



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

01/13/2011

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 004-10

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. This amendment was submitted without a signed ordinance.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, January 28, 2011

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

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

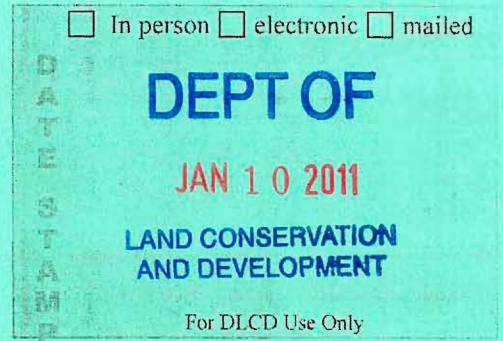
*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification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

Cc: Amy Barry, City of Bend
Gloria Gardiner, DLCD Urban Planning Specialist
Thomas Hogue, DLCD Regional Representative
Gloria Gardiner, DLCD Urban Planning Specialist
Bob Cortright, DLCD Transportation & Growth Management Coordinator
Bill Holmstrom, DLCD Transportation Planner

<paa> YA

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



Jurisdiction: **City of Bend**

Local file number: **PZ 10-195**

Date of Adoption: **12/22/2010**

Date Mailed: **1/7/2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 6/30/2010

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other:

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

A Zone Change for 256 acres of land located in the Juniper Ridge Overlay Zone from Urban Area Reserve (UAR) to Industrial Light (IL) in conformance with the Bend Urban Area General Plan.

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

Originally stated 263 acres - corrected acreage is 256.24 acres

Plan Map Changed from: **N/A**

to: **N/A**

Zone Map Changed from: **UAR**

to: **IL**

Location: **N of Cooley Road, E of BNSF Railroad**

Acres Involved: **256**

Specify Density: Previous: **1 dwelling/acre**

New: **N/A**

Applicable statewide planning goals:

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

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. _____

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

Local Contact: **Amy Barry**

Phone: (541) 693-2114 Extension:

Address: 710 NW Wall Street

Fax Number: 541-388-5519

City: **Bend**

Zip: 97759-

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





ADOPTION SUBMITTAL REQUIREMENTS

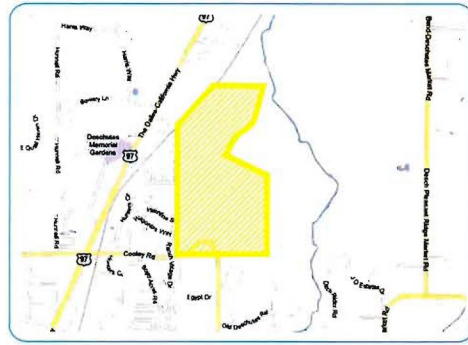
This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

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**.

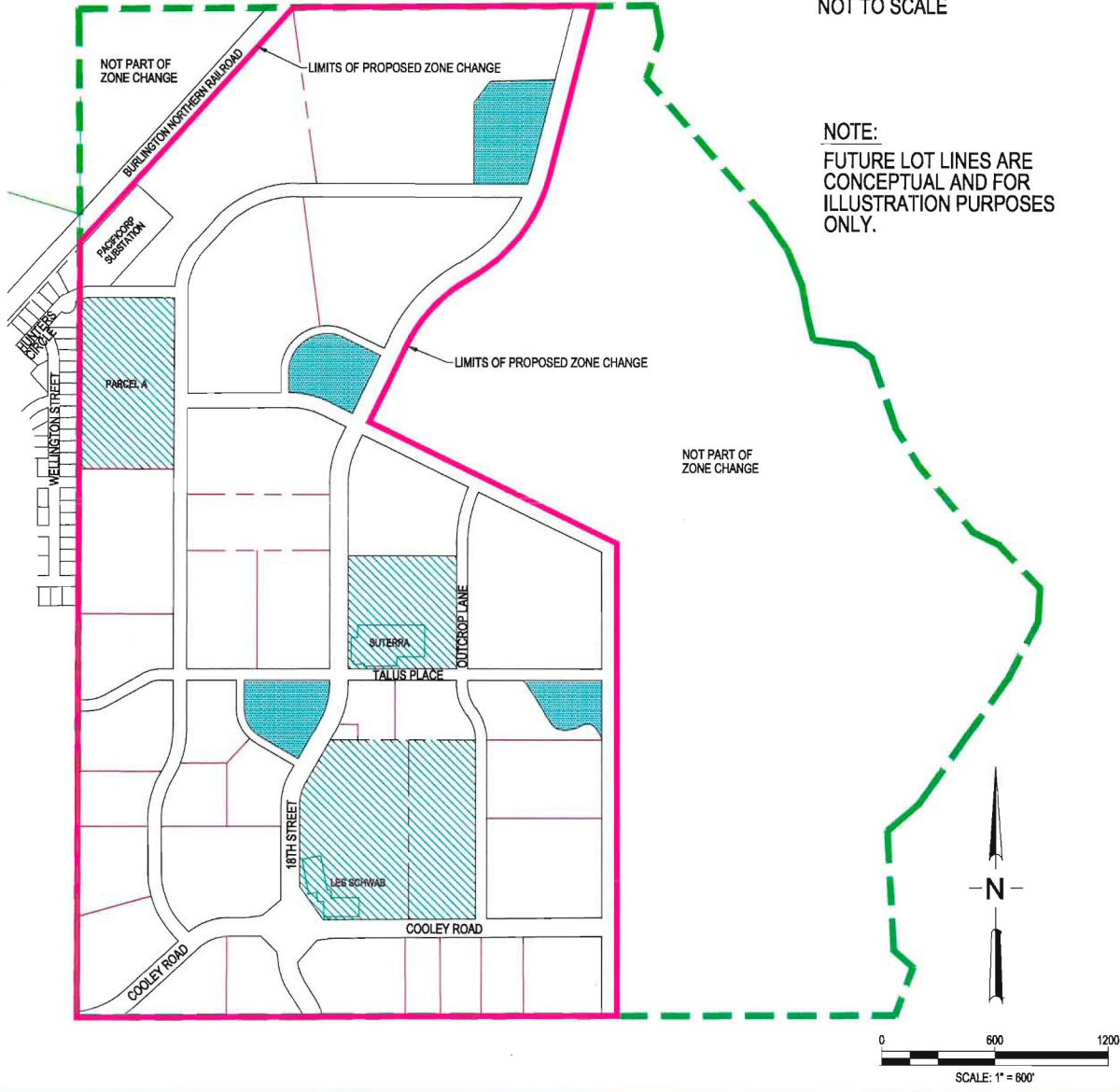
LEGEND

-  JUNIPER RIDGE BOUNDARY
-  AREA TO BE REZONED
-  PRESERVED OPEN SPACE
-  EXISTING LOTS PREVIOUSLY REZONED - NOT PART OF THIS ZONE CHANGE



VICINITY MAP

NOT TO SCALE

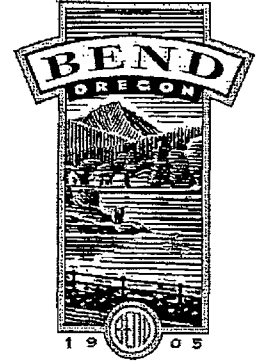


**JUNIPER RIDGE
ZONE CHANGE**

EXHIBIT C-3

ZONE CHANGE AREA = 256.24 AC.±





DATE MAILED: December 22, 2010

APPLICANT: City of Bend
Jerry Mitchell

FILE NUMBER: PZ 10-195

710 NW WALL STREET
PO BOX 431
BEND, OR 97701
[541] 388-5505 TEL
[541] 385-6676 FAX
WWW.CI.BEND.OR.US

Provided is a copy of the Hearings Officer Decision regarding the above referenced file. The hearing was held on December 1, 2010.

