



# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



## NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: December 18, 2015

Jurisdiction: City of Bend

Local file no.: PZ-15-0664

DLCD file no.: 006-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 12/18/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 38 days prior to the first evidentiary hearing.

### Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

### DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us)



## NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.: 006-15 {23946}

Received: 12/18/2015

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption**. (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Bend

Local file no.: **PZ-15-0664**

Date of adoption: 12/16/15

Date sent: 12/18/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 08/10/15

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Brian Harrington, Associate Planner

Phone: 541-388-5543

E-mail: bharrington@bendoregon.gov

Street address: 710 NW Wall Street

City: Bend

Zip: 97701-

### PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

#### For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

#### For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from IG	to MR	1.32 acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): 18-12-05A-1100, 110 SW Scalehouse Loop, Bend OR 97702

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

**If the comprehensive plan map change is a UGB amendment** including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**If the comprehensive plan map change is an urban reserve** amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**For a change to the text of an ordinance or code:**

Identify the sections of the ordinance or code that were added or amended by title and number:

Figure 3.6.500C Map of the BDC

**For a change to a zoning map:**

Identify the former and new base zone designations and the area affected:

Change from IG	to MR	Acres: 1.32
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address): 18-12-05A-1100, 110 SW Scalehouse Loop, Bend, OR 97702

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List affected state or federal agencies, local governments and special districts: N/A

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

## ORDINANCE NO. NS-2258

**AN ORDINANCE AMENDING THE BEND AREA GENERAL PLAN MAP, ZONING MAP AND DEVELOPMENT CODE TO CHANGE THE DESIGNATION OF 1.32 ACRES OF PROPERTY FROM GENERAL INDUSTRIAL (IG) TO MIXED USE RIVERFRONT (MR). THE PROPERTY IS LOT 6 OF THE UPPER TERRACE, PHASE I SUBDIVISION LOCATED AT 110 SW SCALEHOUSE LOOP.**

### Findings

- A. On July 9, 2015, James and Susan Tyvand submitted a Type III Quasi-judicial application for a General Plan Map and Zone Map Amendment to change the plan designation and zoning of 1.32 acres of property located at 110 SW Scalehouse Loop from General Industrial (IG) to Mixed-Use Riverfront (MR).
- B. On September 17, 2015, the Hearings Officer held a public hearing on the proposed map amendments. No one testified at the hearing in favor or opposition to the proposal and no written comments had been submitted into the record from prior notice of the hearing to surrounding property owners.
- C. On October 27, 2015, the Hearings Officer issued a recommendation that the City Council adopt an Ordinance to amend the General Plan Map designation and zoning of the subject property from General Industrial (IG) to Mixed-Use Riverfront (MR) and to change Figure 3.6.500.C of the Bend Development Code to reflect the new MR zone on the Figure Map.
- D. The Bend City Council held a public hearing on December 2, 2015, to consider the Hearings Officer recommendation.
- E. The amendments to the Bend Area General Plan Map, Zoning Map and Development Code approved by this Ordinance meet all applicable Development Code criteria, policies of the Bend Area General Plan, Oregon Statewide Planning Goals, and the Transportation Planning Rule.

### THE CITY OF BEND ORDAINS AS FOLLOWS:

- Section 1. The Bend Area General Plan Map is amended to change the designation of 1.32 acres of property from IG to MR as contained in Exhibit A.
- Section 2. The Bend Zoning Map is amended to change the zoning of 1.32 acres of property from IG to MR for consistency with the proposed General Plan designation as contained in Exhibit B.
- Section 3. Figure 3.6.500.C of the Bend Development Code is amended to include the subject property as contained in Exhibit C.
- Section 4. The City Council adopts the Hearings Officer Findings in support of this ordinance as contained in Exhibit D.

First reading: December 2, 2015.

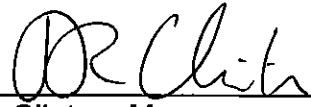
Second reading and adoption by roll call vote: December 16, 2015.

Yes: Jim Clinton, Mayor  
Doug Knight  
Sally Russell  
Nathan Boddie  
Casey Roats  
Barb Campbell

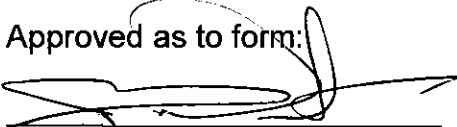
No: None

Attest:

