



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

July 28, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Bend Plan Amendment
DLCD File Number 005-08

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: August 14, 2008

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

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

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

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

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EROF 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

In person electronic mailed

DATE
STAMP

DEPT OF

JUL 25 2008

LAND CONSERVATION
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **City of Bend**

Local file number: **PZ 08-139**

Date of Adoption: **7/16/2008**

Date Mailed: **7/24/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **4/4/2008**

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

An amendment to the text (supporting figures) of Chapter 2.7 of the Bend Development Code to relocate a 2 acre portion of the Residential Multi-family Overlay District within the Northwest Crossing Overlay Zone as shown in Figures 2.7.320C and 2.7.330C.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **Not applicable**

to:

Zone Map Changed from: **Not applicable**

to:

Location: **North of Skyliners Road, west of NW 17th Street**

Acres Involved: **2**

Specify Density: Previous: **Not applicable**

New:

Applicable statewide planning goals:

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

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD #005-08 (16813)

DLCD file No. _____

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

Local Contact: **Aaron Henson, AICP**

Phone: **(541) 383-4885** Extension:

Address: **710 NW Wall Street**

Fax Number: **541-388-5519**

City: **Bend**

Zip: **97701-2713**

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

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**

per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

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

ORDINANCE NO. NS-2100

AN ORDINANCE AMENDING THE CITY OF BEND DEVELOPMENT CODE (ORDINANCE NO. NS-2016) BY CHANGING THE FIGURES CONTAINED IN CHAPTER 2.7 (*Special Planned Districts*) OF THE BEND DEVELOPMENT CODE.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the testimony, the record, and the Hearings Officer's Recommendation, and has found that there is a public need and benefit for the proposed map amendments to the City of Bend Development Code. The Bend City Council adopts the Hearings Officer's Recommendation dated June 10, 2008, file number PZ 08-139.

Section 2. Chapter 2.7 of the City of Bend Development Code (Ordinance NS-2016) is amended by changing the figures therein as detailed in "Exhibit A".

Section 3. The Bend City Council adopts the Findings for Development Code Map Amendment, attached as "Exhibit B", as findings in support of this ordinance.

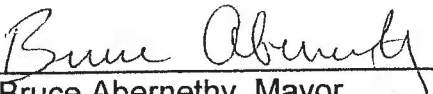
Read for the first time the 2nd day of July, 2008.

Read for the second time the 16th day of July, 2008.

Placed upon its passage the 16th day of July, 2008.

YES: 6 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 16th day of July, 2008.

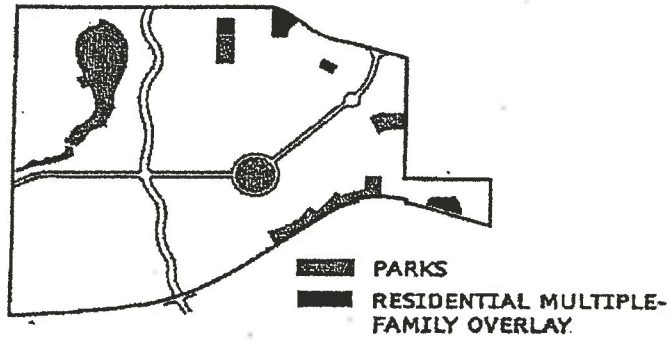

Bruce Abernethy, Mayor

Attest:

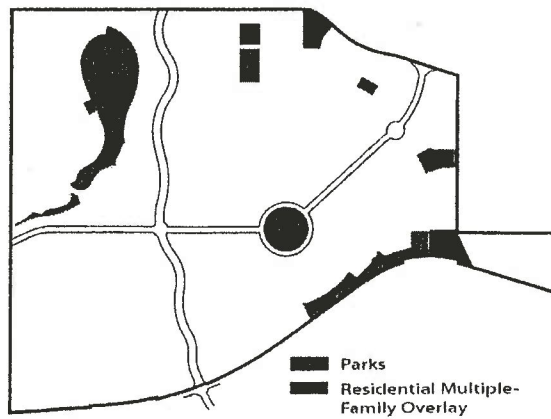
Patricia Stell, City Recorder

EXHIBIT A

**Existing Figure 2.7.320.C
Residential Multi-family District**



**Proposed Figure 2.7.320.C
Residential Multi-Family District**



Existing Figure 2.7.330.C
NorthWest Crossing Overlay Districts

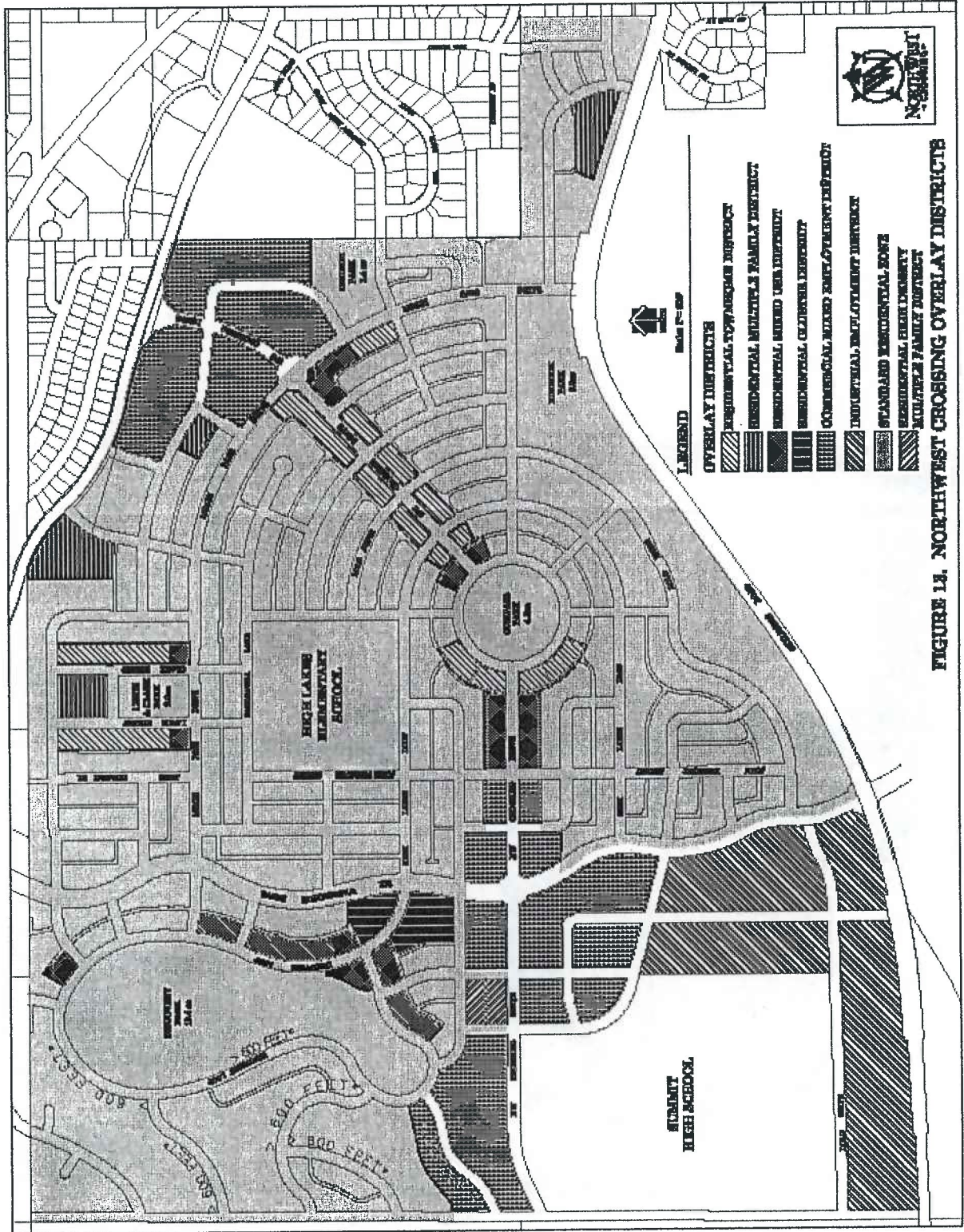


FIGURE 14. NORTHWEST CROSSING OVERLAY DISTRICTS

Proposed Figure 2.7.330.C
NorthWest Crossing Overlay Districts

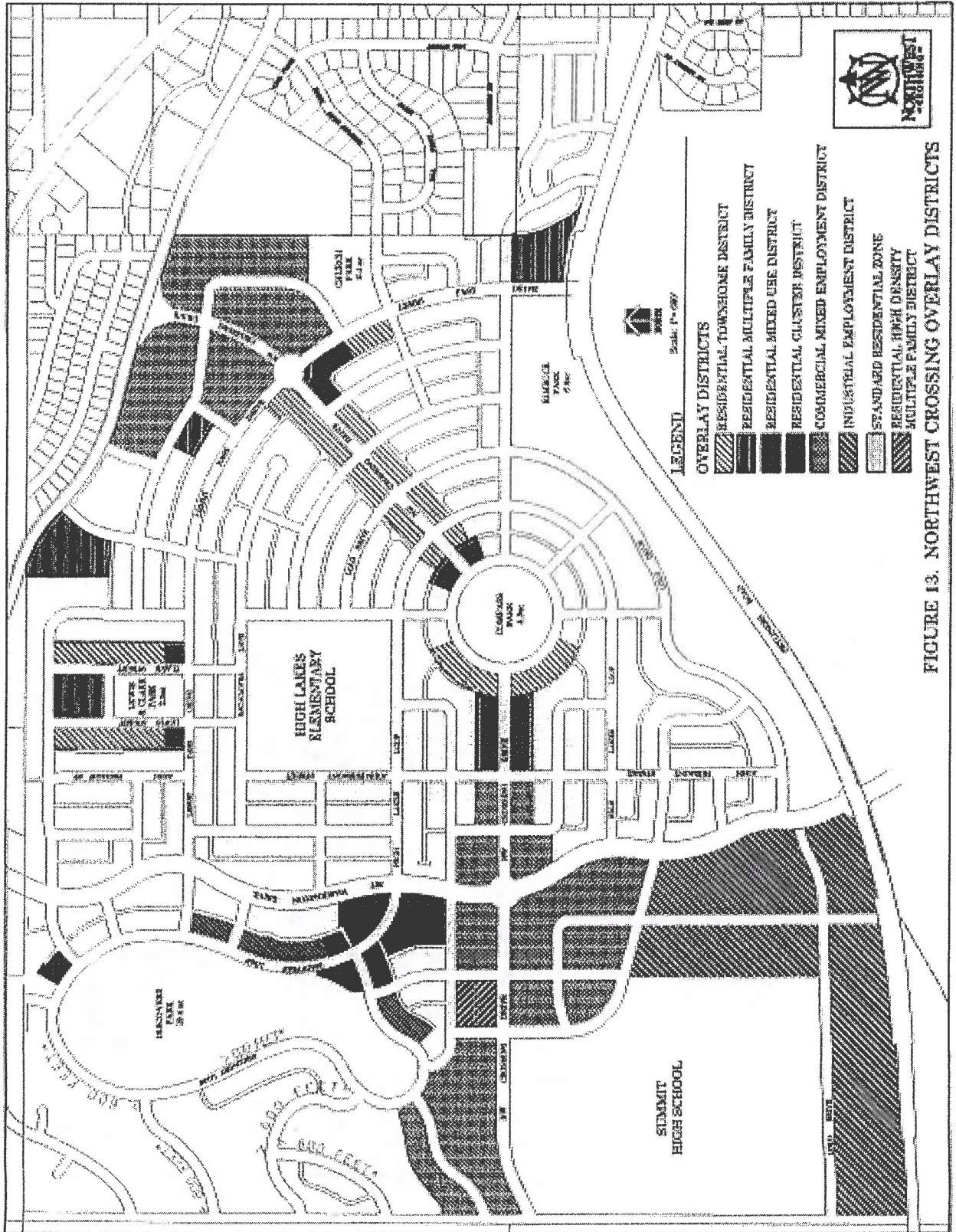


FIGURE 13. NORTHWEST CROSSING OVERLAY DISTRICTS

**BEND CITY COUNCIL FINDINGS
FOR DEVELOPMENT CODE MAP AMENDMENT**

PROJECT NUMBER: PZ 08-139