KATHIE ECKMAN
Mayor

MARK CAPELL
Mayor Pro Tem

JIM CLINTON
City Councilor

JODIE BARRAM
City Councilor

JEFF EAGER
City Councilor

TOM GREENE
City Councilor

ORAN TEATER
City Councilor

ERIC KING
City Manager

If you do not understand something in the Decision of the Hearings Officer, or if you have any other questions, please call our office at 388-5580.

**CITY OF BEND COMMUNITY DEVELOPMENT DEPT
PLANNING DIVISION**

C

Planning Commission
Makay & Sposito-Attn: Michael Magee
DKS-Chris Maciejewski
Greg Blackmore
ODOT-Mark Devoney

Via E-Mail:

Colleen Miller
Gary Marshall, Fire Marshal
Robin Lewis, Transportation Engineer
Jeff England, Engineering
Heidi Lansdowne, Public Works
Jim Bryant, ODOT
Bill Hilton, ODOT
Virgil Breeden
Greg Knapp,
Dennis Coffman
David Ditz

Scott Gillespie
Mike Edwards
Chad Towell
Wendy Edde
Rick Root
Kevin Ramsey
Mike Linkof
Jackie Saul
Adele McAfee

CITY OF BEND HEARINGS OFFICER DECISION

PROJECT NUMBER: PZ 10-195

DECISION DATE: December 22, 2010

**APPLICANT
OWNER:** City of Bend
c/o Jerry Mitchell
710 NW Wall Street
Bend, OR 97701

**ENGINEER/
AGENT:** Makay & Sposito
Michael Magee
838 NW Bond Street, Suite 3
Bend, OR 97701



LOCATION: 256.24 acres of the Juniper Ridge Employment Sub-District, identified as a Tax Lot 101 and a portion of Tax Lot 100 on Deschutes County Assessor's Map #17-12-10.

REQUEST: A Zone Change from Urban Area Reserve (UAR) to Light Industrial (IL) in conformance with the Bend Urban Area General Plan.

**STAFF
REVIEWER:** Amy Barry, AICP, Associate Planner; 541-693-2114;
abarry@ci.bend.or.us

APPLICABLE STANDARDS, PROCEDURES AND CRITERIA:

Bend Code Chapter 10; City of Bend Development Code, Ordinance NS-2016

Chapter 4.1, Land Use Review and Procedures
Chapter 4.6, Land Use District Map and Text Amendments

Oregon Statewide Planning Goals

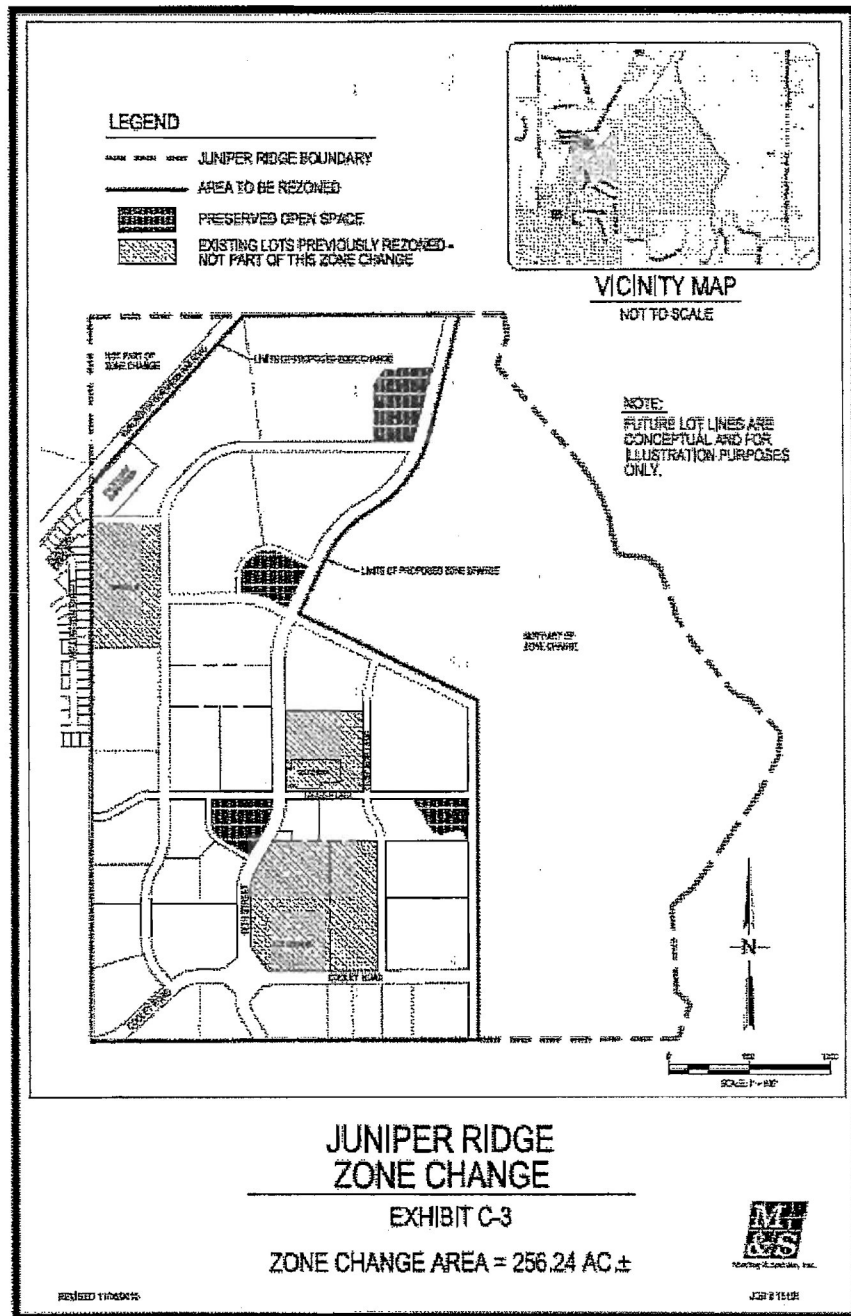
Applicable Policies of the Bend Urban Area General Plan

Note: On November 3, 2010, the state Land Conservation and Development Commission (LCDC) issued an order that partially acknowledges and partially remands Bend's proposed UGB expansion. However, because a zone change is subject to ORS 227.178(3)(a), the adopted but unacknowledged plan in effect at the time the application was submitted on June 30, 2010 applies for this application. While the General Plan designation has remained the same between the currently acknowledged General Plan and the formally effective but unacknowledged General Plan, several policies are different. In order to ensure consistency with Criterion for Approval #2, this decision provides findings of compliance with policies from both documents.