  
\_\_\_\_\_  
Robyn Christie, City Recorder

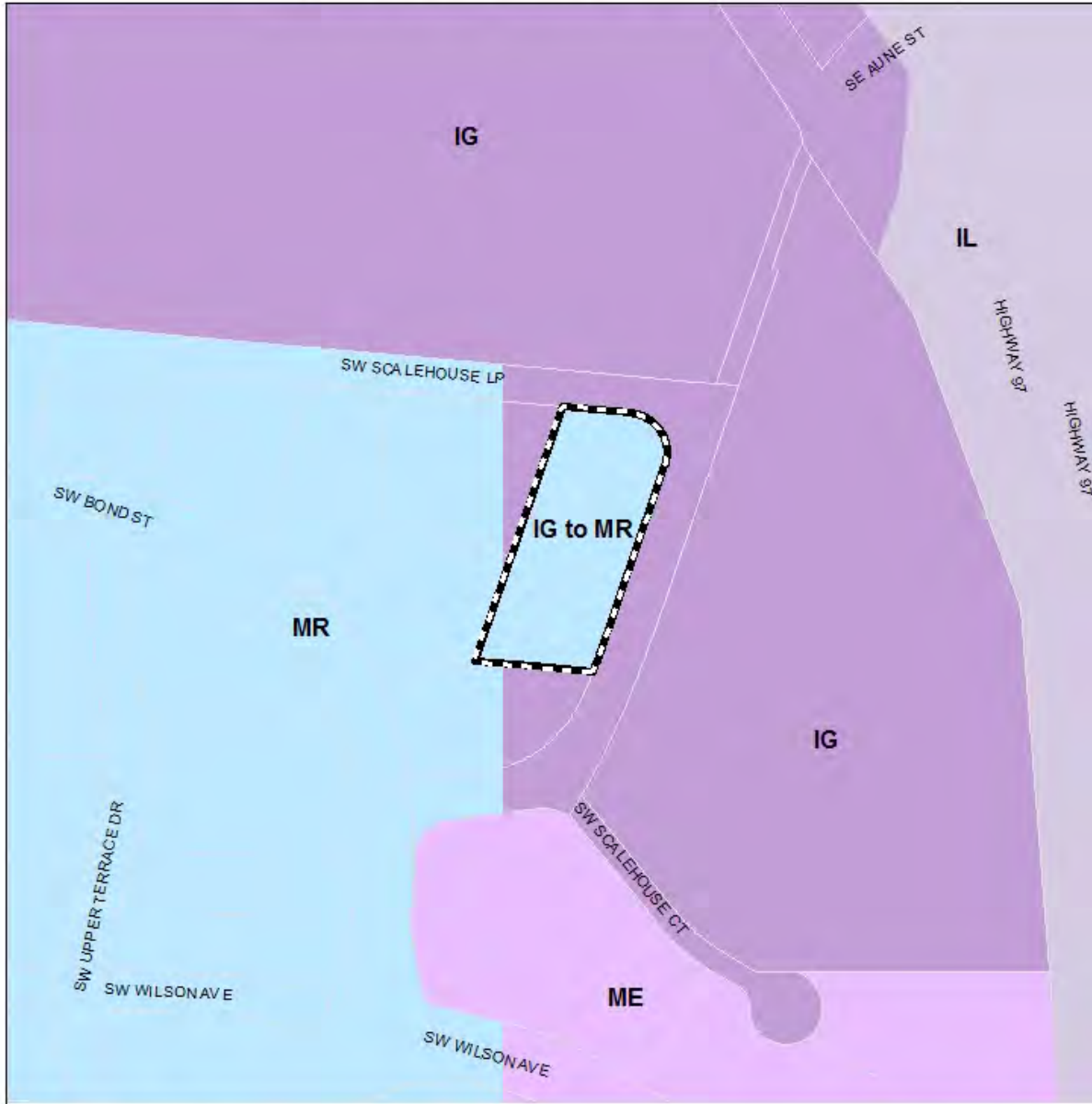
  
\_\_\_\_\_  
Jim Clinton, Mayor

Approved as to form:






  
\_\_\_\_\_  
Mary Winters, Legal Counsel

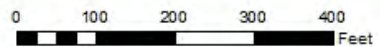
# Exhibit A. General Plan Map Amendment

PZ-15-0664 Tyvand Plan Amendment and Zone Change  
 110 Scalehouse Loop, Map/Lot No. 18-12-05A0-01100



### Legend

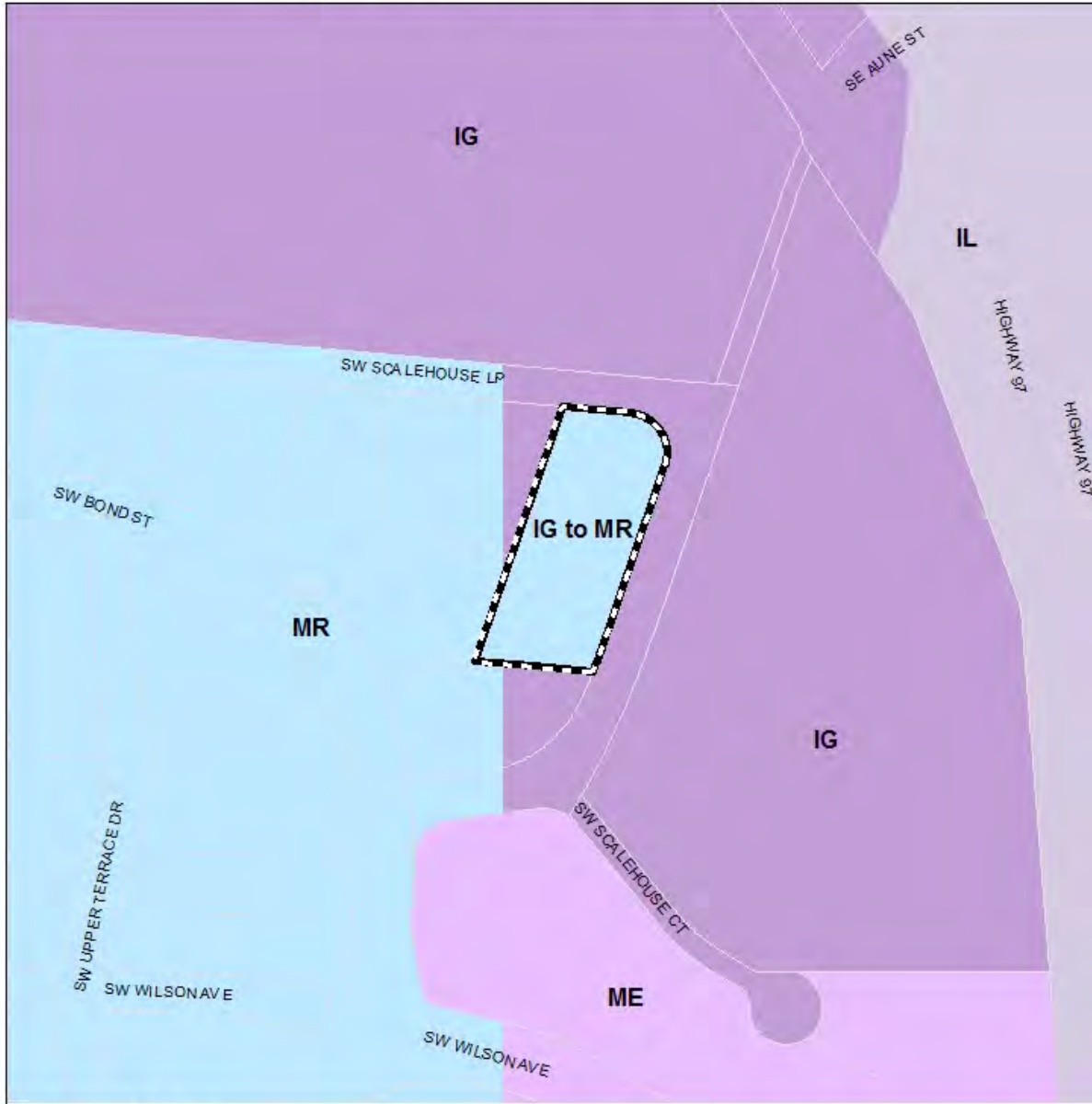
-  Area Proposed for Amendment
-  City Limits
-  Urban Growth Boundary
-  General Industrial (IG)
-  Light Industrial (IL)
-  Mixed Employment (ME)
-  Mixed Use Riverfront (MR)