HEARING DATE: Wednesday, July 2, 2008
City of Bend Council Chambers
710 NW Wall St., Bend, Oregon

**APPLICANT/
OWNER:** West Bend Property Co., LLC
2754 NW Crossing Drive, Suite 201
Bend, Oregon 97701

LOCATION: The subject property is located north of Skyliners Road, west of NW 17th Street, adjacent to Sunset View Park; further identified as Tax Lot 100 on Assessor's Map 17-12-31C and a portion of Tax Lot 302 on Assessor's Map 17-11-36.

REQUEST: The applicant is proposing amendments to Figures 2.7.320.C and 2.7.330.C of the Development Code. Specifically, the applicant proposes to relocate the Residential Multiple-family District from the approximate center of the project to the western edge of the project to best utilize the site's topography and planned street layout.

STAFF: Aaron Henson, AICP, Senior Planner

I. APPLICABLE CRITERIA:

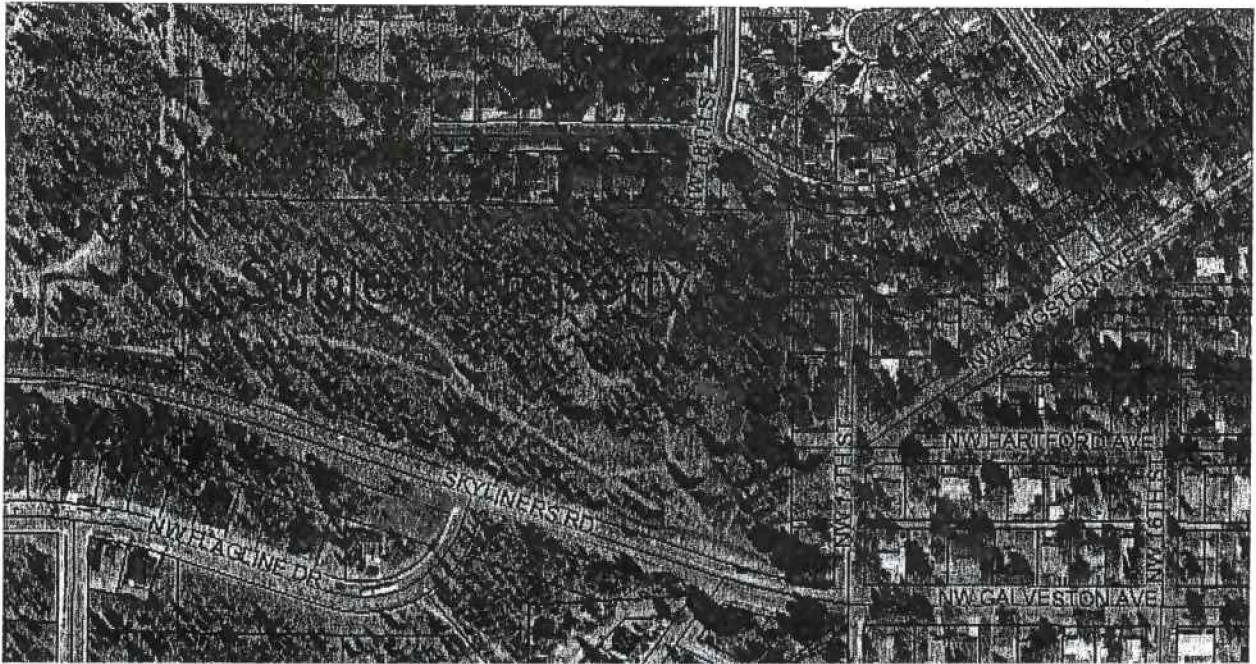
- (1) City of Bend Development Code, Ordinance No. NS-2016
 - (a) Chapter 4.6; Land Use District Map and Text Amendments
- (2) Oregon Administrative Rules 660-012-0060, Plan and Land Use Regulation Amendments
- (3) Oregon Administrative Rules Chapter 660, Division 15, Oregon Statewide Planning Goals
- (4) Bend Urban Area General Plan

