



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, OR 97301-2540

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www.lcd.state.or.us

AMENDED NOTICE OF ADOPTED AMENDMENT

September 11, 2007

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 006-07



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: September 25, 2007

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
Greg Blackmore, City of Bend

<paa> ya/

FORM 2

DLCD

Notice of Adoption

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



Jurisdiction: **City of Bend**

Local file number: **PZ 07-186**

Date of Adoption: **8/15/2007**

Date Mailed: **9/4/07**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **3/27/2007**

- | | |
|---|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input checked="" type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> New Land Use Regulation | <input type="checkbox"/> Other: |

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

Clarification of the procedures within the Bend Development Code addressing property reconfigurations, including "Property Line Adjustments". Also the Development Code Text Amendment relocated a "Lot of Record" subsection from a Chapter titled Land Division and Lot Line Adjustment Procedures to a Chapter titled Land Use Review and Procedures.

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

The original proposal was only to permit property lines to be eliminated via "Lot Line Adjustment" procedures within the Development Code. The adopted Development Code text amendment clarifies the procedures for all property reconfigurations.

Plan Map Changed from: **NA**

to: **NA**

Zone Map Changed from: **NA**

to: **NA**

Location: **City Wide**

Acres Involved: **NA**

Specify Density: Previous: **NA**

New: **NA**

Applicable statewide planning goals:

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

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

DLCD # 006-07 (15995)

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: **Greg Blackmore, Associate Planner** Phone: (541) 693-2123 Extension:
Address: 710 NW Wall Street Fax Number: 541-388-5519
City: **Bend** Zip: 97701 E-mail Address: gblackmore@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

ORDINANCE NO. NS-2068

AN ORDINANCE AMENDING THE CITY OF BEND DEVELOPMENT CODE (ORDINANCE NO. NS-2016) BY CHANGING THE TEXT OF CHAPTER 1.2, (*Definitions*), CHAPTER 4.1 (*Land Use Review and Procedures*) AND CHAPTER 4.3 (*Land Division and Lot Line Adjustment Procedures*) OF THE BEND DEVELOPMENT CODE

THE CITY OF BEND ORDAINS AS FOLLOWS:

- Section 1. The Bend City Council has held a public hearing, considered the testimony, the record, and the Planning Commissions recommendations, and has found that there is a public need and benefit for the proposed amendment. The Bend City Council adopts the Recommendation of the Planning Commission, approved on June 11, 2007, file number PZ 07-186.
- Section 2. Chapter 1.2, Chapter 4.1 and Chapter 4.3 of the Bend Development Code (Ordinance NS-2016) are amended by changing the text therein as detailed in "Exhibit A".
- Section 3. The Bend City Council adopts the Staff Findings for Planning Commission Recommended Development Code Text Amendment, attached as "Exhibit B", as findings in support of this ordinance.

Read for the first time the 1st day of August, 2007.

Read for the second time the 15th day of August, 2007.

Placed upon its passage the 15th day of August, 2007.

YES: 7 NO: 0

Authenticated by the Mayor the 15th day of August, 2007.



Bruce Abernethy, Mayor

ATTEST:



Patricia Stell, City of Bend Recorder

I. Amendments to Chapter 1.2 Definitions:

**Note – proposed definitions from ORS 92.010*

Lot line adjustment means the boundary adjustment of no more than two lots or parcels by relocation of a common boundary where an additional lot or parcel is not created or eliminated. Such adjustment shall only be granted in accordance with the provisions of this ordinance.

Lot of Record means a lot or parcel **unit of land** held in separate ownership as shown on the records of the Deschutes County Clerk, which conforms to all zoning and subdivision/partition requirements in effect on the date the lot or parcel **unit of land** was created.

Plat means includes a final map, diagram, drawing **subdivision plat**, replat, or other writing containing all descriptions, specifications, locations, dedications, provisions, and information concerning a subdivision **partition plat**. **(92.010(9))**

“Property line” means the division line between two units of land. **(ORS 92.010(10))**

“Property line adjustment” means the relocation or elimination of a common property line between abutting properties. **(ORS 92.010(11))**

“Replat” means the act of platting lots, parcels and easements in a recorded **subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision**. **(92.010(12))**

II. Amendments to Section 4.1.200:

4.1.200 General Provisions

Sections:

4.1.210	Pre-application Conference
4.1.215	Application Requirements
4.1.220	Acceptance of Application
4.1.225	Incomplete Applications
4.1.230	False Statements on Application and Supporting Documents
4.1.235	Withdrawal of Application
4.1.240	Applicable Standards
4.1.245	Notice to Public Agencies
4.1.250	Conflicting Procedures
4.1.255	Time Computation
4.1.260	Lot of Record