Map of Proposed General Plan Map Amendments  
 Prepared Aug. 7, 2015 by R. Ruppel, City of Bend  
 Planning Division, Community Development Dept

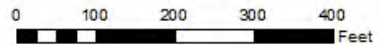
## Exhibit B. Zoning Map Amendment

PZ-15-0664 Tyvand Plan Amendment and Zone Change  
110 Scalehouse Loop, Map/Lot No. 18-12-05A0-01100



### Legend

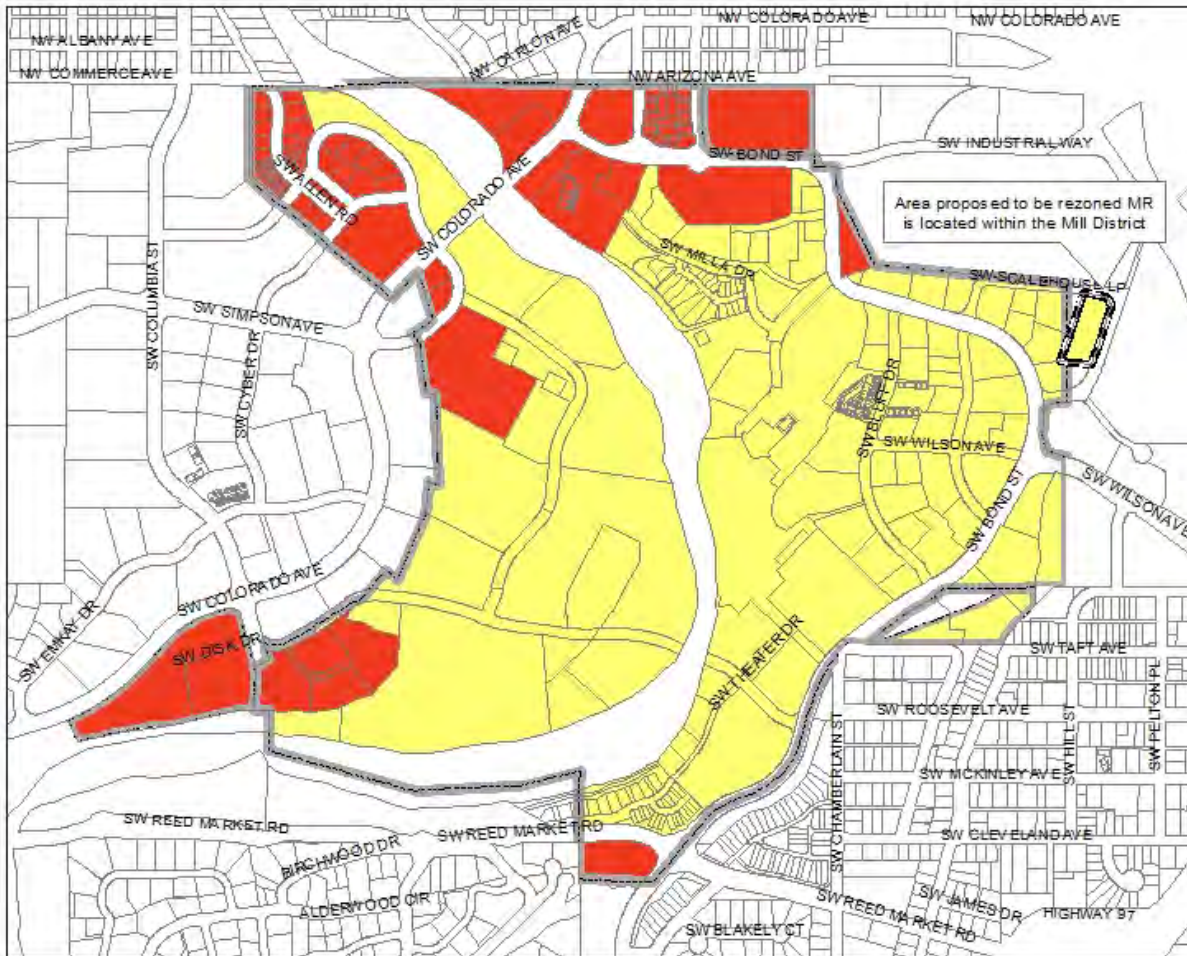
-  Area Proposed for Amendment
-  City Limits
-  Urban Growth Boundary
-  General Industrial (IG)
-  Light Industrial (IL)
-  Mixed Employment (ME)
-  Mixed Use Riverfront (MR)






Map of Proposed Zoning Map Amendments  
Prepared Aug. 7, 2015 by R. Ruppel, City of Bend  
Planning Division, Community Development Dept

