

ORDINANCE NO. NS-2138

AN ORDINANCE AMENDING THE BEND URBAN AREA GENERAL PLAN AND ZONING MAPS BY CHANGING THE PLAN DESIGNATION AND ZONING OF 7.3 ACRES OF LAND ON THE NORTH AND SOUTH SIDE OF WILSON AVENUE EAST OF BOND STREET FROM INDUSTRIAL GENERAL (IG) TO MIXED EMPLOYMENT (ME).

Findings:

- A. On November 3, 2009, the applicant, River Bend Investors, filed an application (PZ 09-261) for a Plan Amendment and Zone Change for 7.3 acres of land on the north and south sides of Wilson Avenue east of Bond Street, to change the zoning and general plan designation from Industrial General (IG) to Mixed Employment (ME).
- B. The Hearings Officer held a duly noticed public hearing for the proposal on December 22, 2009. On December 31, 2009, the Hearings Officer issued a decision recommending that Council approve the requested Plan Amendment and Zone Change.
- C. The City Council held a duly noticed public hearing on January 20, 2010. Based on the entire record, including all testimony, evidence and the recommendation of the Hearings Officer, the Council concluded that the application meets all criteria for approval and should be granted.

Based on these findings,

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council held a public hearing to consider the applicant's proposal and the Hearings Officer's findings and recommendation and found that the requested Plan Amendment and Zone Change is consistent with the criteria of the Bend Development Code Chapter 4.6. In addition to the findings listed above, the Bend City Council adopts the findings in Exhibit B.

Section 2. The Bend Urban Area General Plan and Zoning Maps are hereby amended by changing the plan designation and zoning of 7.3 acres of land on the north and south sides of Wilson Avenue east of Bond Street from Industrial General (IG) to Mixed Employment (ME) as shown in Exhibit A.

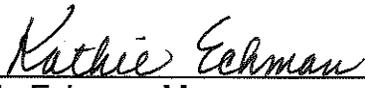
Read for the first time the 20th day of January, 2010.

Read for the second time the 3rd day of February, 2010.

Placed upon its passage the 3rd day of February, 2010.

YES: 6 NO: 0

Authenticated by the Mayor the 3rd day of February, 2010.



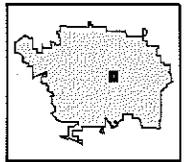
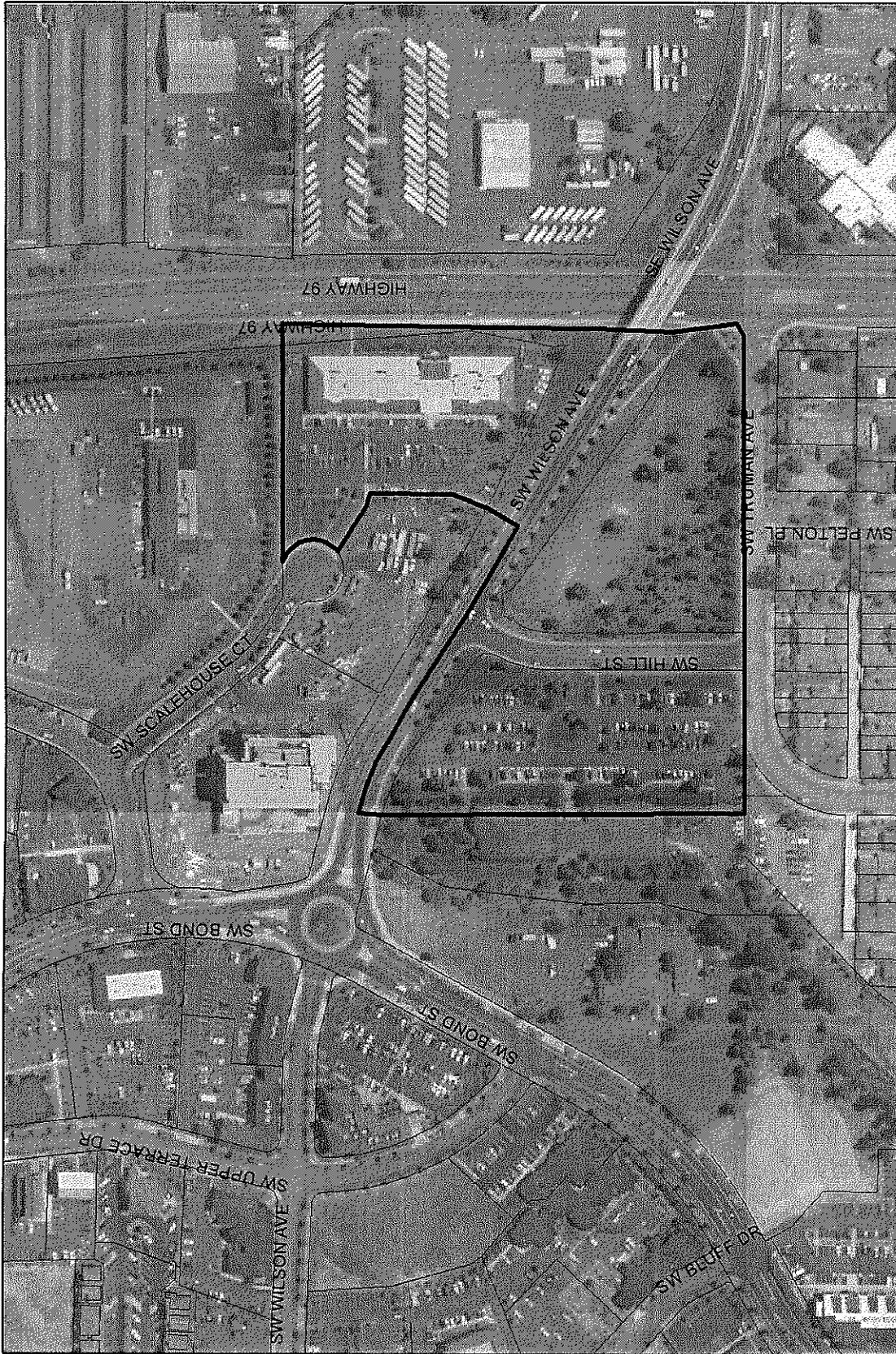
Kathie Eckman, Mayor