II. APPLICABLE STANDARDS:

- (1) City of Bend Development Code, Ordinance No. NS-2016
 - (a) Chapter 2.7; Special Planned Districts
 - (b) Chapter 4.7; Transportation Analysis

III. FINDINGS OF FACT:

- 1. HEARINGS OFFICER'S RECOMMENDATION:** The Hearings Officer recommends to the City Council approval of the requested Development Code Text Amendments.
- 2. LOCATION:** North of Skyliners Road, west of NW 17th Street, south of Sunset View Park; further identified as Tax Lot 100 on Assessor's Map 17-12-31C and a portion of Tax Lot 302 on Assessor's Map 17-11-36.



2. **ZONING:** The subject property is zoned Residential Urban Standard Density (RS) and designated Residential Urban Standard Density on the Bend Urban Area General Plan map.
3. **SITE DESCRIPTION & SURROUNDING USES:** Staff conducted several site visits and provides the following finding based on observations made at the site and information contained in the applicant's burden of proof. The City Council concurs with the finding.

The subject property is currently vacant. Its topography is fairly flat at the east end, but it drops off steeply along the northern and western boundaries. The eastern boundary is shared with single-family residential lots, the northern boundary is shared with single-family residential lots and a public park, the western boundary is shared with previously approved phases of NorthWest Crossing, and the south boundary is formed by Skyliners Road. There are numerous juniper and pine trees scattered throughout the site. An existing City of Bend sewer main and two existing City of Bend water mains cross through the property. A Pacific Power overhead transmission line exists along the northern and eastern boundaries.

5. **PUBLIC NOTICE AND COMMENTS:** The Planning Division published notice of the City Council's public hearing for the proposed Development Code Map Amendment in the Bend Bulletin on June 22, 2008 and sent notice to all landowners within 250 feet, the River West Neighborhood Association, and the Summit West Neighborhood Association.

IV. CONCLUSIONARY FINDINGS:

CONFORMANCE WITH CITY OF BEND DEVELOPMENT CODE

CHAPTER 2.7, SPECIAL PLANNED DISTRICTS

FINDING: The applicant is proposing changes to Figures 2.7.320.C. and 2.7.330.C of the Development Code. No other changes to Chapter 2.7 are proposed.

CHAPTER 4.6, LAND USE DISTRICT MAP AND TEXT AMENDMENTS

4.6.300 Quasi-Judicial Amendments

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

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

FINDING: There are 19 Statewide Planning Goals which express Oregon's land use policies. Each local government throughout Oregon, including the City of Bend, must adopt a comprehensive plan implementing these Statewide Planning Goals. Once LCDC finds the comprehensive plan is consistent with the Statewide Planning Goals, the agency acknowledges the plan.

The City of Bend has an acknowledged Comprehensive Plan, and the requested Development Code Map Amendment is in conformance with that Comprehensive Plan. Additionally, the Development Code implements the policies of the Comprehensive Plan (Bend Urban Area General Plan). Therefore, by demonstrating conformance with the Development Code, the applicant demonstrates compliance with the Statewide Planning Goals.