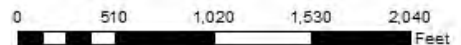
# Exhibit C. Amendment to Figure 3.6.500.C of the Bend Development Code

PZ-15-0664 Tyvand Plan Amendment and Zone Change  
110 Scalehouse Loop, Map/Lot No. 18-12-05A0-01100



### Legend

-  Area Proposed for Zoning Amendment
-  MR Zone Outside Mill District - Type II
-  MR Zone Within Mill District - Type I



Map of Proposed Amendment to Figure 3.6.500.C  
Prepared Sept. 17, 2015 by R. Ruppel, City of Bend  
Planning Division, Community Development Dept



**EXHIBIT D  
CITY OF BEND HEARINGS OFFICER  
FINDINGS AND RECOMMENDATION  
PZ 15-0664**

**APPLICABLE PROCEDURES AND CRITERIA:**

**Approval Criteria**

- Bend Development Code (BDC)
  - Chapter 4.6, Land Use District Map and Text Amendments
- The Bend Area General Plan
- Oregon Administrative Rules
  - Chapter 660-012-060, Plan and Land Use Regulation Amendments
  - Chapter 660-015, Division 15, Statewide Planning Goals and Guidelines

**Applicable Procedures**

- Chapter 4.1, Land Use Review and Procedures

**FINDINGS OF FACT:**

1. **LOCATION:** The subject property is located west of the Parkway, a lot north of the intersection of SW Bond Street and SW Scalehouse Loop, on the west side of SW Scalehouse Loop.



2. **EXISTING ZONING & GENERAL PLAN DESIGNATION:** The subject property is zoned General Industrial (IG) and designated General Industrial (IG) on the Bend Urban Area General Plan map. A small portion of the property, (approximately 2300 sq. ft.) in the southwest corner is zoned Mixed-Use Riverfront (MR) and designated Mixed-Use Riverfront (MR) on the Bend Urban Area General Map.
1. **SITE DESCRIPTION & SURROUNDING USES:** The subject property is undeveloped containing approximately 1.32 acres. A portion of the property contains an asphalt base which is a remnant of the mill site. There is existing sidewalk abutting the east property line and a landscape strip along the north property line. The surrounding private roadway (SW Scalehouse Loop) is curbed and paved to a width of approximately 24 feet. The IG zoned property to the north contains the former Korpine plywood plant and to the east contains the Hooker Creek concrete batch plant. The MR zoned land to the south contains a commercial office/credit union (SELCO), and to the west contains commercial office buildings. The subject property and the properties to the west and south are within the River Bend Master Plan and Upper Terrace Phase I subdivision.
4. **PROPOSAL:** Type III application for a Plan Amendment/Zone Change for a property containing 1.32 acres located on SW Scalehouse Loop from General Industrial (IL) to Mixed-Use Riverfront (MR).
5. **PUBLIC NOTICE AND COMMENTS:** Prior to submitting this Plan Amendment/Zone Change application, the applicant held a public meeting on June 24, 2015. On August 21, 2013, the Planning Division sent notice of the public hearing on the proposed Plan Amendment/Zone Change to surrounding owners of record of property within 250 feet of the subject property as shown on the most recent property tax assessment roll, and to the Southern Crossing Neighborhood Association. As of the date of this report, no public comments have been received in response to the notice. However, the applicant included a statement of support from River Bend Limited Partnership LLC, dated May 26, 2015 (Exhibit L). Transmittals were also sent via ePlans to other participating agencies for comment. The comments and recommendations that the Planning Division received in response are contained in the project file and were considered in this decision. A hearing was held September 17, 2015. Only the applicant attended. The staff submitted a request that the Figure 3.6.500 (c) be modified to reflect the new zone designation. The record closed September 17, 2015.
6. **APPLICATION ACCEPTANCE DATE:** The application for this Plan Amendment and Zone Change was submitted on July 7, 2015. Upon receipt of the required application fees on July 23, 2015, the application was formally accepted as complete.

#### **APPLICATION OF THE CRITERIA:**

#### **CONFORMANCE WITH CITY OF BEND DEVELOPMENT CODE**

This Plan Amendment/Zone Change application is a Type III quasi-judicial land use application. All applicable criteria and policies related to the request are addressed in the findings below and the applicant's burden of proof statement. The application follows the procedures identified in BDC Section 4.1.400. In addition, all of the criteria identified in BDC Section 4.6.300 are addressed below.

## CHAPTER 4.6, LAND USE DISTRICT MAP AND TEXT AMENDMENTS

### 4.6.300 QUASI-JUDICIAL AMENDMENTS

#### B. Criteria for Quasi-Judicial Amendments

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

**FINDING:** The Statewide Planning Goals, along with findings of consistency, are listed below.

#### ***Goal 1, Citizen Involvement***

***To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.***

The City's acknowledged citizen involvement program for quasi-judicial amendments is codified in BDC Chapter 4.1. The first step for citizen involvement is the public meeting required by BDC 4.1.215. As previously noted, the applicant held a public meeting on June 24, 2015. Notice of the public meeting was provided to property owners located within 500 feet of the subject property and to the Southern Crossing Neighborhood Association. Type III land use applications are also noticed by the City pursuant to BDC 4.1.400, which ensures that citizens are informed of the opportunity to participate in a public hearing.

#### ***Goal 2, Land Use Planning***

***To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.***

As required by Goal 2, the City of Bend has adopted criteria and procedures to evaluate and make decisions regarding land use applications. The City reviews Plan Amendment/Zone Change requests based on established regulations and policies and prepares detailed findings. Such findings allow a decision based on factual data, ultimately for City Council adoption. The City of Bend has adopted land use procedures to render decisions as required by this Goal. Therefore, this goal is met.

