



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

AMENDED NOTICE OF ADOPTED AMENDMENT

October 23, 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 009-07



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: November 6, 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
Brian Harrington, City of Bend

<paa> y/email

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

(See reverse side for submittal requirements)

✓ electronic
DEPT OF

OCT 16 2007

**LAND CONSERVATION
AND DEVELOPMENT**

Jurisdiction: City of Bend Local File No.: 07-298
(If no number, use none)

Date of Adoption: October 3, 2007 Date Mailed: October 16, 2007
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: May 11, 2007

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 Plan Amendment expands the Urban Growth Boundary to add approximately 19.86 acres that are currently zoned Urban Area Reserve into the Urban Growth Boundary. The purpose of the Urban Growth Boundary Expansion is to allow this property to be used for a new elementary school.

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."

Same - Calculation of street right of way clarified to include 19.86 acres cumulatively.

Plan Map Changed from : Outside UGB to within City of Bend UGB

Zone Map Changed from: _____ to _____

Location: 17-11-00 portion of TL 6201 Acres Involved: 19.86

Specify Density: Previous: Same New: _____

Applicable Statewide Planning Goals: 1, 11, 12, 14

Was an Exception Adopted? Yes: _____ No: X

DLCD File No.: _____

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: _____

DLCD # 009-07 (16093)

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: Deschutes County
Local Contact: Brian Harrington Area Code + Phone Number: 503-693-2118
Address: 710 NW Wall Street City: Bend
Zip Code+4: 97701 Email Address: bharrington@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.

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- Comprehensive Plan Text Amendment
 - Comprehensive Plan Map Amendment
 - Land Use Regulation Amendment
 - Zoning Map Amendment
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 - Other: _____
- (Please Specify Type of Action)

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

The adopted Plan Amendment expands the Urban Growth Boundary to add approximately 19.86 acres that are currently zoned Urban Area Reserve into the Urban Growth Boundary. The purpose of the Urban Growth Boundary Expansion is to allow this property to be used for a new elementary school.

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."

Same – Calculation of street right of way clarified to include 19.86 acres cumulatively.

Plan Map Changed from : Outside UGB to within City of Bend UGB

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Specify Density: Previous: Same New: _____

Applicable Statewide Planning Goals: 1, 11, 12, 14

Was an Exception Adopted? Yes: _____ No: X

DLCD File No.: _____

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: _____

DLCD # 009-07 (16093)

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

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

Affected State or Federal Agencies, Local Governments or Special Districts: Deschutes County

Local Contact: Brian Harrington Area Code + Phone Number: 503-693-2118

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Zip Code+4: 97701 Email Address: bharrington@ci.bend.or.us

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ORDINANCE NO. NS-2074

AN ORDINANCE AMENDING THE BEND URBAN AREA GENERAL PLAN MAP BY EXPANDING THE URBAN GROWTH BOUNDARY TO INCLUDE A PARCEL OF LAND TOTALING 19.86 ACRES FOR THE EXPRESS PURPOSE OF CONSTRUCTING AN ELEMENTARY SCHOOL AND DECLARING AN EMERGENCY AND PRESCRIBING AN EFFECTIVE DATE OF OCTOBER 3, 2007. THE PROPERTY IS LOCATED WEST OF SKYLINER ROAD AND NORTH OF THE INTERSECTION OF SKYLINERS ROAD AND NW SKYLINE RANCH ROAD IN NW BEND.

THE CITY OF BEND ORDAINS AS FOLLOWS:

- Section 1. The Bend Urban Area Zoning and Plan Map is hereby amended by including the designation of the property shown in "Exhibit A" and described in "Exhibit B".
- Section 2. The Bend City Council held a public hearing to consider the Hearings Officer's findings and record, and found that the proposal is consistent with the criteria of the Bend Development Code Section 4.6.300. The Bend City Council adopts the Findings and Conclusions of the Hearings Officer dated September 7, 2007, file number PZ 07-298 in support of this ordinance (Exhibit C).
- Section 3. This ordinance being necessary for the preservation of public safety and health, an emergency is declared to exist and this ordinance takes effect on October 3, 2007.

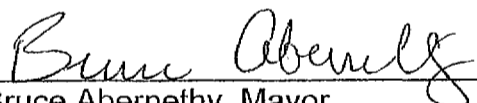
Read for the first time the 19th day of September, 2007.

Read for the second time the 3rd day of October, 2007.

Placed upon its passage the 3rd day of October, 2007.

YES: 7 NO: 0

Authenticated by the Mayor the 3rd day of October, 2007.



Bruce Abernethy, Mayor

ATTEST:



Patricia Stell, City of Bend Recorder

EXHIBIT A

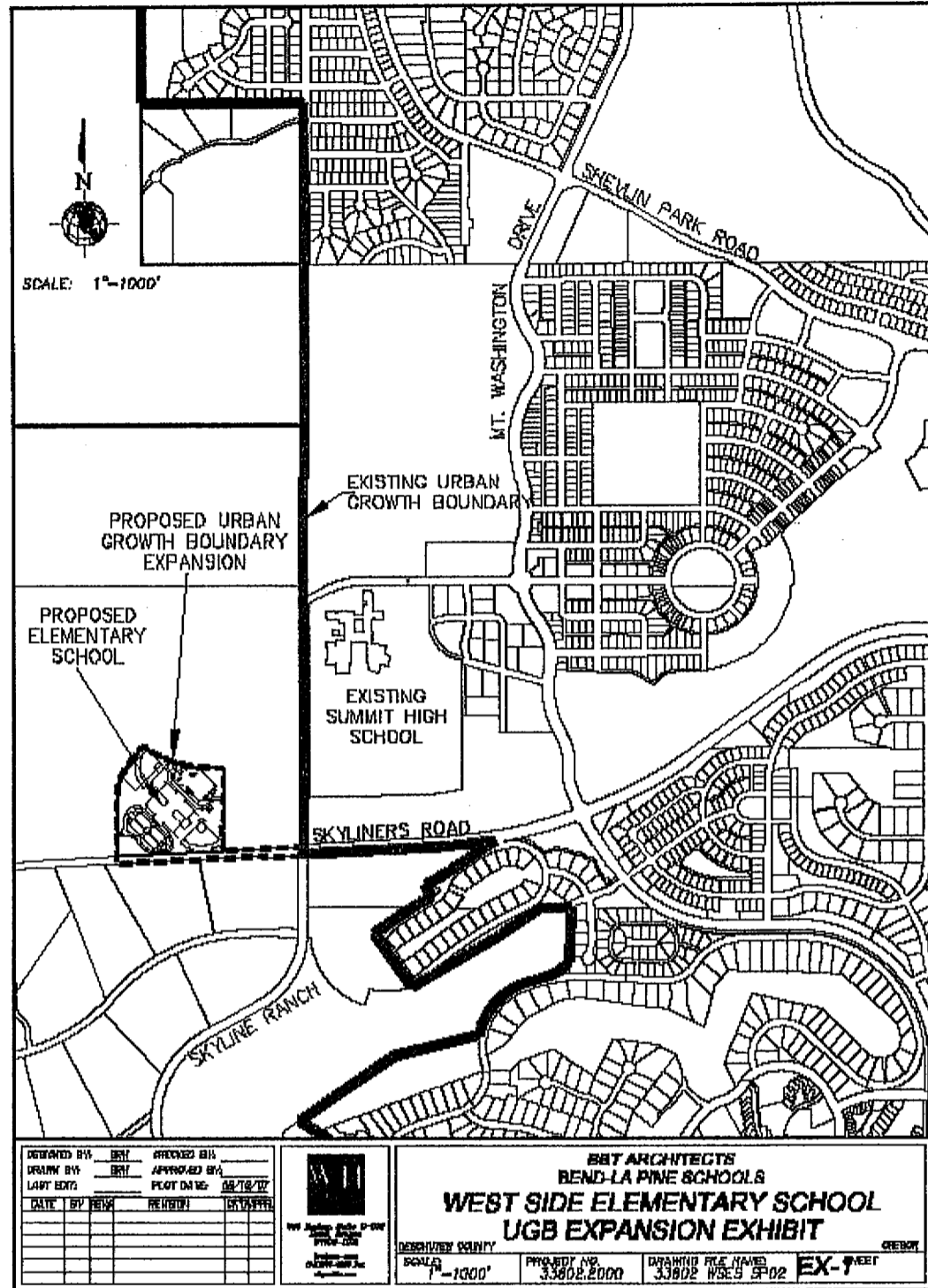


Exhibit B

Legal Description
for
Bend LaPine School District
Re: Urban Growth Boundary Annexation

September 19, 2007

Situate in the southeast quarter of Section 35, Township 17 South, Range 11 East, W.M., Deschutes County, Oregon and being described as follows:

Beginning at the intersection of the south right-of-way line of Skyliner Road and the east line of said Section 35, said point being North 0°14'01" East, a distance of 425.06 feet from the southeast corner of said Section 35, a found 3" brass cap, 0.5' below the top of asphalt in a monument box, marked David Evans & Associates 1990 PLS 1068, reset 2003, PLS 1052; thence on the said south right-of-way line the following courses: South 86°58'40" West, a distance of 340.04 feet; thence North 0°15'57" East, a distance of 10.02 feet; thence South 86°58'40" West, a distance of 1,231.68 feet; thence leaving said south right-of-way line North 03°01'20" West a distance of 71.69 feet to the beginning of a tangent 368.03 foot radius curve right; thence on said curve through a central angle of 3°01'52" (long chord bears North 01°30'24" West, 19.47 feet) an arc distance of 19.47 feet to the end thereof; thence, North 0°00'32" East, a distance of 440.93 feet to the beginning of a tangent 545.00 foot radius curve right; thence on said curve through a central angle of 38°27'59" (long chord bears North 19°14'31" East, a distance of 359.06 feet) an arc distance of 365.89 feet to the end thereof; thence North 38°28'31" East a distance of 236.17 feet to the beginning of a non-tangent 860.00 foot radius left (the radius bears North 40°27'55" East); thence on said curve through a central angle of 40°28'27" (long chord bears South 69°45'31" East, a distance of 594.84 feet) an arc distance of 607.38 feet to the end thereof; thence South 89°59'28" East, a distance of 156.68 feet; thence South 0°00'32" West, a distance of 337.80 feet; thence North 89°59'28" West, a distance of 60.00 feet; thence South 0°00'32" West, a distance of 195.13 feet to the beginning of a tangent 11.00 foot radius curve right; thence on said curve through a central angle of 35°46'25" (long chord bears South 17°53'44" West, 6.76 feet) an arc distance of 6.87 feet to the end thereof and the beginning of a tangent 59.53 foot radius curve left; thence on said curve through a central angle of 80°19'06" (long chord bears South 4°36'16" East, 76.79 feet) an arc distance of 83.45 feet to the end thereof; thence South 0°00'32" West, a distance of 125.51 feet to a point on the north right-of-way line of Skyliner Road; thence North 86°58'40" East on said north right-of-way line, a distance of 650.86 feet to a point on the east line of said Section 35; thence South 0°14'01" West on said east section line, a distance of 70.11 feet to the point of beginning containing 19.86 acres, more or less.

The basis of bearing of this description is the Central Oregon Coordinate System.



RENEWAL DATE: DEC. 31, 07.

Exhibit C

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

PROJECT NUMBER: PZ 07-298, Urban Growth Boundary Plan Amendment

HEARING DATE: City of Bend Council Chambers
Thursday, June 28, 2007 at 10:00 A.M.
710 NW Wall St, Bend

DATE OF HEARING: June 28, 2007

HEARINGS OFFICER: Tim Elliott

APPLICANT: Bend La Pine School District
c/o Bryant Lovlien & Jarvis PC
591 SW Mill View Way
Bend, Oregon 97701

PROPERTY OWNER: Miller Tree Farm LLC
110 NE Greenwood Avenue
Bend, OR 97701

APPLICANT'S ATTORNEY: Sharon Smith
Bryant Lovlien & Jarvis PC
591 SW Mill View Way
Bend, OR 97701

LOCATION: The site is located north of SW Skyliner Road and west of Summit High School. The site is further identified as Tax Lot 6201 on Tax Assessor's Map 17-11-00.