Transportation Planning Rule (OAR 660-012-0060)

FINDINGS OF FACT:

- 1. LOCATION:** The area of the proposed zoning map amendment is 256.24 acres. As identified on Exhibit C.3, it consists of a portion of the Juniper Ridge property north of Cooley Road; identified as Tax Lots 100 and 101 on Deschutes County Assessor's Map #17-12-10.



2. **ZONING AND PLAN DESIGNATION:** The subject site is currently zoned Urban Area Reserve (UAR), and is designated Industrial Light (IL) on the Bend Area General Plan (BAGP) Map. It is within the acknowledged City of Bend Urban Growth Boundary (UGB), and the city limits. Additionally, the area subject to the zoning map amendment is within the Employment Sub-district of the Juniper Ridge Overlay Zone, a Special Planned District.
3. **SITE DESCRIPTION & SURROUNDING USES:** The Juniper Ridge site consists of approximately 450 acres within the City Limits and acknowledged Urban Growth Boundary (UGB). The 256.24 acre area of the proposed zoning map amendment is situated in the west half of the Juniper Ridge site, within the Juniper Ridge Employment Sub-District.

The land to the south of the Juniper Ridge property, located within the city limits, is zoned Public Facilities (PF) and is developed with Lava Ridge elementary school and Sky View middle school. This area is also designated PF on the General Plan Map. The land to the south of the Juniper Ridge property, east of 18th Street is located outside of the city limits and subject to Deschutes County SR 2-1/2 Residential Suburban Low Density zoning, and is predominantly developed with residences. This area is designated Urban Area Reserve on the Bend Urban Area General Plan Map.

The land to the west of Juniper Ridge is predominantly located within the city limits, and is zoned Residential Urban Standard Density (RS) and Residential Urban Low Density (RL). Development to the west includes a residential subdivision and a mobile home park. The BNSF railroad intersects the northwestern corner of the property.

The lands to the north, northwest, and east are outside of the City Limits within the Multi-use Agriculture Zone (MUA-10) and Exclusive Farm Use Alfalfa Subzone (EFUAL) of Deschutes County and are mostly undeveloped.

Completed projects within the employment Sub-district of Juniper Ridge include a 120,000 square foot headquarters building for Les Schwab Tire Centers, a 76,000 square foot headquarters and manufacturing facility for Suterra LLC, and a PacifiCorp substation and associated facilities. Public facilities, including water, sewer, and a transportation system, have been extended to serve these developments.

The topography of the overall Juniper Ridge property (within the City Limits) is varied and undulating. The site gradually slopes away from the southwest corner of the property towards the northeast. A number significant trees and rock outcrops are situated throughout the Juniper Ridge property. The site's vegetative cover consists primarily of Juniper trees, some of which exceed 800 years in age.

4. **REQUEST:** A Zone Change of 256.24 acres of land within the Juniper Ridge Employment Sub-District, situated in the west half of the Juniper Ridge site, from

Urban Area Reserve (UAR) to Light Industrial (IL) in conformance with the Bend Urban Area General Plan.

5. **PUBLIC NOTICE AND COMMENTS:** Notification of a public meeting regarding the zoning map amendment was mailed to surrounding property owners on March 3, 2010 and the meeting was held on March 18, 2010. The notification and the meeting were completed as prescribed in Section 4.1.200 of the Bend Development Code. An affidavit of the mailed notification, meeting exhibits, a list of attendees, and meeting notes are included in the application as Exhibit C.1. On November 5, 2010, the City of Bend Planning Division mailed notice of the application and the public hearing to surrounding property owners of record, as shown on the most recent property tax assessment roll, within 250 feet of the subject property. As of the date of this Decision, the City has not received any public comments on the proposed zone change. Notices were sent to City Departments and other affected agencies for comment. Various agency comments and recommendations are contained in the project file and were also considered in this Decision.
6. **APPLICATION ACCEPTANCE DATE:** This Zone Change application was submitted on June 30, 2010 and deemed complete on July 30, 2010. The applicant placed the application on hold on September 2, 2010, and requested to proceed with the application on November 5, 2010. Therefore, as of the date of this decision, December 22, 2010, there are 37 days left of the 120 day review period.
7. **HEARING:** A public hearing was held December 1, 2010. Applicant's representatives provided testimony and evidence. A representative from ODOT testified and stated that he concurred with city staff that with the TPR was met because the identified transportation facilities were reasonably likely to be provided and therefore there was no significant affect pursuant to OAR 660-012-0060(1). No other members of the public testified.

APPLICATION OF THE CRITERIA:

CONFORMANCE WITH CITY OF BEND DEVELOPMENT CODE

Chapter 4.6 Land Use District Map and Text Amendments

4.6.300 Quasi-Judicial Amendments.

B. Criteria for Quasi-Judicial Amendments.

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

FINDING: Of the 19 Statewide Planning goals, 1, 2, 9, 10, 11, and 12 are relevant for review in this zone change proposal. All other goals either do not apply to this

application or are clearly satisfied through the City's acknowledged comprehensive plan, local land use regulations, and/or functional plans.

Goal 1 - Citizen Involvement, "To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process."

Conformance with Goal 1 is achieved through Chapter 1 - Citizen Involvement of the Bend Area General Plan and through the implementation procedures that have been adopted in the Bend Development Code. Section 4.6.300 of the Development Code establishes that Quasi-Judicial reviews follow the Type III procedures, which are governed by Chapter 4.1 of the Bend Development Code. The first step for citizen involvement is the public meeting, which is required by Section 4.1.200. Documentation that this public meeting was held, pursuant to the applicable provision of Chapter 4.1.200, was provided by the applicant. Additional citizen involvement is ensured via Type III notification and review procedures, including a public hearing, which are subject to the notice requirements of Section 4.1.400 of the Code. The notices inform interested citizens about the hearing and inform citizens that all interested parties may participate and submit written or verbal testimony. The procedures in the adopted Development Code ensure consistency with Statewide Planning Goal 1.

Goal 2 – Land Use Planning, "To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions."

The proposal is to rezone 256.24 acres of land within the Juniper Ridge Employment Sub-District from UAR to IL, thereby making the zoning consistent with the General Plan designation. The City's development code establishes the process, and the general plan establishes the policy framework, for the requested zone change. Staff prepares a recommendation report based upon established processes and policies. The Hearings Officer considers this and other evidence at a public hearing, where written and oral evidence is received, and will then make a decision on the application.

