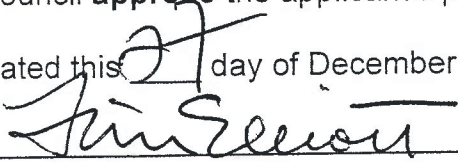
typically have the highest number of buses on the street during commuter peaks. This is similar to industrial uses, in which most of the trucking activity starts before the commuter peak in the morning and ends in the afternoon before the p.m. commuter peak. Given that there is not an established ITE Trip Generation Rate for a transit operations center; the trip generation rate for a light-industrial use is the closest comparable use. The p.m. peak hour trip rate for light industrial uses is 7.26 trips per acre of development. The resulting p.m. peak hour trip generation was forecast to be 30 p.m. peak hour trips. Although this does not address the standard, this impact is significantly less than would be generated by an RS development, now allowed. The PM Peak hour trip generation was forecast at 7.26 trips per acre. The supplement to the study dated 10/11/07 contains a good analysis of the number of anticipated staff, maintenance employees, etc., who would be accessing the site. In fact, the applicant argues that the proposed zone change would actually result in a net reduction in the p.m. peak hour trip generation when compared to the RS zone. Most importantly, the zone change would not cause any existing facility to fail. The applicant states that because the proposed zone change does not have the effect of allowing more trip generation than the existing zone, the change is supported by adequately planned facilities. The hearings officer agrees; the TRP is met.

With that said, the hearings officer acknowledges the comments of the School District and neighbors. Many concerns have been raised regarding access, compatibility of the buildings, visual aesthetic impacts, safety of school children, noise, destruction of natural areas, etc. Some of the concerns have already been directed to City Council. These issues, and others, are now at issue in the site plan application, where the actual use, access and development of the site are determined. It is through the site plan review that these issues should be addressed.

RECOMMENDATION OF HEARINGS OFFICER

Based on the above findings, the hearings officer recommends that the that City Council **approve** the applicant's proposed zone change from RS to PF

Dated this 27 day of December, 2007



Tim Elliott
City of Bend Land Use Hearings Officer

ORDINANCE NO. NS-2087

AN ORDINANCE AMENDING THE BEND URBAN AREA ZONING MAP BY CHANGING THE ZONING DESIGNATION OF A PARCEL OF LAND TOTALING 4.26 ACRES FROM RS RESIDENTIAL URBAN STANDARD DENSITY TO PF PUBLIC FACILITIES.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council held a public hearing to consider the Hearings Officer's findings and record, and found that the proposal is consistent with the criteria of the Bend Development Code Section 4.6.300. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated December 27, 2007, file number PZ 07-325, except were revised and approved by the City Council.

Section 2. The Bend Urban Area Zoning Map is hereby amended by changing the designation of the property described and shown in "Exhibit A" from Residential Urban Standard Density (RS) to Public Facilities (PF).

Read for the first time the 16th day of January, 2008.

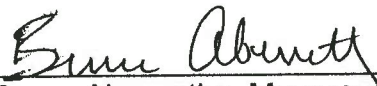
Read for the second time the 6th day of February, 2008.

Placed upon its passage the 6th day of February, 2008.

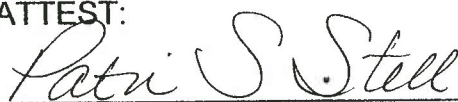
YES: 6

NO: 0

Authenticated by the Mayor the 6th day of February, 2008.


Bruce Abernethy, Mayor

ATTEST:


Patricia Stell, City of Bend Recorder



DAVID EVANS
AND ASSOCIATES INC.

EXHIBIT A

BEND TRANSIT CENTER

A parcel located in the southeast 1/4 of the southeast 1/4 of Section 33 in Township 17 South and Range 12 East of the Willamette Meridian, City of Bend, Deschutes County, Oregon as shown on the attached map and fully described as follows:

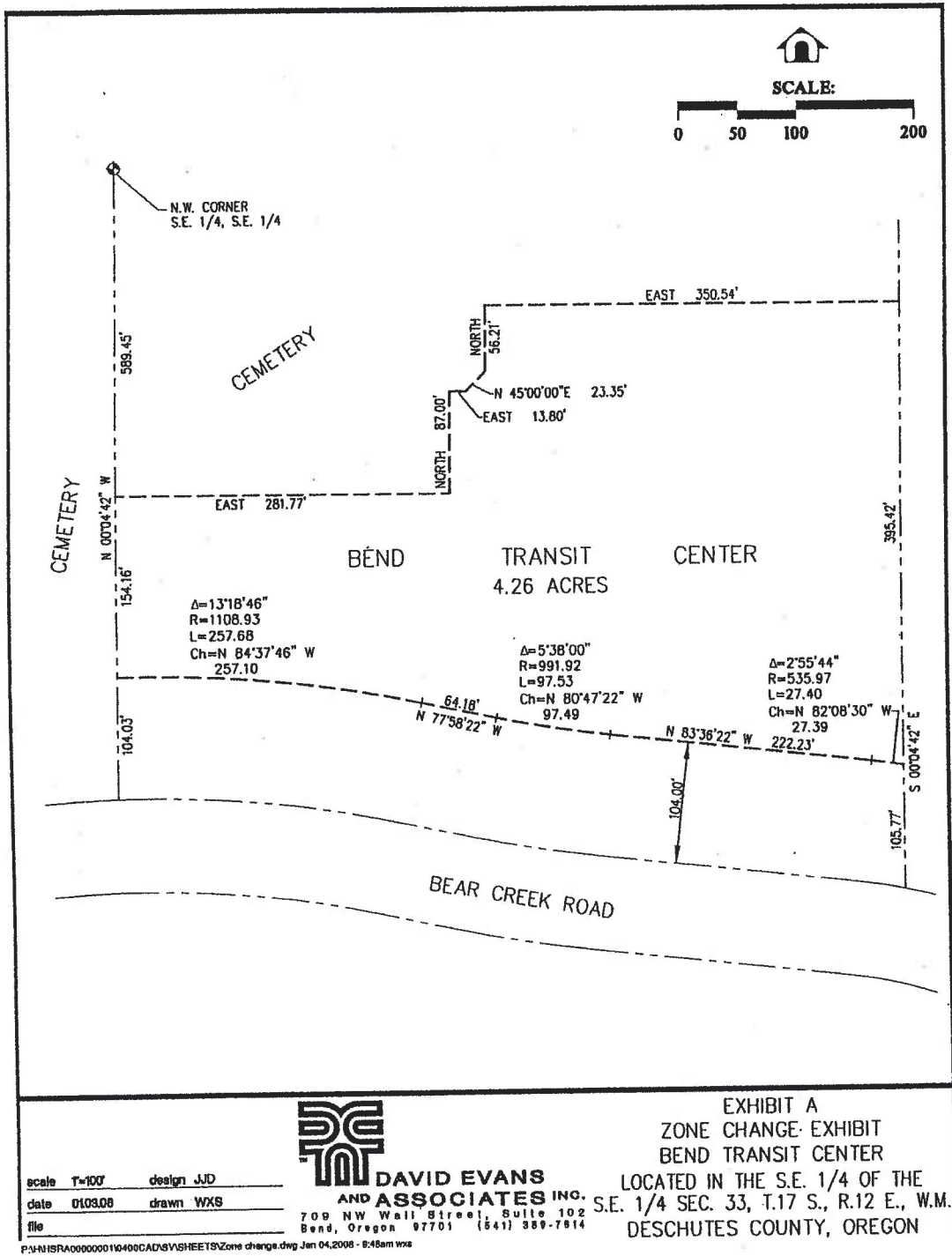
Commencing at the northwest corner of said southeast 1/4 of the southeast 1/4; thence South 00°04'42" East 589.45 feet, along the west line of said southeast 1/4 of the southeast 1/4, to the point of beginning; thence leaving said west line, East 281.77 feet; thence North 87.00 feet; thence East 13.80 feet; thence North 45°00'00" East 23.35 feet; thence North 56.21 feet; thence East 350.54 feet; thence South 00°04'42" East 395.42 feet, to a line lying 104.00 feet north of and parallel to the north right-of-way of Bear Creek Road, when measured at right angles; thence following said parallel line, 27.40 feet along the arc of a 535.97 foot radius curve left (the long chord of which bears North 82°08'30" West 27.39 feet); thence North 83°36'22" West 222.23 feet; thence 97.53 feet along the arc of a 991.92 foot radius curve right (the long chord of which bears North 80°47'22" West 97.49 feet); thence North 77°58'22" West 64.18 feet; thence 257.68 feet along the arc of a 1108.93 foot radius curve left (the long chord of which bears North 84°37'46" West 257.10 feet) to said west line; thence leaving said parallel line, North 00°04'42" West 154.16 feet to the point of beginning, contains 4.26 acres.

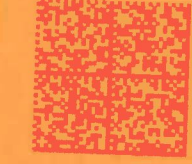


January 4, 2008

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320 Upper Terrace Drive Suite 200 Bend Oregon 97702 Telephone: 541.389.7614 Facsimile: 541.389.7623





CITY OF BEND
COMMUNITY DEVELOPMENT DEPARTMENT

710 NW WALL STREET
BEND, OR 97701

TO:

ATTN PLAN AMENDMENT SPECIALIST
DEPT OF LAND CONSERVATION &
DEVELOPMENT
635 CAPITOL ST NE STE 150
SALEM OR 97301-2540