4.1.210 Pre-application Conference.

- A. Pre-application Conference. A pre-application conference with the City of Bend is required for complex applications or for applicants who are unfamiliar with the land use process. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the applicable land use ordinances, to provide for an exchange of information regarding applicable requirements of the comprehensive plan, zoning ordinance or land division ordinance and to identify issues likely to arise in processing an application. The city zoning ordinance may require that a pre-application conference be held for particular types of applications.
- B. Public Meeting. The applicant for a Land Use Action for a Bend Area General Plan Map Amendment, Zoning Map Amendment, Conditional Use Permit, Subdivision or, Site Plan Review for new development or an alteration/addition to an existing building exceeding 10,000 square feet shall present the proposal at a public meeting prior to submitting the land use application to the City Planning Division. The presentation shall be made at either, a regular or special meeting with a neighborhood association recognized by the City of Bend whose boundaries the subject property lies within, or a public meeting arranged and conducted by the applicant. The presentation at the public meeting shall include the following:
1. A map depicting the location of the subject property proposed for development.
 2. A visual description of the project including a site plan, tentative subdivision plan and elevation drawings of any structures if applicable.
 3. A description of the nature of the use including but not limited to, sizes and heights of structures, proposed lot sizes, density, etc.
 4. The expected or anticipated impacts from the development.
 5. Any mitigation proposed by the applicant to alleviate the expected/anticipated impacts.
 6. Provide opportunity for public comments. Applicants are encouraged to reconcile as many public concerns as possible prior to submittal of their application.
- C. Public Meeting Notification. If any part of a proposed new development as referenced in subsection 4.1.210(B) above is to be constructed within the boundaries of a recognized neighborhood association of the City of Bend, the applicant shall notify the administrative body of such association of the presentation. It shall be the responsibility of the applicant to schedule the meeting/presentation and provide adequate notification to the residents of the affected neighborhood of the date, time and location of the meeting/presentation. It shall be the applicant's responsibility to provide the information listed in subsection 4.1.210(C) (1) (a - c) below to the administrative body for the neighborhood association. Such meeting shall be held no less than 15 days and no more than 45 days from the date that the applicant notifies the administrative body of the affected neighborhood association. The following provisions shall be applicable to the applicant's obligation to notify the residents of the area affected by the new development application, whether the proposed development is within the boundaries of a recognized neighborhood association or not:
1. The applicant shall send mailed notice of the public meeting to all property owners within 500 feet of the boundaries of the subject property, and, if any part of the subject property is within the boundaries of a neighborhood association recognized by the City of Bend, notice shall be mailed to the administrative body of such neighborhood association. The property owner list shall be compiled from the Deschutes County Tax Assessor's

property owner list from the most recent property tax assessment roll. The address for the administrative body of the affected neighborhood association shall be obtained from the City of Bend. The notice shall be sent a minimum of 15 days prior to the public meeting, and shall include at a minimum:

- a. Date, time and location of the public meeting.
- b. A brief written description of the proposal and proposed use, but with enough specificity so that the project is easily discernable.
- c. The location of the subject property, including address (if applicable), nearest cross streets and any other easily understood geographical reference, and a map (such as a tax assessors map) which depicts the subject property.

4.1.215 Application Requirements

- A. Property Owner. For the purposes of this section, the term "property owner" shall mean the owner of record or the contract purchaser and does not include a person or organization that holds a security interest.
- B. Applications for development or land use actions shall:
 1. Be submitted by the property owner or a person who has written authorization from the property owner as defined herein to make the application;
 2. Be completed on a form prescribed by the city;
 3. Include supporting information required by the zoning or land division ordinances and that information necessary to, in the judgment of the Planning Director; demonstrate compliance with applicable criteria;
 4. Be accompanied by the appropriate filing fee;
 5. Provide proof of ownership in the form of a Deed, or other recorded document; and
 6. In the case of applications for a quasi-judicial plan amendment or zone change, may be accompanied by applications for a specific development proposal.
 7. Include an affidavit from the applicant attesting that the public meeting required by Section 4.1.210 (B) of this ordinance was conducted in accordance with the provisions listed therein. If the public meeting was arranged and conducted by the applicant, the notification materials listed in Section 4.1.210 (C) (1) (a-c) must also be submitted.
- C. The following applications are not subject to the ownership requirement set forth in subsection 4.1.215(B)(1) of this section:
 1. Applications submitted by or on behalf of a public entity or public utility having the power of eminent domain with respect to the property subject to the application; or
 2. Applications for development proposals sited on lands owned by the state or the federal government.

4.1.220 Acceptance of Application.

- A. Type I, II, and III applications shall not be accepted until the Planning Director has determined that the requirements of Section 4.1.215 of this Chapter have been met and; the application is complete or the application is deemed to be complete under state law. A pre-submittal meeting shall be required for all Type II, III and IV land use applications as defined in Chapter 1.2. The purpose of the pre-submittal meeting is to determine whether the proposed development application is complete prior to acceptance of the application for processing by the City.
- B. An application is complete when, in the judgment of the Planning Director, complete information to address all criteria has been provided by the applicant.
- C. Acceptance of an application as complete shall not preclude a determination at a later date that additional criteria needs to be addressed or a later determination that additional information is needed to adequately address applicable criteria.

4.1.225 Incomplete Applications.

- A. If an application is incomplete, the Planning Director shall, within thirty (30) days of receipt of the application, notify the applicant in writing of exactly what information is missing. The applicant may amend the application or submit a new application supplying the missing information.

- B. The applicant shall have thirty (30) days from the date of notice from the Planning Director to supply the missing information. Additional time, up to 180 days, may be granted upon request of the applicant pursuant to ORS 227.178.
- C. If the applicant submits the missing information within the 30-day period specified in subsection (B) above, the application shall be deemed complete upon receipt of the missing information.
- D. If an applicant does not submit the missing information within the 30-day period specified in subsection B above, the application may be processed in accordance with Section 4.1.500, Review of Type II or Type III Applications.

4.1.230 False Statements on Application and Supporting Documents.

If the applicant or the applicant's representative or apparent representative makes a misstatement of fact on the application regarding property ownership, authority to submit the application, acreage, or any other fact material to the acceptance or approval of the application, and such misstatement is relied upon by the Review Authority in making a decision whether to accept or approve the application, the Planning Director may upon notice to the applicant and subject to an applicant's right to a hearing, declare the application void.

4.1.235 Withdrawal of Application.

An applicant may withdraw an application in writing at any time prior to the time a land use action decision becomes final. If the land owner is not the applicant, no consent to withdraw the application is needed from the land owner.

4.1.240 Applicable Standards.

The standards and criteria applicable to an application shall be the standards and criteria applicable at the time the application was first submitted if the application and requested information, if any, are received within one hundred eighty (180) days of the time the application was first submitted.

4.1.245 Notice to Public Agencies.

In addition to any notice required by this ordinance, written notice shall be provided to public agencies as prescribed below.