Goal 3, Agricultural Lands

Goal 4, Forest Lands

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

Goals 3, 4, and 5 are not applicable because the subject property is not zoned for agriculture or forest use and does not have inventoried open spaces, scenic areas, historic resources, or natural resources.

Goal 6, Air, Water and Land Resources Quality

Goal 6 is not applicable because the proposed change will have no impacts on air, water or land resources.

Goal 7, Areas Subject to Natural Hazards

Goal 8, Recreational Needs

Goals 7 and 8 are not applicable because the subject property is not within an identified natural hazard area, nor within an area identified for recreational use.

Goal 9 – Economic Development, “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.”

OAR 660-009 implements Goal 9. This administrative rule requires the City to maintain its comprehensive plan and land use regulations so as to provide adequate opportunities for a variety of economic activities. In Bend, the objectives of Goal 9 and OAR 660-009 are primarily achieved through implementation of the General Plan.

The subject property is designated Light Industrial (IL) land on the Bend Urban Area General Plan. The proposed zone change is necessary to bring the property into conformance with its General Plan designation and make the site available for economic development as planned. Because the zone change brings this area into conformance with its General Plan designation, it is consistent with Goal 9.

Goal 10 - Housing, “To provide for the housing needs of the citizens of the state.”

OAR 660-10 implements Goal 10, which notes “Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.”

Within the City of Bend’s current UGB, the base document which determined the local residential land needs is the HOUSING NEEDS ANALYSIS *City of Bend Residential Lands Study, June 30, 2005*. The report and other referenced documents utilize General Plan zone designations to calculate residential land needs throughout the City and because the subject property is designated IL (a non-residential designation) on the General Plan Map, the subject property was not included in the residential land needs calculations. Because the property does not include residential lands and was not included in either the Housing Needs Analysis or the Buildable Lands Inventory, the proposed zoning map amendment will not impact any lands intended to provide for the housing needs of the citizens of the state; consequently Goal 10 is not relevant.

Goal 11- Public Facilities and Services, “To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

OAR 660-11 implements Goal 11, and notes, “Cities or counties shall develop and adopt a public facility plan for areas within an urban growth boundary containing a population greater than 2,500 persons...” The City of Bend has adopted water,

wastewater, and transportation master plans. In addition to the adopted master plans the City has adopted the Bend Development Code which implements the policies of the General Plan. Collectively these adopted local land use regulations provide a framework that ensures that a timely, orderly, and efficient arrangement of public facilities and services are provided throughout the City.

Attached as Exhibit D to the application are documents which demonstrate how the adopted public infrastructure plans anticipate a timely orderly and efficient public infrastructure arrangement. Bend Development Code Section 4.2.200(F) *Site Plan Review Criteria* requires that;

5. *All required public facilities have adequate capacity as determined by the City, to serve the proposed use.*

Additionally, Bend Development Code Section 4.3.300(E) *Criteria for Subdivision, Partition or Replat Approval* requires that;

4. *All required public facilities have adequate capacity, as determined by the City, to serve the proposed subdivision, partition or replat.*
9. *The proposal is in substantial conformance with any applicable approved master development plan, master facilities plan, refinement plan and/or special area plan.*

Any future development on the rezoned property will be subject to either site plan review or land division approval. Therefore, Development Code provisions dictate that a timely, orderly and efficient arrangement of public facilities be provided in a manner that is consistent with the adopted public facilities master plans through subsequent development review. At time of development, and in accordance with the provisions of the Bend Development Code, adequate public facilities will be required to be constructed as prescribed in the adopted public facilities plans. By ensuring conformance with the adopted public facilities plans and the Development Code regulations, consistency with Goal 9 will be ensured.

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

Goal 12 is implemented through the Transportation Planning Rule (TPR), OAR 660-12-0060 in addition to local land use regulations.

As documented in Exhibit D of the application, the applicant has proposed public infrastructure plans, which document that on-site transportation facilities are planned to be dedicated and constructed in a manner that is consistent with the Employment Sub-District Special Planned District (which is consistent with the TSP). Because development is not proposed in association with this zoning map amendment, the immediate dedication and construction of public transportation improvements is not proposed at this time; such improvements will occur, as required in the Development

Code, with subsequent land use actions including land divisions and site plan review applications.

Exhibit D.4 to the application contains a Transportation Planning Rule analysis prepared by DKS Associates, Inc., completed in July, 2010. The analysis anticipates a reasonable worst case scenario build-out on the property. With these assumptions, the analysis identifies that over a 20 year transportation planning cycle, a number of measures would be necessary to prevent a significant effect to any planned or existing transportation facility. Given the area of the zoning map amendment and the fact that capacity currently exists in the system, it would neither be prudent nor economically viable for the City to construct all of the identified transportation improvements needed over 20 years prior to land division and/or the construction of buildings. Therefore, a more economically viable phased transportation improvement plan is proposed, as presented in the Mitigation Phasing Analysis prepared by DKS, dated September 1, 2010.

This phasing plan was reviewed by ODOT and the Oregon Department of Justice and found to be acceptable as proposed. On November 17, 2010, a phased trip cap was adopted into Bend Development Code Chapter 2.7.2000, Juniper Ridge Overlay Zone, Section 2.7.2030, Employment Sub-District. Concurrently with the adoption of the phased trip cap, the City of Bend and ODOT entered into an Intergovernmental Agreement (IGA) which memorializes the terms, conditions, and funding agreements, which, when implemented, will result in mitigation. This IGA provided a factual basis so that ODOT issued a letter stating that the identified improvements to the state highway system will be reasonably likely to be provided by the end of the planning period consistent with OAR 660-012-0060(4)(b)(D). This mitigation will improve the identified transportation facilities to meet the standard in OAR 660-012-0060(1) and therefore will not significantly affect a transportation facility. The phased transportation plan includes four phases of improvements that correspond to four stages of site development which are regulated through trip caps. This ensures an appropriate level of service is provided throughout the 20 year planning period. The standard, however, is measured at the end of the planning period. OAR 660-012-0060(1)(c).

Accordingly, the phasing plan, implemented by the execution of the IGA, will ensure that the proposal is consistent with Goal 12, conforms to the TPR, and is consistent with the locally adopted transportation system plan. Transportation findings that address the TPR are provided under criterion #4 in this Decision.

Goal 13 Energy; To conserve energy.

This goal has minimal applicability to the subject zone change. The applicant's proposal will facilitate the long term development and growth of economic and employment opportunities and related services in an area of the City planned for industrial and employment uses.

Goal 14 Urbanization; To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban

growth boundaries, to ensure efficient use of land, and to provide for livable communities.

The subject property lies within the boundary of the City's UGB in an area where urban levels of service are planned.

Goal 15, Willamette River Greenway

Goal 16, Estuarine Resources

Goal 17, Coastal Shorelands

Goal 18, Beaches and Dunes

Goal 19, Ocean Resources

Goals 15 through 19 are not applicable to this zone change application because the subject property does not include any of these features or resources.

