



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Coastal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

March 1, 2006

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 011-05



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 15, 2006

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 Crall, DLCD Transportation Planner
David Knitowski, City of Bend

<paa> ya

FORM 2

DLCD NOTICE OF ADOPTION DEPT OF

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

FEB 23 2006

(See reverse side for submittal requirements)

LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: City of Bend, Oregon Local File No.: PZ 03-709
(If no number, use none)

Date of Adoption: February 15, 2006 Date Mailed: February 22, 2006
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: October 12, 2005

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

(Please Specify Type of Action)

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

The adopted amendment changes three development standards in the CB Zone:

1. Reduces building height limit from 70 feet to 60 feet on CB Zone properties east of Bond Street.
2. Eliminates Conditional Use Process and requires Variance process for exceeding height limits.
3. Limits new driveway access on Franklin and Greenwood Avenues to right-in/right-out.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

1. Reduces building height limit from 70 feet to 60 feet on CB Zone properties east of Bond Street.
2. Does not delete the provision for the review authority to grant exceptions to the 15 percent on-site parking requirement.

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

Zone Map Changed from: N/A to N/A

Location: Central Business (CB) Zone Acres Involved: 60

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

Applicable Statewide Planning Goals: Goal 2 - Land Use Planning

Was an Exception Adopted? Yes: _____ No: X

DLCD File No.: 011-05 (14736)

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: X No:

If no, do the Statewide Planning Goals apply. Yes: No:

If no, did The Emergency Circumstances Require immediate adoption. Yes: No:

Affected State or Federal Agencies, Local Governments or Special Districts: City of Bend

Local Contact: David Knitowski Area Code + Phone Number: 541-330-4022

Address: 710 NW Wall Street, P.O. Box 431 City: Bend, OR

Zip Code+4: 97701 Email Address: dknitowski@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 (2) Copies 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. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
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 copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

Issue Summary



Staff Member: David Knitowski, P.E., AICP, Senior Planner

Second Reading of an Ordinance regarding amending the City of Bend Zoning Ordinance NS-1178 and the Bend Area General Plan to change three development standards in the Central Business (CB) Zone, including reducing the maximum allowable building height from 70 feet to 60 feet.

Staff Review and Recommendation to the City Council: Staff recommends that the City Council conduct a Second Reading of an Ordinance regarding amending the City of Bend Zoning Ordinance NS-1178 and the Bend Area General Plan to change three development standards in the Central Business (CB) Zone.

History:

Presented for Worksession: September 7, 2005

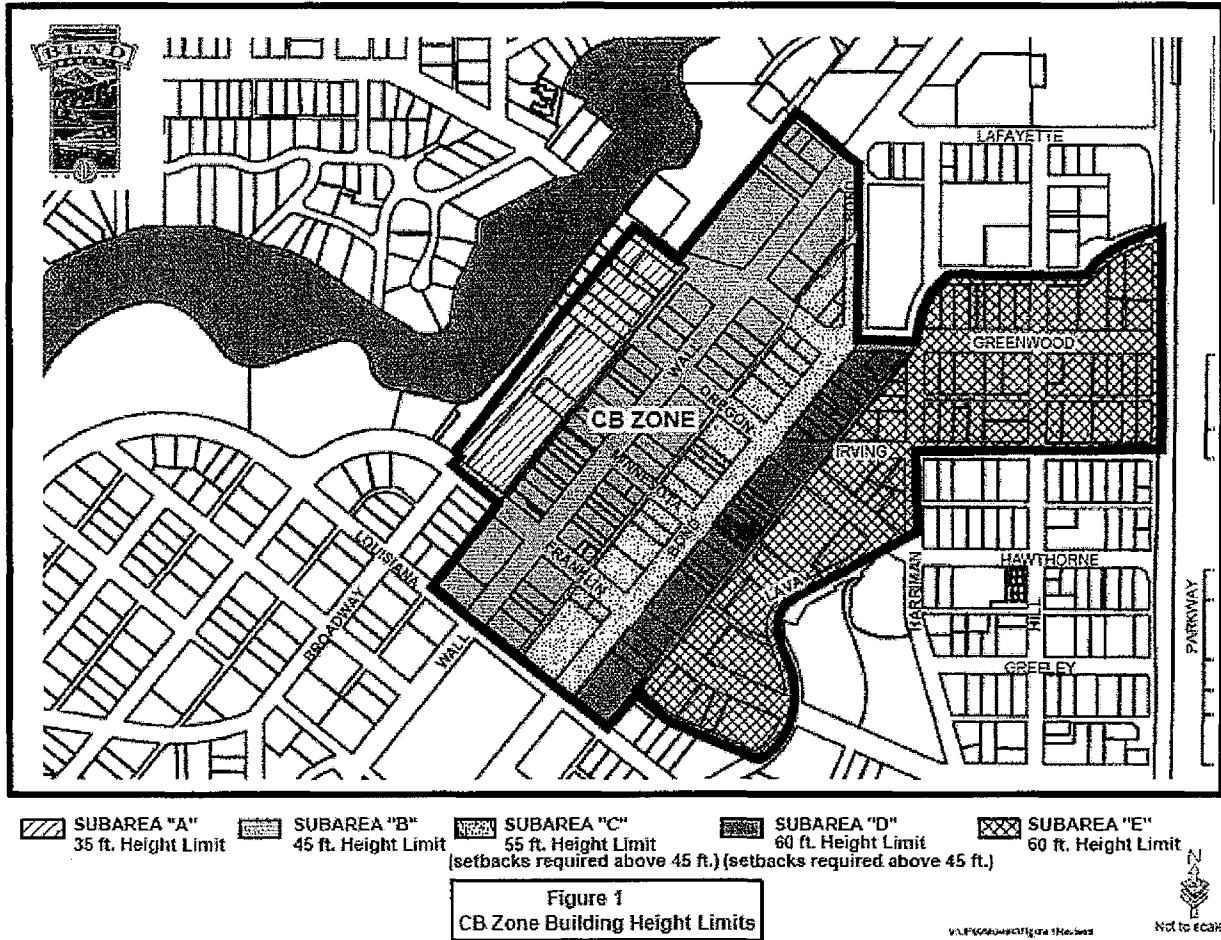
Continued Worksession: October 3, 2005

Presented for Public Hearing and First Reading: February 1, 2006

Presented for Second Reading: February 15, 2006

Background: On November 17, 2004, the Bend City Council adopted Ordinance NS-1946, which changed the maximum allowable building height limit in the Central Business Zone (CB Zone). This action resulted in amendments to the City of Bend Zoning Ordinance NS-1178 and the Bend Area General Plan. These amendments to the Bend Code took effect on December 17, 2004. During the City Council Worksession on September 7, 2005, the Council reached consensus that the provision to apply for a Conditional Use Permit to exceed the building height limits shall be removed from the code for all areas of the CB Zone. Buildings exceeding the height limits may be permitted subject to a Variance. During the City Council Worksession on October 3, 2005 the Council reached consensus that driveway access to Franklin and Greenwood Avenues may be permitted, subject to a Conditional Use Permit. Driveway access, if permitted, shall be right-in/right-out. Because these changes are legislative changes to the Zoning Ordinance, the Planning Commission held a public hearing on November 28, 2005 before the proposed new ordinance came back to the City Council. During the City Council Meeting on January 4, 2006, the Council reached consensus that on

CB Zone properties east of Bond Street, where the building height limit is currently 70 feet, the limit shall be reduced to 60 feet. (See Figure 1 below.) The City Council held a public hearing on the proposed three changes to the development standards in the CB Zone on February 1, 2006.



As background, the Bend Urban Area Planning Commission in 2004 and 2005 held several public hearings and had numerous discussions of the appropriate height for structures within the CB Zone. The specific question of “how high” was the subject of Planning Commission hearings on May 24, 2004 and July 26, 2004 and Planning Commission discussions on August 9, 2004 and August 23, 2004. These hearings and discussions resulted in the Planning Commission recommendation of August 9, 2004.