REQUEST: The applicant requests an amendment to the Bend Urban Area General Plan to expand the Urban Growth Boundary to include a 15 acre site for the purpose of constructing an elementary school.

STAFF REVIEWER: Brian Harrington, Associate Planner
(541) 693-2118

APPLICABLE CRITERIA:

- (1) Bend Code Chapter 10; Bend Development Code, Ordinance NS-2016
 - (a) Chapter 2.1; Residential Districts
 - (b) Chapter 4.6; Land Use District Map and Text Amendments

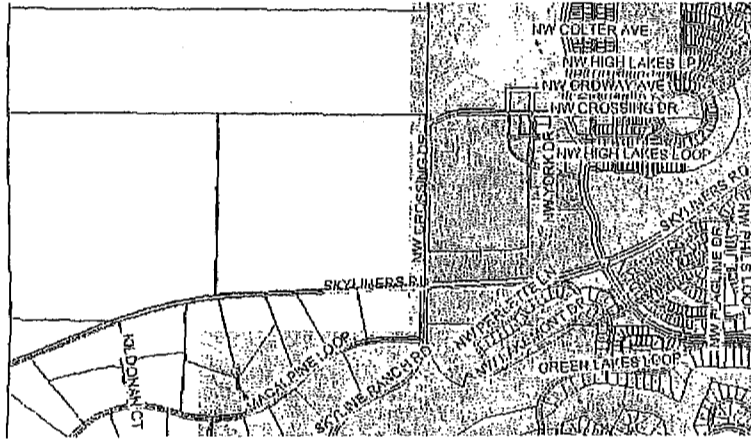
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Bend LaPine School District
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(c) Chapter 4.7; Transportation Analysis

- (2) The Bend Area General Plan
- (3) Oregon Administrative Rules
Chapter 660-024, Division 24, Urban Growth Boundaries
Chapter 660-012, Division 12, Transportation Planning
- (4) Oregon Revised Statute 197.298
- (5) Oregon Statewide Planning Goals 11, 12 and 14

FINDINGS OF FACT:

1. **LOCATION:** The subject site is located at the southeast corner of Skyliners Road approximately 660 feet west of the intersection of Skyliners Road and Skyline Ranch Road. The property is further identified on Deschutes County Assessor's Map as 17-11-00, Tax Lot 6201.
2. **ZONING:** The subject property is zoned Urban Area Reserve UAR-10. The property is designated Urban Area Reserve on the Bend Area General Plan Map.



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Bend LaPine School District
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The site is currently zoned UAR-10, Urban Area Reserve, with a corresponding Bend Area General Plan designation of Urban Reserve. ORS 197.298 outlines a hierarchy of lands to consider when amending a UGB. The first priority is those lands designated urban reserve under ORS 195.145.

3. **SITE DESCRIPTION & SURROUNDING USES:** Staff conducted a site visit on May 21, 2007 and provided the following findings based on observations of the site. The site is undeveloped and relatively flat. Vegetation on the site consists of scattered pine trees, native brush, shrubs and grasses. The site is approximately 15 acres in size and approximately square shaped, except for the north and east boundary that follows a proposed curved road alignment.

The property is surrounded on the north, west and east by undeveloped land zoned UAR-10 owned by Miller Tree Farm, LLC. To the south across Skyliners Road are lands in low density residential use zoned UAR-10, (Highlands at Broken Top).

4. **PROPOSAL:** The applicant has submitted a request for an Urban Growth Boundary (UGB) amendment to include 15 acres of land from the Bend Urban Area Reserve to facilitate the construction of an elementary school. No change is proposed to the existing UAR-10 zoning for the property. A concurrent application has been filed with Deschutes County. The applicant will also file a lot line adjustment application in the County so the parcel will be created before the final UGB adoption. The applicant has submitted a map showing the proposed UGB expansion area which is contained in the file as *Exhibit 2*.

The subject property is currently included within the UGB expansion area map created by the City of Bend as part of the UGB expansion process.

The applicant offers the following narrative as background to this proposal:

"In 2005, Bend La-Pine Schools (the "Applicant"), completed an updated Sites and Facilities Plan ("2005 Sites and Facilities Plan") that identified the need for three new elementary schools by 2010. The 2005 Sites and Facilities Plan is attached as Exhibit 1. The 2005 Sites and Facilities Plan specifically identified the northeast quadrant of the City as an area that needed a new elementary school. Given the scarcity of suitable vacant properties, it has been challenging to acquire school sites in the appropriate locations. The 2005 Sites and Facilities Plan specifically identified the Westside Elementary site as an existing possibility for a school site even though it was outside of the Urban Growth Boundary. In

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Bend LaPine School District
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2005, the Applicant already had an agreement with the Bend Metro Park and Recreation District to acquire the Westside Elementary School Site.

In 2006, the voters approved school bonds to fund the construction of three new elementary schools (two for the City of Bend and one in La Pine) and expansions and renovations at other schools throughout the District. The City of Bend is in the process of expanding its UGB and the proposed school site is included in the current expansion areas. However, the City of Bend process will not be complete in time for the Applicant to meet the needs of the rapidly expanding school populations. When the Applicant submitted the Bond to the voters, it was anticipated that the UGB expansion would be completed in time for the Applicant to seek land use approval to construct the necessary schools to be open for fall 2008. Unfortunately, the UGB expansion has taken longer than anticipated. Due to the current overcrowding the Applicant needs to open the school by the fall of 2008. Accordingly, the Applicant has been working with both the City of Bend and Deschutes County in planning for the new elementary school in advance of the completion of the City's UGB expansion.

Land use actions adjacent to the Bend Urban Growth Boundary in the Urban Area Reserve are governed by a joint management agreement adopted by the City of Bend and Deschutes County on February 24, 1998. This document calls for cooperation between the City of Bend and Deschutes County in planning for the UAR zone. Deschutes County and the City of Bend share responsibility for processing urban growth boundary expansions. Quasi-judicial applications are reviewed by a hearings officer at both the City and the County. Then both the County Commissioners and City Council will hold public hearings and adopt implementing ordinances to enact the UGB expansion. Plan amendments must also be acknowledged by the State of Oregon Department of Land Conservation and Development as complying with applicable state land use laws.

The property is currently zoned UAR-10 which allows for the development of public schools as a conditional use. Applicant is not requesting exemptions from State Land Use Goals. New Oregon Administrative Rules (effective April 5, 2007) and the new Goal 14 for UGB expansions (effective April 2006) are applicable."

5. **PUBLIC NOTICE AND COMMENTS:** The application was submitted on May 22, 2007. On June 7, 2007, the City of Bend Planning Division sent notice of the request to surrounding property owners of record as shown on the most recent property tax assessment roll within 250 feet of the subject property. On June 12, 2007, the City of Bend sent a revised notice of a public hearing to correct the time of the hearing. The Planning Division did not receive any response from surrounding property owners.

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Transmittals describing the proposal were also sent to inter-office departments and other agencies for comment. The agency comments are contained in the record. In addition, notice of the proposed UGB Amendment was sent to the Department of Land Conservation and Development (DLCD) on May 11, 2007.

6. **PUBLIC MEETING:** A public meeting was held on May 11, 2007 for the Westside Elementary School Site. The applicant included as Exhibit 3 the City's forms regarding public & neighborhood meetings, and a copy of the notice and the list of persons receiving notice.
7. **APPLICATION ACCEPTANCE DATE:** The application for this project was submitted on May 22, 2007. Pursuant to Section 4.1.530(D) of the Bend Code, quasi-judicial comprehensive plan amendments are exempt from the 120 day time limit. The record remained open at the request of the applicant and the Planning Manager, Collin Stephens, until July 28, 2007.
8. **LOT OF RECORD:** The subject site is a portion of a 132 acre parcel owned by Miller Tree Farm LLC. It is considered a legal lot of record pursuant to a plan amendment and zone change application approved by Deschutes County in 1997 (File PA-97-2/ZC-97-2). If approved, the 15 acre site will be established as a legal lot of record according to current Bend Development Code standards, subject to County approval of the lot line adjustment application.

REVIEW OF APPLICABLE UGB AMENDMENT CRITERIA

Chapter 2.1, Residential Districts

- B. **Applicability.** This chapter applies to all development in the Urban Area Reserve District (UAR), Residential Suburban Low Density (SR2 ½), Low Density Residential District (RL), Standard Density Residential District (RS), Medium-10 Density Residential District (RM-10), Medium Density Residential District (RM), and High Density Residential District (RH). These Districts are identified on the City's official zoning map. Properties designated within each district that contain additional standards shall comply with the provisions of the applicable District, except as may be modified by this Section. Properties within a designated Historic District shall comply with the provisions of Chapter 10-16 of the Bend Code.

FINDING: The applicant is proposing to amend the Bend Urban Area Plan to expand the Urban Growth Boundary to include a 15 acre site for the purpose of constructing an elementary school (Westside Elementary). No zone change is proposed with this application; therefore the applicable zoning is Urban Area

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Reserve (UAR-10). The proposed elementary school would be allowed conditionally in the UAR-10 zone. The expansion of the UGB boundary will require future development to comply with the development standards for the UAR-10 zone as listed under Section 2.1 of the Development Code.

Chapter 4.1, Land Use Review and Procedures

4.1.515 Process for Type II or Type III Applications.

- A. **Except for comprehensive plan amendments and zone changes and other instances where a hearing is required by state law or by other ordinance provision, the Planning Director may decide upon a Type II application administratively either with prior notice, as prescribed under Section 4.1.520 or without prior notice, as prescribed under Section 4.1.525 or may refer the application to the Hearings Body for hearing as a Type III. The Planning Director shall take such action within 45 days of the date the application is accepted or deemed accepted as complete. This time limit may be waived at the option of the applicant.**
- B. **The Planning Director's choice between or among administrative or hearing procedures to apply to a particular application or determination shall not be an appeal-able decision.**
- C. **Quasi-judicial zone change and plan amendment applications shall be reviewed as a Type III and referred to a hearing before the Review Authority.**

FINDING: The applicant has proposed a quasi-judicial plan amendment that will be subject to a hearing before the Hearings Officer and the City Council in compliance with criterion (C) above.

Chapter 4.6 Land Use District Map and Text Amendments

4.6.300 Quasi-Judicial Amendments.

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

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

In response to this criterion, the applicant's burden of proof statement reads:

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Oregon Statewide Planning Goals

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."

APPLICANT'S RESPONSE: As part of the UGB application process, there will be adequate opportunities for citizen involvement. Public notice will be provided to surrounding area property owners. Public hearings will be conducted both before a City and County hearings officer and before the City Council and County Commissioners.

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."

Oregon Statewide Planning Goal 3 "To preserve and maintain agricultural lands." and, Oregon Statewide Planning Goal 4 "Forests"

APPLICANT'S RESPONSE: In accordance with Goal 2, Applicant has proposed an orderly procedure to evaluate the UGB expansion request, and has provided an adequate factual base to enable the City to make a rational decision on the UGB expansion request. OAR 660-024-0020(a) provides that the exception process is not applicable. The proposed property to be included in the UGB expansion is not identified as either agricultural or forest lands.