- A. Division of State Lands. The city shall notify the Oregon Division of State Lands (DSL) of any application that involves lands that are wholly or partially within areas that are identified as a significant wetland on the city's Local Wetland Inventory. Notice shall be in writing using the DSL Wetland Land Use Notification Form, and shall be sent within five working days of acceptance of a complete application. [See ORS 227.350]
- B. Department of Fish and Wildlife. The city shall notify the Oregon Department of Fish and Wildlife (ODFW) in writing of any application for development activities within the riparian corridor. A mitigation recommendation shall be obtained from ODFW. Approval of the proposed development shall include a condition requiring compliance with the ODFW mitigation recommendations. [See OAR 635-415]
- C. Parks and Recreation Department. The city shall notify the Oregon Parks and Recreation Department (OPRD) in writing of any application for a proposed change, improvement, or activity within the ¼ mile boundary of either the Upper Deschutes Scenic Waterway or the Middle Deschutes Scenic Waterway. A landowner proposing a change, improvement, or activity within a State Scenic Waterway shall notify OPRD using the form provided by OPRD. The proposed change, improvement, or activity shall not be approved by the city unless either OPRD has given its written approval, or OPRD has not responded within one year from the date of notification. [See OAR 736-40]
- D. Other agencies. The city shall notify other public agencies, as appropriate, that have statutory or administrative rule authority to review or issue state permits for local land use actions.

4.1.250 Conflicting Procedures.

Notwithstanding the provisions of this section, where other provisions of the City of Bend Code or City of Bend ordinances specify procedures with greater opportunity for public notice and comment, those procedures shall apply.

4.1.255 Time Computation.

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, legal holiday or any day on which the city is not open for business pursuant to a city ordinance, in which case it shall also be excluded.

4.1.260 Lot of Record

Not all tax lots units of land are "lots of record" (legal lots). The City of Bend will not issue any permits on a parcel unit of land until it is determined that it is a lot of record. If your a parcel unit of land is not in an approved subdivision or partition, has not been issued a land use permit, or has never been determined to be a lot of record, ~~you will need to file~~ a declaratory ruling for a lot of record will need to be filed. This A Declaratory Ruling will determine if and when your a parcel unit of land was created and if it was created in accordance with the law in effect at the time of creation. For lots units of land created in Deschutes County prior to annexation into the City, the Deschutes County Lot of Record Ordinance shall apply.

A. What is a lot of record? A ~~lot or parcel~~ unit of land held in separate ownership as shown on the records of the Deschutes County Clerk, which conforms to all zoning and subdivision/partition requirements in effect on the date the ~~lot or parcel~~ unit of land was created.

B. What is not a lot of record?

1. A ~~lot or parcel~~ unit of land created solely by a tax lot segregation because of an assessors role change or for the convenience of the assessor;
2. A ~~lot or parcel~~ unit of land created by an intervening section or township line or right of way;
3. A ~~lot or parcel~~ unit of land created by the foreclosure of a security interest.

C. Remedy for parcels found not to be lots of record.

1. In accordance with Chapter 4.3, consolidate the subject ~~lot or parcel~~ unit of land with a contiguous ~~lot or parcel~~ unit of land that is a determined to be a lot of record. Both ~~parcels~~ units of land must be held in the same ownership as shown on the records of the Deschutes County Clerk.
2. Apply for and obtain approval for a single lot partition in conformance with the ORS 92.177 and Sections 4.3.200, 4.3.300 and 4.3.400 of this Chapter.

III. Amendments to Chapter 4.3:

**Chapter 4.3 Land Divisions and Lot Property Line
Adjustment Procedures**

Sections:

4.3.100	Purpose
4.3.200	General Requirements
4.3.300	Approval Process
4.3.400	Submission of Final Plat
4.3.500	<u>Lot Property Line Adjustments</u>
4.3.600	<u>Lot of Record</u>

4.3.100 Purpose and Applicability

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

1. Provide rules, regulations and standards governing the **review and** approval of subdivisions, partitions and **lot property** line adjustments, as defined below and in Chapter 1.2; Definitions:
 - a. Subdivisions are the creation of four or more lots from one parent lot, parcel or tract, within one calendar year.
 - b. Partitions are the creation of two or three parcels within one calendar year.
 - c. **Lot Property** line adjustments ~~are modifications to lot lines or parcel boundaries that do not result in the creation of new lots~~ **means the relocation or elimination of a common property line between abutting properties.**
 - d. ~~Lot consolidation is the combining of two or more lots or parcels into one legal lot or parcel.~~
2. Carry out the City's development pattern, as envisioned by the Bend Area General Plan.
3. Encourage efficient use of land resources, full utilization of urban services, and transportation options;
4. Promote the public health, safety and general welfare through orderly and efficient urbanization;
5. Lessen or avoid traffic congestion, and secure safety from fire, flood, pollution and other dangers;
6. Provide adequate light and air, prevent overcrowding of land, provide open space opportunities, and facilitate adequate provision for transportation, water supply, sewage and drainage; and
7. Encourage the conservation of energy resources.

B. Applicability

Units of land shall only be created or reconfigured in conformance with the standards of this Chapter.

4.3.200 General Requirements

- A. **Pre-application Meeting.** Prior to submitting a tentative plan, each applicant or his representative is required to meet with the Planning Division to review the proposal. The intent of this meeting is to advise the applicant of the requirements and standards of this ordinance.
- B. **Application Submission.** Any person proposing a land division **or reconfiguration**, or his authorized agent or representative, shall include with an application and filing fee for a land division **or reconfiguration**, a tentative plan prepared by a licensed surveyor or engineer together with improvement plans and other supplementary material as may be required. A

master development plan may also be required in accordance with subsection 4.3.200(C) below. The applicant must submit 15 copies of any plan required together with all required accompanying material to the Planning Division.