On November 17, 2004, the City Council adopted regulations pertaining to height limitations. These regulations were very similar to the Planning Commission recommendations. Council agreed that height limits should gradually increase as properties moved to the east of the Deschutes River. Council and the Planning Commission agreed that the building height limit to

the west of Brooks Street be 35 feet in height, and that the building height limit to the east of Brooks Street and west of the alley between Wall and Bond Streets be 45 feet in height. Council created a fourth category of height in the area west of Bond Street and east of the aforementioned alley to be 55 feet in height. Council and the Planning Commission also disagreed as to the height of buildings east of Bond Street but west of Lava Road. The Planning Commission recommended 65 feet and the Council recommended 5 feet higher. The City Council however mediated this slight preference for additional height by instituting a setback from the property system.

As the pace of building increased in the CB Zone and large buildings were being constructed and several others were being planned, Council asked the Planning Commission to again consider the height issue. On November 28, 2005 the Planning Commission recommended that there be a harder cap on heights, recommending that increases over the above referenced height limits no longer be permitted by a Conditional Use Permit, but instead only be obtainable by a Variance.

The proposed ordinance adopts this recommended change but also scales back the permitted height for structures east of Bond Street to 60 feet, which is five feet lower than the August 9, 2004 Planning Commission recommendation for this area of the CB Zone.

Discussion of the Issue: This is a Council-initiated code amendment. The City has the burden to demonstrate a public need and benefit for the proposed changes.

- Reducing the Maximum Allowable Building Height Limit to 60 Feet:

There is a public need and benefit to limit the maximum allowable building height in the CB Zone. Building height limits preserve solar access and view corridors and maintain pedestrian-scale at the street level.

- Eliminating the Conditional Use Process and Requiring the Variance Process:

There is a public need and benefit to change the process for exceeding the building height limits from a Conditional Use Permit process to a Variance process. If exceptions to the building height limits are allowed through the Conditional Use Permit process, applicants need only demonstrate that their proposals are aesthetically pleasing and compatible with the surrounding buildings. This makes the building height limits "soft." If exceptions to the building height limits are allowed through the Variance process, applicants must demonstrate that the building height limit would cause an undue or unnecessary hardship that does not result from the actions of the applicant and that such adverse conditions and circumstances do not merely constitute

a pecuniary hardship or inconvenience. Approval of a Variance is much harder to achieve than approval of a Conditional Use Permit. A Variance requirement would make the building height limits "hard."

- Limiting Driveway Access to Right-in/Right-out:

There is a public need and benefit to limit driveway access to Franklin and Greenwood Avenues in the CB Zone to right-in/right-out access only. Left turn prohibitions improve safety by reducing the number of potential vehicle conflict points. Left turn prohibitions also improve traffic operations by both reducing delays for vehicles exiting driveways and reducing delays for through vehicles stopped behind left-turning vehicles entering driveways from the street.

Budgetary Considerations: There are no known budgetary considerations that would result from making the changes to the Zoning Ordinance as shown in the attached copy of Bend Code 10-10.18 Section 18 (Central Business Zone) and Bend Code 10-10.23C Section 23C (Development and Design Standards for the CB Zone).

If the Council eliminates the option to apply for a Conditional Use Permit to exceed the building height limits or reduces the building height limits, there may be the potential for Measure 37 claims. Theoretically, almost every new ordinance that limits what had previously been permitted might trigger a Measure 37 claim.

STAFF REPORT

**TEXT AMENDMENT TO THE CITY OF BEND ZONING ORDINANCE NO.
NS-1178 AND THE BEND AREA GENERAL PLAN**

**TO CHANGE THREE DEVELOPMENT STANDARDS IN THE CENTRAL
BUSINESS (CB) ZONE**

PROJECT NUMBER: PZ 03-709

DATE OF REPORT: January 26, 2006

DATE OF HEARING: February 1, 2006

APPLICANT: City of Bend

REQUEST: To amend the City of Bend Zoning Ordinance No. NS-1178 and the Bend Area General Plan to change three development standards in the Central Business (CB) Zone, including reducing the maximum allowable building height from 70 feet to 60 feet.

PROJECT MANAGER: David Knitowski, P.E., AICP, Senior Planner

APPLICABLE CRITERIA:

- (1) City of Bend General Plan
- (2) City of Bend Zoning Ordinance No. NS-1178, Chapter 10
10-10.18; Central Business Zone (CB)
10-10.23C; Development and Design Standards for the CB Zone
10-10.33; Amendments

ATTACHMENTS:

Ordinance No. NS-_____

Exhibits A, B, and C

I. BACKGROUND

On November 17, 2004, the Bend City Council adopted Ordinance NS-1946, which changed the maximum allowable building height limit in the Central Business Zone (CB Zone). This action resulted in amendments to the City of Bend Zoning Ordinance NS-1178 and the Bend Area General Plan. Specifically, Sections 18 (Central Business Zone) and 23C (Development and Design Standards for the CB Zone) of the Bend Code were amended. On CB Zone properties west of Brooks Street, the maximum allowable building height limit was reduced from 45 feet to 35 feet. On CB Zone properties east of Brooks Street and west of the alley between Wall and Bond Streets, the maximum allowable building height limit remained at 45 feet. On CB Zone properties east of the alley between Wall and Bond Streets and west of Bond Street, the maximum allowable building height limit was raised from 45 feet to 55 feet, with setbacks required above 45 feet. On CB Zone properties east of Bond Street and west of the alley between Bond Street and Lava Road, the maximum allowable building height limit was raised from 45 feet to 70 feet, with setbacks required above 45 feet. On CB Zone properties east of the alley between Bond Street and Lava Road, the maximum allowable building height limit was raised from 45 feet to 70 feet, with no setbacks required. These amendments to the Bend Code took effect on December 17, 2004.

When the Bend Urban Renewal Agency (BURA) and the Council Transportation, Land Use and Waterways Subcommittee met on August 15, 2005, the Councilors present were in agreement that Staff should bring the CB Zone building height ordinance before the full Council for refinement. During the City Council Worksession on September 7, 2005, the Council reached consensus that the provision to apply for a Conditional Use Permit to exceed the building height limits shall be removed from the code for all areas of the CB Zone. Buildings exceeding the height limits may be permitted subject to a Variance. During the City Council Worksession on October 3, 2005 the Council reached consensus that driveway access to Franklin and Greenwood Avenues may be permitted, subject to a Conditional Use Permit. Driveway access, if permitted, shall be right-in/right-out. During the City Council Meeting on January 4, 2006, the Council reached consensus that on CB Zone properties east of Bond Street, where the building height limit is currently 70 feet, the limit shall be reduced to 60 feet.

II. ANALYSIS

A. LOCATION: The three new development standards shall apply to buildings and lots in the CB Zone that are expected to be developed or redeveloped in the future. This area is shown in Exhibit A.

B. PUBLIC NOTICE AND COMMENTS: A legal notice of the February 1, 2006 public hearing before the City Council was published in *The Bend Bulletin* on January 22, 2006. Notice of the public hearing was also mailed to approximately 150 property owners in the CB Zone on January 13, 2006, in compliance with

Measure 56.

C. PROPOSAL DESCRIPTION: The proposal includes amendments to text in the City of Bend Zoning Ordinance No. NS-1178 and the Bend Area General Plan. Specifically, the proposal includes changing three development standards in the Central Business (CB) Zone.

The proposal is to decrease the building height limit from 70 feet to 60 feet on CB Zone properties east of Bond Street. The proposal is also to remove the provision allowing an applicant to apply for a Conditional Use Permit to exceed the building height limits. Buildings exceeding the height limits may be permitted subject to a Variance. The proposal is also to allow driveway access to Franklin and Greenwood Avenues, subject to a Conditional Use Permit. Driveway access, if permitted, shall be right-in/right-out.

III. COMPLIANCE WITH APPLICABLE CRITERIA:

A. Bend Area General Plan (BAGP)

The policies in the General Plan are statements of public policy, and are used to evaluate any proposed changes to the General Plan. Often these statements are expressed in mandatory fashion using the word "shall." These statements of policy shall be interpreted that the actual implementation of the policies shall be accomplished by land use regulations such as the city's zoning ordinance, subdivision ordinance and the like. The realization of these policies is subject to the practical constraints of the city such as availability of funds and compliance of all applicable federal and state laws, rules and regulations and constitutional limitations.

The Plan text and policies describe 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. Changing these boundaries requires a formal amendment to the Plan.