Planning staff determined that of these 19 Statewide Planning goals, the relevant goals are 10, 11, 12, and 14, as follows and the City Council concurs:

Goal 10: Housing

The proposed amendment will not impact the City's projected housing needs, as the amendment simply relocates a roughly 2 acre portion of the multi-family overlay district within the subject property to a location that is at least equally if not better situated to accommodate that type of development. The District Regulating Plan included in the original Master Development Plan for NorthWest Crossing (PZ 00-307) shows that the subject portion of the multi-family overlay district was shown to be 1.74 acres in size. Based on the tentative plan for NorthWest Crossing Phases 21-23, the relocated multi-family overlay district (Lot 803) will contain 1.97 acres.

Goal 11: Public Facilities and Services

The proposed amendment will accommodate high density residential development that can be served by the necessary public facilities and services, i.e., sanitary sewer, water, storm drainage, police, fire, schools, parks, etc. These facilities and services appear available and adequate to serve the proposed multi-family overlay district and are discussed in more detail under criterion no. 3 below.

Goal 12: Transportation

The purpose of Goal 12 is to provide and encourage a safe, convenient, and economic transportation system. A Transportation Impact Study has been conducted as required by Chapter 4.7, Transportation Analysis, of the Development Code. The results of the study show that the applicant's proposal to relocate the multi-family overlay district does not significantly affect a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060. The proposed amendments will not result in any changes that would hinder provision of a safe, convenient and economic street system serving local travel needs for motorists, pedestrians, and bicyclists.

Goal 14: Urbanization

The proposed amendments will provide for an orderly and efficient transition of undeveloped urban land to development in accordance within an approved master plan. This will accommodate an urban population within the urban growth boundary, will ensure the efficient use of land, and will provide for a livable community as intended by Goal 14.

The City Council concurs with the findings in the applicant's burden of proof which demonstrate consistency with the Statewide Planning Goals.

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

FINDING: The proposed map amendments are neutral in terms of compliance with the Comprehensive Plan. The relocation of a portion of the multiple family overlay district within the subject property is of no real consequence to overarching Plan policies, as an approximately equal amount of land will be available for multi-family residential use as would be available before the proposed amendment, thus having no measurable effect on densities or available residential land.

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

FINDING: Full urban services are available to the subject property pursuant to the NorthWest Crossing master plan. Public infrastructure consists of water, sewer, transportation facilities, emergency services (fire and police), and schools. The City's policy for the provision of the public facilities is expressed in the Bend Urban Area General Plan, the Development Code, and the City's capital improvement plan and public facility master plans. The proposed zone change is consistent with the City of Bend policies for the extension of public services, as described in the Bend Urban Area General Plan.

"New development is directed to areas where infrastructure is available or where new development shall pay the cost of providing urban services if it occurs ahead of planned capital improvement projects." (p. 7-9).

"City facilities may be constructed earlier than planned by an owner/developer choosing to develop an area prior to the scheduled extension or expansion of facilities by the city." (p. 8-4).

"The city shall encourage the development of serviced land prior to unserviced land or require the extension of sewer lines as part of any development within the UGB." (p. 8-13).

Water/Sewer: In this language and in previously cited provisions, the Bend Urban Area General Plan makes it clear that urban levels of development must wait until sewer and water service is available or made available by the developer, but that once these services are available, the land should be rezoned to Plan densities. Water and sewer are available to the subject property, and the City has agreed that these facilities have the capacity to serve the project. As a result, approval of the proposed map amendment is consistent with General Plan policies that govern the extension of public facilities.

Streets: The subject property is located adjacent to Skyliners Road, an arterial street. This street provides access to the rest of Bend. Systems Development Charges (SDC's) will be collected and expended to improve the City's entire street network. The NorthWest Crossing project has already mitigated its impacts on the City Street system through its participation in the Westside Developer's Consortium, which was responsible for the construction of significant street infrastructure improvements throughout the west side of Bend.

The applicant has provided a "debit letter" traffic study prepared by Kittelson & Associates, Inc. dated May 16, 2007 that verifies that the impact of the proposed development of the subject property on the area street network is within the impacts contemplated in the original consortium traffic study. The original consortium study shows that the street network has the capacity to handle the increase in traffic caused by the development of NorthWest Crossing along with the expected increase in background traffic and consortium-related traffic.