ATTEST:

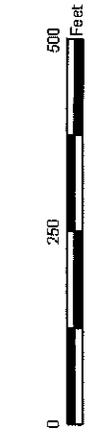


Patricia Stell, City of Bend Recorder

EXHIBIT A



PZ 09-261 Zone Change from IG to ME



Subject Property



ZONING

-  CL
-  IG
-  RM
-  IL
-  MIR
-  RS



Imagery acquired July 2008. Map prepared January 12, 2010.

EXHIBIT B

FINDINGS IN SUPPORT OF PZ 09-261

CONFORMANCE WITH CITY OF BEND DEVELOPMENT CODE

CHAPTER 4.6, LAND USE DISTRICT MAP AND TEXT AMENDMENTS

FINDING: This plan amendment and 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 Chapter 4.1.500, Type II and III applications. In addition, all of the criteria identified in Chapter 4.6.300 are addressed below.

4.6.300 CRITERIA FOR QUASI-JUDICIAL AMENDMENTS

B. Criteria for Quasi-Judicial Amendments

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 adopted a program in compliance with this Goal, codified in BDC Chapter 4.1. The first step for citizen involvement is the public meeting required by Section 4.1.210(B). The applicant conducted this meeting in September 2009. Notice of the meeting was provided to owners of record of property located within 500 of the subject property as well as the Southern Crossing Neighborhood Association and other Neighborhood Associations. Only one person attended the public meeting or submitted comments in response to the notice of the meeting. Under the development code, Type III land use procedures are noticed pursuant to Section 4.1.315 of the development code, which ensures that citizens are informed in four different ways about the public hearing: published notice, posted notice, individual mailed notice and neighborhood association contact.

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.

The city's development code establishes the process, and the general plan establishes the policy framework, for a decision on the subject plan amendment and zone change application. The staff prepares a recommendation report based upon established processes and policies. The Hearings Officer will consider this and other evidence at a public hearing, where written and oral evidence is received, and will then make a recommendation to the Bend City Council which will conduct a separate hearing and make a decision on the application

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 the subject plan amendment and zone change application because the subject property is not zoned for agriculture or forest use and

does not have inventoried open spaces, scenic areas, historic resources, or natural resources.

Goal 6, Air, Water and Land Resources Quality

Goal 6 is not applicable to the subject plan amendment and zone change application because the proposed change will have no impacts on air, water or land resources.

Goal 7, Areas Subject to Natural Hazards

Goal 8, Recreational Needs

Goals 7 and 8 are not applicable to the subject plan amendment and 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 land and mixed employment land in the General Plan. Statewide Land Use Planning Goal 9 requires that the City provided 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 industrial and other employment lands of "vacant and developed lands within the planning area designated for industrial or other employment uses." Additionally, OAR 660-009-010(4) provides:

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 an other employment use designation to any other use designation, a city or county must address all applicable planning requirements, and:

- (a) Demonstrate that the proposed amendment is consistent with its most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan which address the requirements of this division; or***
- (b) Amend its comprehensive plan to incorporate the proposed amendment, consistent with the requirements of this division; or***
- (c) Adopt a combination of the above, consistent with the requirements of this division.***

The City's General Plan Map contains an Industrial designation for the subject property. The proposal to change the designation to the ME designation will continue to implement the goal by providing a more diverse economic and employment area. The proposed zone change and plan amendment will facilitate the continuation of a vibrant mixed use community within the Old Mill District. This is an economic benefit to the community.