The General Plan is a document that changes over time to reflect new information and new directions for the future. Amendments or additions to the General Plan text, exhibits, and policies go through a public hearing and review process before being adopted by the governing bodies. Changes and updates can be generated in at least six ways:

- Regularly scheduled reviews and updates by the city and county.

- Preparation of more detailed "refinement plans" for neighborhoods or geographic areas.
- Evaluation of land use topics required to be reviewed under the Oregon Land Conservation and Development Commission's "periodic review" of the General Plan.
- Other state laws or legislative actions that require changes to the Plan outside of the normal periodic review cycle.
- City or county response to new issues or changes.
- Changes proposed by individuals or other agencies. At any time an individual, corporation, or public agency can propose a change to the Plan text, land use map, other exhibits, or policies. A person or agency proposing the change has the burden to demonstrate a public need and benefit for the change.

Finding: There is a public need and benefit to limit the maximum allowable building height in the CB Zone. Building height limits preserve solar access and view corridors and maintain pedestrian-scale at the street level.

There is a public need and benefit to change the process for exceeding the building height limits from a Conditional Use Permit process to a Variance process. If exceptions to the building height limits are allowed through the Conditional Use Permit process, applicants need only demonstrate that their proposals are aesthetically pleasing and compatible with the surrounding buildings. This makes the building height limits "soft." If exceptions to the building height limits are allowed through the Variance process, applicants must demonstrate that the building height limit would cause an undue or unnecessary hardship that does not result from the actions of the applicant and that such adverse conditions and circumstances do not merely constitute a pecuniary hardship or inconvenience. Approval of a Variance is much harder to achieve than approval of a Conditional Use Permit. A variance requirement would make the building height limits "hard."

There is a public need and benefit to limit driveway access to Franklin and Greenwood Avenues in the CB Zone to right-in/right-out access only. Left turn prohibitions improve safety by reducing the number of potential vehicle conflict points. Left turn prohibitions also improve traffic operations by both reducing delays for vehicles exiting driveways and reducing delays for through vehicles stopped behind left-turning vehicles entering driveways from the street.

The applicable General Plan policies are set forth below and are followed by findings addressing how the proposed amendment complies with those policies.

CHAPTER 6: THE ECONOMY AND LANDS FOR ECONOMIC GROWTH

Policies

Commercial Development

- 26. Proposed buildings that exceed 45 feet in height shall be reviewed through the conditional use permit process.**

Finding: The proposed amendment would change the requirement from approval of a Conditional Use Permit to exceed the height limits to approval of a Variance to exceed the height limits.

B. City of Bend Zoning Ordinance No. NS-1178

The applicable sections of City of Bend Zoning Ordinance No. NS-1178 are set forth below and are followed by findings addressing how the proposed amendment would affect these existing code provisions.

Section 18. Central Business Zone, or CB Zone.

- (1) Purpose. This zone is intended to serve as the central trading area for the City and surrounding urbanized areas.

Finding: The proposed amendment does not change the purpose of the CB Zone.

- (2) Permitted Uses. The following uses are permitted in the CB Central Business Zone.
- (a) Bank or other financial institution.
 - (b) Beauty or barber shop or other personal service establishment.
 - (c) Business or professional office.
 - (d) Eating or drinking establishment.
 - (e) Hotel or motel.
 - (f) Retail store.
 - (g) Theater.
 - (h) Technical and business schools.

- (i) Bus terminal.
- (j) Dwelling units that are above the ground floor of a permitted commercial use.
- (k) Temporary Housing, up to 5 beds, subject to the Special Use Standards in Section 25.

Finding: The proposed amendment does not change any of the permitted uses in the CB Zone.

(3) Conditional Uses. The following conditional uses may be permitted subject to a Conditional Use Permit and the provisions of Section 29.

- (a) Food store.
- (b) Off-street parking lot.
- (c) Residential uses on the ground floor of a building.
- (d) Buildings exceeding the height limits in Subsection (4) of Section 18.
- (e) Department store.
- (f) Small animal veterinary clinic.
- (g) Right-in/right-out only driveway access to a street.
- (h) Temporary Housing, 6-25 beds, subject to the Special Use Standards in Section 25.

Finding: The proposed amendment deletes Subsection (3)(d), the provision to exceed the building height limits, subject to a Conditional Use Permit. The proposed amendment also changes Subsection 3(g), by requiring right-in/right-out only driveway access on Franklin and Greenwood Avenues.

(4) Height Regulations. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed the height regulations listed below without a Conditional Use Permit.

The maximum allowable building height limit in the CB Zone shall be as follows:

- On CB Zone properties west of Brooks Street (Subarea A shown in

Figure 1), the maximum allowable building height limit shall be 35 feet. No Conditional Use Permits to exceed the height limit shall be allowed in this area.

- On CB Zone properties east of Brooks Street and west of the alley between Wall and Bond Streets (Subarea B shown in Figure 1), the maximum allowable building height limit shall be 45 feet.
- On CB Zone properties east of the alley between Wall and Bond Streets and west of Bond Street (Subarea C shown in Figure 1), the maximum allowable building height limit shall be 55 feet. Where portions of a building are higher than 45 feet, 60 percent of the street-facing facades higher than 45 feet must be set back 1 foot from the street-facing property line for every 1 foot that the building exceeds 45 feet in height, with a minimum setback of 5 feet and a maximum setback of 20 feet. The required setback may be reduced by one foot for each foot below the 45-foot height level that the setback begins. E.g., for a building that begins its setback at the 35-foot height level (10 feet below what is required) the required setback can be reduced by 10 feet.
- On CB Zone properties east of Bond Street and west of the alley between Bond Street and Lava Road (Subarea D shown in Figure 1), the maximum allowable building height limit shall be 70 feet. Where portions of a building are higher than 45 feet, 60 percent of the street-facing facades higher than 45 feet must be set back 1 foot from the street-facing property line for every 1 foot that the building exceeds 45 feet in height, with a minimum setback of 5 feet and a maximum setback of 20 feet. The required setback may be reduced by one foot for each foot below the 45-foot height level that the setback begins. E.g., for a building that begins its setback at the 35-foot height level (10 feet below what is required) the required setback can be reduced by 10 feet.
- On CB Zone properties east of the alley between Bond Street and Lava Road (Subarea E shown in Figure 1), the maximum allowable building height limit shall be 70 feet.

Finding: The proposed amendment would change the requirement from approval of a Conditional Use Permit to exceed the height limits to approval of a Variance to exceed the height limits, pursuant to the provisions of Subsection (2) of Section 31. The proposed amendment would also change the building height limit from 70 feet to 60 feet on CB Zone properties east of Bond Street.

- (5) Lot Requirements. No requirements, except that the requirements of Section 23C shall apply.

Finding: The proposed amendment does not change the lot requirements in the CB Zone.

(6) Off-Street Parking and Loading.

- (a) In the CB Zone prior to the issuance of any building permit for construction of a new building, enlargement of an existing building, or the change of use requiring additional off-street parking as required by Section 24, the owner or occupant shall pay a fee in lieu of providing the required off-street parking or provide the off-street parking. The fee shall be established by resolution and adjusted from time to time by the City Council.
- (b) The fee shall be a one time fee deposited in a fund to be used only for the planning, acquisition, development and maintenance of off-street parking facilities located in and/or adjacent to the CB Zone.
- (c) Buildings with five or more stories shall provide at least 15 percent of their off-street parking requirement on site and shall not be allowed to pay the in lieu of fee for the first 15 percent of the off-street parking requirement.
- (d) Notwithstanding Subsection (6)(c) of Section 18, the parking requirement therein shall not apply to Lots 7, 8, 9, 10, 11, 12, 13, 14 and 15, Block 15, Plat of Bend.
- (e) Notwithstanding Subsection (6)(c) of Section 18, the review authority is authorized to grant exceptions from the 15 percent parking requirement if it can be determined that:
 - (i) The reduction is necessary due to practical difficulties associated with building construction, such as necessary building support elements.
 - (ii) The exception is the minimum needed to achieve the purpose and objectives of this Ordinance.
 - (iii) Where a reduction in the off-street parking requirement is allowed by this section, the in lieu of fee shall be paid.

Finding: The proposed amendment does not change the off-street parking and loading requirements in the CB Zone.

(7) Other Required Conditions.