Oregon Statewide Planning Goal 5: " Open Spaces, Scenic and Historic Areas, and Natural Resources"

APPLICANT'S RESPONSE: Goal 5 resources are listed in the City's acknowledged Comprehensive Plan. There are no known significant Goal 5 resources on the site. The area proposed for the UGB expansion is similar to other sites around the City of Bend with regard to open space, scenic views and other Goal 5 values. Utilizing the selected site as proposed will have no noticeable adverse impact on the amount of regional open space or scenic views available.

Impacts on related resources:

Mineral and Aggregate, and Energy Resources: The Miller School Site was formerly zoned for mineral or aggregate uses. On June 14, 2005 the surface mining zoning designation was changed to UAR-10 because the mineral resources had been depleted. The mine has been reclaimed and approved for UAR-10 zoning. Furthermore, there are no known energy resources on the sites such as natural gas, oil, coal or geothermal heat.

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Fish and Wildlife Habitat: The Westside School Site has no fish or wetland habitat. The Miller School Site has been utilized in the past which decreases the likelihood that any endangered species use the disturbed site as habitat.

Ecologically and Scientifically Significant: Nothing about the selected site separates it from surrounding areas as ecologically or scientifically significant.

Outstanding Scenic Views: Nothing about the site indicates it has a significantly better view than other similar sites that surround the City of Bend.

Water areas, wetlands, watersheds, and groundwater resources: There are no wetlands or watersheds within or adjacent to any of the subject site. No watersheds will be affected by the inclusion of the property into the Bend UGB. The site will be served by municipal sewer systems as they are included in the City and will not adversely affect the groundwater due to septic discharge. Other standards and regulations exist that will mitigate any potential threats to existing groundwater quality during development.

Wilderness Areas: The Westside Elementary Site does not meet the definitions of "wilderness areas" as described within the Oregon State Goals and Guidelines. The parcel has been used over the past century and does not contain pristine surroundings or old growth trees.

Historic areas, sites, structures and objects: The Westside Elementary Site has no structures listed on the National Register of Historic Places. No structures or places of historical significance have been determined to exist on or near the property selected.

Cultural areas: The Westside Elementary Site has no known cultural resources.

Oregon Statewide Planning Goal 6: "Air, Water, and Land Resources Quality"

APPLICANT'S RESPONSE: The Applicant is not proposing an exception to compliance with Goal 6. Maintaining or improving the quality of the community's air, water and land resources will be assured through enforcement of state and local regulations. Expansion of the UGB and annexation of the parcels to the City of Bend will ensure connections to City sewer connections. Sewer connectivity has been considered when choosing the parcels and the site will not cause the sewer capacity to be exceeded. Noise levels will not exceed DEQ noise regulations.

Oregon Statewide Planning Goal 7: "Natural Disasters and Hazards"

APPLICANT'S RESPONSE: There are no areas within the site that are subject to flooding or landslide activity. The wildfire hazard for the site is the same as

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other areas with junipers, pine and native brush to the northeast and west of Bend. By providing adequate water to meet the fire flow requirements for an elementary school, the city will reduce the potential wildfire hazard in this area.

Oregon Statewide Planning Goal 8: "Recreational Needs"

APPLICANT'S RESPONSE: As a side benefit to the development on the site the city anticipates including open space areas in the development of the elementary school sites allow for recreational uses.

Oregon Statewide Planning Goal 9: "Economy of Development"

APPLICANT'S RESPONSE: The placement of a public elementary school is important to assist in the health, welfare and prosperity of Oregon citizens. The proposed elementary school is necessary because of the economic development occurring in the City of Bend. This development has brought new families to the City of Bend with elementary aged children. The expansion of the UGB is driven by the need to provide quality public education to all children in the community.

Oregon Statewide Planning Goal 10: "Housing"

APPLICANT'S RESPONSE: This expansion of the UGB is limited to the purpose of providing land needed for schools. The City is undergoing its own process of evaluating additional UGB expansions to meet future housing needs. The process for the UGB expansion to meet housing needs is supported by this application.

Oregon Statewide Planning Goal 11: "Public Facilities and Services"

APPLICANT'S RESPONSE: The existence of water lines on Skyliners Road and a sewer connection at Skyline Ranch Road and Lolo Roads will allow for the efficient and cost effective extension of these needed services to the Miller School Site. Public facilities and services are adequate to serve the needs of the proposed school.

Oregon Statewide Planning Goal 12: is "To provide and encourage a safe, convenient and economic transportation system."

APPLICANT'S RESPONSE: OAR 660-012 implements Oregon Statewide Planning Goal 12. This administrative rule requires the City to prepare and adopt a Transportation System Plan (TSP) as part of its comprehensive plan. The Bend Urban Area Transportation System Plan was adopted October 11, 2000.

OAR 660-024-0020(d) exempts properties such as those in this Application from the transportation planning rule of OAR 660-012-0060. Exempt properties include properties that are zoned as urbanizable land and that do not allow more

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vehicle trips than development allowed under prior zoning. Here, the applicable zoning is UAR-10. In UAR-10, public schools are conditionally permitted. Therefore, the prior zoning and any future zoning will allow the same number of vehicle trips. The site will not adversely impact the transportation system.

Oregon Statewide Planning Goal 13: "Energy Conservation"

APPLICANT'S RESPONSE: The location of the proposed elementary school, which is near the students, will serve to reduce energy use by reducing vehicle trips to schools that are more distant from the student's homes. Students may be able to walk and bike to this neighborhood school. The proposed locations show good potential for walking and biking options.

Oregon Statewide Planning Goal 14: "Urbanization"

APPLICANT'S RESPONSE: This Goal was addressed above.

Oregon Statewide Planning Goals 15-19

APPLICANT'S RESPONSE: These Goals are not applicable to these properties because the properties are not within the Willamette Greenway, estuarine areas, coastal shoreland, beaches and dunes or ocean resources.

FINDING: Staff originally found that the applicant had not adequately addressed Goal 14 (Urbanization) and Goal 12, (Transportation). Several concerns were raised by the Engineering Division and Long Range Planning and based upon these concerns, Planning Staff originally recommended denial of the application. The applicant has submitted a letter stating that as to Goal 14, addressing orderly and economic provision of public facilities and services, it is capable of providing adequate services to the site now. This includes water, sewer, and transportation. However, it argues, at least to some extent, that the transportation criteria are not applicable under the UGB application. There is a letter in the file from the Engineering Division clearly stating that the City can provide adequate water supply to the proposed site. That letter further states that the water service is sufficient for both domestic, irrigation and fire suppression needs. The applicant also provided a project overview letter from W&H Pacific date June 27, 2007 which shows that water is adequate to serve the site and that four City water transmission mains exist adjacent to and through the site, or will be relocated to run underneath the actual site by the applicant. The same letter addresses the sewer needs of the site and states that the site will be served by a gravity flow 8" main which flows to the Westside Regional Pump Station. The preliminary site plan includes a plan to extend this 8" main. While the City of Bend Master Collection Master Plan identifies some deficiencies in the system, the applicant states that with planned improvements there will be adequate upsizing of the system and any impacts to the system will be minimized due to the off peak hours of school operation. The applicant essentially argues

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that it has met the UGB requirements and the issues concerning the detail of the actual infrastructure will be addressed in the site plan application.

Many issues were raised by the Transportation Engineer regarding the effects on the surrounding road system, the actual road to be used to access the school site, and the preliminary Safe Routes to School Plan provided by the applicant. However, following the time of the hearing of this matter the City of Bend, through its Community Development Director, Mr. Mel Oberst, submitted a letter explaining that the City considers the most important issue to be the ability to provide adequate urban services to the site and indicating its belief that this can be accomplished, withdrawing its recommended denial and requesting a recommendation of approval. In addressing streets, the City is now convinced that once an urban street is provided it will have jurisdiction and will be able to ensure safe design of the streets and control the speed on such streets. This influence and jurisdiction would be exercised at the time of the site plan/development application. The City states that it is confident that it can petition the State to reduce the speed on Skyliners Ranch Road from 55 mph to 40 mph through the urban section, and that it will be able to reduce the speeds in the school zone to 20 mph near the proposed school. However, the City does not endorse the Safe Routes to School Plan now provided by the applicant and the hearing officer does not endorse such.

Based on the above findings, the agreement between the City and the applicant, the applicant has demonstrated the ability to provide adequate urban services as required by Goals 14 and 12 for purposes of this UGB application. The details of how this will be done and any mitigation requirements will be determined at the time of the site plan application. The applicant has demonstrated compliance with the above criteria.

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

In response to this criterion, the applicant's Burden of Proof Statement provides:

The relevant portions of the Bend Area General Plan are addressed below.

City of Bend General Plan

Preface

City Goals for Planning in the Urban Reserve

13. *The city and county shall retain lands in the Urban Reserve Area in larger lots in order to be compatible with adjoining public lands and deer winter range needs until these areas are needed for urban level uses. . . .*

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Adequate public facilities are the key to stable urban development. The Goals below provide general guidance for maintaining and improving the level and quality of urban services as growth occurs in Bend. The citizens and elected officials wish:

- To have public and private utility systems provide adequate levels of service to the public at reasonable cost;*
- For the city, county, and special districts to cooperate in the provision of adequate urban services in an efficient and timely matter to support urban development;*
- For new development to pay its fair share of the cost of major facilities needed to support development;*
- To ensure that public services will not have negative impacts on the environment or the community; and*
- To locate and operate public buildings and other public facilities to best serve the needs of the residents.*

APPLICANT'S RESPONSE: The subject property is located within the Urban Area Reserve. The property is now needed as a local neighborhood school. Water and sewer are available. The Applicant is looking ahead to develop schools in an efficient and timely manner to support the adjacent residential developments.

The public services of an elementary school will not have negative impacts on the environment or community but will generally benefit both through reducing traffic and enhancing a sense of community. The school has been carefully designed to best meet the needs of area residents. Additional environmental and community impacts were discussed above.

The siting of the school was determined through a siting research study evaluating the need for new schools within the community. Criteria considered for the siting can be found on page 30 of the 2005 Sites and Facilities Plan. The criteria considered included the following:

"high student density, walking access, flat topography, appropriate size approx. 15 acres for prototypical elementary school, low cost for water, sewer, and sidewalk extensions, low site acquisition cost, partnership potential with Bend Metro Park and Recreation District, shape of site promotes efficient use of space, few busy roads surround school, few physical barriers such as canals, railroads, or arterial streets, located in residential zone, adjacent to park or future park."

As discussed above, the site was chosen to meet the above criteria.

Chapter 3, Community Connections Public Education

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In October 1997, the school board accepted a school siting study prepared for the district in cooperation with the city and county. This study provides information on enrollment, siting needs, and other factors to help the district determine the type, location, and size of school sites needed during the next 20 years. The school district's estimate of future enrollment levels and school needs is based on the forecast population levels in the urban area and nearby rural lands.

Figure 3-6 shows the 1995 student levels and the forecast enrollment level for the public schools based on the 1997 siting study. It can be seen from the data in this figure that total enrollment in the Bend area public schools is expected to increase about 45 percent by the year 2015. If the population growth and demographic patterns follow the forecasts in the 1997 study, there will be a need for three to five additional elementary schools, two to three new middle schools, and one or two new senior high schools or technical schools in the planning area by 2015. In 1998 local voters approved a \$57 million bond levy to help meet the need for more schools. The bond will pay for construction of a new elementary school, a new middle school, a new high school and remodeling Bend High. Identifying the location for new public schools is an important function of the General Plan. The need for new schools is closely related to residential development and housing densities in the community. It is extremely important that schools be located with reference to the development pattern indicated on the General Plan. Elementary schools in particular can have a significant influence on the location or direction of growth in any given area, and will in themselves attract residential development. They should be centrally located in their service area, and spaced in a way that will permit reasonable locations for future schools as the area continues to grow. The city, county and Bend-La Pine school district will use the most recent studies to evaluate ways to ensure the timely development of new schools in the urban area.