#### ***Goal 3, Agricultural Lands***

#### ***Goal 4, Forest Lands***

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

Goals 3, 4, and 5 are not applicable to this Plan Amendment/Zone Change application because the subject property is not zoned for agriculture or forest use and does not contain any inventoried open spaces, scenic areas, historic resources, or natural resources.

#### ***Goal 6, Air, Water and Land Resources Quality***

Goal 6 is not applicable to this Plan Amendment/Zone Change application because the proposed change will have no impacts on air, water, or land resources. Air and water quality are regulated by the Oregon Department of Environmental Quality. The subject property has no unique land resources.

***Goal 7, Areas Subject to Natural Hazards***

***Goal 8, Recreational Needs***

Goals 7 and 8 are not applicable to this Plan Amendment/Zone Change application because the subject property is not within an identified natural hazard area, nor within an area identified for recreational use.

***Goal 9, Economic Development***

***To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.***

Goal 9 and the implementing rules require local governments to provide an adequate amount of commercial and industrial land within the Urban Growth Boundary. In Bend, this requirement is accomplished through the designation of adequate commercial, industrial, and mixed employment land in the General Plan. Statewide Land Use Planning Goal 9 requires the City to provide for “at least an adequate supply of sites of suitable sizes, types, locations and service levels for a variety of industrial and commercial uses consistent with plan policies.” The administrative rules implementing Goal 9 — specifically OAR 660-009-0015 — require the City to develop an inventory of “vacant and developed lands within the planning area designated for industrial or other employment uses.” Because the proposed Plan Amendment/Zone Change contains a property that is less than two acres, OAR 660-009-010(4) does not apply.<sup>1</sup>

The City adopted ordinances amending its Urban Growth Boundary (UGB) and General Plan in January 2009, based upon a number of studies and inventories, including an Economic Opportunities Analysis and a Buildable Lands Inventory. Portions of these analyses are in dispute and have been remanded by the State Department of Land Conservation and Development (DLCD). Thus, it is necessary to use the City of Bend’s acknowledged General Plan dated December 1998 and its corresponding support documents and Economic Lands Studies.

A small portion of the property is already designated Mixed-Use Riverfront (MR) on the Bend Area General Plan Map, and the applicant is requesting the City to change the Zoning from General Industrial (IG) to Mixed-Use Riverfront (MR) for this small section. For the Plan Amendment and Zone Change for the remainder of the site, the General Plan recognizes that changes will occur over time, and its preamble states:

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<sup>1</sup> Oregon Administrative Rules, OAR 660-009-010(4), For a post acknowledgement plan amendment under OAR Chapter 660, Division 18, that changes the plan designation of land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or any other employment use designation to any other use designation, a city or county must address all applicable planning requirements; and...

“Bend cannot rest on the economic diversity that existed in the 1990s. The community must work hard to ensure that the local economy continues its pattern of healthy growth, and that new jobs in all wage levels are available for its citizens. Governments, economic development groups, and developers all have a role in retaining, expanding, and recruiting businesses that will serve our needs in the 21st century. The role of the General Plan is to provide an adequate supply of industrial, commercial, and mixed-use land for Bend's economic growth.”

The City has three mixed-use zones – Mixed-use Employment (ME), Mixed-Use Riverfront (MR), and Professional Office (PO). The lands across Scalehouse Loop to the north and east are zoned IG, and the adjacent lands to the west and further south have a MR Plan Designation. The MR zone allows for a range of commercial, office and residential uses. Therefore, the requested Plan Amendment/Zone Change is consistent with the goal of providing opportunities for a variety of employment opportunities and housing types and intended to implement General Plan policies for the creative redevelopment of mill site properties. The applicant's proposal is consistent with Goal 9 because it will provide additional mixed-use zoned land within Bend's existing UGB, facilitating a more diverse economy and opportunities for employment located close to existing residential neighborhoods.

### ***Goal 10, Housing***

#### ***Provide for the Housing Needs of the citizens of the State***

*Goal 10, Housing*, is to “Provide for the Housing Needs of the citizens of the State”.

*660-008-0010 Allocation of Buildable Land.*

*The mix and density of needed housing is determined in the housing needs projection. Sufficient buildable land shall be designated on the comprehensive plan map to satisfy housing needs by type and density range as determined in the housing needs projection. The local buildable lands inventory must document the amount of buildable land in each residential plan designation.*

**FINDING:** The applicant proposes to change the plan and zone designation of 1.32 acres from IG to MR, allowing a wider range of commercial, office and residential uses, and anticipates that additional housing units could be proposed in conjunction with some of the commercial MR development. Therefore, the proposal will not reduce the inventory of buildable land available for housing.

### ***Goal 11, Public Facilities and Services***

#### ***To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.***

The proposed Plan Amendment/Zone Change is consistent with the public facilities and services goal that requires the City to plan and develop land in a timely, orderly, and efficient fashion, based upon the availability of public services. All needed public facilities and services are available to the subject property. An established network of streets surrounds the property, with access to an expressway. Water and sanitary sewer service is available via existing City infrastructure located in the adjacent streets. The applicant understands that at the time of development, the City will require an analysis confirming that there are no capacity issues with nearby water and sewer facilities. Emergency services are available through the

City of Bend Fire and Police Departments. The subject property is also located within the Bend La Pine School District.