- (a) In any CB Zone directly across a street from an "R" Zone, parking and loading area shall be set back at least 10 feet from the right of way and said area shall be appropriately landscaped along the residential street frontage to protect the character of the adjoining residential property. Such landscaping shall be maintained.
- (b) Site Plan approval required for the area described as requiring parking in Subsection (6) of Section 18.
- (c) Existing off-street parking shall be maintained unless alternative parking is provided with a redevelopment plan.
- (d) Additional development and design standards that pertain to redevelopment and development in the CB Zone are contained in Section 23C.
- (e) All buildings in the CB Zone shall contain retail, office, or housing uses along all street-facing facades of the ground floor to a depth of at least 50 feet into the building.

Finding: The proposed amendment does not change any of the other required conditions.

Section 23C. Development and Design Standards for the CB Zone.

- (7) Development Standards. The development standards for the CB Zone help ensure that new projects in the CB Zone will be compatible with the desired scale and character of Downtown Bend. The development standards shall be met before proceeding to the design standards.
 - (b) Maximum Building Height. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed the height regulations listed below without a Conditional Use Permit.

The maximum allowable building height limit in the CB Zone shall be as follows:

- On CB Zone properties west of Brooks Street, the maximum allowable building height limit shall be 35 feet. No Conditional Use Permits to exceed the height limit shall be allowed in this area.
- On CB Zone properties east of Brooks Street and west of the alley between Wall and Bond Streets, the maximum allowable building height limit shall be 45 feet.

- On CB Zone properties east of the alley between Wall and Bond Streets and west of Bond Street, the maximum allowable building height limit shall be 55 feet. Where portions of a building are higher than 45 feet, 60 percent of the street-facing facades higher than 45 feet must be set back 1 foot from the street-facing property line for every 1 foot that the building exceeds 45 feet in height, with a minimum setback of 5 feet and a maximum setback of 20 feet. The required setback may be reduced by one foot for each foot below the 45-foot height level that the setback begins. E.g., for a building that begins its setback at the 35-foot height level (10 feet below what is required) the required setback can be reduced by 10 feet.
- On CB Zone properties east of Bond Street and west of the alley between Bond Street and Lava Road, the maximum allowable building height limit shall be 70 feet. Where portions of a building are higher than 45 feet, 60 percent of the street-facing facades higher than 45 feet must be set back 1 foot from the street-facing property line for every 1 foot that the building exceeds 45 feet in height, with a minimum setback of 5 feet and a maximum setback of 20 feet. The required setback may be reduced by one foot for each foot below the 45-foot height level that the setback begins. E.g., for a building that begins its setback at the 35-foot height level (10 feet below what is required) the required setback can be reduced by 10 feet.
- On CB Zone properties east of the alley between Bond Street and Lava Road, the maximum allowable building height limit shall be 70 feet.

Finding: The proposed amendment would change the requirement from approval of a Conditional Use Permit to exceed the height limits to approval of a Variance to exceed the height limits, pursuant to the provisions of Subsection (2) of Section 31. The proposed amendment would also change the building height limit from 70 feet to 60 feet on CB Zone properties east of Bond Street.

Section 33. Amendments.

This ordinance may be amended by changing the boundaries of zones or by changing any other provisions thereof, whenever the public necessity and convenience and the general welfare requires such an amendment. Such a change may be proposed by the City Council on its own motion or by motion of the Planning Commission, or by petition as hereinafter set forth.

Finding: The proposed amendment changes the provisions of the CB Zone and was proposed by the City Council to address the general welfare of the public. This proposal does not affect the boundaries of the CB Zone, or any other zone.

(4) Text Amendments. For amendments to the text, notice of the time and place of the public hearing before the Approval Authority and of the purpose of the proposed amendment shall be given by publication in a newspaper of general circulation in the City at least ten days prior to the date of the hearing.

Finding: Notice of the time and place of the February 1, 2006 public hearing before the City Council and of the purpose of the proposed amendment was published in the *Bend Bulletin* on January 22, 2006, which was at least ten days prior to the date of the hearing.

III. CONCLUSION

Based on the Findings of Fact, staff finds that this proposed action satisfies all applicable criteria for amendment of the City of Bend Zoning Ordinance No. NS-1178 and the Bend Area General Plan.

IV. RECOMMENDATION

Staff recommends that the proposed amendments to the City of Bend Zoning Ordinance No. NS-1178 and the Bend Area General Plan, attached as Exhibits A, B, and C be recommended for adoption by the City Council.

ORDINANCE NO. NS-1998

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NS-1178 AND THE BEND AREA GENERAL PLAN TO CHANGE THREE DEVELOPMENT STANDARDS AND PROCEDURES IN THE CENTRAL BUSINESS (CB) ZONE.

WHEREAS, the Bend City Council adopted Ordinance No. NS-1178, establishing zoning regulations, providing penalties for the violation thereof and repealing Ordinance NS-796 and all amendments thereto; and

WHEREAS, the purpose of adopting new development standards and procedures is to protect and enhance the Downtown core area of Bend; and

WHEREAS, the City of Bend has conducted a public hearing on February 1, 2006 regarding adoption of new development standards for the CB Zone, and legal notice of the public hearing was published in the Bend Bulletin on January 22, 2006; and

WHEREAS, the staff report and issue summaries are adopted by the City Council.

THE CITY OF BEND ORDAINS AS FOLLOWS:

- Section 1. Amend Section 18 of the Bend Code as shown in Exhibit A.
Section 2. Amend Section 23C of the Bend Code as shown in Exhibit B.
Section 3. Amend Chapter 6 of the Bend Area General Plan as shown in Exhibit C.

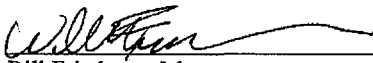
Read for the first time the 1st day of February, 2006.

Read for the second time the 15th day of February, 2006.

Placed upon its passage the 15th day of February, 2006.

YES: 4 NO: 2

Authenticated by the Mayor the 15th day of February, 2006.


Bill Friedman, Mayor

ATTEST:


Patricia Stell, City of Bend Recorder

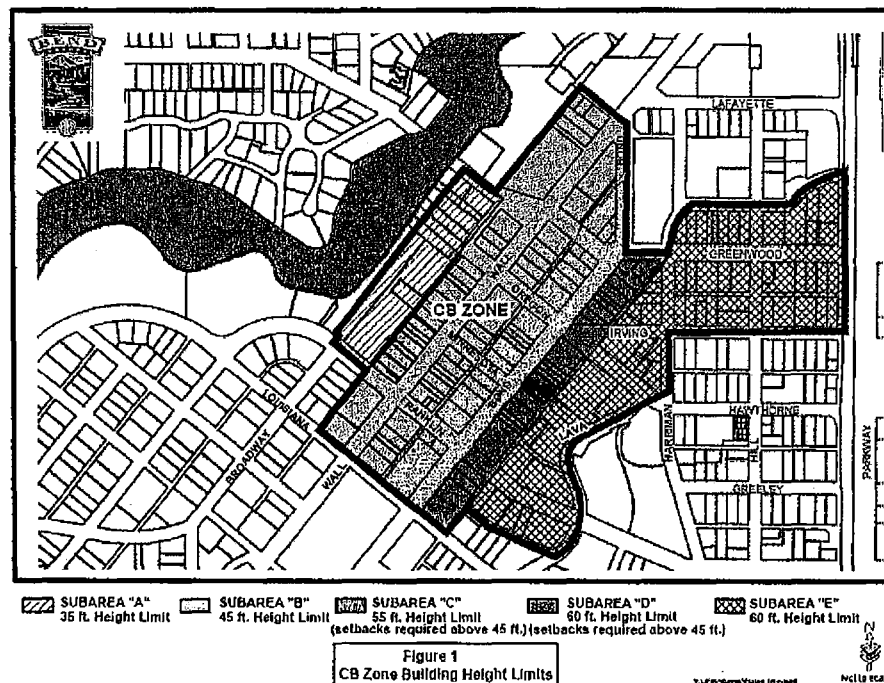
EXHIBIT A BEND CODE 10.10.18

Section 18. Central Business Zone, or CB Zone.