On January 5, 2009 the city adopted a series of ordinances which, among other things, expanded the city's UGB and amended its general plan. In addition, Ordinance No. 2112 adopted as Exhibit "L" the "City of Bend 2008 Economic Opportunities Analysis" ("2008 EOA"). The ordinances adopting the expanded UGB, including Ordinance No. 2112, have not yet been acknowledged by the Land Conservation and Development Commission (LCDC). However, ORS 197.625(3) provides in relevant part as follows:

- (a) ***Prior to its acknowledgment, the adoption of a new comprehensive plan provision or land use regulation or an amendment to a comprehensive plan or land use regulation is effective at the time specified by the local government charter or ordinance and is applicable to land use decisions, expedited land use decisions and limited land use decisions if the amendment was adopted in substantial compliance with ORS 197.610 and 197.615 unless a stay is granted under ORS 197.845.***
- (b) ***Any approval of a land use decision, expedited land use decision or limited land use decision subject to an unacknowledged amendment to a comprehensive plan or land use regulation shall include findings of compliance with those land use goals applicable to the amendment.***

Under this statute, the city's amendments to its comprehensive plan and UGB are effective and applicable to the subject application. This decision includes findings concerning the statewide land use planning goals applicable to this application. The proposal's compliance with the applicable provisions of the amended comprehensive plan is discussed in the findings below.

The IG-zoned portion of the subject property is more than two acres in size. The Goal 9 administrative rules - OAR 660-009-0010(4) - provide that where a comprehensive plan amendment changes the designation of land in excess of two acres within a UGB from an industrial use designation to a non-industrial use designation, or from another employment use designation to any other use designation, the city must demonstrate that the amendment is consistent with the most recent EOA and its comprehensive plan. The 2008 EOA, a copy of which is included in this record, provides that for purposes of calculating industrial land supply, the ME Zone is treated as an industrial zone (EOA page 108).

The staff report in a similar and recent City approval, PZ09-183, states the city's decision to treat the ME Zone as an industrial zone for purpose of the EOA and the comprehensive plan was based in large part on the fact that there is considerable overlap between the uses permitted in these two zoning districts. For that reason, staff and the applicant (ODS) argued, and the Hearings Officer agreed, that re-designating the subject property from IG to ME did not represent a change from an "industrial use designation to a non-industrial use designation" under OAR 660-009-010(4), and therefore the applicant was not required to make findings under that rule. The same conclusion can be utilized for the subject application.

It should also be noted that Lots 10 and 12 are developed with relatively new structures which are unlikely to be demolished and redeveloped during the 20-year planning horizon. As these properties are neither vacant nor "developed" as those terms are defined by Goal 9, these properties are not part of the City's "total land supply." See; OAR 660-009-0005. Thus, the redesignation of these lots from IG to ME will have no impact on the supply of industrial land. With respect to Lot 11, it lies south of Wilson Avenue and is generally isolated from nearby industrial development. Moreover, given the residential development directly to the south of Lot 11, it is generally unsuitable for general industrial development. As the purpose statement of the ME zone indicates, the ME zone is intended to be a transition between existing urban environments. Thus, redesignation of Lot 11 will provide a transition between the general industrial uses to the north and the residential uses to the south.

When the city expanded the UGB in 2009, it elected to employ a number of market choice factors in considering how much land to bring into the UGB (Findings in Support of UGB Expansion, pages 51-52). As a result of utilizing these market choice factors, the city determined the current supply of industrial land and mixed-use land within the UGB exceeds the minimum amount needed during the planning period. In other words, currently the city has a surplus of industrial and mixed-use lands to meet the needs in the industrial, MR and ME zones within the planning period. Consequently, the applicant's proposal for plan amendment and zone change from IG to ME will not result in a deficit of industrial lands within the UGB. The proposed plan amendment and zone change will not interfere with the City's ability to provide an adequate amount of employment lands during the planning period.

Goal 10, Housing

Provide for the Housing Needs of the citizens of the State.

The current IG zoning on the subject property does not allow residential uses, and the existing use of the subject property is not residential. The proposal will not remove land from the city's inventory of residential lands. The IG zone does not permit housing other than caretaker housing, but the ME zone has the potential to permit additional housing when developed in a mixed-use setting. While it is unlikely that such development will occur on the developed portions of the subject properties, the potential is possible and is recognized here.

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 site is currently served with adequate public facilities and services for the existing and proposed office uses, as shown in the analyses provided by the applicant's engineers for sewer, water, and transportation facilities serving the site. The concentration of economic and employment use in this core area of the City is consistent with the requirements of Goal 11. The applicant's proposal will continue the orderly and efficient use of existing City services and facilities.

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) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. A plan or land use regulation amendment significantly affects a transportation facility if it would:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
- (b) Change standards implementing a functional classification system; or*
- (c) As measured at the end of the planning period identified in the adopted transportation system plan:
 - (A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 - (B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or*
 - (C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.**

The TIA examines the current and proposed uses to determine compliance with the above criteria. Two of the three lots are developed with existing office/industrial uses and one is vacant. The TIA took a reasonable worst case scenario approach and determined the impact of theoretical uses upon the transportation system. This resulted in a significant impact. As such, the TPR allows that certain limitations be imposed upon the request for Plan amendment.