### **Goal 12, Transportation**

**To provide and encourage a safe, convenient and economic transportation system.**

Goal 12 is implemented through the Transportation Planning Rule, OAR 660-12. Additionally, Section 4.6.600 of the Bend Development Code requires the applicant to demonstrate compliance with the TPR (OAR 660-012-0060). The TPR provides:

- (1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule.*
  
- (9) Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.*
  - (a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map;*
  - (b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and*
  - (c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.*

As previously noted, the property contains split plan designation and zoning, the majority of which is IG and a small portion of MR zoning in the southwest corner adjacent to MR zoning to the west. The applicant submitted with its application a Transportation Analysis dated June 10, 2015 (Exhibit H) prepared by Joe Bessman of Kittleson and Associates. The project was analyzed for potential impacts to affected transportation facilities from the proposed Plan Amendment/Zone Change and compared vehicle trip generation predictions for uses permitted in the current IG and MR zones. The Transportation Analysis, (Figure 7), shows that 23,000 square feet of building space with uses permitted in the MR zone could generate 330 more average daily trips (ADT's) than building space with uses permitted in the IG zone. The analysis shows this increase in ADT's would be dispersed more or less evenly in both directions from the project site and would not exceed the capacity of affected streets and intersections. The analysis concludes that, *"the proposed rezone of the 1.32 acre property from General Industrial (IG) to Mixed-Use Riverfront allows the property to comply with the Old Mill District Master Plan that was approved in 1999. The MR zoning designation has the potential to allow uses beyond those previously assumed, though the impact of these uses was found to be insignificant for Transportation Rule purposes. Accordingly, the proposed rezone complies with City and State requirements, and does not require amendments to the adopted Transportation System Plan."*

### **Goal 13, Energy**

#### **To conserve energy.**

The MR zone may improve energy conservation because it will allow for a mix of economic uses in an area with an existing network of streets, which is also served by public transit and achieve greater efficiencies by reducing vehicle trips in the area.

### **Goal 14, Urbanization**

#### **To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.**

The subject property lies well within the boundary of the City's UGB in an area where urban levels of service are currently provided. Therefore, this goal is not applicable to the proposed Plan Amendment/Zone Change.

### **Goal 15, Willamette River Greenway**

### **Goal 16, Estuarine Resources**

### **Goal 17, Coastal Shorelands**

### **Goal 18, Beaches and Dunes**

### **Goal 19, Ocean Resources**

Goals 15 through 19 are not applicable to the proposed Plan Amendment/Zone Change application because the subject property does not include any of these features or resources.

#### **(Section 4.6.300(B) Criteria for Quasi-Judicial Amendments continued below.)**

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

**FINDING:** The Bend Area General Plan is the City's Comprehensive Plan. The subject application is consistent with the applicable plan goals and policies as identified below and in the applicant's burden of proof report.

## **CHAPTER 1: PLAN MANAGEMENT AND CITIZEN INVOLVEMENT**

### **General Plan Preface / page P-7**

#### **Future Plan Updates**

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

- **Regularly scheduled reviews and updates by the city and county.** Every five years, beginning in the year 2000, the city and county will review the population growth, the

*housing mix and acreage needs, the industrial lands absorption, and the commercial lands absorption against the long-term forecasts in the General Plan. Other issues may also be evaluated during these regular views.*

- **Preparation of more detailed “refinement plans” for neighborhoods or geographic areas.** *As provided for in Oregon land use law, the city or county may prepare more detailed land use and development plans for parts of the urban area that have large vacant or under-utilized parcels. Such refinement plans could address future street patterns and other utility systems, housing density and compatible uses, site and design standards, locations for parks, schools, and open space, and other land use issues.*
- **Evaluation of land use topics required to be reviewed under the Oregon Land Conservation and Development Commission’s “periodic review” of the General Plan.** *The state requires all local plans to be updated periodically to comply with applicable new state laws, administrative rules, or to incorporate new data available to the state.*
- **Other state laws or legislative actions that require changes to the Plan outside of the normal periodic review cycle.** *The state legislature or the voter referendum/initiative process can require changes to local land use plans within a specific time period.*
- **City or county response to new issues or changes.** *Issues that were unforeseen during the development of the plan can arise that have an impact on a particular neighborhood or the whole urban area. The city and county officials can direct staff to amend the Plan to address these issues.*
- **Changes proposed by individuals or other agencies.** *At any time an individual, corporation, or public agency can propose a change to the Plan text, land use map, other exhibits, or policies. A person or agency proposing the change has the burden to demonstrate a public need and benefit for the change.*

The request to change the General Plan map and Zoning map designation of a 1.32 acre parcel from Industrial General (IG) to Mixed-Use Riverfront (MR) was made by an individual. The applicant has submitted a burden of proof report in support of the request. The applicant sites numerous reasons for the proposed change. These reasons will be discussed below.

*In addition, the applicant states that “the MR zone offers a wider variety of desirable uses that translates into increased opportunity for the community. Many possible uses in an IG zone may no longer be a good fit with the businesses and services already established in the MR and ME zones close by. As an example, this property was originally purchased in 1999 to site a small structural steel fabrication facility allowed in the IG zone. Today, that facility would most likely generate a certain amount of friction with its neighbors due to extended hours of operation, noise, legal emissions, and large truck traffic. The parcel is not big enough to site a major industrial facility of a size large enough to be economically viable. Railroad tracks that once directly serviced IG activity at this specific property have been permanently removed as part of the River Bend Master Plan.”*

The applicant has also stated that the subject property is no longer desirable for industrial use due to the network of improved streets surrounding the subject property on all sides. In addition, the railway spur that once served the mill buildings was removed to accommodate the street system improvements. These factors limit the ability to utilize the subject property fully



as a “prime” industrial site.

The General Plan and zone designation of MR are necessary to support a variety of mixed-uses and to provide economic opportunity to help spur redevelopment of mill site properties currently limited by existing zoning. Rezoning will allow the subject properties to develop to MR zoning standards and will provide for a single zone on a parcel that is now split zoned. The subject property currently has a small portion of MR zoning in the southwest corner of the property with the balance of the property designated IG. Rezoning the subject property to MR will allow the owner to have one zoning and plan designation on the property consistent with the properties to the west in the East Side Phase II “Upper Terrace” Master Plan.