- (1) Purpose. This zone is intended to serve as the central trading area for the City and surrounding urbanized areas.
- (2) Permitted Uses. The following uses are permitted in the CB Central Business Zone.
 - (a) Bank or other financial institution.
 - (b) Beauty or barber shop or other personal service establishment.
 - (c) Business or professional office.
 - (d) Eating or drinking establishment.
 - (e) Hotel or motel.
 - (f) Retail store.
 - (g) Theater.
 - (h) Technical and business schools.
 - (i) Bus terminal.
 - (j) Dwelling units that are above the ground floor of a permitted commercial use.
 - (k) Temporary Housing, up to 5 beds, subject to the Special Use Standards in Section 25.
- (3) Conditional Uses. The following conditional uses may be permitted subject to a Conditional Use Permit and the provisions of Section 29.
 - (a) Food store.
 - (b) Off-street parking lot.
 - (c) Residential uses on the ground floor of a building.
 - ~~(d) Buildings exceeding the height limits in Subsection (4) of Section 18.~~
 - ~~(e)~~**(d)** Department store.
 - ~~(f)~~**(e)** Small animal veterinary clinic.
 - ~~(g) Right in/right out only driveway access to a street.~~
 - (f) Driveway access to Franklin and Greenwood Avenues. Driveway access, if permitted, shall be right-in/right-out only.**
 - ~~(h)~~**(g)** Temporary Housing, 6 – 25 beds, subject to the Special Use Standards in Section 25.
- (4) Height Regulations. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed the height regulations listed below without a Conditional Use Permit approval of a Variance, pursuant to the provisions of Subsection (2) of Section 31. The provisions of Subsection (3) of Section 31 do not apply to Variances to building height limits.

The maximum allowable building height limit in the CB Zone shall be as follows:

- On CB Zone properties west of Brooks Street (Subarea A shown in Figure 1), the maximum allowable building height limit shall be 35 feet. ~~No Conditional Use Permits to exceed the height limit shall be allowed in this area.~~
- On CB Zone properties east of Brooks Street and west of the alley between Wall and Bond Streets (Subarea B shown in Figure 1), the maximum allowable building height limit shall be 45 feet.
- On CB Zone properties east of the alley between Wall and Bond Streets and west of Bond Street (Subarea C shown in Figure 1), the maximum allowable building height limit shall be 55 feet. Where portions of a building are higher than 45 feet, 60 percent of the street-facing facades higher than 45 feet must be set back 1 foot from the street-facing property line for every 1 foot that the building exceeds 45 feet in height, with a minimum setback of 5 feet and a maximum setback of 20 feet. The required setback may be reduced by one foot for each foot below the 45-foot height level that the setback begins. E.g., for a building that begins its setback at the 35-foot height level (10 feet below what is required) the required setback can be reduced by 10 feet.
- On CB Zone properties east of Bond Street and west of the alley between Bond Street and Lava Road (Subarea D shown in Figure 1), the maximum allowable building height limit shall be ~~70~~ 60 feet. Where portions of a building are higher than 45 feet, 60 percent of the street-facing facades higher than 45 feet must be set back 1 foot from the street-facing property line for every 1 foot that the building exceeds 45 feet in height, with a minimum setback of 5 feet and a maximum setback of 20 feet. The required setback may be reduced by one foot for each foot below the 45-foot height level that the setback begins. E.g., for a building that begins its setback at the 35-foot height level (10 feet below what is required) the required setback can be reduced by 10 feet.
- On CB Zone properties east of the alley between Bond Street and Lava Road (Subarea E shown in Figure 1), the maximum allowable building height limit shall be ~~70~~ 60 feet.



Projections and architectural elements that do not add habitable interior floor area to a building, such as chimneys, spires, steeples, clock towers, skylights, atriums, elevator shaft housings, stair enclosures, trellises, railings, flag poles, signs, mechanical equipment and screens, antennae and other similar items not used for human occupancy, shall be allowed to exceed the maximum allowable building height limit by 10 feet.

- (5) Lot Requirements. No requirements, except that the requirements of Section 23C shall apply.
- (6) Off-Street Parking and Loading.
- (a) In the CB Zone prior to the issuance of any building permit for construction of a new building, enlargement of an existing building, or the change of use requiring additional off-street parking as required by Section 24, the owner or occupant shall pay a fee in lieu of providing the required off-street parking or provide the off-street parking. The fee shall be established by resolution and adjusted from time to time by the City Council.
 - (b) The fee shall be a one time fee deposited in a fund to be used only for the planning, acquisition, development and maintenance of off-street parking facilities located in and/or adjacent to the CB Zone.
 - (c) Buildings with five or more stories shall provide at least 15 percent of their off-street parking requirement on site and shall not be allowed to pay the in lieu of fee for the first 15 percent of the off-street parking requirement.
 - (d) Notwithstanding Subsection (6)(c) of Section 18, the parking requirement therein shall not apply to Lots 7, 8, 9, 10, 11, 12, 13, 14 and 15, Block 15, Plat of Bend.
 - (e) Notwithstanding Subsection (6)(c) of Section 18, the review authority is authorized to grant exceptions from the 15 percent parking requirement if it can be determined that:
 - (i) The reduction is necessary due to practical difficulties associated with building construction, such as necessary building support elements.
 - (ii) The exception is the minimum needed to achieve the purpose and objectives of this Ordinance.
 - (iii) Where a reduction in the off-street parking requirement is allowed by this section, the in lieu of fee shall be paid.
- (7) Other Required Conditions.
- (a) In any CB Zone directly across a street from an "R" Zone parking and loading area shall be set back at least 10 feet from the right of way and said area shall be appropriately landscaped along the residential street frontage to protect the character of the adjoining residential property. Such landscaping shall be maintained.
 - (b) Site Plan approval required for the area described as requiring parking in Subsection (6) of Section 18.
 - (c) Existing off-street parking shall be maintained unless alternative parking is provided with a redevelopment plan.

- (d) Additional development and design standards that pertain to redevelopment and development in the CB Zone are contained in Section 23C.
- (e) All buildings in the CB Zone shall contain retail, office, or housing uses along all street-facing facades of the ground floor to a depth of at least 50 feet into the building.

[Section 18(3)(f) added by ORD. No. NS-1221 passed June 6, 1979]
[Section 18(2)(i) added by ORD. No. NS-1372 passed March 2, 1983]
[Section 18(4) and (6) amended by ORD. No. NS-1372 passed March 2, 1983]
[Section 18(6) amended by ORD. No. NS-1560 passed April 15, 1992]
[Section 18(7)(c) amended by ORD. No. NS-1372 passed March 2, 1983]
[Section 18(2)(j) added by ORD. No. NS-1614 passed May 18, 1994]
[Section 18(2)(k) added by ORD. No. NS-1866, passed May 21, 2003]
[Section 18(3)(g) added by ORD. No. NS-1866, passed May 21, 2003]
[Section 18(2)(j), (3)(c), (5), and (7)(d) amended by ORD. No. NS-1919, passed April 24, 2004]
[Section 18(3), (4), (6), and (7) amended by ORD. NS-1946, passed November 17, 2004]
[Section 18(3) and (4) amended by ORD. NS-_____, passed _____]

Section 23C. Development and Design Standards for the CB Zone

(1) Purpose. In an effort to protect and enhance the downtown core area of Bend, the City Council has adopted of a special set of development and design standards. Development and design standards shall apply to all areas within the Central Business Zone (CB Zone) of downtown. The development and design standards shall apply to the area shown on the map below and apply to buildings and lots that are expected to be developed or redeveloped in the near future. The development and design standards for the CB Zone (Section 23C of the Bend Code) build upon the development standards in Section 18 of the Bend Code.

Major advantages of the development and design standards include:

- Ensuring that future development is consistent with the CB Zone's existing pedestrian-oriented scale of buildings.
- Strengthening the downtown area as the heart of the community, and as the place for people and business.
- Improving downtown's economic base, while expanding it to meet future opportunities.
- Enhancing the physical appearance of downtown through high-quality design.
- Garnering consensus for a shared vision among various interests in deciding how downtown shall be preserved and enhanced through refined design standards.