For example:

TPR Section 2(c): "Altering land use designations, densities, or design requirements to reduce demand for automobile travel needs through other modes." and Section 2(e): "providing other measures as a condition of development or through a development agreement or similar funding method, including transportation system management measures, demand management, or minor transportation improvements..."

Through this option, the TIA was able to provide a proper mitigation technique.

The TIA calculated the number of trips that could be produced today from the current IG designation. Then, that figure was used to limit future ME development to producing no more trips than what would be allowed under the current IG designation.

The subject properties are part of the Old Mill District. The TIA that determined TPR compliance at the inception of the District is useful in this case too. For example, the Old Mill District is currently permitted to utilize a certain number of trips on the City system through a simple debiting calculation and monitoring process. This type of mechanism is often called a "trip cap." The subject application can utilize the same technique, which is in use today for the other lots within in the Old Mill District. When new development occurs within the subject area, the number of trips generated from the proposed site plan activity cannot exceed the number of trips that were available to the area, as calculated at the time of its former IG zoning. The attached Kittelson & Associates, Inc. TIA concludes the following:

Per the provisions summarized in Section 2 of OAR 660-012-0060, the rezone can occur with a restriction on the number of trips generated by future development on the site. This restriction equates to 113 weekday p.m. peak hour trips and would mitigate a significant impact on the transportation system. Further, this restriction on trip generation would restore the zoning to allow uses consistent with the zoning at the time of the Old Mill District Master Plan. Offices and other uses contemplated within the master plan would be retained and no changes to the master plan would be required. Therefore, the proposed zone change will not modify the findings or needs associated with the original OMD study and is consistent with the ongoing debiting process.

The TIA analyzes potential impacts to affected transportation facilities from the proposed plan amendment and zone change and compares trip generation predictions for uses permitted in the current IG Zone with uses permitted in the proposed ME Zone. The TIA utilized a reasonable worst case scenario for redevelopment of the parcels using a floor area ratio analysis. This analysis showed that if the parcels were redeveloped under the reasonable worst case scenario they would create impacts requiring mitigation. The mitigation, in this case, is proposed to limit trip generation from the parcels to no more than 113 pm peak hour trips as monitored by the Old Mill District trip cap and debiting system; a system in operation today and approved by the City of Bend. This system will keep the trip generation for future uses in the ME zone consistent with the IG trip generations allowed for these sites today.

At its inception, and through additional modifications, the Old Mill District met the TPR and established a trip threshold which is managed by the City and applicant via a trip cap debit system. The TIA further shows that the site will be limited to the same number of pm peak hour trips as if it retained its IG zone/designation; 113 pm peak hour trips. Therefore, with the existing Old Mill District trip caps, the proposed plan amendment and zone change will not change the functional classification of existing or planned transportation facilities, will not require a change to the standards implementing the comprehensive plan, and will not significantly affect a transportation facility as measured at the end of the planning period identified in the adopted transportation system plan. Based on the applicant's TIA, the proposed plan amendment is consistent with, and satisfies the requirements of the TPR which implements this goal.

Goal 13 Energy

To conserve energy.

This goal has minimal applicability to the subject plan amendment and zone change because the uses permitted in the ME Zone are not significantly different from those permitted in the IG zone, some of which are already in place on the subject property. The applicant's proposal will facilitate the long term development and growth of economic and employment opportunities and related services in an area of the City that has long been devoted to the operation of the Old Mill District. The proposed zone change and plan amendment will potentially provide additional economic, office, employment and commercial service uses in an area that can be utilized by the surrounding residential area and other employment sites and thereby reduce vehicular trips on the City street system

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 to the lots in the Old Mill District. Therefore, this goal is not applicable to the proposed plan amendment and 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 subject plan amendment and zone change application because the subject property does not include any of these features or resources.

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. Additionally, the Bend Development Code implements the goals and policies of the General plan and the existing uses are permitted outright in the ME zone and are consistent with the ME zoning provisions.

CHAPTER 1 – PLAN MANAGEMENT AND CITIZEN INVOLVEMENT

Policies

Urbanization of the Incorporated UGB

33. 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 city's capital improvement plan.

34. The city 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.

37. Improvements within the incorporated UGB shall conform to City standards and specifications.

Two of the lots under this request are currently developed. Conformance with requirements for provision of adequate public facilities including streets, sewer, and water to City standards and specifications are generally evaluated during the Site Plan review process, and SDCs were collected at the time building permits are issued. The site is surrounded by a variety of industrial, commercial, and residential uses with good access to streets and transit routes which help to reduce vehicle trips and miles traveled as well as facilitating non-automobile travel.

Citizen Involvement

- 46. 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.**

The policy by its terms applies to the city and not to an applicant for a quasi-judicial plan amendment and zone change. However, both the Site Plan review process and this plan amendment and zone change process include pre-application neighborhood meetings, as well as public notice and public hearings to ensure adequate opportunity for citizen participation in the planning process.