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

FINDING: The City adopted the UGB Expansion, including amendments to the Bend Urban Area General Plan and updated public facilities plans on January 5, 2009. On November 3, 2010, the state Land Conservation and Development Commission (LCDC) issued an order that partially acknowledges and partially remands Bend's proposed UGB expansion and General Plan amendments. Although the amendments were not acknowledged, they were effective on the day the zone change application was submitted. Therefore, the findings provided below show consistency with that plan.

Chapter 1 – Citizen Involvement

Applicable Policies:

Urbanization of the Incorporated UGB

30. Lands for future urban growth shall be considered for plan designation consistent with the Framework Plan when urban services are available.

FINDING: The subject property has been designated IL since 2004. The recently adopted framework plan includes two "bubble areas", each identified at 50 acres, one for public facilities and one for commercial uses. Other than the Employment Sub-district, which the subject property is within, the Juniper Ridge Overlay Zone contains the Education Sub-District and the Town-Center Sub-District. The development of the framework plan utilized guidance documents, including the 2008 Economic Opportunity Analysis (EOA) and the Cooper Robertson Master Plan, to identify the general location of these bubble designations. There are over 100 acres of Juniper Ridge property

outside of the Employment Sub-district, within which these bubble areas are planned to be provided in the future. The proposed zone change does not limit or prevent the Framework Plan from being carried out, thus the proposal is consistent with this policy.

31. Undeveloped areas in close proximity to urban services with adequate capacity should develop before areas that lack urban services are developed to facilitate the orderly and economic delivery of public services and minimize energy consumption.

FINDING: The subject property is located within the City limits and directly abuts urban services. A zoning map amendment is proposed at this time, however development is not. The City of Bend Development Code includes standards and approval criteria which ensure that development is orderly and that adequate capacity be provided prior to development, such standards and criteria are implemented at time land division and site development. As detailed in Exhibit D, all public infrastructure for the zoning map amendment is planned to be consistent with all adopted public facilities plans. By conforming to the adopted public facilities plans and development code regulations, future development will be consistent with this policy.

32. The type, location, financing and phasing of public facilities and services are factors which shall be utilized to direct urban expansion.

FINDING: The subject property is within the UGB and the City limits, thus the proposal is not urban expansion. Furthermore the type, location, financing and phasing of public facilities have been considered by the City through the development of the adopted Public Facilities Master Plans. As detailed in Exhibit D, the planned Public Infrastructure is consistent with the adopted master plans, thus the proposal is consistent with this policy to the extent it is relevant.

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

FINDING: In the event the City's Capital Improvement Plan (CIP) does not extend sewer, water and transportation facilities to and through the property prior to development, Exhibit D of the proposal documents how infrastructure (including sewer, water, stormwater, and transportation facilities) are planned to be extended to and through the site prior to, or concurrent with, development of the property. In association with subsequent limited land use review and approvals (including land division and site development), the Development Code requires that adequate and necessary improvements (water, sewer, and transportation extensions) be assessed and adequately provided. The proposal therefore includes a plan of how infrastructure can be extended, and subsequent Development Code requirements, when executed, will determine exactly when the improvements must be completed. Collectively, the proposal and the Development Code requirements will ensure that the proposal conforms to this policy.

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

FINDING: The proposed map amendment will change the zoning of the property from UAR to IL, which is consistent with the designated land use on the General Plan Map and will facilitate future development of a higher density.

38. The City shall encourage special habitat areas, topographic features and significant vegetation shall be protected and incorporated into site planning and development to retain the natural character of an area and provide open space connectivity.

FINDING: The City has adopted standards into the Development Code to ensure special habitat areas, topographic features, and significant vegetation areas are protected throughout the City. Additionally, within the Juniper Ridge Employment Sub-District, the City has adopted special standards to ensure the preservation of significant geologic features and heritage trees. These referenced standards apply to site development, which is not proposed at this time. Future development will be required to conform to the established protection standards and will thereby provide for consistency with this policy.

Citizen Involvement

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

FINDING: This policy by its terms applies to the city's actions and not to an applicant for a quasi-judicial plan amendment and zone change

Chapter 2: Natural Features and Open Space

Applicable Policies:

Natural features and open space

9. Major rock outcrops, stands of trees, or other prominent natural features identified in the General Plan shall be preserved as a means of retaining the visual character and quality of the community.

10. Natural tree cover shall be retained along streets in all developments to preserve the natural character of Central Oregon within the urban area as the

community grows. Native trees may be substituted for required street trees when located within 10-feet of the right of way.

11. All development shall preserve the natural ground cover outside the building footprint and parking area to the greatest extent practicable.

12. The city shall require the preservation of mature trees within each development to the greatest extent practicable.

FINDING: Figure 2.7.2030(D) in the Development Code identifies areas with significant heritage trees, rock outcroppings, open spaces and buffer areas within the Juniper Ridge Employment Sub-District. This map is intended to provide guidance to development and site design, with the goal of preserving as many of these resources as practicable. The subject site contains such mapped area. Preservation of natural features on the site will be further addressed during subsequent development review processes.

Chapter 3: Community Connections

Applicable Policies:

FINDING: There are no historical features, cultural amenities, park and recreation facilities, or educational facilities identified on or planned for the subject site. Therefore, the majority of goals and policies in Chapter 3 of the plan are not applicable to the applicant's proposal.

Urban Trails

11. The trails designated on the Bend Urban Area Bicycle and Primary Trail System Plan shall be the basis for developing a trail system that serves the recreation and transportation needs of the community.

FINDING: Figure 2.7.2030(B), the Juniper Ridge Employment Sub-District Transportation Plan Map, shows a multi-use path adjacent to the subject site. This path will be required to be constructed at the time the site and surrounding transportation system is developed and will be further addressed during subsequent development review processes.

Chapter 4: Population and Demographics

FINDING: This chapter of the general plan addresses population forecasts and other demographic information, and therefore is not applicable to the applicant proposed zone change.

Chapter 5: Housing and Residential Lands

FINDING: This chapter deals with housing needs and is not applicable to the proposed zone change.

Chapter 6: The Economy and Lands for Economic Growth

Applicable Policies:

General Economic Land Policies and Anticipated Land Needs

- 2. The city shall place a higher priority on retaining industrial sites in the city's land base while also providing a variety of commercial sites.**
- 3. The City of Bend shall provide numerous sites in a variety of locations, types, and sizes to meet anticipated and unanticipated economic development opportunities. These locations shall be suitable from an economic standpoint and compatible with surrounding land uses.**
- 4. The city shall provide at least a 20-year supply of economic, institutional, and associated open space lands to meet anticipated needs during the 20-year planning period as outlined in the 2008 EOA.**
- 5. The city shall seek opportunities to designate additional sites for employment use within the existing urban growth boundary prior to expanding the UGB.**
- 6. The city shall periodically review existing development and use patterns on industrial and commercial lands. The city may consider modifying General Plan and/or Zoning Map designations to make such designations consistent with existing development and use patterns.**

FINDING: These policies by their terms apply to the City and not to an applicant for a quasi-judicial zone change.