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

1. General information required:
 - a. Proposed or existing name of the land division.
 - b. Names, addresses and phone numbers of the owner of record, authorized agents or representatives, engineer or surveyor, and any assumed business names filed or to be filed with the Corporation Commission by the applicant.
 - c. Date of preparation, true north, scale, and gross area ~~of the proposed subdivision.~~
 - d. Appropriate identification of the drawing as a tentative plan ~~for a subdivision.~~
 - e. Location and tract designation sufficient to define its location and boundaries, and a legal description of the tract boundaries in relation to existing plats and streets.
 - f. Certified copy of the recorded instrument under which the applicant claims an ownership interest, or copy of a land sales contract which binds the applicant in the event of tentative approval.
 - g. A Title Report and/or a Subdivision Guarantee prepared within the previous ninety (90) days.
 - h. If a tract of land has water rights, the application shall be accompanied by a water rights division plan approved by the irrigation district or other water district holding the water rights, or when there is no such district, by the County Watermaster.
 - i. A letter or other written documentation from the Bend Metro Parks and Recreation District which indicates that the applicant has met with the District to discuss the proposed land division or reconfiguration and provide the District an opportunity to review the design for options to enhance existing parks and trails, and develop new parks and trails.
 - j. If the a proposed subdivision contains more than 10 lots, the application shall be accompanied by a computer water analysis prepared by the City of Bend Engineering Division.
2. Existing Conditions. Information concerning existing on-site conditions and conditions within 300 feet of all property included in the proposed land division or reconfiguration:
 - a. Location, names, and widths of existing improved and unimproved streets and roads, bikeways, and access corridors.
 - b. Location of any existing features such as section lines, section corners, city and special district boundary lines, and survey monuments.
 - c. Location of existing structures, irrigation canals and ditches, pipelines, waterways, railroads, and any natural features such as rock outcroppings, designated wetlands, wooded areas, and natural hazards.
 - d. Location and direction of water courses, and the location of areas subject to flooding and high water tables, including areas lying below the 100-year flood elevation as indicated on the most recent Flood Insurance Rate Maps as prepared by the Federal Emergency Management Agency.
 - e. Location, width, and use or purpose of any existing easement or right-of-way for utilities, bikeways, and access corridors within and adjacent to the proposed land division or reconfiguration.
 - f. Existing sanitary and storm sewer lines, water mains, septic facilities, culverts, and other underground and overhead utilities within and adjacent to the proposed land division or reconfiguration.
 - g. Contour lines related to City datum and having minimum intervals of two feet.
 - h. Bend Area General Plan and Zoning Map classification of lands within and adjacent to the proposed land division or reconfiguration.
 - i. Names and addresses of all property owners within 100 feet of the property.

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

4.3.300 Approval Process

- A. **Phased Tentative Plan.** An overall development plan shall be submitted for all developments affecting land under the same ownership for which phased development is contemplated. The Review Authority shall review a phased development plan at the same time the tentative plan for the first phase of a phased subdivision is reviewed. The phased development plan shall include, but not be limited to the informational requirements of Section 4.3.200; General Requirements of this ordinance, as well as the following elements:
 1. Overall development plan, including phase or unit sequence, and the schedule for initiation of improvements and projected completion date.
 2. Show compliance with the Bend Area General Plan and implementing land use ordinances and policies.
 3. Overall facility development plan, including transportation and utility facilities plans that specify the traffic pattern plan for motor vehicles, bicycles, and pedestrians, water system plans, sewer system plans and utility plans.
 4. Development plans for any common elements or facilities.

5. The Review Authority may require a potential development pattern for streets, bikeways, and access corridors for adjoining lands to be submitted together with the phased tentative plan as part of the overall development plan.
- B. Approval of a Master Planned Development.** As an alternative to a phased tentative plan, a Master Planned Development plan may be submitted in conformance with Chapter 4.5. Any tentative plan submitted subsequently for the Master Planned Development area shall substantially conform to the approved Master Planned Development plan unless approved otherwise by the City.
- C. Development Options.** If the subject property and the surrounding area is eligible for Mid-block Development, the proposed development plan design shall enable the future development of Mid-block Development for the adjoining properties.
- D. Required Findings For Land Division or Reconfiguration Approval.** The Review Authority shall not approve a tentative plan for a proposed ~~subdivision or partition~~ land division or reconfiguration unless the Review Authority finds, in addition to other requirements and standards set forth in this ordinance, that the land division or reconfiguration as proposed or modified will satisfy the intent and requirements of this ordinance, and Bend Zoning Ordinance, and be in compliance with the Bend Area General Plan. Such findings shall include the following:
1. No application for a new or reconfigured subdivision or partition shall be approved unless the following requirements are met:
 - a. The land division contributes to orderly development and land use patterns in the area, and provides for the preservation of natural features and resources such as streams, lakes, natural vegetation, special terrain features, and other natural resources to the maximum degree practicable as determined by the City of Bend.
 - b. The land division or reconfiguration will not create excessive demand on public facilities and services required to serve the development.
 - c. The land division or reconfiguration contributes to the orderly development of the Bend area transportation network of roads, bikeways, and pedestrian facilities, and does not conflict with existing public access easements within or adjacent to the land division.
 - d. The proposed land division or reconfiguration provides a variety of lot sizes in conformance with the following standards:
 - i. No more than 50% of the lots are the same size with a size differential of 10% or more except for zero lot line attached housing.
 - e. Each lot, or parcel, or designated unit of land is suited for the use intended or offered.
 - f. An approved water rights division plan.
 - g. If the land division or reconfiguration adjoins an SM or SMR zone, the existence and location of such zone shall be entered on the deed for the lots or parcels created by the land division or reconfiguration.
 - h. The tentative plan for the proposed subdivision meets the requirements of ORS 92.090.
 - i. If the tentative plan is approved with phasing, the final plat for each phase shall be filed in accordance with the applicable provisions of Article IV of this ordinance.
 2. The Review Authority shall deny an application for partitioning when it appears the partitioning is part of a plan or scheme to create more than three (3) parcels without going through subdivision, or is part of a development pattern having the effect of creating more than three (3) parcels without subdividing.
 3. Additional Factors to be Considered. In addition to the requirements set forth in subsections one (1) and (2) of this section, the following additional factors shall be considered by the Review Authority when appropriate:
 - a. Placement and availability of utilities.
 - b. Safety from fire, flood, and other natural hazards.
 - c. Adequate provision of public facilities and services.
 - d. Possible affects on natural, scenic, and historical resources.
 - e. Need for onsite or offsite improvements such as, but not limited to, access corridors, pedestrian facilities, and bikeways.