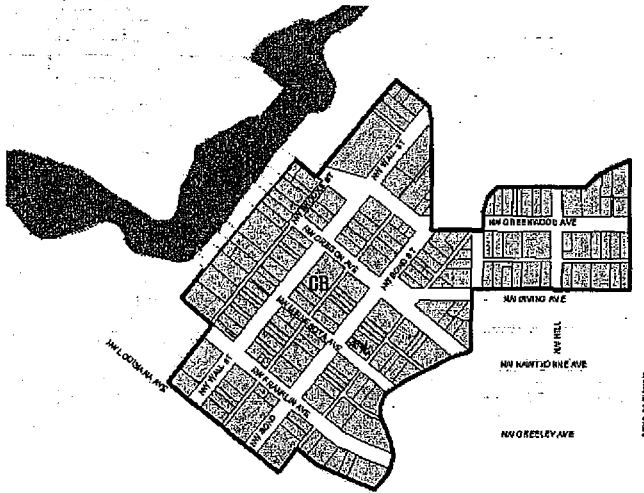


Figure 1
Bend Central Business (CB) Zone

- (2) Exempt Development. No land use permit pursuant to this code is required for exempt development. Exempt Developments include:
- (a) Landscaping or landscape alterations.
 - (b) Repair or maintenance of public or private buildings, structures, landscaping, roads and/or utilities that present a risk to public safety. Maintenance of the exterior of an existing structure such as re-painting, re-roofing, or re-siding where similar materials and colors are used are also exempt.
 - (c) Construction of a structure that does not require a building permit.
 - (d) Interior remodeling.
 - (e) Temporary structures and uses which are for relief of victims of disaster or an emergency.
- (3) Non-exempt Development. Any development in the CB Zone that does not qualify as exempt development shall meet the development standards in Section 18 of the City of Bend Code and the development and design standards in Section 23C of the City of Bend Code.
- (4) Application Process. Planning Staff or the Planning Commission (as described below) shall approve, approve with conditions, or deny an application based upon compliance with the development and design standards. Approval shall be obtained from the review authority prior to the issuance of a building permit for all non-exempt development. Non-exempt development in the CB Zone has two tracks for obtaining development permits. In both permitting tracks, the development standards must be met before proceeding to the design standards. Applicants shall use the City of Bend's Design and Development Handbook for the CB Zone to determine which of the two tracks they will pursue.
- (a) Track 1 – Administrative Review of Compliance with Design Standards. Track 1 requires applicants to meet objective development and design standards. Design standards are quantifiable and measurable, and can be administered as part of the plan-review process. These applications are reviewed administratively by City of Bend Planning Staff, which reduces the amount of time that it takes to get the project reviewed. Track 1 provides an efficient time saving alternative to Track 2.
 - (b) Track 2 – CB Zone Design Review of Compliance with Design Guidelines. Track 2 similarly requires applicants to meet objective development standards, but deviates from requiring some or all of the design standards. In this case, applicants are subject to the design review process, which will be conducted by the City of Bend Planning Commission. During design review, the Planning Commission will determine whether an application meets the design guidelines. Unlike design standards, design guidelines are discretionary. In Track 2, the Intent Statements serve as the criteria for determining if the "intent" of the design standard is being met. In Track 2, applicants are required to identify how their proposed site/building plan meets the intent statements of the design standards, and why specific objective standards can not be met.
- (5) Application Requirements. The applicant shall attend the City of Bend pre-application meeting to determine if the proposed development is "exempt" or "non-exempt" from the development and design standards. If the development is "non-exempt," the applicant shall file an application for CB Zone Design Review with the City. This application may be filed in conjunction with other permits when the property is subject to other land use action. The application shall be accompanied by pertinent materials containing information as specified by the City. The application form lists the required submittal information.

(6) Approval Process. As to Track 1 applications, the City of Bend Planning Staff shall use the standards in this section to ensure compliance with the development and design standards. As to Track 2 applications, the City of Bend Planning Commission shall use the intent statements in this section to ensure compliance with the development and design guidelines.

(7) Development Standards. The development standards for the CB Zone help ensure that new projects in the CB Zone will be compatible with the desired scale and character of Downtown Bend. The development standards shall be met before proceeding to the design standards.

(a) Minimum Floor Area Ratio (FAR). The minimum FAR shall be 2-to-1.

(b) Maximum Building Height. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed the height regulations listed below without a ~~Conditional Use Permit~~ approval of a Variance, pursuant to the provisions of Subsection (2) of Section 31. The provisions of Subsection (3) of Section 31 do not apply to Variances to building height limits.

The maximum allowable building height limit in the CB Zone shall be as follows:

- On CB Zone properties west of Brooks Street, the maximum allowable building height limit shall be 35 feet. ~~No Conditional Use Permits to exceed the height limit shall be allowed in this area.~~

- On CB Zone properties east of Brooks Street and west of the alley between Wall and Bond Streets, the maximum allowable building height limit shall be 45 feet.

- On CB Zone properties east of the alley between Wall and Bond Streets and west of Bond Street, the maximum allowable building height limit shall be 55 feet. Where portions of a building are higher than 45 feet, 60 percent of the street-facing facades higher than 45 feet must be set back 1 foot from the street-facing property line for every 1 foot that the building exceeds 45 feet in height, with a minimum setback of 5 feet and a maximum setback of 20 feet. The required setback may be reduced by one foot for each foot below the 45-foot height level that the setback begins. E.g., for a building that begins its setback at the 35-foot height level (10 feet below what is required) the required setback can be reduced by 10 feet.

- On CB Zone properties east of Bond Street and west of the alley between Bond Street and Lava Road, the maximum allowable building height limit shall be ~~70~~ 60 feet. Where portions of a building are higher than 45 feet, 60 percent of the street-facing facades higher than 45 feet must be set back 1 foot from the street-facing property line for every 1 foot that the building exceeds 45 feet in height, with a minimum setback of 5 feet and a maximum setback of 20 feet. The required setback may be reduced by one foot for each foot below the 45-foot height level that the setback begins. E.g., for a building that begins its setback at the 35-foot height level (10 feet below what is required) the required setback can be reduced by 10 feet.

- On CB Zone properties east of the alley between Bond Street and Lava Road, the maximum allowable building height limit shall be ~~70~~ 60 feet.

(c) Minimum Building Setback. There is no minimum building setback from the property line facing the street for portions of a building 45 feet or less in height.

(d) Maximum Building Setback. The maximum building setback of the ground floor from the property line facing the street is 10 feet. At least 50 percent of the length of the ground level, street-facing façade of buildings

must be on the property line. If the site has two or more street frontages, this standard applies to both frontages. Buildings that set back from the property line and face a Residential Zone can choose to develop the setback with low shrubs and/or ground cover. Buildings that set back from the property line and face a Commercial Zone must incorporate a hardscape and be ADA Accessible. Plantings in the commercial-fronting setback must be in planters. All plantings must be drought tolerant and not be classified as a nuisance plant.

- (e) Ground Floor Windows. Ground floor windows must be at least 50 percent of the building length and 60 percent of the street-facing ground floor wall area. Ground floor wall area includes all wall areas up to 10 feet above finished grade. If the site has two or more frontages, the Ground Floor Window Standard is only required on the primary façade – the façade that fronts the street with the higher City of Bend Street Classification. The other façade has a minimum requirement of 50 percent of the length and 25 percent of the ground floor wall area. Windows are required to be transparent to foster both a physical and visual connection between activities in the building and pedestrian activities on the street.
 - (f) Main Entrance. The main entrance to a building shall face the street or be on the corner.
 - (g) ADA Accessibility Guidelines (ADAAG). All public areas must comply with all ADAAG Standards and be ADA accessible (ADAAG Standards 4.4.1, 4.4.2, 4.5, 4.7, and 4.8). Creation of an attractive street life and sense of place for all Bend's residents and visitors includes:
 - Making accessible sidewalks and pathways.
 - Ensuring sidewalks and pathways are clear of objects.
 - Eliminating projecting elements.
 - Ensuring that spaces in the public realm are covered and protected from inclement weather.
- (8) Design Standards. The design standards for the CB Zone help guide the development and redevelopment of properties within the CB Zone. They are intended to implement the community goals and objectives in the Bend Area General Plan by providing a framework for how Downtown Bend should ultimately look function, and feel.
- (a) Existing Edge Conditions.

Intent: Encourage the development of a cohesive, exciting and vibrant street life.