CHAPTER 2: NATURAL FEATURES AND OPEN SPACE

Policies

Natural features and open space

- 9. Major rock outcrops, stands of trees, or other prominent natural features identified in the General Plan shall be preserved as a means of retaining the visual character and quality of the community.**
- 10. Natural tree cover shall be retained along streets in all developments to preserve the natural character of Central Oregon within the urban area as the community grows. Native trees may be substituted for required street trees when located within 10-feet of the right of way.**
- 11. All development shall preserve the natural ground cover outside the building footprint and parking area to the greatest extent practicable.**
- 12. The city shall require the preservation of mature trees within each development to the greatest extent practicable.**

The subject properties are developed with office buildings, various parking areas, landscaping or are vacant. Throughout the development process the applicant has preserved existing mature trees and natural ground cover as part of the site planning and development where practical. There are no naturally occurring rock outcrops on the subject properties.

CHAPTER 3: COMMUNITY CONNECTIONS

There are no historical features, cultural amenities, urban trails, park and recreation facilities, or educational facilities identified on or planned for the subject properties. Therefore, the goals and policies in Chapter 3 of the plan are not applicable to the applicant's proposal.

CHAPTER 4: POPULATION AND DEMOGRAPHICS

A major goal of the land use planning process is to ensure that there is sufficient land within the urban growth boundary for housing, for business and industry, for public services such as parks and schools, and an adequate transportation system to serve those needs.

This chapter of the general plan addresses population forecasts and other demographic information, and therefore is not applicable to the applicant's proposal.

CHAPTER 5: HOUSING AND RESIDENTIAL LANDS

This chapter deals with housing needs and is not applicable to the proposed plan amendment and zone change. Of note however, is that while the current IG zoning does not allow residential uses, the ME zone would allow for residential uses, although the existing development was not designed to accommodate housing, nor does the applicant anticipate future housing to be located on the site.

CHAPTER 6: THE ECONOMY AND LANDS FOR ECONOMIC GROWTH

Applicable Policies:

General Economic Land Policies and Anticipated Land Needs

- 2. The city shall place a higher priority on retaining industrial sites in the city's land base while also providing a variety of commercial sites.**
- 3. The City of Bend shall provide numerous sites in a variety of locations, types, and sizes to meet anticipated and unanticipated economic development opportunities. These locations shall be suitable from an economic standpoint and compatible with surrounding land uses.**
- 4. The city shall provide at least a 20-year supply of economic, institutional, and associated open space lands to meet anticipated needs during the 20-year planning period as outlined in the 2008 EOA.**
- 5. The city shall seek opportunities to designate additional sites for employment use within the existing urban growth boundary prior to expanding the UGB.**
- 6. The city shall periodically review existing development and use patterns on industrial and commercial lands. The city may consider modifying General Plan and/or Zoning Map designations to make such designations consistent with existing development and use patterns.**

These policies by their terms apply to the city and not to an applicant for a quasi-judicial plan amendment and zone change. In any case, as discussed in findings elsewhere in this submittal, the applicant's proposal will not result in a reduction in the amount of industrial land in the city's inventory and is consistent with the 2008 EOA because it will allow a greater range of office uses as well as a mix of other service commercial uses consistent with the surrounding development pattern in the Old Mill District and surrounding area that includes a mixture of office, commercial and residential uses.

The TRG and Integra sites have structures built upon them and these will likely be used for continued office and commercial/industrial service uses. However the opportunity to have greater flexibility as provided in the ME zone will assure that the buildings can be used for a mix of uses as needed, and more importantly, not excluding uses that are appropriate for the location of the lots and abutting uses.

The ME and IG zones allow for different ranges and intensities of industrial uses which are considered by the City EOA to serve as the base for future economic development over the planning horizon. The re-designation of the subject properties to the ME zone will permit a variety of industrial developments and other employment uses and thus, have very little impact if any upon the city's inventory of industrial and economic lands. Moreover, the physical location of the subject properties – near the parkway, existing neighborhoods, and other ME and MR lands – will allow the Truman Avenue property to develop with uses that are more conducive to the character of the abutting area. In contrast, developing the Truman site with only IG uses would not provide as many opportunities for compatible development with the surrounding area.

Providing flexibility, efficiency, and higher utilization of the current inventory of sites within the current UGB will also meet the intent of the above City policy. In addition, the applicant desires to continue a cohesive development mix in the Old Mill District and provide a greater range of uses for the subject properties than the current IG designation permits today. This is particularly important given that the TRG property is developed with a structure that could support an internal mix of uses versus the current single use. And, importantly, the Truman property will require a creative treatment given the abutting residential uses, design limitations due to the triangular shape of the lot, and existing slope easements for the Wilson Avenue overpass.

Short-term Supply of Economic Lands

- 8. Beginning in 2010 and every two years thereafter, the city shall:**
 - a. Update the economic lands Buildable Lands Inventory to identify developed and vacant economic lands by General Plan designation;**

b. Estimate the acreage of vacant economic lands that qualify as competitive short-term supply;

These policies by their terms apply to the city and not to an applicant for a quasi-judicial plan amendment and zone change. However, the applicant's proposal does not change the inventory until the Truman property converts from vacant to a developed status. Because the parcels in this application are served with City infrastructure they are available for immediate development and are centrally located within the community. While not directly applicable to this application, this policy provides the City with a tool to continually evaluate its supply of employment lands throughout the planning period. To the extent that a short-term supply is noted, the City may engage in a process to fix any short-fall in short-term supply.