- f. Need for additional setback, screening, landscaping, and other requirements relative to the protection of adjoining and area land uses.
- g. Conformance with the approved master development plan, master facilities plan and refinement plan.

E. Supplemental Improvement Requirements For Partitions.

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

F. Special Partitioning Regulations.

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

4.3.400 Submission of the Final Plat

A. Filing Time Period Requirements. Except as provided for herein, the applicant shall prepare and submit to the City, a final plat that is substantially in conformance with the tentative plan as approved.

B. Submission of Final Plats for Phased Development.

1. If a tentative plan is approved for a single phased development, the final plat shall be filed within one (1) year of the approval date for the tentative plan.

4. **2.** If a tentative plan is approved for phased development, the final plat for the first phase shall be filed within one (1) year of the approval date for the tentative plan.
2. **3.** The final plats for any subsequent phase shall be filed within three (3) years of the approved date for the tentative plan, unless a longer period of time is allowed through the tentative plan approval process.
3. **4.** If the applicant fails to file a final plat, the tentative plan for those phases shall become null and void.

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

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

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

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

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

F. Supplemental Information with Plat. The following data, if applicable, shall accompany the plat.

1. Title Report. A preliminary title or subdivision guarantee report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises; such report shall show evidence of a clear and marketable title and shall have been prepared within 30 days prior to submitting the final plat for review.
2. Survey Data Sheets. Sheets and drawings shall contain the following information:
 - a. Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any. A survey control work sheet may be substituted for this item.
 - b. The computation of distances, angles, and courses shown on the plat.
 - c. Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners, and state highway stationing.
3. Deed Restrictions. A copy of any deed restrictions applicable to the subdivision or partition.
4. Homeowner's Association. A copy of any homeowner's association agreements proposed or required for the subdivision.
5. Dedications. A copy of any dedication requiring separate documents with specific reference to parks, playgrounds, etc.
6. Taxes. A list of all taxes and assessments on the tract which have become a lien on the land subdivided.
7. Improvements. If grading, street improvements, sidewalks, pedestrian access corridors, bikeways, sewer or water facilities are required as a condition of approval of the final plat, the following shall be required to be submitted with final plat:
 - a. Improvement Plan in accordance with Chapter 3.4; Public Improvement Standards of this ordinance.
 - b. Plans and profiles of sanitary sewers, location of manholes, and drainage system.
 - c. Plans and profiles of the water distribution system showing pipe sizes and location of valves and fire hydrants.
 - d. Specifications for the construction of all utilities.
 - e. Grading plans and specifications as required for areas other than streets and ways.
 - f. Planting plans and specifications for street trees and other plantings in public areas.
 - g. Plans for improvements, design factors, or other provisions for fire protection or fire hazard reduction.
8. Subdivision Adjoining SM or SMR Zones. Any final plat of which adjoins an SM or SMR zone must clearly show where such zone is located in relation to the subdivision boundaries.
9. Condominium Plats. Any final plat for a condominium shall be accompanied by a copy of the condominium declaration.

G. Technical Review of Plat

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

H. Conditions of Plat Approval.

1. The Review Authority shall determine whether it the final plat conforms with the approved tentative plan and with these regulations. If the Review Authority does not

approve the plat, ~~it~~ the Review Authority shall advise the applicant of the changes or additions that must be made and shall afford ~~him~~ the applicant an opportunity to make corrections. If the Review Authority determines that the plat conforms to all requirements ~~it~~ the Review Authority shall recommend approval, provided supplemental documents and provisions for required improvements are satisfactory.

2. No plat of a proposed land division or reconfiguration shall be approved unless:
 - a. Streets and roads for public use are to be dedicated without any reservation or restriction.
 - b. Streets and roads held for private use and indicated on the tentative plan have been approved by the City.
 - c. The plat contains provisions for dedication to the public of all streets, roads, bikeways, access corridors, parks, sewage disposal, and water supply system, if made a condition of the approval of the tentative plan.
 - d. Explanations of all common improvements required as conditions of approval of the tentative plan shall be recorded and referenced on the plat.
 - e. If the land division adjoins an SM or SMR zone, the existence and location of such zone shall be entered on the deeds for all lots or parcels created by the land division.
3. No plat of a land division or reconfiguration shall be approved unless the developer has either constructed and had accepted by the City the required improvements or the developer has executed an improvement agreement pursuant to the provisions of Section (E) above. If the developer chooses to construct the improvements, he shall also file with the City a warranty bond executed by a surety company to cover the one (1) year warranty periods following acceptance by the City. Said bond shall be in the amount of twelve (12%) percent of the value of the improvements.

I. Improvement Agreement

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

J. Bond or Cash Deposit.

1. The developer shall file, with any agreement specified in Section (I) above, to assure his full and faithful performance thereof, one of the following:
 - a. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney.
 - b. A cash deposit in a City account at an approved lending institution.
 - c. An irrevocable standby letter of credit from a federally insured banking institution or savings & loan operating in Oregon that unconditionally promises to pay the funds pledged upon demand by the City. Such obligation must be unaffected by the financial status of the person who has obtained the letter of credit.
 - d. An "Assurance Provider" arrangement between the developer, the City and a federally insured financial institution which assures the City that funds to complete the

performance of the developer's improvement agreement will be provided by the federally insured financial institution to the City in the event the developer does not complete performance of the improvement agreement. The form of the Assurance Provider arrangement, and the federally insured financial institution must be satisfactory to the City.

2. Such assurance of full and faithful performance shall be for 120% of the cost of the improvements and repairs as determined by the City.
3. If the developer fails to carry out the provisions of the agreement, the City shall call upon the bond, or letter of credit or cash deposit or Assurance Provider arrangement to finance any cost or expenses resulting from said failure. If the amount of the deposit, letter of credit or bond or Assurance Provider arrangement exceeds the cost and expense incurred by completing the improvements, the City shall release the remainder. If the amount of the deposit, letter of credit or bond or Assurance Provider arrangement is less than the cost and expense incurred by the City for the improvements and repairs, the developer shall be liable to the City for the difference.