Approach: All street-facing elevations must have front doors that face the street and meet at least one of the following options:

- Courtyard/Plaza Option. Embellish the pedestrian zone by creating ADA accessible courtyards/plazas as extension of the sidewalk (the public realm). Incorporate pedestrian amenities such as street trees, outdoor seating, display areas, public art, human-scaled lighting and decorative pavers.
- Street Edge Option. Orient the primary entrance to the building along the street-facing property line, fostering a continuous and cohesive edge and defining inside from outside.
- Recessed Entry Option. Create/enhance semi-public transition areas between the sidewalk (public realm) and the recessed entry door (private realm). Define this area with lighting that draws attention to ground floor window displays, signage and the building's architectural details. Supplement the lighting with special paving treatments that

emphasize the entry (tile, etched concrete and/or brick). Asphalt is prohibited.

- Arcade Option. Design an arcade that meets the following requirements:
 - The columns and piers (that support the building above) are 6 to 10 feet deep between the front property line and the parallel building wall.
 - The columns and piers consist of openings that are a minimum of 6 feet wide.
 - The columns and piers are a minimum of 18 inches from the property line (measured to the center of the column or pier).
 - The columns and piers are equally spaced and extend the entire length of the opening.
 - The building façade directly behind the arcade meets the ground floor window development standard.
 - The arcade elevation facing the street is a minimum of 10 feet in height and covered by the building.

Note: Spacing between columns and/or posts along building elevations less than 30 feet in length shall not exceed 10 feet. Spacing between columns and/or posts along building elevations greater than 50 feet in length shall not exceed spacing of 20 feet.

Note: The arcade option meets the ground floor window standard provided that the ground floor building façade behind the arcade meets the 50 percent length and 60 percent wall glazing requirement.

Note: Buildings with two or more frontages are only required to meet the arcade option along one street façade. However, if the arcade is proposed on both street frontages, the minimum spacing for openings is required along the entire opening.

(b) Human Scale.

Intent: Building façades must be designed in a manner that is aesthetically appealing, comfortable to pedestrians, and compatible with the character of the surrounding built environment as a way of emphasizing human scale.

Approach: Provide visual interest for pedestrians by incorporating building details at the ground floor that relate to the surrounding built environment, and are at a human scale. This is to be accomplished by meeting two or more of the following options:

- Incorporating building lighting between 10 and 15 feet from the sidewalk to the bottom of the light fixture.
- Incorporating suspended signs (blade signs) between 8 and 12 feet from the sidewalk to the bottom of the suspended sign.
- Incorporating horizontal and vertical elements at the ground floor/the base of the building that are familiar to pedestrians and are at human scale: sign frieze, storefront cornice, window mullions, piers that frame storefronts, engaged columns, arcades, brick coursings, awnings, and well-lit transoms.
- Incorporating a rhythm of awnings and/or canopies between 10 and 15 feet from the sidewalk to the bottom of the awning/canopy.

Note: Pedestrian-oriented lighting is required between structural bays; lighting must follow a consistent spacing pattern.

(c) Physical, Visual and Experiential Connections.

Intent: Create delight and wonder by incorporating interesting features into a building/site. Emphasize the role that physical, visual and experiential connections give to creating meaningful places.

Approach: Embellish the buildings with two or more of the following elements:

- A variety of building materials (stone, brick, concrete, wood, metal, and glass).

Note: Use of colors that are contextual to Bend and the larger Pacific Northwest landscape serve to embellish the building and the public realm.

Note: Traditional, Central Business zones, like Bend's CB Zone, often consist of tri-part buildings where the base, middle and top of the building are defined by color, texture and materials.

- Architectural elements such as cornices, arcades, porticos, and transom windows.
- Tri-part buildings facades that emphasize a clear base, middle and top.

Note: Traditional style storefront buildings typically include an uninterrupted band commonly referred to as a bulkhead, kickplate (doors), window base or a base panel, around the base of the building. This band is approximately 16 inches above the sidewalk and serves to "anchor" the building to the site. This band is most often constructed of wood, concrete, brick, stone or metal. Using tape or paint for the bulkhead is prohibited.

Note: Display windows in traditional storefront buildings are typically terminated in the base band or bulkhead. The bulkhead, window frame and windowsill hold the window and help to further accentuate relief in the building façade. The top of the storefront is architecturally capped by horizontal elements, including sign bands, storefront cornices and transoms. These features serve as a transition device from the base of the building to the middle of the building.

(d) Cohesive Elements.

Intent: Incorporate cohesive and repetitive elements into the building as a means of enhancing the pedestrian realm and giving meaning to the building.

Approach: Incorporate three or more of the following repetitive building elements:

- Building lighting
- Columns, engaged columns/pilasters and arcades
- Suspended signs (blade signs)
- Canopies and/or awnings
- Transoms
- Balconies

Note: Architects and designers are encouraged to think creatively above and beyond the ground floor window requirements specified in the design standards. Besides implementing cohesive elements, architects and designers should consider the interplay of shadows and light, and vertical and horizontal "architectural features" on neighboring buildings.

(e) Integrate Building Parapets and Rooftops.

Intent: Treat the top of the building, the point where the edifice meets the sky, as part of the larger façade composition and, where possible, accentuate the ornamentation found on existing traditional CB Zone buildings. Fully screen all roof top mechanical equipment from the adjacent sidewalk.

Approach: Create visual interest at the top of the building by incorporating one of the following options:

- Integrating elements at the roofline such as detailed eaves, projected cornices and articulated parapets.
- Incorporating rooftop forms, other than flat roofs, that add visual interest to the façade.

Note: Sloped roof heights from eave to peak should not exceed the height from grade to the eave (the roof should not be taller than the building wall supporting the roof).

- Designing roof top gardens for the purpose of managing stormwater run-off into Bend's rivers and streams and/or as a place for people to gather.

Note: Screening for roof top mechanical equipment is to be opaque and a minimum of 1 foot higher than the highest point on the equipment. Roof top equipment is required to be set back from the parapet or building edge a minimum of 10 feet. Screened mechanical equipment is exempt from the height requirement.

(f) Weather Protection Projections.

Intent: Weather protection shall be provided along buildings adjacent to pedestrian walkways.

Approach: Provide weather protection for pedestrians along 50 percent of the ground floor façade that is required to be on the property line and at all street-facing entrances.

Note: Awnings, marquees, balconies, overhangs, umbrellas, fabric tensile structures, building appendages, or other weather protection projections are required to extend 5 feet over the sidewalk.

(g) Reinforce the Corner.

Intent: Create dynamic public gathering spaces where streets intersect by embellishing the corner of the building.

Approach: Incorporate one or more of the following elements:

- Place the highest and/or the most visible part of the building within 25 feet of the corner. Use architectural features such as cupolas, turrets, and hipped or pitched roofs to add prominence to the corner location.
- Locate the main/primary entry to the building within 25 feet of the corner or at the corner itself.
- Emphasize the corners of the building as a gathering place by extending paving materials that front the building to the property line.

Note: The following elements typically define the corner entry: round or chamfered corners with double doors, doors with large amounts of glass, awnings/canopies and more defined vertical elements (columns).

(h) Pedestrian-oriented Ground Floor.

Intent: Ensure that the ground floor of the primary street façade is distinguished from the upper floors and that there is the sense of interaction between activities in the building and activities on the sidewalk. Create storefronts and entries that are visible (transparent) and easily accessible from the street.

Approach: Emphasize the importance of the ground floor, especially the primary street-facing entry, by incorporating three or more of the following elements:

- Extra-height entry lobby space
- Continuous well-lit transom windows
- Enhanced distinctive doorway treatments
- Decorative lighting
- Projecting or recessing the entry bays
- Incorporating artwork into the façade that is visible to pedestrians on the sidewalk
- Incorporating unified paving materials, textures, and color

Note: Paving material in recessed entries/vestibules should help emphasize the transition from the sidewalk to the building.

(i) Alley Façade Treatment.

Intent: Design alley façades that share a corner with street-facing façades to be inviting and safe for pedestrians.

Approach: Incorporate the following façade elements:

- Wrap the required street facing fenestration into the alley a minimum of 10 feet.
- Add exterior lighting along the entire length of the alley-facing façade to enhance visibility and safety.

Note: Windows facing the alley must be transparent to ensure that the alley is monitored by people inside the building (“eyes on the street”).

(j) Urban Materials.

Intent: Ensure that building materials are compatible with well-designed surrounding buildings and where possible, embrace the natural features (geology) of the region.