APPLICANT'S RESPONSE: As noted in the General Plan an older siting study found the need for 3-5 new elementary schools by 2015. Growth has increased significantly since the 1997 siting study and the need for new elementary schools is already present. An updated siting study was conducted by the Applicant to identify the specific locations recommended for school development by 2015. Furthermore, as stated in the General Plan "the need for new schools is closely related to residential development and housing densities in the community." This proposed UGB expansion will serve one of the fastest growing segments of the community. The new elementary school will be located near expanding residential areas. The 2005 Sites and Facilities Plan describes the areas surrounding the proposed school as being areas of significant growth potential. (Page 12)

"Area 219 West of Deschutes River in the High Lakes attendance area to current UGB This area includes Northwest Crossing, a planned

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community within which construction of additional single-family dwellings is occurring. There is some potential for up-zoning allowing higher density along potential transit corridors."

Predictions provided in the 2005 School Sites and Facilities Plan also show that there is an expected shortfall of classroom space for approximately 281 students by 2010 and 620 students by 2015. The prototypical school is proposed as a 600 student capacity school.

School Goals from Chapter 3

22. The Bend-La Pine School District shall participate in providing necessary street, pedestrian, and bike facilities adjacent to the school sites as new schools are erected.

23. When a majority of a school's expected attendance will reside within the UGB, the Bend-La Pine School District shall make every effort to construct such school(s) within the UGB where students can walk to the school.

24. The city shall require major new developments to reserve land for school purposes in conjunction with the Bend-La Pine School District's adopted plan for the type and location of future facilities.

APPLICANT'S RESPONSE: The Applicant will work with the City to determine as part of its site plan application what appropriate development is necessary for the siting of these new schools. The proposed schools will serve students both within and outside of the UGB. See attached map showing attendance areas. As noted there has been a large expansion of students coming in from the development within the city. However, the Applicant also serves students to the west and north of the Miller School Site that are not within the Urban Growth Boundary. The proposed school is centrally located to allow students from both within and outside of the Urban Growth Boundary to be able to walk or ride bicycles to school. Additionally, if the Miller Tree Farm, LLC property is brought within the UGB in the City's UGB process, the LLC will already have reserved land for school purposes as required by Goal 24.

Chapter 8, Public Facilities And Services

Adequate public facilities are the key to stable urban development. The Oregon Statewide Planning Goals below provide general guidance for maintaining and improving the level and quality of urban services as growth occurs in Bend. The citizens and elected officials wish:

- To have public and private utility systems provide adequate levels of service to the public at reasonable cost;*
- For the city, county, and special districts to cooperate in the provision of*

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adequate urban services in an efficient and timely matter to support urban development;

- *For new development to pay its fair share of the cost of major facilities needed to support development;*
- *To ensure that public services will not have negative impacts on the environment or the community; and*
- *To locate and operate public buildings and other public facilities to best serve the needs of the residents.*

APPLICANT'S RESPONSE: Water and sewer are available to the Westside Elementary School Site without the need for significant extensions. Additionally, the site will be served by garbage services, law and safety enforcement once it is brought within the UGB and then is annexed into the City.

FINDING: The hearings officer concurs with the applicant's findings with respect to the school goals (goals 22-24) cited in Chapter 3 above. In addition, the applicant has demonstrated compliance with the Plan's objective, "To locate and operate public buildings and other public facilities to best serve the needs of the residents." Issues concerning the placement of infrastructure will be addressed in the applicant's site plan application. The applicant has demonstrated the ability to provide adequate services for purposes of this application.

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

In response to this criterion, the applicant's burden of proof statement reads:

APPLICANT'S RESPONSE: The proposed site can be served with adequate public facilities. Sewer and water are available adjacent to the site. The transportation improvements will be provided concurrently with the development of the property.

FINDING: The applicant states that there is sufficient evidence in its burden of proof sufficient to find above criteria satisfied. This issue was addressed above under Section B.1 and those findings are incorporated here. Further, in a letter submitted in response to the concerns of the Engineering Division the applicant submitted a June 21, 2007 reading:

"The UGB criteria require evidence that the site is presently provided with adequate public facilities including transportation networks (Bend Code 4.6.300(B)). As described in the Applicant's traffic study, Skyliners Road provide adequate transportation to the proposed school site. Furthermore the Applicant will be submitting a site plan in the next few weeks that will

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demonstrate the improvements planned as part of the development of the site. The proposed findings prepared by Robin Lewis for the UGB expansion are beyond the scope of the UGB expansion application and criteria. Nothing in the Bend Code requires construction of streets to City of Bend standards as a precondition for a UGB expansion. The issues raised in Robin Lewis's memorandum can be addressed through two additional planning stages that will be required prior to the start of construction. First, as stated above, the Applicant will submit for site plan review. If necessary, conditions of approval can be identified and addressed in the Site Plan decision for the elementary school. Secondly, the issues will be addressed through the annexation agreement process with the City of Bend and the Applicant. In that process, the Applicant and City of Bend will enter an agreement that outlines specific improvements that the Applicant and the City agree are the Applicant's responsibility."

The hearings officer finds that there is evidence in the record to support the applicant's position and that the details of required urban services and mitigation can be determined at the site plan stage. Further analysis of the specific impacts is set forth below.

Streets: Requirements for the provision of new streets and improvements to the existing street system are addressed in previous findings, and in the applicant's burden of proof and Transportation Impact Analysis. The applicant proposes improvements to the surrounding transportation system to mitigate the impacts of their development to ensure adequate capacity of the surrounding transportation system with the proposed development. In comment received from the City Transportation Engineering Department, there are several transportation facility improvements that need to be met with regard to Skyliners Road and the extension of Lolo Road west to the site. These can be addressed at the site plan stage and the hearings officer agrees. With that said, anticipatory comments now in the record state that Skyliners Road is designated a major collector street on the Bend Urban Area Roadway System Plan Map. In comment stated above from the City Traffic Engineer, Skyliner Road needs dedication of 40' to centerline of Skyliners Road and to include a modified City standard roadway of 36' of pavement that includes curbs, bike lanes, and two travel lanes for the substandard length leading to the site from the existing UGB to the proposed local street connection with Skyliners Road. These are street standards prescribed by the Westside Consortium agreement in 2000.¹ In this manner, the City would have a uniform section on Skyliners Road between Lindsey Court and the School's western boundary. In order to provide adequate urban services to the site, the connecting stem of the UGB amendment along NW Skyliners Road must be wide enough to accommodate full urban services in conformance with the modified street standard as described above.

¹ Westside Consortium Agreement, Ordinance NS-1757.
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Again, these issues can be mitigated through the site plan approval process.

Water: The applicant proposes to provide adequate water service to the site to serve the domestic and fire suppression needs of the development. As stated previously, the evidence demonstrates that domestic, irrigation and fire water services will be adequate and the City Engineer agrees.

Sewer: The applicant proposes to provide sewer main extensions to serve the needs of the development and as noted has provided an overview plan from W&H Pacific on how this is to be done. Mitigation will be required, a fact acknowledged by the applicant. But, adequate sewer can be provided.

Schools: The applicant is proposing to site an elementary school on the subject property. The applicant has submitted a School Facility plan in support of this application (Exhibit 1).

Parks and Libraries: Parks are located to the east approximately ¼ to ½ mile away in the Northwest Crossing Development. A connecting dirt trail from the city to the National Forest lands within a short distance to the west is located on the south side of NW Skyliners Road. The subject property would be within the Bend Public Library Service area.

Fire and Police Protection: Fire and police protection is available for the subject property from the City of Bend. In comment received from the City Fire Department, approval of the future development plans shall be obtained from the City Fire Marshall.

Based upon the information in the record, there is adequate capacity for public facilities and services to serve the site. Details and mitigation can be determined at the site plan stage.

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

In response to this criterion, the applicant's burden of proof statement provides:

APPLICANT'S RESPONSE: There has been a change in the neighborhood and community which justifies the requested UGB expansion. There has been substantial residential development throughout the City and in particular this attendance area. The elementary schools in this area are currently over capacity and a school in this location is desperately needed to alleviate overcrowding. The 2005 Sites and Facilities Study anticipates that, by the year 2010, there is an expected elementary school capacity shortfall of approximately 669 students." Pg. 18. Specifically in the attendance area that will be served by the

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development of this school "there will be approximately 285 more elementary students than elementary school capacity in 2010, growing to a capacity shortfall of 422 students by 2015. Page 19.

The Sites and Facilities Plan recommendation is to: Acquire sites and build new schools to add capacity for 600 students by 2010 in the form of a new small school/site for 300 students and half of a new prototypical 600 student school/site. If a small school site cannot be secured or if the land and off-site improvements are cost prohibitive compared to other potential sites in the High Lakes attendance area, then the prototypical 600 student school should be completed in its entirety by 2010." Page 21. As discussed above, the growth of the student population in the northwest quadrant exceeded expectations necessitating a 600 student school be built immediately. The Applicant identified the Westside School Property as a location where a prototypical 600 student school could be completed by 2008.

FINDING: The applicant has demonstrated that there has been not only a need but change in circumstances with respect to the growing demand for school facilities within the City of Bend. Section 4.6.600 is further addressed below.

Section 4.4.600 Transportation Planning Rule Compliance.

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

In response to this section, the applicant's burden of proof statement provides the following:

APPLICANTS RESPONSE: The land being added to the UGB is currently zoned as urbanizable land - UAR-10 (Urban Area Reserve). The zoning for the property allows schools as a conditional use (Deschutes County Code 19.12.030(I) and Bend Code 2.1.200). Therefore, the transportation planning rule 660-12-0060 is not applicable. When the City completes its UGB expansion it will likely rezone the school property to Public Facilities.

FINDING: The applicant states that because the land being added is urbanizable land currently zoned UAR-10, OAR 660-12-0060 is not applicable. The hearings officer concurs with this finding in part. However, the relevant sections of Chapter 4.7, Transportation Analysis, of the Bend Development Code need to be addressed, a fact acknowledged by the applicant. This analysis is set out below.

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4.7.100 Purpose and Authority.

Purpose. This Chapter is based on sound planning and engineering principles. The City will review land use actions and major roadway projects for potential impacts and to ensure that new development contributes to the orderly development of the Bend Urban Area Transportation System Plan network of roads, bikeways, and pedestrian facilities by:

Establishing policies and procedures for evaluation of land use actions and major roadway projects to protect existing and future operations of roadways;

Establishing service level standards (operations standards) for transportation facilities identified in the Bend Urban Area Transportation System Plan;

Ensuring consistency with the functions, capacities, and service level standards of facilities identified in local and regional transportation system plans and the City of Bend Development Code;

Extending transportation facilities to and through development property;

Ensuring conditions are applied to mitigate the full extent of impacts and protect transportation facilities so that all land use proposals contribute their fair share towards the transportation system plan.

This Chapter also identifies elements that will need to constitute the scope of work for traffic studies used to evaluate major roadway projects.

B. City's Authority. The City Engineer may, at his/her discretion, modify or waive the required content of this chapter when in his/her judgment, special circumstances dictate such change. The City Engineer may at his/her discretion expand the requirements and/or study area if needed to address any issue that comes to light after the initial approval of a scope of work. Certain information may come to light over the course of the analysis that causes the City to require additional analysis to address traffic operations or safety issues that had not been anticipated.

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

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

a. A comprehensive plan map amendment; or

FINDING: The applicant is requesting a UGB plan map amendment which requires a Transportation Impact Study in compliance with Chapter 4.7. The

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applicant has submitted a Traffic Impact Study prepared by Kittleson & Associates Inc., dated June 12, 2007. Supplemental information has been submitted by the applicant to address the City Traffic Engineer's comments. Some of the comments have already been set forth above. This criterion is satisfied.