K. Final Plat Approval. After the final plat has been checked and approved as provided in this article, and when all signatures appear thereon, except those of the Planning Director, County Clerk, and Board of County Commissioners, the Planning Director shall certify the final plat and submit it to the Board of County Commissioners for final approval.

L. Filing of Plat.

1. No plat shall have any force or effect until the same has been finally approved by the Board of County Commissioners. No title to any property described in any offer of dedication shall pass until the final plat has been filed.
2. Within 60 days of City approval the ~~Planning Director or his representative~~ applicant shall file the approved final plat, including an exact copy thereof as described in subsection four (4) of this section, with the County Clerk.
3. No plat shall be filed unless all ad valorem taxes and all special assessments fees or other charges required by law to be placed upon the tax roll, which have become a lien upon the land division or which will become a lien during the calendar year, have been paid.
4. The applicant shall also submit with the final plat an exact photo mylar copy thereof. The engineer or surveyor who made the plat shall make an affidavit to indicate that the photocopy or tracing is an exact copy of the plat. The copy shall be filed with the County Recorder and shall be certified to him to be an exact copy and then shall be filed in the archives of the County, and be preserved by filing without folding. The applicant shall provide copies to the County Assessor, County Sanitarian, City Engineer, City Planning Division, and appropriate postal and fire protection agencies. One original exact copy shall be filed with the City Engineer.

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

N. Notice of Filing of Final Plat. The applicant shall provide notice of the filing of the final plat to all parties who participated in the land use proceedings leading up to the filing of the final plat.

4.3.500 Lot Property Line Adjustments

A. Applicability of Regulations

~~1. The boundary adjustment of no more than two lots or parcels by relocation of a common boundary where an additional lot or parcel is not created or eliminated shall only be granted in accordance with the provisions of this ordinance.~~

1. The relocation or elimination of a common property line between abutting properties may be granted in accordance with the provisions of this section. The Property Line Adjustment provisions of this section shall not apply to:

- a. A property line adjustment that affects more than two abutting units of land.

- b. A property line adjustment that adjusts a property which was approved and/or created as open space, common area, park, private road, or other specifically required and/or designated unit of land.

B. Filing Procedures and Requirements.

1. Any person proposing a Lot Property Line Adjustment shall prepare and submit two (2) copies of the documents hereinafter described, in accordance with the prescribed procedures and the appropriate filing fee, to the Planning Division.
2. An application for a Lot Property Line Adjustment shall be accompanied by the following materials:
 - a. A scale drawing prepared by a licensed surveyor or engineer showing the existing lot property lines, the proposed lot property lines, existing water, sewer and utility lines, and the footprint of all existing structures with setbacks to the existing and proposed lot property lines noted.
 - b. Legal descriptions for the existing lots or parcels properties and for the lots or parcels properties as adjusted.
 - c. A copy of the current property tax status from the County Tax Assessor. All taxes must be paid in full.
 - d. A copy of the deed or other recorded instrument that signifies ownership of the affected lots or parcels properties.
 - e. If the lots or parcels properties are not served by the City sewer system, provide documentation from the County Environmental Health Division which indicates that the proposed adjustment will be in compliance with all applicable requirements for sanitary septic systems when such systems exist on the lots or parcels properties affected by the adjustment.

C. Requirements for Tentative Approval.

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

D. Requirements for Final Approval.

1. In order to obtain final approval of a lot property line adjustment, the following requirements shall be completed within one (1) year of the tentative approval:
 - a. New deeds or other instrument conveying ownership containing the legal descriptions for the adjusted parcels properties shall be recorded with the County Clerk.
 - b. A survey drawing containing the stamp and signature of a licensed surveyor or engineer shall be recorded with the County Surveyor.
 - c. All property taxes on the adjusted parcels properties shall be paid in full.
 - d. Verification of acceptance of water and sewer line construction to the adjusted lots or parcels properties by the City Engineering Division.
 - e. The applicant shall provide notice of the filing of the final plat to all parties who participated in the land use proceedings leading up to the filing of the final plat.

4.3.600 Lot of Record

Not all tax lots are "lots of record" (legal lots or parcels). The City of Bend will not issue any permits on a lot or parcel until it is determined that it is a lot of record. If your lot or parcel is not in an approved subdivision or partition, has not been issued a land use permit, or has never been determined to be a lot of record, you will need to file a declaratory ruling for a lot of record. This will determine when your lot or parcel was created and if it was created in accordance with the law in effect at the time of creation. For lots or parcels created in Deschutes County prior to annexation into the City, the Deschutes County Lot of Record Ordinance shall apply.

D. What is a lot of record? A lot or parcel held in separate ownership as shown on the records of the Deschutes County Clerk, which conforms to all zoning and subdivision/partition requirements in effect on the date the lot or parcel was created.

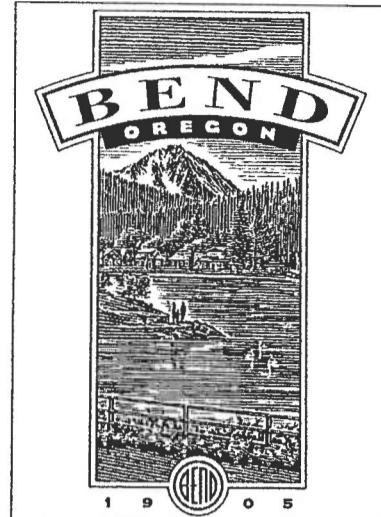
E. What is not a lot of record?

1. A lot or parcel created solely by a tax lot segregation because of an assessors role change or for the convenience of the assessor;
2. A lot or parcel created by an intervening section or township line or right of way;
3. A lot or parcel created by the foreclosure of a security interest.