Schools: The property is located within the Bend La Pine School District and is served by existing elementary and high schools that were incorporated into and developed as part of the NorthWest Crossing master plan. Cascade Middle School is located within close proximity on the west side of Bend. The school district currently runs buses on

Skyliners Road and Mt. Washington Drive. The property is located within walking and bicycling distance of the High Lakes Elementary and Summit High Schools.

Developing the property at reasonable urban densities will reduce the tax burden of paying for new schools on individual properties within the school district by spreading the costs of new school bonds and operating levies over a greater number of properties.

Parks and Library: Parks and library services are funded by *ad valorem* property taxes. The development of the subject property will expand the area's tax base, spreading the cost of funding park and library construction and operation over more homes. In 1995, Deschutes County voters approved the construction of a new library in downtown Bend to serve the Bend urban area. Homes constructed on the subject property will be assessed a parks development fee to support further park property acquisition and to maintain existing parks. NorthWest Crossing has already constructed two public parks in addition to the open space and path in Rimrock Park along Skyliners Road. In addition, Sunset View Park is immediately north of the subject property.

Fire and Police Protection: Fire and police protection is available for the subject property from the City of Bend. It is more cost-efficient for the City to provide these services to an urban area than a rural residential area. The applicant will install fire hydrants that provide "fire flows" of water at pressures specified by the Uniform Fire Code, as adopted by the City of Bend. Emergency service access will be improved through the addition of paved roads, with several paved accesses to the site. The proposed development will also adopt CC&R's which require construction of homes to incorporate fire retardant materials for roofs and siding and will require maintenance of landscaping to reduce fuel build up in this forested area.

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

FINDING: The NorthWest Crossing Master Plan (File #PZ 00-307) was approved in November of 2000, with adoption of a new "overlay" zone into the City of Bend's zoning ordinance. This adoption of new code provisions was a new approach to master planning at the time, with master plans typically regulated through a land use approval document. It is anticipated that as a multi-phased mixed use development project like NorthWest Crossing develops out and matures, that changes in market conditions, lessons learned from previous phases, and more refined analysis of site conditions will lead to the need for modifications to the original plan.

In this instance, the precise location of the multi-family overlay district is indicated on Figure 2.7.320.C as being adjacent to Skyliners Road in the approximate east-west center of the phase. Further site analysis and refinement to the roadway system plan indicate that the original location depicted on Figure 2.7.320.C is not optimal, and the proposed location further to the west is better suited to multi-family uses.

Pursuant to Section 2.7.320.D, the purpose of the multiple-family overlay district is as follows:

- 1. Purpose. The Residential Multiple-family Overlay District is applied in specific locations adjacent to arterial or collector streets, public parks or commercial areas. The purpose is to provide a diversity of housing types in the Urban Standard Residential Zone at the edges of single-family neighborhoods and to locate higher density housing adjacent to commercial services and open space.*

The proposed relocation of the multi-family overlay district better satisfies the locational considerations for such sites than does the existing location because it is adjacent to both an arterial (Skyliners Road) and a collector (Lemhi Pass) street, as well as Sunset View Park to the north. The proposed location also represents an edge condition in the narrowest portion of the "panhandle" between single-family residential areas to both the east and west, an existing park to the north, and an existing arterial street to the south.

Transportation Planning Rule Compliance.

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

FINDING: A Transportation Impact Study has been conducted per Chapter 4.7, Transportation Analysis, of the Development Code. The results of the study show that the applicant's proposal to relocate the multi-family overlay district does not significantly affect a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060.

V. CONCLUSIONS:

Based on the above Findings of Fact and Conclusionary Findings, the City Council finds the Development Code Map Amendment meets all applicable criteria and standards.



CITY OF BEND
COMMUNITY DEVELOPMENT DEPARTMENT
710 NW WALL STREET
BEND, OR 97701

TO: ATTENTION PLAN AMENDMENT SPECIALIST
DEPT. OF LAND CONSERVATION & DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OR 97301-2540