Industrial Development

9. Large-lot and specialty employment sites are important to the overall inventory of available economic land and shall be protected through the use of zoning, deed restrictions or other appropriate instruments to ensure that these sites will not be further subdivided prior to development.

12. As the supply of large commercial and industrial parcels is developed, the city shall consider designating alternative parcels within the existing inventory or seek to expand the UGB if the inventory of vacant lands drops below the identified need.

15. The community shall strive to diversify its industrial base.

19. Industrial areas shall be protected from incompatible commercial and residential uses.

22. Community efforts should be directed towards improving the general appearance of industrial areas so that they make a positive contribution to the environment of the community.

These policies by their terms apply to the city and not to an applicant for a quasi-judicial plan amendment and zone change. Nonetheless, the subject properties are currently developed with office buildings except for the Truman parcel. The Truman parcel is small at 2.76 acres – not a large parcel and one further constrained by various factors. The conversion of the property to an ME zone will not conflict with this industrial development policy because, as described above, the ME zone is part of the overall inventory of lands discussed within the City's EOA.

The vicinity near the subject properties, and the subject properties themselves, contain an existing mix of uses, some of which could be potentially incompatible with industrial development but have been designed and planned in a cohesive manner to reduce conflict. Two of the subject properties are developed with uses that were permitted at the time when the industrial zone allowed commercial office uses. The industrial area, in this case, is protected as much as possible from incompatible residential and commercial uses. The perimeter uses either contained an existing use or were new uses that were designed to take into consideration the industrial area which in itself contains a variety of uses. Moreover, the subject properties include a mix of office and industrial-designated uses.

Mixed Use Development

24. Mixed use development shall achieve the following purposes:

- a. provide a variety of employment opportunities and housing types;**
- b. foster pedestrian and other non-motor vehicle access within and to the site;**
- c. ensure compatibility of mixed-use development with the surrounding area and minimize off-site impacts associated with the development;**
- d. ensure the site planning, access, parking areas and building designs are functionally coordinated and aesthetically pleasing; and**

- e. *preserve the natural conditions where the mixed use development is near identified Goal 5 resources, natural areas, open spaces, or waterways.*

26. The city may designate other areas for mixed use development to encourage a variety of jobs and services close to residential areas.

These policies by their terms apply to the city, or are aspirational only, and therefore do not apply to an application for a quasi-judicial plan amendment and zone change. These policies are best implemented when looking at the area in which mixed-use development is proposed and the vicinity surrounding it rather than a single lot development. The Old Mill District and the immediate vicinity exemplify the above purposes. The subject properties lie within this district and the conversion to the ME zone will not diminish the goal to provide a mix of uses that adhere to the above objectives. Future development of the Truman Avenue parcel will also need to adhere to the same policy objectives.

New mixed use areas and new ME zones expand the opportunities to develop uses that support job creation and commercial services close to existing residents. The proposed ME designation will permit additional mixed-use development on the subject property, and the vacant Truman parcel. This area of the Old Mill District contains existing residential uses and abuts other residential neighborhoods. Thus, new mixed-use development on the vacant Truman parcel or within the existing buildings will serve to encourage a variety of jobs and services close to residential areas. The mixed use zone will be consistent with the approved Master Plan for Upper Terrace Phase II according to applicant's representatives.

CHAPTER 7: TRANSPORTATION SYSTEMS

6.9.1 TRANSPORTATION AND LAND USE

POLICIES

3. *The City shall consider facility needs for long-range transportation system corridor improvements for all modes, during the review of subdivisions, partitions, and individual site applications.*
6. *The City shall implement mixed use zoning as one of the land use strategies to promote fewer vehicle trips and shorter trip lengths.*
7. *The City shall be receptive to innovative development proposals, including zone changes, plan amendments, and text changes that promote alternatives to vehicular traffic and demonstrably reduce vehicle trips and trip lengths.*

These policies by their terms apply to the city, or are aspirational only, and therefore do not apply to an application for a quasi-judicial plan amendment and zone change. However, as described elsewhere, the Old Mill District is an innovative development and the conversion of the subject IG properties to a ME designation will encourage additional opportunities to reduce vehicle trips and trip lengths.