F. Remedy for parcels found not to be lots of record.

1. Consolidate the subject lot or parcel with a contiguous lot or parcel that is a determined to be a lot of record. Both parcels must be held in the same ownership as shown on the records of the Deschutes County Clerk.
2. Apply for and obtain approval for a single lot partition in conformance with the ORS 92.177 and Section 4.3.300 of this ordinance

**CITY OF BEND PLANNING DIVISION
STAFF FINDINGS FOR PLANNING COMMISSION
RECOMMENDED DEVELOPMENT CODE TEXT
AMENDMENT**



PROJECT

NUMBER: 07-186

DATE MAILED: July 20, 2007

**PLANNING
COMMISSION**

**HEARING
DATES:** Monday, May 14, 2007
Monday June 11, 2007

CITY COUNCIL

HEARING DATE: Wednesday, August 1, 2007
City of Bend Council Chambers
710 NW Wall Street
Bend, OR

APPLICANT: City of Bend
710 NW Wall Street
Bend, Oregon 97701

REQUEST: Consider a Planning Commission recommendation to amend the text of Chapter 1.2, Chapter 4.1 and Chapter 4.3 of the Bend Development Code (Ordinance NS-2016).

STAFF

REVIEWER: Greg Blackmore, Associate Planner, 541-693-2123;
gblackmore@ci.bend.or.us

I. APPLICABLE CRITERIA:

- (1) The Bend Area General Plan
- (2) Bend Code Chapter 10; City of Bend Development Code, Ordinance NS-2016
 - (a) Chapter 4.1; Land Use Review and Procedures
 - (b) Chapter 4.6; Land Use District Map and Text Amendments

II. FINDINGS OF FACT:

- 1. PLANNING COMMISSION RECOMMENDATION:** An amendment the text of Chapter 1.2, Chapter 4.1 and Chapter 4.3 of the Bend Development Code (Ordinance NS-2016), which is intended to clarify the procedures for property reconfigurations and specify the applicability of "property line adjustment" procedures within the Bend Development Code. The entirety of the recommended text amendment is attached as Exhibit A.
- 2. PUBLIC NOTICE AND COMMENTS:** The City of Bend Planning Division published Notice of the Public Hearings for the proposed Development Code text amendment in the Bend Bulletin on Sunday April 22, 2007 and July 12, 2007 and sent notice to all Neighborhood Associations recognized by the City of Bend on April 20, 2007 and July 3, 2007. In association with the Planning Commission public hearings, the City received comments from one individual, and prior to the City Council Hearing, as of the writing of this report, no public comments have been received.

Various agencies were also sent notices. The Planning Division received comments and recommendations from the following departments, divisions and/or agencies.

The comments and recommendations received are part of the record and are contained in PZ File # 07-186.

III. CONCLUSIONARY FINDINGS:

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

4.6.100 Purpose.

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

FINDING: As detailed in Section 4.6.200(B) below, the Development Code text amendment as recommended by the Planning Commission addresses a change in state law and clarify procedures that were mistakenly imprecisely drafted in the Bend Development Code, both of which are consistent with the purpose of this Chapter.

4.6.200 Legislative Amendments.

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

FINDING: The Planning Commission recommended amendment is to the text of the Bend Development Code and consequently is a decision involving broad public policy rather than an individual property owner; therefore the Legislative Amendment Procedures of this section are the appropriate procedures from which to review the recommendation.

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

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

FINDING: Applicable State land use laws include Oregon Revised Statutes (ORS) Chapter 92 Subdivisions and Partitions along with Oregon Administrative Rules (OAR) 660-015-0000 – Oregon's Statewide Planning Goals & Guidelines. A review of the applicable state land use laws are detailed below.

ORS – Chapter 92 Subdivisions and Partitions.

Property reconfigurations are subject to the State land use laws identified in ORS Chapter 92, which establishes the statutory requirements for subdivisions, partitions, replats, and property line adjustments. ORS 92.190(3) states, "The governing body of a city or county may use procedures other than replatting procedures in ORS 92.180 and 92.185 to adjust property lines as described in ORS 92.010(11), as long as those procedures include the recording, with the county clerk, of conveyances conforming to the approved property line adjustment as surveyed in accordance with ORS 92.060(7)."

In both Article V of the repealed Land Division Ordinance (NS-1786) and Section 4.3.500 of the adopted Bend Development Code (NS-2016), the City of Bend has

utilized the authority granted in ORS 92.190(3) to establish "Lot Line Adjustment" procedures which generally institute that no more than two lots or parcels (emphasis added) can be adjusted by the relocation of a common boundary line where an additional lot or parcel is not created or eliminated (emphasis added).

The current language of ORS 92.010(11) states, "'Property line adjustment' means the relocation or elimination of a common property line between abutting properties." ORS 92.010 was amended in June 2005, at which time the current statutory definition for "property line adjustment" was established; this statutory amendment is documented in Chapter 399 - Oregon Laws 2005. The amended ORS definition of June 2005 clearly adds statutory language that allows for the elimination (in addition to the relocation) of a common property line between abutting properties.

Because the amended ORS 92.010 definition of "property line adjustment" means the relocation or elimination of a common property line between abutting properties, ORS 92.190(3) consequently grants the City the authority to establish procedures which include the relocation or elimination of a common property line between abutting properties, for all "Property Line Adjustments." The text amendment as recommended by the Planning Commission will implement the authority granted to the City by ORS 92.190(3) in certain for certain property lines permitted under ORS Chapter 92 and further clarify the procedures all other property reconfigurations and or replats, in conformance with the Replatting requirements established in ORS 92.180-92.190.

Based on the above discussion, staff finds that the recommended Development Code text amendment conforms to ORS Chapter 92.

OAR 660-015-0000(1) Oregon Statewide Planning Goal 1

"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 of the Bend Area General Plan and through implementing the Development Code. Chapter 1 of the General Plan identifies the Bend Planning Commission as the official Citizen Involvement Committee for the urban area.