4.7.200 Transportation Impact Study

- A. The Transportation Impact Study shall be prepared under the responsible charge of a professional engineer licensed in Oregon, and qualified to perform such studies.**

The Transportation Impact Study needs to provide sufficient information to the City so that the City can assess the impact to the transportation system, evaluate proposed mitigation measures, and craft reasonable conditions for the proposed land use action. Engineers are reminded of their responsibilities under state law which specifies that they shall at all times recognize that their primary obligation is to protect the safety, health, property and welfare of the public in the performance of their professional duties. These standards provided herein in no way serve as a substitute for the application of sound professional engineering judgment expected to be used by practitioners in the preparation and documentation of transportation analyses.

1. **Determination of Scope of Work.** It shall be required that the person responsible for preparing the transportation impact analysis, first receive approval from the City Engineer for the scope of work for the report. The scope of work at a minimum shall identify the study area, and the study area intersections as indicated below. Requests for deviation from the provisions of this chapter shall be submitted in writing to the City Engineer.

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

a. **Study Area.** The Study area shall include:

- i. The existing street infrastructure along the property frontage (i.e. right-of-way, sidewalks, bicycle lanes, medians, driveway aprons);
- ii. All driveway access points except single family residential dwellings;
- iii. All street connection points to abutting arterials or

collectors;

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iv. Any intersection with an Interchange, or ramp terminal, and any arterial-arterial intersection, arterial-collector intersection or collector-collector intersection, that is within one-mile driving distance of the site and has more than 15 peak hour trips added to any lane group. The driving distance shall be measured from each access point (driveway or street) of the development onto the transportation system.

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

b. **Analysis Period.** At a minimum, an operations analysis shall be performed for the weekday p.m. peak hour at the study area intersections. Certain land use applications may also be required to study the a.m. peak hour, the peak hour of the proposed project, the peak hour of a nearby generator (e.g. School arrival/dismissal times), or a weekend peak hour. The peak traffic times to be studied in the Transportation Impact Study shall be determined at the discretion of the City Engineer.

For each of the Study Years, analyses with and without the proposed project shall be provided.

c. **Study Years.** The intersection operations analysis and traffic forecasts shall include the following study years:

- i. Existing conditions (current year); and
- ii. Year of completion of each phase; and
- iii. Five years beyond final development phase; and
- iv. for those projects that involve a zone change, Bend Urban Area General Plan map amendment, or a major roadway infrastructure project an additional study year shall be provided. This study year shall reflect the Transportation Planning Rule OAR 660-012-0060 requirements.

Transportation Planning Rule analysis year shall be either the 15-Year projection of traffic or the traffic projections from the twenty-year period beginning with the date of adoption of the Bend Urban Area Transportation System Plan, whichever provides the longest projection. These traffic projections, whether for the 15-Year projection or the Bend Urban Area Transportation System Plan planning year, shall be provided by the City Engineer. The Bend Urban Area Transportation System Plan traffic model will be used as a basis for these projections.

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- d. **Exceptions.** For a development proposal that results in a net reduction in traffic, the five year estimate analysis period may be deleted at the discretion of the City Engineer.

4.7.300 Analysis Methodology

The analysis methodology described herein shall apply to all required transportation impact analysis including Transportation Impact Studies and Trip Generation Letters.

A. Forecasts and Operations

1. For each of the analysis years defined in Section 4.7.200 above, (except for existing conditions), the traffic forecast and operations analysis shall be prepared for conditions with and without the proposed project. The operations analysis shall be performed in conformance with the Highway Capacity Manual (HCM) or other reference approved by the City Engineer.
2. Traffic counts for the existing conditions analysis shall be no more than one year old dated from the date of land use application. If pertinent transportation system conditions have changed since the count, then new field counts shall be performed.
3. Field counts shall include a minimum of a 2-hour turning movement count for each peak period studied (between 4:00 and 6:00 for p.m. peak hour counts). Additional hours of turning movement counts will be needed to determine compliance with traffic signal warrants, all-way stop warrants or to determine the extent of over-capacity conditions. Counts for other hours will be determined as needed. Counts may need to be seasonally adjusted as required by the City Engineer to reflect peak conditions (i.e. summer peak, ski season/winter peak, or school traffic peak) for the transportation system element being analyzed.
4. The traffic forecasts for the year of completion of each phase shall be calculated to be field counts plus 100 percent of the traffic from the other approved, but not yet constructed developments, plus an annual growth factor which would factor the existing counts up to the analysis year. The City Engineer or designee will supply traffic assignments for other approved, but not yet constructed development; however, it is the study engineer's responsibility to determine build out status of these developments.

The annual growth factor shall be determined by the City Engineer after considering first ODOT's Transportation Planning Analysis Unit (TPAU) traffic growth rates for the roadway in question, then the City of Bend's traffic growth rates. If no data are available, the annual traffic growth factor shall be 3 percent per year.

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5. Trip Distribution. Trip assignments should replicate overall origin/destination patterns in the City. Existing field count turning movement patterns should be used as a guide for trip assignments as appropriate. The assignment should be adjusted to reflect future committed transportation facilities, changes in zoning or development patterns.

6. Intersection Control Type and Roadway Geometry. The operations analysis shall use existing transportation system conditions (control type and roadway geometry). Committed transportation facilities may also be considered in the analyses. Committed transportation facilities means those proposed transportation facilities and infrastructure which are consistent with the acknowledged comprehensive plan and have approved funding for construction in a public facilities plan or the Six-Year Highway or Transportation Improvement Program.

7. Trip Generation. Project generated traffic shall be forecast using average trip generation rates from the latest edition of the publication Trip Generation (ITE) or shall be created from local data (the procedure for collecting such data shall comply with the guidelines in the ITE Trip Generation Handbook). Adjustments such as those applicable for pass-by trips that are well supported by multiple studies in the ITE Trip Generation Handbook may be applied.

For Bend Urban Area General Plan map amendments or zone change applications, the trip generation shall represent the worst case trip generation of the existing and proposed zoning. This accommodates the highest trip generator allowed outright in the zone. However, if General Plan map amendments or zone changes are accompanied by a concurrent site plan application, the trip generation for the site plan may be utilized instead.

C. Transportation Planning Rule Compliance. This section implements the City's Bend Urban Area Transportation System Plan with regard to level of service and operation standards. The Transportation Impact Study provided for a zone change and/or Bend Urban Area General Plan map amendment shall comply with and provide information on the requirements of the Oregon Administrative Rule section 660-012-060 (TPR) and demonstrate that the proposed land uses are consistent with the identified function, capacity, and performance standards (level of service, volume to capacity ratio and widths) of the facility as defined in the adopted Bend Urban Area Transportation System Plan and the City of Bend Development Code. The operations standards in the City of Bend Development Code

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implement the policies of the Bend Urban Area Transportation System Plan.

FINDING: According to the applicant, the requirements of OAR 660-012-060 do not apply to a UGB Amendment when land added to the UGB is zoned as urbanizable land, either by retaining the zoning that was assigned prior to inclusion in the boundary or by assigning interim zoning that does not allow development that would generate more vehicle trips than development allowed by the zoning assigned prior to the inclusion in the boundary. There will be no change in the zoning proposed for this application. Therefore, this criterion is met. The City Traffic Engineer commented that the Traffic Impact Analysis submitted by Kittleson & Associates is adequate to provide the necessary data to address Chapter 4.7. In further comment dated June 21, 2007, data was submitted that indicates that motorized vehicle trip generation for local school sites exceeds standard averages identified in the ITE manuals. The applicant indicates the school will adopt a Safe Routes to School Plan for the site to help mitigate trip generation rates. State law requires that the applicant consult with the City on this plan. The City does not endorse its current form. This criterion is met.

4.7.400 Approval Criteria

Prior to land use approval, the City must review the applicant's transportation analysis to determine whether or not the proposal will create excessive demand on the public facilities and services required to serve the proposed development. The City will assess the impacts of new development on the transportation system. The key factors used to assess the impacts to the transportation system include, but are not necessarily limited to:

number of trips by all modes associated with the proposal,
turning movement demand by vehicles of various types,
operations analyses results,
location of the project,
safety issues, location of the driveways (evaluated for conflict points and location criteria established in Chapter 3.1; Access, Circulation and Lot Design).

The City Engineer will determine if the development or study area has adequate transportation facilities to support the proposed development based on compliance with the Operations Standards. The City shall also evaluate the crash histories and crash rates provided to identify any queuing issues. Crash rates greater than 1.0 per million entering vehicles and inadequate queue storage may need to be mitigated. Mitigation shall ensure that the transportation facilities are providing adequate capacity and safety concurrent with the development of the property.

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Zone changes and Bend Urban Area General Plan map amendments cannot be granted if the Transportation Impact Study shows that the proposed development would overburden the City's existing or planned transportation facilities now or in the future. The Transportation Impact Study must demonstrate that compliance with the TPR and the operations standards of the City of Bend Development Code can be achieved within the adopted Bend Urban Area Transportation System Plan.

Similarly, major roadway infrastructure projects should not be approved if the Transportation Impact Study shows that the proposed infrastructure projects would overburden the City's existing or planned transportation facilities now or in the future. The Transportation Impact Study must demonstrate that compliance with the TPR and the operations standards of the City of Bend Development Code can be achieved within the adopted Bend Urban Area Transportation System Plan.

A. **Transportation System Assessment.** This assessment of the transportation system will be used as the basis for requiring mitigation and imposing conditions of approval. Review measures for the transportation system include an evaluation of the existing and proposed transportation system. The applicant shall assess the presence and extent of:

- right-of-way dedications,
- public utility and access easements,
- ADA facilities,
- sidewalks, trails, and pedestrian connections,
- bike lanes,
- turn lanes,
- travel lanes,
- intersection operations and queuing,
- crash rates and crash type/patterns in the vicinity of the proposal,
- and
- access management and circulation.

At a minimum, development proposals shall be required to provide adequate setbacks, create public access and utility easements, and dedicate right of way for roadways and trails to allow construction of the transportation system and facilities in accordance with the Bend Urban Area Transportation System Plan and the City of Bend Development Code. Other exactions and mitigations will be required on a rough proportionality basis.

FINDING: The applicant has stated that the submitted TIA for the Westside Elementary site has adequately addressed the requirements of Chapter 4.7. In comment received from the City Traffic Engineer, improvements will have to be made to bring the transportation network in conformance with City standards, but

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the applicant's TIA meets the requirements of Chapter 4.7. These improvements will be further addressed at the development stage. Although staff recommended an Annexation Agreement requiring certain mitigation, the Planning Division has formally withdrawn that request and finds that the best place to address mitigation in this instance will be upon site plan application. The criterion is met.

4.7.500 Mitigation Requirements/Conditions of Approval

The transportation impact analyses for each of the study time frames need to show compliance with the operations criteria listed above, or the applicant will be required to mitigate to bring the operations into compliance. Mitigation shall be in compliance with City of Bend Standards and Specifications, the Bend Urban Area Transportation System Plan and the requirements of the Bend Development Code.

FINDING: As stated in Section 4.6.300 above, the City Transportation Engineer has submitted comment on the transportation facility improvements that would be needed to develop the site. These improvements will be required upon site plan and conditional use permit approval. The applicant has stated that the Traffic Impact Analysis, submitted by Kittleson & Associates, dated June 12, 2007 adequately addresses Chapter 4.7 and the Transportation Engineer agrees. The evidence in the record supports a finding that the site can meet these requirements and that the specific requirements of necessary improvements to bring urban levels of service to the site will be provided through the Site Plan approval process.

Compliance with Oregon Statewide Planning Goal 14, "Urbanization"

APPLICANT'S RESPONSE: Statewide Planning Goal 14 provides for "orderly and efficient transition from rural to urban uses". The Goal requires that cities and counties work cooperatively to establish urban growth boundaries and to make any necessary changes to such boundaries. Changes require analysis of need, the "Need Factors" and an analysis of location, the "Locational Factors."