Since 2004 the site has been designated IL, and counted within the City's industrial land base. At the time of designation, the location was determined to be suitable from an economic standpoint, and the area was determined to be compatible with surrounding land uses. In addition to the General Plan Designation, the City has invested substantial time and resources into the Juniper Ridge property, including development of the Cooper Robertson Conceptual Master Plan, and the Juniper Ridge Overlay Zone Employment Sub-District. The City's master planning efforts and overlay zone creation have identified industrial and employment based uses as the "highest and best use" of this property, and furthermore, these efforts have established that industrial and employment-based uses are compatible with surrounding uses. Allowing the zone change and subsequent future industrial development on the property, consistent with the General Plan and Development Code standards, will result in consistency with the above policies.

- 7. The city establishes a goal to have at least 25 percent of the predicted economic land need identified in the 2008 EOA qualify as competitive short-term land supply.**

FINDING: The 2008 EOA states, approximately 20 percent of the city's economic land supply qualifies as part of the 'short-term supply'¹. Furthermore, the 2008 EOA establishes that the Juniper Ridge property was not identified as being part of its competitive short term supply of land, because infrastructure could not be provided within one year. The zoning map amendment, and the infrastructure planning associated with it, would bring the subject property one step closer to being considered competitive short-term land,² consistency with this policy.

Industrial Development

- 9. Large-lot and specialty employment sites are important to the overall inventory of available economic land and shall be protected through the use of zoning, deed restrictions or other appropriate instruments to ensure that these sites will not be further subdivided prior to development.**

FINDING: The subject property is within the Employment Sub-district of the Juniper Ridge Overlay Zone. The findings that support the adoption of the Juniper Ridge Overlay Zone do not require deed restrictions or other instruments to ensure the protection of large lot and specialty employment sites. Instead the findings of that decision (PZ 09-185) indicate that the adopted Employment Sub-District transportation plan (Figure 2.7.2030.B) and the development standards of the Employment Sub-District represent an appropriate application of existing zoning regulations to ensure consistency with this policy. The proposal is consistent with the adopted Juniper Ridge Overlay Zone standards; therefore the proposal is consistent with this policy.

- 11. The General Plan Map shall designate a supply of large industrial and commercial lots over 25 acres to attract large site users. Development Code standards shall preserve the inventory of large parcels for suitable uses.**

FINDING: The General Plan Map itself does not designate a location for large industrial and commercial lots over 25 acres, instead this policy is implemented through the General Plan text and the Framework Plan incorporated therein³. The Framework Plan is based on the following language from the 2008 EOA:

- 1. Large Industrial Sites – Some Stakeholders believed that having at least one or two very large sites (between 50-100 acres) on hand to meet the needs of a large-site user would allow Bend to compete for firms that have ignored Bend in the past due to land supply limitations. Through the Planning Commission recommendation and City Council approval process for the UGB expansion, this site need evolved**

¹ City of Bend, 2008 Economic Opportunities Analysis, pp.99

² Additional steps would include land division and site plan approvals.

³ Bend Area General Plan, Ch. 1, pp 5-7

into two, 56-acre industrial sites: one for targeted economic sector uses, and another for a heavy industrial site user.

This land is not included in any estimates for land need and would be in addition to existing land deficiencies. These sites are not included in Bend's employment projections because the industries Bend seeks for these sites are generally not present in Bend. Also, since Bend has very few large sites in its current UGB, so estimating the need for these sites based on site needs is problematic.

The Sector Targeting work calls for attracting secondary wood products, renewable energy resources, aviation, recreation equipment and specialty manufacturing, and information technologies. While the estimated needed economic lands may suit some of these sectors, two sites with a dedicated size of 56 acres each to be reserved for these uses are needed for large site users such as secondary wood products, aviation, renewable energy resources, and information technology. Stakeholders concluded that they have been approached by industries seeking large sites for these uses, but since none are in the current supply, the firms looked to other communities.

These sites are needed in addition to predicted industrial land needs because the total amount of industrial acreage is relatively small (118 acres), and placing 112 acres to be held in two large lots would consume nearly all of the needed 20-year supply. These sites are also needed because they will create the land base needed to attract Bend's targeted sectors⁴.

As a result of the 2008 EOA, the Framework Plan established two 56+ acre areas, which are designated as "Special Site Industrial" and are located in two areas of the UGB; the eastern UGB perimeter, north of Hwy 20, and within "Area 5" as part of a master planned area. Because both of Special Site Industrial areas are located outside of the Juniper Ridge Overlay Zone property, the policy of this section is not relevant to this application.

15. The community shall strive to diversify its industrial base.

FINDING: Entitling designated industrial land within the City Limits is a step that is necessary to diversify the City's industrial base, thus the zoning map amendment is consistent with this policy.

19. Industrial areas shall be protected from incompatible commercial and residential uses.

21. Wherever industrial zoning abuts residential zoning, special development standards relating to setbacks, screening, signs, and building height shall be established.

⁴ City of Bend Economic Opportunities Analysis 2008. pp. 123-124

22. Community efforts should be directed towards improving the general appearance of industrial areas so that they make a positive contribution to the environment of the community.

FINDING: These policies are implemented through the established Development Code standards and approval criteria, including the special Employment Sub-district standards of the Juniper Ridge Overlay Zone. Development in accordance with the established standards will ensure consistency with these policies and because development is not proposed at this time, these policies are not relevant to the current zone change proposal.

Chapter 7: Transportation Systems

TRANSPORTATION AND LAND USE

Policies:

3. Developments at the edge of the urban area shall be designed to provide connectivity to existing and future development adjacent to the urban area.

FINDING: The property is within the Employment Sub-District of the Juniper Ridge Special Planned District. The sub-district special standards include an adopted Transportation Plan (Figure 2.7.2030.B) that has been found to adequately connect with the surrounding area and be consistent with this policy. As detailed in Exhibit D, the proposal includes a transportation plan that is entirely consistent with the adopted plan, thus the proposal is consistent with this policy.

7. The City shall be receptive to innovative development proposals, including zone changes, plan amendments, and text changes that promote alternatives to vehicular traffic and demonstrably reduce vehicle trips and trip lengths.

FINDING: The Transportation Plan Map for the Employment Sub-District (Figure 2.7.2030.B) identifies facilities for multiple transportation modes, including automobiles, trucks, bicycles and pedestrians. In addition, the Juniper Ridge Overlay Zone adopted text includes provisions for a Transportation Management Association (TMA) and Transportation Demand Management (TDM) program. Development and operation of the TMA and TDM programs will be formalized through the Codes, Covenants and Restrictions (CCR's) prior to development and development in the area will be required to abide by the TMA and TDM programs. At this time, the proposed zoning map amendment includes a phased transportation plan which will utilize the TMA to reduce trips by at least 10 percent. This proposal is an innovative plan that will promote alternatives to vehicular traffic and demonstrably reduce trips.