6.9.4 PEDESTRIAN AND BICYCLE SYSTEMS

5. *The City shall develop safe and convenient bicycle and pedestrian circulation to major activity centers, including the downtown, schools, shopping areas and parks. East-west access to the downtown area needs particular emphasis across major obstacles, such as 3rd Street, the Bend Parkway and the railroad.*
6. *The City shall facilitate easy and safe bicycle and pedestrian crossings of major collector and arterial streets. Intersections shall be designed to include pedestrian refuges or islands, curb extensions and other elements where needed for pedestrian safety. Also, bike lanes shall be extended to meet intersection crosswalks.*
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.*

These policies by their terms apply to the city, or are aspirational only, and therefore do not apply to an application for a quasi-judicial plan amendment and zone change. As described elsewhere in this Findings and Recommendation, the subject properties lie within the Old Mill District. As the District and other nearby properties have developed the City has required extensions of alternate mode facilities such as sidewalks, bike lanes, and other pedestrian amenities. The subject properties are developed with a large office building, various parking areas, landscaping, or are vacant. These properties abut improved arterial and collector streets containing bike lanes. The features and elements of the city approval for the developed lots were reviewed and approved through previous conditional use and site plan review proceedings. The vacant lot along Truman Avenue will undergo a future site plan and City review process at the time of development where this policy may be implemented

6.9.5 PUBLIC TRANSPORTATION SYSTEM

- 5. To accommodate a fixed-route transit system, land use ordinances and other regulations shall be implemented that establish pedestrian and transit-friendly design along potential or existing transit routes.*

This policy by its terms applies to the city and not to an application for a quasi-judicial plan amendment and zone change. Nonetheless, the Old Mill District includes several higher order roads accommodating transit routes and transit amenities.

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 streets in the Old Mill District were designed and improved in connection with previous developments and/or the existing office development on the subject properties. The streets comply with the city's standards and specifications. The applicant submitted a TIA which shows that no additional transportation facility improvements are warranted as a result of the proposed plan amendment and zone change.

- 7. The City shall be receptive to innovative development proposals, including zone changes, plan amendments, and text changes that promote alternatives to vehicular traffic and demonstrably reduce vehicle trips and trip lengths.**

This policy by its terms applies to the city and not to an application for a quasi-judicial plan amendment and zone change. However, in general, mixed use zones such as the proposed ME zoning allow a greater variety of uses which in generally promotes a reduction in vehicle trips and trip lengths by providing a variety of services nearby, often within walking distance. The proposed [plan amendment and zone change are in line with the above policy.

CHAPTER 8: PUBLIC FACILITIES AND SERVICES

POLICIES

Storm sewer

- 15. All public and private stormwater facilities shall be designed and operated in accordance with the City's Stormwater Master Plan and shall meet appropriate drainage quantity and quality requirements including, but not limited to, the requirements in the City's National Pollutant Discharge Elimination System MS4 Stormwater Permit, integrated Stormwater Management Plan, WPCF Underground Injection Control Permit and any applicable Total Maximum Daily Load requirements.**
- 17. Low impact site designs shall be a required part of all new and re-development.**
- 19. Development shall, to the extent practicable, contain and treat storm drainage on-site.**
- 20. The use of disposal systems shall be coordinated with the Oregon Department of Environmental Quality and Water Resources Department to protect ground water and surface water quality.**
- 23. The City shall require stormwater protection measures for all new development and redevelopment proposals during the planning, project review, and permitting processes.**

The stormwater facilities for development of the subject properties and adjacent streets were reviewed for compliance with the above requirements prior to issuance of building permits. As a result, the existing development on the subject properties contains all stormwater on site and in approved facilities. The future development of the Truman Avenue site will require City site plan review and approval which will require analysis of stormwater and drainage needs. The applicant's proposed plan amendment and zone change will have no affect on stormwater management on the subject property.

Chapter 9 - Community Appearance

This chapter primarily pertains to goals and policies for adopting standards and criteria which will enhance the appearance of the community and in general does not apply to applications for plan amendments and zone changes. The design review criteria for the ME Zone are more stringent than those of the current IG Zone on the subject property. Moreover, the existing development on the subject properties was reviewed for compliance with the site plan and other criteria/standards as part of the previous site plan reviews. Nonetheless, the Old Mill District is a well designed and maintained

development as evidenced by its landscape treatments, pedestrian and transit facilities, and overall arrangement of uses.

Chapter 10 - Natural Forces

This final chapter in the Bend Area General Plan provides discussion and data on natural forces — air quality, energy sources and conservation, and potential hazards such as flooding and land faults. Land use planning can have some influence on how future development impacts these natural forces. However, the effect of these forces on the growth and livability of the urban area is equally likely to be driven by factors that are beyond the physical and political control of the city or county.

This chapter sets goals and policies to guide future studies and the development of future standards and criteria. Therefore, these goals and policies are not applicable to the applicant's proposed plan amendment and zone change.

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

- 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;**

FINDING: Adequate urban infrastructure, including sewer, water, police and fire protection, schools and transportation facilities are provided to support the proposed plan amendment and zone change. Each of these facilities and services is discussed separately in the findings below.

Police Protection. The subject property is located within the Bend City limits and is served by the Bend Police Department.

Fire Protection. The subject property is located within the Bend City limits and is served by the Bend Fire Department.

Sewer and Water. The subject property is currently served by City sewer and water infrastructure. The applicant and its engineers have worked with the City to evaluate the sewer and water facilities that are currently available to serve the site and its expected users. The record contains a memo from Terry Angle noting that the City of Bend Collection System Master Plan (CSMP) attributes commercial sewer demand for the Old Mill Master Plan area, including the lots subject to this plan amendment and zone change request. As such, the plan amendment and zone change can be approved with the demonstrated sewer capacity for commercial uses having been attributed to the subject lots.