Need Factor

Land Need

(1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and

(2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection (2). (emphasis added)

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In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.

APPLICANT'S RESPONSE: The City of Bend is currently undergoing an extensive process to identify the land needs to complete its UGB expansion as required by Goal 14 and Oregon State Statutes. This process began in 2005 and will continue through at least the end of 2007. The 20 year population forecast shows a need for additional lands for housing as well as schools. The Applicant's 2005 Sites and Facilities Plan also identified the need for new schools.

The Applicant analyzed anticipated enrollment using growth estimates in the Deschutes County Coordinated Population Forecast of 2005. The Table below from the 2005 Sites and Facilities Plans demonstrates the rapid growth expected in area schools by grade level.

Table 1
Enrollment Forecast for the Bend-La Pine School District by Grade Level (Coordinated County Forecast) by PRD

Bend-LaPine District								
	1990	1995	2000	2005	2010	2015	2020	2025
K-2	2,203	2,513	2,672	3,173	3,597	3,609	4,419	5,035
3-5	2,209	2,677	3,017	3,267	3,706	4,053	4,824	5,188
6-8	2,023	2,809	3,115	3,293	4,102	4,332	4,820	5,591
9-12	2,852	3,267	4,137	4,811	5,361	6,022	6,527	7,435
Other	20	5	24	23	30	33	26	43
Total	9,310	11,332	12,996	14,775	16,886	18,449	20,427	23,286

Enrollment Forecast for the Bend-La Pine School District 1990-2025, February 7, 2005, by Dr. Francis Lopez, Senior Research Analyst, Population Research Center

The Applicant next analyzed where the expected growth might occur by reviewing zoning, available vacant lands, and lands being considered for the City of Bend UGB expansion. The highest growth areas were determined to be the northeast and northwest quadrants of the Applicant's attendance area. These areas showed the greatest potential for future residential growth and both areas have since been built out with residences. The anticipated shortages of classroom space by attendance area are shown below in Table 4 from the Sites and Facilities Study.

Table 4:
Elementary School Attendance Area Forecasts by Year (By-residing Forecasts)

Attendance Area	2005		2010				2015			
	Existing Capacity	Fa. Enrollment	Existing Capacity	2010 Actual Enrollment	2010 Forecasted Enrollment	2010 Shortfall or Surplus	Existing Capacity	2015 Actual Enrollment	2015 Forecasted Enrollment	2015 Shortfall or Surplus
Bend Creek	600	378	600	24	283	51	600	24	281	71
Bend Hill	600	674	600	24	661	-70	600	24	642	-18
Buckingham	600	679	600	24	678	-24	600	24	751	-127
Lava Ridge	600	677	600	24	678	-211	600	24	609	378
Lincoln	600	673	600	24	677	-43	600	24	754	-120
Lava Ridge	300	346	300	24	417	-15	300	24	416	-156
Marathon	300	287	300	24	241	93	300	24	209	28
North Park	378	426	378	24	354	48	378	24	319	12
High Desert	600	731	600				600			
Highwood (middle)	378	318	225				225			
Thompson (middle)	150	157	50				50			
Thompson (middle)	150	177	50				50			
Washoula Capacity (High Level plus 50% of capacity of each wing)			1,300		1,288	-211	1,300		1,557	422
La Pine Elementary	600	610	600		768	-168	600		689	-89
Terra Nova (K-1)	430	433	430		461	-31	430		474	-44
Total	5,520	5,850			7,171	-1,321		7,100	-1,496	

* All elementary schools shown in forecast
 * Approximately 62% of enrollment in forecast comes from the Washoula attendance area
 * Forecast based on forecast for 2010 and 2015 based on the 2005-2006 enrollment data and forecast for students in the attendance area
 * La Pine Elementary table represents forecast for 2010 and 2015
 * Terra Nova school forecast includes forecast for 2010 and 2015 respectively, estimated by DPR
 * Enrollment data is based on the 2005-2006 forecast provided by the District of Education and the 2010-2011 forecast based on the 2005-2006 enrollment data and forecast for students in the attendance area
 * Approximately 62% of enrollment in forecast comes from the Washoula attendance area. BLN/D

The Buckingham and Lava Ridge attendance areas are in the northeast quadrant of Bend. The above table shows that there is an expected increase in attendance, resulting in a shortfall in capacity for approximately 285 students by 2010. By 2015 the shortfall will have grown to approximately 422 students. This area has developed even more rapidly than expected. In order to meet the need, the Applicant needs to open the first phase of a prototypical school by the fall of 2008. The first phase of a prototypical school consists of classroom wings with a capacity for 300 students and the associated offices and gymnasium associated with the school. When school capacity demands, the school is planned to allow for the addition of a second 300 student capacity wing.

Meeting the needs- site selection

APPLICANT'S RESPONSE: To identify potential sites for schools the Applicant looked first at lands it owned or had agreements to acquire. The only existing sites were: the administrative center, currently used for the Applicant's offices; Troy field, a small park adjacent to the Administrative building; a small additional area at High Desert Middle School; and the 6.39 acre transportation yard. None of these sites are located near the need for a new elementary school in the northeastern portion of the city. Also, none of these sites are of adequate size for a prototypical school. The prototypical school is designed to be constructed

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in two phases. Initially, the school will be constructed to provide 300 student capacity. Later, two additional classroom wings can be added to create a 600 student school. Approximately 15 acres is optimal for the prototypical school.

At the time of the 2005 Sites and Facilities Plan, the Applicant already had an agreement to acquire this property. Although the property is outside the UGB it was expected that the City's UGB process would bring the site within the UGB before the school needed to be constructed. There were no alternative sites within the study area shown in Exhibit 4 that were of adequate size for the proposed school. Furthermore, the Applicant already had an agreement to acquire this piece of property at no cost. The property met the 2005 Sites and Facilities Plan site criteria which are discussed in more detail below. Since the City's UGB expansion has taken longer than expected, Applicant now must apply to expand the UGB to include this site in order to construct the school for opening in fall of 2008.

Boundary Location

The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:

(1) Efficient accommodation of identified land needs;

The proposed location of the Miller School Site efficiently accommodates the growing needs of the school district. The Applicant carefully considered the location of its proposed elementary school site based on the need to accommodate the extreme residential growth of the northwestern portion of the City. The recent development in this portion of the community through the build-out of Northwest Crossing and other residential development abutting the UGB has greatly increased the enrollment of the elementary schools that currently serve these areas. The current elementary schools in the area are inadequate to meet the needs of the community. The Miller School Site accommodates the need for new community elementary schools where the need is greatest due to increasing residential development. This meets the Applicant's goal to provide neighborhood elementary schools that allow students and families to walk or bike to the facilities.

The parcel is already zoned Urban Area Reserve meaning that the parcel has been identified as future urbanizable land and is of first priority under the classification system identified in ORS 197.298. With a short cherry stem along Skyliners Road of approximately 660 feet the site abuts the City's existing western UGB boundary.

Furthermore, providing schools at or near the edge of the UGB is efficient because the Applicant's school attendance boundaries extend beyond the

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boundaries of the UGB. The new schools will serve students in the existing UGB, in the UGB as it is expanded by the City of Bend and students outside the UGB. The existing school boundaries show that portions of the student population will continue to come to this school from outside of the UGB. See attached school boundary map.

The property is approximately 15 acres allowing adequate space for the placement of a prototypical elementary school. A site that allows for full build-out of a 600 student school encourages efficient accommodation of the school's needs where the Applicant has shown the need for such capacity within 20 years.

(2) Orderly and economic provision of public facilities and services;

The Miller School Site is located near city water because several lines run through the site and also along Skyliners Road. A city of Bend gravity sewer main exists at the intersection of NW Lolo Drive and NW Skyline Ranch Road. The Applicant will extend this main to the proposed elementary school site and will construct a gravity sewer service connection to the building.

Existing water mains exist within Skyliners Road (16" and 36" mains) and within Skyline Ranch Road (24" main). Two older City of Bend water transmission mains (14" and 16") cross the proposed school site and will be relocated by the Applicant. The Applicant will coordinate with the City Water Division for proposed water connections for fire protection and services.

The proposed street improvements include the construction of local standard streets along the north, west, and a portion of the east school site boundaries, and an easterly connection to Skyline Ranch Road. The Applicant is completing a traffic study. The study will address any additional street improvements required but given the low traffic volumes on Skyliners, no additional mitigation measures are expected to be required. The site is large enough to accommodate all storm water drainage issues on site as required by the City of Bend.

The City of Bend only recently developed a public transportation system. Although the proposed school is not on an existing public transportation line it is likely that services will be provided to the school in the future due to its proximity to a large proposed residential development.

(3) Comparative environmental, energy, economic and social consequences; and
The long-term environmental, economic, social and energy consequences resulting from the development of elementary schools on the proposed sites will be minimal and positive. The urgent need for a new elementary school in the northwest area of the City makes the urban use of this land necessary.

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Environmental. The site has been identified by the City as land that should be available for urban development when necessary. By locating the school closer to the students who will attend it the planned school will reduce driving and bus traffic.

Energy. The Westside School Site is not known to contain energy resources such as known deposits of oil and natural gas, or geothermal resources. The availability of other potential energy sources, such as wind and solar, are equal on any other property in the surrounding area. The proposed expansion will result in energy conservation by reducing the overall number of vehicle trips. Since the site is in a location where students will be able to walk and bike to school, this will reduce the number of parent drop-off trips. As the residential areas around the site continue to develop, this reduction in trip generation will increase.

Economic. Through an agreement with Miller Tree Farm, LLC, the Applicant is obtaining the site at below market cost. Accordingly, the economic consequences of using the property for the school site are positive. Furthermore, locating schools near where students live also encourages economic development because parents are interested in living in communities with quality public schools in walking distance from their homes.

Social. The community will benefit from the reduced overcrowding at area schools. Overcrowding generally reduces the quality of education and increases community stress. This new school will provide the necessary capacity for the growing community. The properties on the edges of the existing UGB are expanding quickly and need a school in this area. The rapid expansion prohibits the development of a school within the UGB boundaries because there is no land that is available. The local community voted to support the development of these new sites. Requiring the Applicant to wait until the City of Bend has completed its UGB expansion process would cause a delay in the construction of a needed school. The community as a whole will benefit from alleviating existing overcrowding.

(4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

FINDING: According to planning staff, the Miller Tree Farm, LLC's property in its entirety is approximately 445 acres. The proposed school site is in the southeast portion of that property. Miller Tree Farm, LLC has used this property in the past as a tree farm and has planted pine trees in the vicinity of the school location. Miller Tree Farm, LLC does not plan to harvest the trees that are located on the school site and according to the applicant it has given assurance that activities at the school site will not impact the adjacent tree farm activities.

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The hearings officer concurs with the applicant's response. The applicant has demonstrated that the need and boundary factors have been met.

**OAR 660, Division 24 Urban Growth Boundaries
660-024-0000**

Purpose and Applicability

(1) The rules in this division clarify procedures and requirements of Goal 14 regarding local government adoption or amendment of an urban growth boundary (UGB).

FINDING: *These rules became effective April 5, 2007.*

660-024-0020

Adoption or Amendment of a UGB

(1) All statewide goals and related administrative rules are applicable when establishing or amending a UGB, except as follows:

(a) The exceptions process in Goal 2 and OAR 660, division 4, is not applicable unless a local government chooses to take an exception to a particular goal requirement, for example, as provided in OAR 660-004-0010(1);

FINDING: Applicant is not seeking any goal exception.

(b) Goals 3 and 4 are not applicable;

FINDING: Goals 3 and 4 are not applicable.