Chapter 8: Public Facilities and Services

Sanitary Sewer Facility and Systems

- 1. The city shall provide a wastewater collection system predicated on gravity flow to serve the urban area of Bend.**
- 2. The Wastewater Collection System Master plan shall direct the development of the system and be the basis for all sewer planning and capital improvement projects.**
- 3 The city shall require the extension of sewer lines for all development within the UGB.**

FINDING: As documented in Exhibit D of the application, the proposal includes planned public facilities improvements, including the planned extension of sewer lines that will facilitate a gravity flow wastewater system. The planned sewer system improvements are consistent with the adopted Wastewater Collection System Master Plan; therefore the proposal is consistent with these policies.

Water Facilities and Systems

- 10. The Water Master Plan shall direct the development of the system and be the basis for all water planning and capital improvement projects.**

FINDING: As documented in Exhibit D of the application, the proposal includes planned public facilities improvements, including the planned extension of water lines to serve the property. The planned water system improvements are consistent with the adopted Water Master Plan; therefore the proposal is consistent with this policy.

Storm Drainage Facilities and Systems

- 15. All public and private stormwater facilities shall be designed and operated in accordance with the City's Stormwater Master Plan and shall meet appropriate drainage quantity and quality requirements including, but not limited to, the requirements in the City's National Pollutant Discharge Elimination System MS4 Stormwater Permit, integrated Stormwater Management Plan, WPCF Underground Injection Control Permit and any applicable Total Maximum Daily Load requirements.**

FINDING: As documented in Exhibit D of the application, the proposal includes planned public facilities improvements, including the planned development of public storm water facilities within the right of way, as prescribed in the Employment Sub-District street cross section (figures 2.7.2030.C1-3), necessary to provide public services to the property. The planned storm water system improvements are consistent with the City's Storm Water Master Plan guidelines; therefore the proposal is consistent with this policy.

Chapter 9: Community Appearance

FINDING: This chapter primarily pertains to goals and policies for adopting standards and criteria which will enhance the appearance of the community and in general does not apply to an application for a quasi-judicial zone change. The Development Code contains standards for Design Review that implement the policies of this chapter of the General Plan.

Chapter 10 - Natural Forces

FINDING: This chapter sets goals and policies to guide future studies and the development of future standards and criteria. Therefore, these goals and policies are not applicable to the applicant's proposed plan amendment and zone change.

Below is an analysis of consistency with the currently acknowledged General Plan:

FINDING: The following policies from the Bend General Plan are relevant to the proposed zone change: Chapter 1, Policy 4; Chapter 6, Policy 1; and Chapter 6, Policy 4. In addition, the Planning Director identified the Bend General Plan Map as a controlling portion of the Plan. The proposed zone change is consistent with the referenced policies for the reasons stated below. Further, the zone change is necessary to conform the site's zoning to the Bend General Plan Map designation for the site.

Chapter 1, Policy 4 (Development within the UGB): *New developments shall pay to extend planned sewer, water, and transportation facilities to and through the property if the development occurs prior to the scheduled construction of those facilities shown in the capital improvement plan.*

The record shows that sewer, water and transportation facilities to serve the site are planned and will be extended to serve the property prior to development of the site with urban uses. As has been identified in other portions of this report, all future development must meet the criteria for approval under Chapter 4.2 for site plan approval or Chapter 4.3 land divisions, which require adequate public facilities to be available at the time of development. Therefore, this policy is met.

Chapter 6, Policy 1 (Industrial Development): *In order to help meet the long-term need for future industrial development, at least 500 acres of the City-owned property known as Juniper Ridge shall be brought into the Urban Growth Boundary, annexed to the city, and designated on the Bend Urban Area General Plan Map as Industrial Light.*

This policy was implemented in 2004 when the subject site was brought into the UGB, annexed to the city and designated consistent with the policy. The proposed zone change furthers the intent of the policy by advancing the ability to develop the site to help meet the long-term need for future industrial developments. Further, the General Plan Preface states *"The General Plan establishes land use categories to meet forecasted needs and maps where these uses shall occur. The zoning for land within the urban planning area must be constant with the designated land use categories in*

the General Plan." The proposed zone change brings the Employment Sub-district portion of Juniper Ridge into compliance with Industrial Development Policy 1 and the General Plan Preface.

Chapter 6, Policy 4 (Industrial Development): *The city shall work to preserve prime industrial lands for industrial purposes.*

The city has identified the subject site as crucial in its efforts to meet its long-term employment needs. Under current zoning, the property could be developed with housing (one residential dwelling per 10 acres). By rezoning the property from UAR to IL, the city is preserving the property for industrial use.

Bend General Plan Map.

The Bend General Plan Map designates the subject site as Industrial Light (IL). The current zoning for the site, Urban Area Reserve (UAR), is inconsistent with the Plan Map. The change in zoning on the site, from UAR to the Industrial Light (IL) zone, will result in a zoning classification that will bring the approximately 256-acre site into conformance with the Bend Urban Area General Plan Map.

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

FINDING: The property is within the incorporated area of the City of Bend. The City's police and fire departments are required to provide services within the City limits of Bend and the services they provide are adequate; they will not need to be increased as a result of the proposed zoning map amendment from UAR to IL. The Development Code establishes that prior to development of the site; fire hydrants need to be installed that provide adequate fire flows to ensure consistency with the Uniform Fire Code, as adopted by the City of Bend. Upon development, additional fire hydrants and emergency service access to this area will be provided.

The majority of the subject area is not currently provided with public facilities or a transportation network. The proposal, as detailed in Exhibit D of the application, documents that plans are in place for the required facilities and transportation networks. The proposed public infrastructure plans were generated from the adopted City public facilities plans and the Juniper Ridge Overlay Zone plans, including Figure 2.7.2030.B, the Transportation Plan.

Prior to issuance of any building permit for development of the rezoned area, the Development Code requires a land division approval and/or site development approval. Bend Development Code Section 4.2.200(F) *Site Plan Review Criteria* requires that;

7. *All required public facilities have adequate capacity as determined by the City, to serve the proposed use.*

Bend Development Code Section 4.3.300(E) *Criteria for Subdivision, Partition or Replat Approval* requires that;

4. *All required public facilities have adequate capacity, as determined by the City, to serve the proposed subdivision, partition or replat.*
9. *The proposal is in substantial conformance with any applicable approved master development plan, master facilities plan, refinement plan and/or special area plan.*

Any future development on the rezoned property will be subject to site plan review and/or land division approval. Therefore, Development Code provisions dictate that adequate public facilities, services, and transportation networks to support the use be provided concurrent with development, in a manner that is consistent with the adopted public facilities master plans through subsequent development review. The combination of the proposed infrastructure plans and the Development Code facility improvement requirements will ensure conformance with this approval criterion.