Approach: Incorporate one or more of the following elements:

- At the ground floor, use materials that give the base of the building a sense of permanence with the use of: brick, metal, terra cotta, stone, concrete, block, or stucco.
- Clearly distinguish the ground floor from the upper floors by implementing strong horizontal elements such as a frieze or a cornice, and/or changing materials and/or arranging the upper windows, which are different in size than the storefront windows, in a consistent and rhythmic pattern.
- Ensure that the design of the upper floors is cohesive with that of the ground floor through the extension of actual guidelines (brick, expansion joints, and downspouts) and implied guidelines (cornices, transoms, balconies, and window mullions).
- Do not use materials that appear synthetic and are not compatible with materials (materials that are indigenous to the region) found on many of Bend’s existing buildings. Undesirable materials and treatments

include: mirrored glass, vinyl siding, cementitious siding, false-brick veneer and synthetic stucco.

(9) Purpose Statements.

(a) Floor Area Ratios. Floor Area Ratios (FARs) regulate the amount of use (the intensity) allowed on a site. FARs also work with the height, setback, and building coverage standards to control the overall bulk of development. FARs are calculated by dividing the building floor area by the lot size.

(b) Ground Floor Windows. In the CB Zone, ground floor street-facing windows are intended to:

- Provide a pleasant, rich, and diverse pedestrian experience by connecting activities occurring within a structure to adjacent sidewalk areas.
- Encourage continuity of retail and service uses.
- Create an exciting pedestrian environment.
- Create a visual dialogue between activities in the building and activities on the sidewalk.

Note: Windows must be at least 50 percent of the length and 60 percent of the ground level wall area. Ground level wall areas include all exterior wall areas up to 10 feet above the finished grade.

(c) Height. Height limits are intended to control the overall scale of buildings. The maximum building height within the CB Zone emphasizes pedestrians and a mix of uses. Exceptions to maximum height:

- Projection allowed. Projections and architectural elements that do not add habitable interior floor area to a building, such as chimneys, spires, steeples, clock towers, skylights, atriums, elevator shaft housings, stair enclosures, trellises, railings, flag poles, signs, mechanical equipment and screens, antennae and other similar items not used for human occupancy, shall be allowed to exceed the maximum allowable building height limit by 10 feet.

(d) Landscaped Areas. Landscaping is not required in the CB Zone, except for the 5 foot buffer next to Residential Zones. Landscaping is intended to soften the effects of built and paved areas. It also helps reduce stormwater runoff by providing a surface into which stormwater can percolate.

(e) Main Entrance. Fronting the main entrance of a building to the street enhances pedestrian access between the use inside the building and activities on the sidewalk. This orientation also enables building occupants to see what is happening in the street, such as arriving transit service.

(f) Pedestrian Standards. The pedestrian standards encourage a safe, attractive, and usable pedestrian circulation system in all developments. They ensure a direct pedestrian connection between the street and buildings on the site, and between buildings and other activities within the site. In addition, they provide for connections between adjacent sites, where feasible. A sidewalk circulation system must be hard-surfaced, and be at least 6 feet wide. Where the system crosses driveways, parking areas, and loading areas, the system must be clearly identifiable, through the use of elevation changes, speed bumps, a different paving material, or other similar methods. The on-site pedestrian circulation system must be illuminated to a level where employees, residents, and customers can use the system at night. Land between a building and the street lot line must be landscaped and/or hard-surfaced for use by pedestrians.

(g) Setbacks. Setbacks promote streetscapes that are consistent with the desired character of the zones. The CB Zone promotes buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial development that will maintain light, air, and privacy in residential zones. Exceptions:

- Canopies, marquees, and awnings.
- Uncovered stairways and wheelchair ramps that lead to the street-facing façade.
- Uncovered decks and stairways that are no more than 2 ½ feet above ground.
- Projections not allowed. Attached mechanical structures such as heat pumps, air conditioners, and emergency generators.

(10) Definitions.

(a) Arcade. 1. A range of arches carried on piers or columns, either free-standing or blind, i.e. attached to a wall. 2. A covered passage with shops on one or both sides. 3. An exterior covered passageway along a building façade open to the street frontage.

(b) Architrave. The lintel extending from one column or pier to another. Also, the lowest of the three main parts of an entablature.

(c) Awning. A roof-like cover extending over or in front of a place (as over the deck or in front of a door or window) as a shelter.

(d) Cementitious Siding. Combination of Portland cement, ground sand, cellulose (wood) fiber that when mixed with water allows for the creation of planks, panels, and shingles (exterior cladding) that is resistant to burning and rotting.

(e) Clerestory or Clearstory Window. The upper stage of the main walls of a church above the aisle roofs, pierced by windows; the same term is applicable in domestic buildings.

(f) Cornice. In classical architecture, the top, projecting section of an architrave; also any projecting ornamental moulding along the top of a building, wall, arch, etc., finishing or crowning it.

(g) Cupola. A dome, especially a small one on a circular or polygonal base crowning a roof or turret.

(h) Curtain Wall. A non-load-bearing wall which can be applied in front of a framed structure to keep out the weather. A continuous curtain wall of steel and glass separating 'structure' from 'cladding'.

(i) Design Standards. Design standards consist of objective design-oriented elements that help to ensure that the proposed development conserves and enhances the recognized value of the site or building. The design standards provide additional guidance to items such as pedestrian connections, building materials, ground floor and upper level treatments, and the like.

(j) Development Standards. Development standards are land use regulations that guide how sites and buildings can be developed. In commercial zones, these standards deal with allowed uses, building heights, densities, parking, building setbacks, etc.

- (k) Entablature. The upper part of an order, consisting of architrave, frieze and cornice.
- (l) Façade. The principal face, front elevation, or vertical surface of a building which is set along a frontage. (Primary Façade, as it is used in this ordinance, is the façade that faces the higher City of Bend street classification.)
- (m) Floor Area Ratio (F.A.R.). The amount of a building floor area in relation to the amount of site area, expressed in square feet. For example, a floor area ratio of 2 to 1 means two square feet of floor area to every one square foot of site area.
- (n) Frieze. The middle division of an architrave, between the architrave and cornice; usually decorated but may be plain.
- (o) Frontage. The portion of a parcel of property which abuts a dedicated public street or highway or an approved public street.
- (p) Lights. Openings between the mullions of a window.
- (q) Main Entrance. That entrance of the building, which is most architecturally prominent and contains operable doors.
- (r) Mullion. A vertical post or other upright dividing a window or other opening into two or more lights.
- (s) Parapet. A low, solid, protective screening or decorative wall; often used around a balcony or balconet, or along the edge of a roof.
- (t) Pergola. A covered walk in a garden usually formed by a double row of posts or pillars with beams above and covered with climbing plants.
- (u) Pilaster. A rectangular or round column or shallow pier attached to a wall constructed to coordinate with the style of the building.
- (v) Rhythm. Regularly recurring façade elements, features, or building masses.
- (w) Transom. A horizontal glass plane, typically encased in a wood or metal frame, that separates the storefront from the upper façade.
- (x) Trim. The framing or edging of openings and other features on a façade or indoors. It is usually of a color and material (wood, stucco, or stone) different from that of the adjacent wall surface.
- (y) Turret. A very small and slender tower.

[Section 23C added by ORD. NS-1919, passed April 24, 2004]

[Section 23C(7)(b) amended by ORD. No. NS-1946, passed November 17, 2004]

[Section 23C(7)(d) amended by ORD. No. NS-1946, passed November 17, 2004]

[Section 23C(9)(c) amended by ORD. No. NS-1946, passed November 17, 2004]

[Section 23C(7)(b) and (c) amended by ORD. No. NS-____, passed _____]

EXHIBIT C

AMENDMENTS TO THE BEND AREA GENERAL PLAN CHAPTER 6
POLICIES

Text below shown in ~~striketrough~~ type is proposed to be deleted. Text to be added is shown in **underlined bold type**.

Commercial Development

26. Proposed buildings that exceed the maximum allowable building height limit in the zone shall be reviewed through the conditional use permit process, ~~except in the Central Business (CB) Zone. Proposed buildings that exceed the maximum allowable building height limit in the CB Zone shall be reviewed through the variance process.~~ **except in the Central Business (CB) Zone. Proposed buildings that exceed the maximum allowable building height limit in the CB Zone shall be reviewed through the variance process.**