(c) Goal 5 and related rules under OAR 660, division 23, apply only in areas added to the UGB, except as required under OAR 660-023-0070 and 660-023-0250;

FINDING: There are no Goal 5 resources impacted by the proposed school locations.

(d) The transportation planning rule requirements under OAR 660-012-0060 need not be applied to a UGB amendment if the land added to the UGB is zoned as urbanizable land, either by retaining the zoning that was assigned prior to inclusion in the boundary or by assigning interim zoning that does not allow development that would generate more vehicle trips than development allowed by the zoning assigned prior to inclusion in the boundary;

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APPLICANT'S RESPONSE: The land being added to the UGB is currently zoned as urbanizable land - UAR-10 (Urban Area Reserve). The zoning for the property allows schools as a conditional use (Deschutes County Code 19.12.030(l) and Bend Code 2.1.200). Therefore the transportation planning rule 660-12-0060 is not applicable. When the City completes its UGB expansion it will likely rezone the school property to Public Facilities.

FINDING: The hearings officer concurs with the applicant's response.

(e) Goal 15 is not applicable to land added to the UGB unless the land is within the Willamette River Greenway Boundary;

FINDING: None of the property to be added to the UGB is within the Willamette River Greenway Boundary and therefore Goal 15 is not applicable to this Application.

(f) Goals 16 to 18 are not applicable to land added to the UGB unless the land is within a coastal shorelands boundary;

FINDING: None of the property to be added is within a coastal shorelands boundary and therefore Goals 16 and 18 are not applicable to this Application.

(g) Goal 19 is not applicable to a UGB amendment.

FINDING: Goal 19 is not addressed in this application.

(2) The UGB and amendments to the UGB must be shown on the city and county plan and zone maps at a scale sufficient to determine which particular lots or parcels are included in the UGB. Where a UGB does not follow lot or parcel lines, the map must provide sufficient information to determine the precise UGB location.

FINDING: The attached UGB expansion map, included as the applicant's *Exhibit 2*, shows the property to be added. The map provides sufficient information to determine the precise UGB location. The applicant will apply to the County for a lot line adjustment of the existing legal lot to create the subject parcel shown on the map. A legal description will be provided when the applicant submits the partition application. This criterion is met.

660-024-0030

Population Forecasts

(1) Counties must adopt and maintain a coordinated 20-year population forecast for the county and for each urban area within the county consistent with statutory requirements for such forecasts under ORS

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195.025 and 195.036. Cities must adopt a 20-year population forecast for the urban area consistent with the coordinated county forecast, except that a metropolitan service district must adopt and maintain a 20-year population forecast for the area within its jurisdiction. In adopting the coordinated forecast, local governments must follow applicable procedures and requirements in ORS 197.610 to 197.650 and must provide notice to all other local governments in the county. The adopted forecast must be included in the comprehensive plan or in a document referenced by the plan.

FINDING: The City of Bend has adopted a 20 year population forecast and is in the process of considering expansion of the UGB. However, the applicant's need for new schools necessitates a UGB expansion for the school site in advance of the City process.

660-024-0040

Land Need

...
(3) A local government may review and amend the UGB in consideration of one category of land need (for example, housing need) without a simultaneous review and amendment in consideration of other categories of land need (for example, employment need).

APPLICANT'S RESPONSE: The Applicant seeks to amend the UGB in consideration of the need for additional public school facilities. Other categories of land need are being evaluated in the City of Bend's larger evaluation of its UGB and its UGB expansion plan. However, the need for the specific public facilities is immediate and cannot wait for the complete analysis of other land needs. The specific need for new elementary schools was discussed above in detail and is also thoroughly discussed in the 2005 Sites and Facilities Plan. As predicted in the 2005 Sites and Facilities Plan, elementary schools in the northeast quadrant of the City are reaching capacity and some are overcrowded. The public recognized the immediate need for two new elementary schools in the Bend area when it passed a bond measure. At the time there was an expectation that the City would complete its Urban Growth Boundary expansion in time to allow for these elementary schools to be met. However, delays in the UGB expansion process created the current situation which requires that the Applicant request a UGB expansion with the limited consideration of public facilities land for elementary schools.

FINDING: The City may review the present application without considering other properties under these circumstances and on account the demonstrated need as discussed above.

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(4) The determination of 20-year residential land needs for an urban area must be consistent with the adopted 20-year coordinated population forecast for the urban area, and with the requirements for determining housing needs in Goal 10, OAR 660, division 7 or 8, and applicable provisions of ORS 197.295 to 197.314 and 197.475 to 197.490.

FINDING: This criterion does not apply.

(6) The determination of 20-year land needs for transportation and public facilities for an urban area must comply with applicable requirements of Goals 11 and 12, rules in OAR 660, divisions 11 and 12, and public facilities requirements in ORS 197.712 and 197.768. The determination of school facility needs must also comply with ORS 195.110 and 197.296 for local governments specified in those statutes.

APPLICANT'S RESPONSE: Relevant portions of Goal 11 and 12 will be addressed in more detail below. ORS 197.712 and 197.768 require an analysis of general public facilities such as sewer and water to be included in the Comprehensive Plans of cities and counties. Both the City of Bend and the Deschutes County Plans include such analysis.

ORS 195.110 (1) (a) A county or city containing a high growth school district shall include as an element of its comprehensive plan a school facility plan prepared by the high growth district in cooperation with the city or county.

(b) A county or city containing a high growth area shall initiate planning activities with a school district to accomplish planning as required under ORS 195.020.

(c) The provisions of paragraph (a) of this subsection do not apply to a city that contains less than 10 percent of the total population of a high growth school district.

(2) As used in this section, "high growth school district" means any school district that has an enrollment of over 5,000 students and had an increase in student enrollment of six percent or more during the three most recent school years, based on certified enrollment numbers submitted to the Department of Education during the first quarter of each new school year.

(3) The school facility plan shall identify school facility needs based on population growth projections and land use designations contained in the city or county comprehensive plan. The plan shall be updated during periodic review and may be updated more frequently by mutual agreement between the school district and the county or city.

APPLICANT'S RESPONSE: The Applicant has not been identified as a "high growth school district". However, the Applicant has adopted the 2005 Sites and Facilities Plan which, in essence, complies with the criteria outlined in ORS 195.110 (3).

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FINDING: The hearings officer concurs with the findings in the 2005 Sites and Facilities Plan stated above. The applicant has also provided additional information in response to section (2) above. The information indicates the past four years of first quarter enrollment reports from the Oregon Department of Education show the School District grew from 13,940 in 2003-04 to 15,342 in 2006-07, a total growth of 1,402 students or 10.1% for the three year period. This does not meet the 6% annual growth threshold. In addition, in no single year did the growth reach the 6% benchmark. This criterion is met.

660-024-0050

Land Inventory and Response to Deficiency

(1) When evaluating or amending a UGB, a local government must inventory land inside the UGB to determine whether there is adequate development capacity to accommodate 20-year needs determined in OAR 660-024-0040. For residential land, the buildable land inventory must include vacant and redevelopable land, and be conducted in accordance with OAR 660-007-0045 or 660-008-0010, whichever is applicable, and ORS 197.296 for local governments subject to that statute. For employment land, the inventory must include suitable vacant and developed land designated for industrial or other employment use, and must be conducted in accordance with OAR 660-009-0015(3).

APPLICANT'S RESPONSE: As noted above the only need being evaluated by this specific UGB expansion application is the need for public facilities land to site a new elementary school. The Buildable Lands Study was completed in 2005. This study indicates that there is not sufficient land to meet the needs of the community's expected growth. The Buildable Lands Study is attached as Exhibit 5. The residential lands study underway will also address the expected needs for future school sites. The Economic Opportunities Analysis for the City that has been completed states that "Estimates [for k-12 education needs] is included in the 2007 RLS." See Exhibit 5. A draft of the City of Bend's residential lands study report states that there is an expected need of approximately 242 acres of land needed for new school sites between 2005 and 2030. The relevant pages of that draft report are included in Exhibit 5.

The need for the new elementary school is evident from the 2005 Sites and Facilities Plan where the expected deficiency in capacity was shown in Table 4 above. The 2005 Sites and Facilities Plan discusses potential sites for new elementary schools and the land need for such schools. Each new elementary school needs approximately 15 acres of space to allow adequate classroom space, parking, and recreational areas for six hundred students. There are no properties within the existing UGB in the 2005 Sites and Facilities Plan study area (see Exhibit 4) that are of adequate size or economically viable for the Applicant to acquire. Much of the land within the UGB in the area is already

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developed with homes and businesses. The proposed site is the most suitable location taking into account site factors and availability. The Applicant seeks to expand the UGB to construct the needed elementary school on this site.

(5) When land is added to the UGB, the local government must assign appropriate urban plan designations to the added land, consistent with the need determination. The local government must also apply appropriate zoning to the added land consistent with the plan designation, or may maintain the land as urbanizable land either by retaining the zoning that was assigned prior to inclusion in the boundary or by applying other interim zoning that maintains the land's potential for planned urban development until the land is rezoned for the planned urban uses. The requirements of ORS 197.296 regarding planning and zoning also apply when local governments specified in that statute add land to the UGB.

APPLICANT'S RESPONSE: The current zoning of the property as UAR-10 may be maintained because the land is considered urbanizable land and allows the development of public schools as a conditional use. The City of Bend is currently performing the analysis required by ORS 197.296 in order to complete a full UGB expansion. The full analysis of residential housing patterns is not relevant to the analysis of whether there is sufficient room for new elementary schools within the existing UGB. The recent boom of housing development near the outskirts of the City's existing UGB means that there is no land with sufficient acreage to place elementary schools near the students that will attend them without expanding the UGB.

FINDING: The hearings officer finds the submitted 2005 Facilities and Site Plan Study adequately address these criteria.

660-024-0060

Boundary Location Alternatives Analysis

(1) When considering a UGB amendment, a local government must determine which land to add by evaluating alternative boundary locations. This determination must be consistent with the priority of land specified in ORS 197.298 and the boundary location factors of Goal 14, as follows:

(a) Beginning with the highest priority of land available, a local government must determine which land in that priority is suitable to accommodate the need deficiency determined under 660-024-0050.

APPLICANT'S RESPONSE: The Applicant's property is zoned as urbanizable land, UAR-10, and is therefore the highest priority land available for the City of Bend to consider when expanding the UGB.

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(b) If the amount of suitable land in the first priority category exceeds the amount necessary to satisfy the need deficiency, a local government must apply the location factors of Goal 14 to choose which land in that priority to include in the UGB.

APPLICANT'S RESPONSE: Because the Applicant is only requesting a limited amount of property to be included in the UGB, there is no excess suitable land in the first priority category.

(2) Notwithstanding OAR 660-024-0050(4) and subsection (1) (c) of this rule, except during periodic review or other legislative review of the UGB, a local government may approve an application under ORS 197.610 to 197.625 for a UGB amendment proposing to add an amount of land less than necessary to satisfy the land need deficiency determined under OAR 660-024-0050(4), provided the amendment complies with all other applicable requirements.

APPLICANT'S RESPONSE: The proposed UGB expansion will not meet all the needs for public facilities lands for schools identified in the draft residential land study attached. In this Application, the Applicant is adding the minimum amount of land necessary to meet the immediate needs for new elementary schools. Adding less than the amount of land necessary to meet the needs identified in the draft residential lands study is appropriate here because the City of Bend is in the process of a full UGB expansion analysis that will result in the appropriate amount of additional public facilities lands being added to the City of Bend. The sole purpose of this Application is to meet the immediate needs of the community to alleviate overcrowding in schools. The Applicant is an active participant in the City's overall UGB expansion and will work with the City and County to assure that adequate lands for schools are made available for future school development as part of the City's UGB expansion.