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

FINDING: The record includes evidence of both a change in the community and an inconsistency between the IL designation on the General Plan Map and the UAR zoning, including:

- a) The current UAR zoning is inconsistent with the IL designation on the General Plan Map.
- b) The subject site was incorporated into the Bend city limits in 2004.
- c) The comprehensive land use plan has been amended and updated and the current BAGP has been approved, amended, and revised. In all occurrences the subject property has always been included and designated IL, not UAR.

The Hearings Officer finds that the proposed zone change is in conformance with both the current and recently amended General Plan.

4.6.600 Transportation Planning Rule Compliance

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

OAR 660-012-0060

Plan and Land Use Regulation Amendments

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

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) As measured at the end of the planning period identified in the adopted transportation system plan:

(A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or

(C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

FINDING: Applicant argues that the amendment will not significantly affect identified transportation facilities because the mitigations proposed will not worsen the performance of existing or planned transportation facilities that already perform below the performance standards, at the end of the (20 year) planning period under OAR 660-012-0060(1)(c)(C). In other words, the identified transportation facilities, both local and ODOT facilities, will not "get worse" with the amendment assuming the proposed mitigations are provided. The Traffic study and proposed phasing plan identifies the transportation facilities impacted by the proposed amendment, analyzes the

"reasonable worst case" additional traffic impacts due to the amendment, models the traffic impacts with the phased in traffic improvements at 5 year intervals over the 20 year planning period. This approach was developed in coordination with affected transportation facility and service providers including, ODOT, the MPO, and city transportation planners in accordance with OAR 660-012-0060(4). The traffic study and phasing plan conclude that at the end of the planning period, the affected transportation facilities, with the completed mitigations, will not be worse that they would be without the mitigations and the amendment. In order to rely on the mitigations proposed, the applicant must establish that they are reasonably likely to be provided by the end of the planning period pursuant to OAR 660-012-0060(4) as follows.

(4) Determinations under sections (1)-(3) of this rule shall be coordinated with affected transportation facility and service providers and other affected local governments.

(a) In determining whether an amendment has a significant effect on an existing or planned transportation facility under subsection (1)(c) of this rule, local governments shall rely on existing transportation facilities and services and on the planned transportation facilities, improvements and services set forth in subsections (b) and (c) below.

(b) Outside of interstate interchange areas, the following are considered planned facilities, improvements and services:

(A) Transportation facilities, improvements or services that are funded for construction or implementation in the Statewide Transportation Improvement Program or a locally or regionally adopted transportation improvement program or capital improvement plan or program of a transportation service provider.

(B) Transportation facilities, improvements or services that are authorized in a local transportation system plan and for which a funding plan or mechanism is in place or approved. These include, but are not limited to, transportation facilities, improvements or services for which: transportation systems development charge revenues are being collected; a local improvement district or reimbursement district has been established or will be established prior to development; a development agreement has been adopted; or conditions of approval to fund the improvement have been adopted.

(D) Improvements to state highways that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when ODOT provides a written statement that the improvements are reasonably likely to be provided by the end of the planning period.

(E) Improvements to regional and local roads, streets or other transportation facilities or services that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when the local government(s) or transportation service provider(s) responsible for the facility, improvement or service provides a written statement that the facility, improvement or service is reasonably likely to be provided by the end of the planning period.

FINDING: Pursuant to (4)(a) above, in order to rely on planned transportation facilities to determine whether an amendment has a significant effect, the standards of (4)(b) must be met. Applicant argues and the hearings officer finds that the standards of OAR 660-012-0060(4)(b)(D) and (E) are met with the letters provided by ODOT (November 20, 2010) and the city of Bend (December 1, 2010) stating that the transportation improvements are reasonably likely to be provided. Based upon the TPR analysis provided by DKS, it is expected that over a 20 year planning cycle, without the construction of planned transportation system improvements, multiple transportation facilities would be impacted. To ensure compliance with OAR 660-12-0060, the City and ODOT have entered into an IGA that details how the funding will be provided for several needed transportation improvements.

Given the area of the zoning map amendment, and the fact that capacity currently exists in the system, it is not necessary or economically feasible for the state and City to construct all of the identified transportation improvements needed over 20 years prior to any development. Instead, a phased transportation improvement plan is proposed which includes phased construction of improvements in association with phased trip caps, to provide adequate levels of service throughout the planning period. This ensures that at the end of the 20 year planning period, planned transportation facilities will not be worsened as is required by the TPR.

The proposed transportation improvement phasing plan is included as an attachment to the TPR report, and is memorialized in the Bend Development Code Section 2.7.2030(H) and Table 2.7.2030.B. The November 30, 2010 letter from ODOT states that the Regional Office concurs with the methodology, analysis, and phasing plan. Similarly, the December 1, 2010 letter from the City of Bend, concludes that the improvements are reasonably likely for purposes of OAR 660-012-0060(4)(b)(E). These letters meet the TPR requirements under OAR 660.012.0060(4)(b)(D) and (E) so that the state and local facilities may be considered planned facilities. Pursuant to OAR 660-012-0060(4)(e), written statements provided by ODOT and a local government (city of Bend) are "conclusive in determining whether a transportation facility is...a planned transportation facility." Therefore, the hearings officer finds that the proposed mitigations are planned transportation facilities for purposes of determining compliance with the TPR.

By entering into the IGA with ODOT, the City has committed to the improvements as identified in the phasing plan. Therefore, these projects may be considered planned facilities under OAR 660.012.0060(4)(b).

The following table shows the planned facilities and jurisdictional responsibility:

(Does not imply financial responsibility which is included in the IGA)

PHASE	TRANSPORTATION SYSTEM IMPROVEMENT	RESPONSIBLE JURISDICTION
1	Empire Avenue / 18 th Street Roundabout	Local (City)
	Empire Avenue / US-97 Northbound Ramp Terminal	State
	Empire Avenue / US-97 Southbound Ramp Terminal Third Street to US-97	State
2	US-97 Improvements between Nels Anderson & Bowery Lane	State
3	18 th Street Corridor Improvements Cooley Road to Empire Avenue	Local (City)
4	US-97 Southbound Improvements Empire Avenue to Butler Market Road Purcell	State
	Street Extension Cooley Road to Yeoman Road	Local (City)

Based upon the above discussion, the phasing plan in conjunction with the IGA between the City of Bend and ODOT, along with letters from ODOT and the City confirming that the improvements are reasonably likely to be provided by the end of the planning period, the hearings officer finds that the proposal conforms to the TPR.

CONCLUSIONS:

The Hearings Officer finds that with the transportation mitigation phasing plan adopted into Section 2.7.2030, Employment Sub-District of the Bend Development Code and the IGA between ODOT and the City of Bend, the zoning map amendment for the Juniper Ridge Employment Sub-district from UAR to IL meets all applicable Development Code criteria, policies of the Bend Urban Area General Plan, Oregon Statewide Planning Goals, and the Transportation Planning Rule.

DECISION:

The Hearings Officer approves the requested zoning map amendment, PZ 10-195 as proposed.



 Sharon R Smith,
 Hearings Officer



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