### **Applicable Policies**

#### ***Development within the Urban Growth Boundary***

- 4. New developments shall pay to extend planned sewer, water, and transportation facilities to and through the property if the development occurs prior to the scheduled construction of those facilities shown in the capital improvement plan. 1-7***
- 5. The city and county will encourage compact development and the integration of land uses within the Urban Growth Boundary to reduce trips, vehicle miles traveled, and facilitate non-automobile travel. 1-7***

City water, sewer, and transportation facilities are in SW Scalehouse Loop that extends to and through the site. The subject property falls within the area encompassed by the existing Old Mill District East Side Facilities Plan, which was approved by the Bend Planning Commission in 1995 (MR-1-95/PZ-95-246). The approved Facilities Plan shows how the subject property is served by public utilities and transportation facilities. Compliance with the City’s requirements for adequate public facilities are evaluated through the Site Plan Review process when any change of use or future development is proposed, and Systems Development Charges (SDCs) are assessed when any building permits are issued. The subject property is surrounded by a variety of commercial and office uses with good access to streets and transit routes, which will help to reduce vehicle miles traveled (VMT) and facilitate non-automobile travel.

- 6. The city and county will encourage infill and redevelopment of the core area of the city. 1-7***

Although the applicant’s current proposal does not include any development at this time, the Plan Amendment/Zone Change is a necessary step to entitle the property and ultimately develop it in a manner that is consistent with the General Plan. Therefore, approval of the requested Plan Amendment/Zone Change will contribute towards meeting this policy.

#### ***Citizen Involvement***

- 16. The city will use other mechanisms, such as, but not limited to, meetings with neighborhood groups, planning commission hearings, design workshops, and public forums, to provide an opportunity for all the citizens of the area to participate in the planning process. 1-8***

The Plan Amendment/Zone Change process requires a public meeting prior to submitting an application, as well as notice from the City and a public hearing before a Hearings Officer in order to ensure adequate opportunity for citizen participation in the planning process. Citizens were invited to participate in the applicant's public meeting, and citizens have also been invited to attend a public hearing on the proposed amendment via a public hearing notice. Therefore, the requested Plan Amendment and Zone Change complies with this policy.

## **CHAPTER 6: THE ECONOMY AND LANDS FOR ECONOMIC GROWTH**

### **Applicable Policies**

#### **4. The city shall work to preserve prime industrial lands for industrial purposes. 6-14**

The subject property can no longer be considered "prime" industrial land. The property surrounding the site has re-developed with commercial and mixed-use development. The rail spur that once served the mill sites was removed, making the site entirely reliant on truck service. Although the roadway system adjacent to the site has improved, access to the site is restricted, making it difficult for large truck deliveries to the site (private road – 24 foot wide paved width). Aside from the subject property, the remaining industrial land in the historic mill area is to the north and east. The subject property is bordered on the west and south by other MR zoning and industrial zoning to the north and east. The change from IG to MR for the subject property will have little impact on the adjoining industrial lands, which are served by a private road.

#### **15. Designation of the Mixed-Use Riverfront Plan category and corresponding MR zoning along the Deschutes River shall not be used to justify rezoning adjacent properties or neighborhoods to a mixed use or commercial zone. 6-15**

As stated earlier in the report, the applicant has not relied solely on proximity to the adopted MR zone to justify the request for rezone. The request is supported by other changes of circumstance that have made the subject property less desirable for heavy industrial uses including the loss of rail access, the small size of site to be used for industrial use, the original intent of the Old Mill District Master Plan for the Upper Terrace Phase I area to be designated as a business park more suitable to MR zone designation, and the construction of the roadways bordering the site.

## **CHAPTER 7: TRANSPORTATION SYSTEMS**

### **Applicable Policies**

#### **6.9.2 Transportation System Management**

#### **3. The City and State shall implement transportation system management measures to increase safety, reduce traffic congestion to improve the function of arterial and collector streets, and protect the function of all travel modes. 7-7**

The City's transportation system management measures are embodied within the Transportation System Plan. The proposed Plan Amendment/Zone Change is consistent with the adopted plan, thus the proposal is consistent with this policy.

#### **6.9.4 Pedestrian and Bicycle Systems**

- 7. Bike lanes shall be included on all new and reconstructed arterials and major collectors, except where bikeways are authorized by the TSP.1 Bike lanes shall also be provided when practical on local streets within commercial and industrial areas.1 Bike lanes shall be added to existing arterial and major collector streets on a prioritized schedule. Specific effort shall be made to fill the gaps in the on-street bikeway system. An appropriate means of pedestrian and bicyclist signal actuation should be provided at all new or upgraded traffic signal installations.**
- 8. Property-tight (setback) sidewalks shall be required on both sides of all new streets except where extreme slopes, severe topographical constraints, or special circumstances exist.**
- 9. Landscape areas shall separate the edge of pavement and sidewalks on new and reconstructed roads to allow for water quality treatment and storage of snow.**
- 10. Sidewalks shall be added to all existing arterial and collector streets to fill the gaps in the pedestrian system.**
- 13. Bicycle and pedestrian facilities shall be designed and constructed to minimize conflicts between transportation modes.**
- 16. Bicycle parking facilities shall be provided at all new multifamily residential, commercial, industrial, recreational, and institutional facilities, major transit stops, all transit stations and park and ride lots. The City shall support a "Bikes on Transit" program and work to increase the number of bicyclists using transit when the transit system is established.**
- 25. Bicycle safety shall be promoted by providing striped bike lanes on arterial and collector streets. Bike lanes shall be free of hazardous obstacles such as sewer manhole covers, other utility covers and storm water grates.**

The streets adjacent to the site are designed to current City Standards with property tight sidewalks, landscape strips, and bike lanes along the Scalehouse Loop and further south and west along Bond Street. Bicycle parking facilities will be provided on-site through the Site Plan review process. Bicycle-pedestrian and bicycle-vehicle conflicts were taken into consideration with the design of the new Bond/Wilson roundabout. The applicant is not proposing any development with this proposal, therefore these policies are not applicable.