(3) The boundary location factors of Goal 14 are not independent criteria. When the factors are applied to compare alternative boundary locations and to determine the UGB location, a local government must show that all the factors were considered and balanced.

APPLICANT'S RESPONSE: The boundary location factors of Goal 14 were addressed above. In evaluating the proposed school site, the Applicant considered and balanced the applicable factors.

(4) In determining alternative land for evaluation under ORS 197.298, "land adjacent to the UGB" is not limited to those lots or parcels that abut the UGB, but also includes land in the vicinity of the UGB that has a reasonable potential to satisfy the identified need deficiency.

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APPLICANT'S RESPONSE: The Applicant looked beyond lands adjacent to the UGB when it chose land that requires a 660 foot cherry stem to make it "adjacent" to the existing City boundary. However, for the reasons discussed throughout this burden of proof, this parcel of land best meets the needs of the Applicant in the northwest quadrant of the City. It is of the appropriate size in an area of high growth and it is near accessible utility services. Furthermore, the property was available at a reasonable cost to the Applicant.

(5) If a local government has specified characteristics such as parcel size, topography, or proximity that are necessary for land to be suitable for an identified need, the local government may limit its consideration to land that has the specified characteristics when it conducts the boundary location alternatives analysis and applies ORS 197.298.

APPLICANT'S RESPONSE: The Applicant has identified specific characteristics which are necessary for sites to be selected for elementary schools in the 2005 School Sites and Facilities Plan on page 30. Below is an analysis of how the site fits with those characteristics.

Few busy roads surround the school

The roads around the west, north and east of the school site are designed to be local roads. The roads will be constructed by the Applicant and initially there will be little to no traffic other than school traffic on the roads. Skyliners Road is not a high volume road at this location. The Applicant is conducting a traffic study that will confirm that the roads are not high volume roads.

Few physical barriers such as canals, railroads, or arterial streets

There are no canals or railroads by the proposed school site. The nearest arterial street is Mount Washington Drive which is approximately a mile from the entrance of the school.

Located in residential zones

The property is located in a Urban Area Reserve zone. The Urban Area Reserve zone allows residential uses.

Adjacent to park or future park where possible

If the surrounding area property is brought into the UGB through the City of Bend's process, the property owner, Miller Tree Farm, LLC, will likely seek to develop the area as a master planned development. The potential master planned development will include a nearby park. However, even if the surrounding property is not brought within the UGB, the school provides play fields and other recreational activities on site.

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High student densities

The rapid development of properties to the east in the Northwest Crossing area has created high student densities near the school. Students will attend the school from areas both within and outside of the existing and expanded UGB. Further development that may occur in the area after the completion of the City's UGB expansion will also increase student densities. Regardless of whether the UGB actually expands, a new elementary school is needed at this location to eliminate the overcrowding at Highlakes Elementary.

Good walking access

The Applicant hopes to work with other property owners in the area to encourage the continuation of the multiuse path on the north side of Skyliners that currently ends at Mount Washington Drive. Additional walking access will be available through sidewalks along the local roads. The property is near expanding residential neighborhoods and as these neighborhoods build out students will be able to walk to the school.

Relatively flat topography

The property is of flat topography and will require little grading.

Appropriate size approximately 15 acres

The property is approximately 15 acres in size and will allow for the development of a six hundred student prototypical elementary school.

Low cost for water, sewer, and sidewalk extensions

Water connections are located in both Skyliners Road and in the actual site itself. The sewer can be accessed from Lolo Drive. The sewer and water lines can be placed in the streets prior to paving the streets to lower costs because the Applicant will be developing the local streets around the school.

At least two vehicular access points

*There are two access points for the school. One access point is located on the western side of the property and the other access is located northeastern side of the property. The site plan attached as **Exhibit 7** shows two access points.*

Lower site acquisition cost

The Applicant is acquiring the site at reduced cost because of an agreement with Miller Tree Farm, LLC, the owner of the property.

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Partnership potential with Bend Metro Park and Recreation District

The proposed school site does not have partnership potential with the Bend Metro Park and Recreation District.

Zoning allows schools

The UAR -10 zone allows public schools as a conditional use. Deschutes County Code 19.12.030(l) and Bend Code 2.1.200.

Shape of site promotes efficient use of site

The nearly square shape of the site promotes efficient use of the site. The site will accommodate a prototypical 600 student elementary school, as shown on the site plan.

In additional comment from the School District (John Rexford), "there are two reasons why the site is not abutting Skyline Ranch Road. Our elementary school site selection criteria includes the preference for "few busy roads." Translating that into City planning speak, we prefer to site neighborhood elementary schools on local streets, rather than collectors or arterials. The fact that the proposed site is bounded on one side by Skylliners Road (a collector in the TSP) is a compromise. To locate a school at the intersection of two collectors (Skylliners and Skyline Ranch) would potentially create unsafe conditions for students biking and walking to school. In the current location, our safe route to school plan will focus on use of the local streets rather than Skylliners. The second, but related issue, is the proposed location in relation to Summit High School. We want to provide for a small neighborhood buffer between the "noisy, busy" activities of the high school and the quieter operation of a neighborhood elementary school. The Miller Tree Farm shadow plat contemplates residential development consistent with this goal in the area between the two school sites. This reflects the second of our elementary school siting criteria, "in residential zone."

FINDING: Based on the record as whole and the above responses of the applicant, the hearings officer finds there is sufficient information to find the above criteria to be met. With respect to low cost of water, sewer and sidewalk facilities, as noted that the site is located atop the City's main water transmission line and will be required to be relocated, likely along NW Skylliners Road, and reconnected offsite in conformance with the Public Works standards and specifications. In addition, the transportation facility along NW Skylliners Road will need to be improved to full urban standards. There will be substantial infrastructure improvements to accommodate including the site into the Urban Growth Boundary. As noted, with the agreement of the Planning Division, these can be addressed at time of site plan. Also, the conditions of approval are no longer requested by the planning division.

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(6) The adopted findings for UGB adoption or amendment must describe or map all of the alternative areas evaluated in the boundary location alternatives analysis. If the analysis involves more than one parcel or area within a particular priority category in ORS 197.298 for which circumstances are the same, these parcels or areas may be considered and evaluated as a single group.

APPLICANT'S RESPONSE: The Applicant considered alternative sites in the 2005 Sites and Facilities Plan. A detailed analysis of these sites with maps showing the locations of the sites is included on pages 4- 8 in the 2005 Sites and Facilities Plan and is summarized here. The Administrative Center currently serves as the Applicant's office building. The site is located downtown and not near new residential development. The building is already used for many additional enrichment programs and is not of adequate size for an elementary school. The building does not have associated room for athletic fields. Troy field located adjacent to the Administrative building is only 0.9 acres in size and elementary schools need approximately 15 acres. The High Desert Middle School Site has a limited area still available for future development. However, this site is located in the southeastern corner of the city and the available area of site does not meet the needs for the school district because it is only about 7 acres. The Yew transportation yard is also in the wrong location and is only 6.39 acres in size. Therefore, none of the parcels that the Applicant owned was located in the area where the school was needed.

As discussed above, the Applicant searched for an available site of approximately 15 acres within the study area shown on Exhibit 4. All the properties within the study area and UGB were developed with residences and businesses or were slated for such development. The only vacant land with potential for a school site was the 445 acre Miller Tree Farm, LLC property outside the existing UGB. Therefore, the Applicant worked with Miller Tree Farm, LLC to identify an appropriately sized piece of land on its property that was in the vicinity of the demonstrated need for a new elementary school and was the appropriate size. Also as discussed above the site met all of the criteria set out by the Applicant. Given the size, location and price the site was chosen. No alternative sites of adequate size were identified in or near the area of need in the northwestern quadrant.

FINDING: The hearings officer concurs with the applicant's response and finds that this criterion is met. This is also based on the Bend La Pine Schools 2005 Sites and Facilities Plan.

(7) For purposes of Goal 14 Boundary Location Factor 2, "public facilities and services" means water, sanitary sewer, storm water management, and transportation facilities.

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APPLICANT'S RESPONSE: Water, sewer, storm water management and transportation facilities were addressed above when evaluating Goal 14 Boundary Location Factor 2.

(8) The Goal 14 boundary location determination requires evaluation and comparison of the relative costs, advantages and disadvantages of alternative UGB expansion areas with respect to the provision of public facilities and services needed to urbanize alternative boundary locations. This evaluation and comparison must be conducted in coordination with service providers, including the Oregon Department of Transportation with regard to impacts on the state transportation system. "Coordination" includes timely notice to service providers and the consideration of evaluation methodologies recommended by service providers. The evaluation and comparison must include:

(a) The impacts to existing water, sanitary sewer, storm water and transportation facilities that serve nearby areas already inside the UGB;

APPLICANT'S RESPONSE: As discussed above water will be provided by connecting to existing city water lines and the Applicant is putting in a gravity flow system to allow sewage to get to the existing sewer lines. The City of Bend recently conducted a sewer master plan update and has identified several areas in the City's sewer master plan which need to be upgraded. However, the effect of a 600 student elementary school will not overburden the sewer system. The school sewage use is all at off peak times. The existing roads that provide service to the site have adequate service capacity to allow for the additional trips generated by a school site. The Applicant is in the process of conducting its traffic study for the Miller School Site. The Applicant expects the traffic study will not identify any additional mitigations necessary except those discussed above, specifically road and sidewalk construction to the site.

FINDING: As stated previously, the applicant has submitted a Traffic Impact Analysis. In addition, the applicant's engineer has submitted information to the City Engineering and Public Works Department in order to model the sewer capacity for the site. These issues, and any mitigation, will be addressed at the time of the site plan application.

(b) The capacity of existing public facilities and services to serve areas already inside the UGB as well as areas proposed for addition to the UGB; and

APPLICANT'S RESPONSE: There is existing capacity to serve the areas inside the UGB, as well as, the proposed area for addition to the UGB. Because the Applicant is seeking just a limited amount of property to accommodate its school site, no other areas are proposed for addition to the UGB.

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FINDING: Public facilities have been discussed previously above. Those findings are incorporated and this criterion is met.

(c) The need for new transportation facilities, such as highways and other roadways, interchanges, arterials and collectors, additional travel lanes, other major improvements on existing roadways and, for urban areas of 25,000 or more, the provision of public transit service.

APPLICANT'S RESPONSE: No new major transportation facilities will be required. It is possible that as the City's public transit service expands, this area may be suitable for the addition of a route.

FINDING: According to the Urban Area Roadway System Plan, NW Skyliners Road is designated a major collector. No new major transportation facilities will be required. However, the existing transportation network is built to rural road standards and will need to be improved to City standards and specifications. The specific obligations with respect to public facility improvements will be prescribed in either an Annexation Agreement or at time of site plan. As stated previously, the applicant may be required to connect the stem along NW Skyliners Road to the site wide enough to accommodate full urban services. This criterion is met.

ORS 197.298

197.298 Priority of land to be included within urban growth boundary. (1) In addition to any requirements established by rule addressing urbanization, land may not be included within an urban growth boundary except under the following priorities:

(a) First priority is land that is designated urban reserve land under ORS 195.145, rule or metropolitan service district action plan.

APPLICANT'S RESPONSE: The subject property is designated as Urban Area Reserve in the Deschutes County Comprehensive Plan. This area is classified as "first" priority land to be considered for bringing into the urban area.

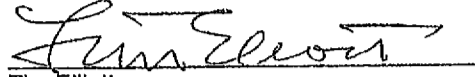
FINDING: The hearings officer concurs with adopts the applicant's response. This criterion is met.

DECISION AND RECOMMENDATION:

Based on the above findings and the record as whole, the hearings officer recommends that City Council approve the proposed UGB map amendment for the Westside Elementary site.

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Dated this 7th day of September, 2007



Tim Elliott
City of Bend Hearings Officer

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