Chapter 4.1 and 4.6 of the Development Code together require that the Planning Commission and the City Council both hold public hearings prior to acting on a proposed amendment to the Development Code. A Planning Commission public hearing was held on May 14, 2007 and June 11, 2007. A City Council public hearing on this proposed amendment will be held on August 1, 2007. Implementation of the public involvement procedures identified in the Development Code has been followed, which ensures compliance with Goal 1.

OAR 660-015-0000(2) Oregon Statewide Planning Goal 2

"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 Planning Commission recommended amendment clarifies scope and procedures associated with property reconfigurations. The recommended text amendment is within a Development Code that has been crafted to be consistent with The Bend Area General Plan, a comprehensive plan which has been "acknowledged" by the Oregon Department of Land Conservation and Development (DLCD). ORS 197.015(1) establishes that, "'Acknowledgment' means a commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals..."; consequently the Bend Area General Plan is consistent with OAR 660-015-0000(2) Oregon Statewide Planning Goal 2. Additionally, although portions of the NS-2016, the Bend Development Code (adopted July 5, 2006), are under remand, the other portions have been "acknowledged" by the Oregon Department of Land Conservation and Development (DLCD), which is clarified in a January 19, 2007 Letter to the City from DLCD. The specific sections of the Development Code subject to the recommended text amendment, have not specifically

been identified as a remand items, and consequently have been "acknowledged" by DLCD. The Planning Commission recommended Development Code text amendment clarifies procedures for property reconfigurations, however the proposed text amendment does not alter the administration of the code or the factual base that the resulting decisions will be based upon, consequently the staff finds that the Planning Commission recommended Development Code text amendment complies with Goal 2.

The other Statewide Planning Goals were reviewed and determined to not be applicable to this proposal. Based on the above discussion addressing ORS Chapter 92 and the Applicable Statewide Planning Goals & Guidelines #1 and #2 staff finds that the Planning Commission recommended Development Code text amendment complies with the criteria of this section.

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

FINDINGS: The "goals" established in the general plan express the desires of the residents of Bend as the City progresses into the future. The "goals" are generally carried out through "policies", which are statements of public policy. Staff reviewed the Comprehensive Plan and found only Chapter 1 to be directly applicable to the proposed text amendment.

Chapter 1 of the Bend Area General Plan includes the following goal:

- *Public/Civic Involvement* — Encourage involvement by all citizens, corporate and individual, to keep the city vital and the Plan an "evolving vision".

The Public/Civic Involvement Goal has been established as statements of public policy as follows:

Citizen Involvement

15. The city shall continue to use advisory committees in their planning process, members of which are selected by an open process, and who are widely representative of the community.
16. The city will use other mechanisms, such as, but not limited to, meetings with neighborhood groups, planning commission hearings, design workshops, and public forums, to provide an opportunity for all the citizens of the area to participate in the planning process.

Chapter 4.1 and 4.6 of the Development Code together require that the Planning Commission and the City Council both hold public hearings prior to acting on amendments to the text of the Development Code. The Planning Commission public hearing on this amendment was held on May 14, 2007 and June 11, 2007. A City Council public hearing on the amendment will be held on August 1, 2007. Implementation of the public involvement procedures identified in the Development Code will ensure compliance with the Citizen Involvement Goals and Policies of the Bend Area General Plan.

Based on the findings stated above, staff concludes that the recommended text amendment is consistent with the applicable Bend Area General Plan goals and policies.

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

FINDING: Although Section 4.3.100 of the Development Code notes that the Purpose of Chapter 4.3 includes:

1. *Provide[ing] rules, regulations and standards governing the approval of subdivisions, partitions and lot line adjustments, as defined below and in Chapter 1.2; Definitions:*

- c. *Lot line adjustments are modifications to lot lines or parcel boundaries that do not result in the creation of new lots.*
- d. *Lot consolidation is the combining of two or more lots or parcels into one legal lot or parcel.*

The text contained in Chapter 4.3 (or otherwise in the Development Code) does not provide procedures for property reconfigurations and/or (replat, property line adjustment, or otherwise) for a property line adjustment that eliminates a property line. The requirements, processes, and procedures within the chapters of the Development Code have generally been constructed to carry out the purpose statements of the Development Code and the purpose statements generally address a public need or benefit. Therefore the Planning Commission recommended text amendment, which would clarify the procedures that could carry out the stated purpose of Chapter 4.3, has a clear public need and/or benefit.

4.6.300 Quasi-Judicial Amendments.

A. Applicability, Procedure and Authority. Quasi-judicial amendments generally refer to a plan amendment or zone change affecting a single or limited group of properties and that involves the application of existing policy to a specific factual setting...

4.6.400 Intent to Rezone

A. If the City Council determines that the public health and welfare and convenience will best be served by a proposed change of the zone, the City Council may indicate its general approval in principal of the proposed rezoning by the adoption of a "Resolution of Intent to Rezone"...

FINDING: The Planning Commission recommended amendment is to the text of the Bend Development Code. The recommendation is a decision involving broad public policy rather than of an individual property owner and does not include any zone changes; therefore the Legislative Amendment Procedures of Section 4.6.200 are the appropriate procedures and criteria from which to review the submitted application and the criteria of these sections are not applicable.

4.6.500 Record of Amendments.

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

FINDING: In the event the Development Code text amendment is adopted by ordinance, compliance with this Section will be required.

4.6.600 Transportation Planning Rule Compliance.

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

FINDING: The Planning Commission recommendation is for a text amendment to the Bend Development Code; it is not a comprehensive plan amendment or a land use district change, therefore the criteria of this section is not applicable.

IV. CONCLUSIONS:

Based on the above Findings of Fact and Conclusionary Findings, staff finds the Planning Commission recommended Development Code text amendment can meet, with maintenance of a record, all applicable criteria of the Development Code.

V. RECOMMENDATION:

Staff recommends that the City Council conduct a second reading and adopt the amendment to the text of Chapter 1.2, Chapter 4.1 and Chapter 4.3 of the Bend Development Code.