#### **6.9.6 STREET SYSTEM**

##### **General:**

- 1. Streets shall be located, designed and constructed to meet their planned function and provide space for adequate planting strips, storm water retention and treatment,**

***snow storage, sidewalks, motor vehicle travel and bike lanes (where appropriate). Specific effort should be made to improve and enhance east-west circulation patterns for all modes of travel throughout the community.***

...

- 5. New development shall be supported by traffic impact analysis to assess these impacts and to help determine transportation system needs.**

The surrounding road network has been developed to the south and west in connection with office development. A Transportation Impact Analysis (TIA) was provided for the proposed Plan Amendment/Zone Change. The trip generation and trip distribution with the proposed Plan Amendment/Zone Change is such that additional intersection studies and transportation facility improvements are not warranted.

## **CHAPTER 8: PUBLIC FACILITIES AND SERVICES**

### **Applicable Policies**

- 1. The city shall encourage development of serviced land prior to unserviced land or require the extension of sewer lines as part of any development within the UGB. 8-18**

The subject property is within the Urban Growth Boundary and is served by an 8 inch gravity main line in SW Bond via a 20 foot sewer easement across the property adjacent to the south.<sup>2</sup> Therefore, this policy encourages the entitlement and future development of this site prior to the development of unserviced land.

- 12. Within the urban planning area, public and private water systems shall be consistent with city standards for construction and service capabilities. 8-19**

The subject property is surrounded by a network of City water facilities. This public water system was constructed in accordance with City standards. If and when future development occurs, the Bend Development Code will require additional analysis to ensure the existing facilities have the capacity to serve the type of development that is proposed. The adopted City regulations will ensure that this policy is met.

### **Other Applicable General Plan Provisions:**

The preface of the Bend Area General Plan states: "The zoning for land within the urban planning area must be consistent with the designated land use categories in the General Plan." (P-4) It further states, "The major land use categories – residential, commercial, industrial, and mixed-use – have very specific boundaries that are shown on the General Plan Map. The city and county apply zoning to property based on the General Plan Map categories." (P-6)

***(Section 4.6.300(B) Criteria for Quasi-Judicial Amendments continued below.)***

- Criterion #3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the**

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<sup>2</sup> Exhibit G, Water and Sewer Service Agreement and Exhibit J, email from Jeff England, Assistant EIPD Director to applicant confirming 20 foot wide sewer easement to the SW corner of the property.

**use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property;**

**FINDING:** The public facilities and services potentially affected by future mixed-use development on the subject property include sewer, water, police and fire protection services, and transportation facilities. The property is currently served by a network of sewer, water, and transportation facilities that were constructed in conformance with City Standards and which conform to the adopted Public Facilities Plans. The Public Facilities Plans and the TSP anticipated that the land uses could be those designated in the General Plan (MR for the subject property). Furthermore, to ensure the built public facilities have adequate capacity to serve actual development, prior to issuance of any building permits for development, the Bend Development Code requires a land division approval and/or site development approval. BDC Chapter 4.3 states that no application for a new land division shall be approved unless it can be determined that the land division will not create excessive demand on public facilities and services required to serve the development. Furthermore, the Site Development and Design Review criteria in BDC Chapter 4.2 establish that all required public facilities must have adequate capacity, as determined by the City, to serve the proposed use.

The combination of the built facilities, the public facilities plans, and the public facility improvement requirements of the Bend Development Code ensure conformance with this approval criterion. Because nothing in the Plan Amendment/Zone Change proposal would prevent the future site development from connecting to these systems (or future proposed systems) in a manner that would provide adequate capacity, the requested Plan Amendment/Zone Change conforms to this approval criterion.

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

**FINDING:** The neighborhood surrounding the subject property has experienced significant change over the past several years. This change is manifested primarily through the growth of office and retail uses in the Old Mill District and the expansion of those uses to the west, northwest and south, towards downtown Bend and the Bend Parkway. At one time, this entire area was primarily industrial, with the Brooks-Scanlon mill operations dominating the character of the neighborhood. Since then, the area has experienced significant re-development of the mill site (known as the Old Mill District), with associated retail and office uses. The demand for such services has grown with significant population growth in Bend during this same time period. With this demand for services and re-development, land has become scarce, and demand has created a natural transition of surrounding industrial land to mixed use land. The change in the neighborhood character is well-evidenced. Consequently, the requested Plan Amendment/Zone Change is warranted under this section.

**1. Mistake or Inconsistency.** The applicant does not argue there was a mistake in the original General Plan designation or Zoning of the subject property. However, the applicant points out that in the Employment/Residential TAC Recommendations to the UGB (Exhibit K), the Mill District/Korpine site is identified as Opportunity Area 5, and is recommended to become a new plan/zone designation similar to Mixed-Use Riverfront (MR). In addition the 1999 Old Mill District Master Plan identified the Upper Terrace Phase I as a Business Park

(Exhibit H/TIA). Approval of this application would be consistent with the Old Mill District Master Plan.

**2. Transportation Planning Rule Compliance.** Compliance with the Transportation Planning Rule (TPR) has been previously covered in the Goal 12 discussion on pages 6 and 7 of this Recommendation.

**CONCLUSIONS:**

The Hearings Officer finds that the proposed Plan Amendment/Zone Change from IL to MR meets all applicable Development Code criteria, policies of the Bend Urban Area General Plan, Oregon Statewide Planning Goals, and the Transportation Planning Rule.

**RECOMMENDATION:**

The Hearings Officer recommends that the City Council redesignate and rezone the subject property from IL to MR and to change Figure 3.6.500(c) to reflect the new MR Zone on the Figure Map.

**CONDITION OF APPROVAL:**

The applicant must submit a legal description and map of the area to be rezoned, based upon a GIS shape file that the City has provided to the applicant, prior to the City Council hearing.

Date: October 26, 2015



Sharon R. Smith, Hearings Officer