Comments from the City of Bend Engineering Division note that based on the CSMP, upgrades to the Old Mill Pump Station will be needed at some time in the future. The proposed zone change itself does not create new demand or impacts to the sewer system. However, with each subsequent site plan, change of use, or other development activity that could potentially introduce new sewer flow to the Old Mill Pump Station, a sewer analysis will be required to ensure the needed capacity exists and that the proposed development can be adequately served without compromising the pump station.

Schools. The subject property is located within the boundaries of the Bend-La Pine School District and can be adequately served by the district.

Parks. The subject property is located within the boundaries of the Bend Metropolitan Park and Recreation District and can be served by the district. There are no parks planned in the general vicinity of the site, although there are several parks along the river that are within walking distance.

Transportation Facilities. As discussed in previous findings, the applicant's TIA concludes that the proposed change in plan designation and zoning from IG to ME will

not significantly affect a transportation facility because the already established trip cap for the Old Mill District will be utilized.

Stormwater Runoff. There is an approved stormwater system in place for the existing development on the subject properties. The Truman Avenue parcel will be evaluated and required to supply stormwater mitigation at the time of site plan approval.

Based on the above findings, there are adequate public facilities to serve the properties as contemplated by the proposed zone change and text amendment.

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.

1. Mistake or Inconsistency with Comprehensive Plan.

FINDING: The IG zoning of the subject property was not a mistake. The current zoning is consistent with the current plan designations on the property.

The City archive records show how the industrial lands in this area, before the construction of the Bend Parkway, operated in a cohesive fashion and contained a mix of industrial and commercial activities as intended by the General Plan in place at that time. After many years this industrial sector was bisected by the Bend Parkway and the Wilson Avenue Overpass which reduced the ability of area to retain its connection to other industrial areas and diminished its industrial character.

2. Change in the Neighborhood or Community.

There have been various physical changes in the neighborhood and community surrounding the subject property and change of circumstances affecting the subject properties. These issues are described below.

Conversion of Wood-based Heavy Industry to the new Old Mill District Mixed-use Zone. The Old Mill District encompasses a major portion of what was previously a large wood-based industrial site. The site was formerly zoned IG, General Industrial. While the big mills were in operation, the area was not a place that encouraged public access to the Deschutes River or through the vicinity due to the intense activity of the lumber mills, truck traffic, noise, particulate matter, and other issues related to sawmills and log storage. The city's adoption of the MR Zone permitted the mixed-use development of the Old Mill District. The Old Mill District retained the original IG zone designation on some properties and the new zone, MR, was applied to other areas. The subject IG zoned properties were included into the Old Mill District boundary. These factors, precipitated by the diminished lumber industry economy, virtually eliminated all activities related to the wood-based industries and jump-started a transition to office and commercial uses. As the Old Mill District IG zoned properties developed with office buildings it created a pattern of development that isolated the remaining vacant IG properties. The subject Truman Avenue parcel is an example where a property has been isolated; surrounded by developed residential lands, offices, and elevated roads.

The transition from an economy once heavily based on natural resources/manufacturing to an economy that meets demand for professional and business services, educational and health services, retail trade and leisure and hospitality industries is addressed in the city's 2008 EOA. Specifically, the EOA states at page 65:

"Bend has seen such redevelopment take place at the Old Mill District and to some degree in downtown; as other truly 'vintage' districts become obsolete, it may be appropriate to encourage their redevelopment."

The factors described above constitute a change in the neighborhood or community. *Changes to City Regulations Limiting Office Uses in the Industrial Zones.* The Old Mill District master plan and other planning strategies were developed when the city code allowed greater flexibility with office development. The city adopted amendments to its comprehensive plan and zoning ordinance in 2006 when it imposed new restrictions on office uses in the IG Zone, limiting such uses to corporate headquarters/offices where

co-located with a permitted or conditional use. Under the previous IG Zone provisions general office uses were permitted as conditional uses. Today, two of the applicant's properties are developed with office uses, the other property is vacant. The recent adoption of a more restrictive code is a change in circumstance.

Plan Amendments/Zone Changes & Other Changes. The City's 2008 EOA recognizes there are areas within the UGB in transition from industrial to non-industrial uses, including the Old Mill District. Over the years, two of the applicant's parcels have developed with office buildings. Recently, the ODS building was constructed and by subsequent land use application, PZ 09-183, resulted in a zone change and plan amendment from IG to ME. This approval and other existing office developments near the applicant's IG zoned parcels essentially squeeze the applicant's IG zoned parcels into a small node along the Bend Parkway and across Wilson Avenue to the RM zoned lands to the south.

The parkway represents another change in the community. The Parkway was developed after the industrial area was established. As described above, the Parkway limits access and bisects the original IG zoned lands and other industrial areas. As a result, there are very few heavy industrial uses left in the IG zone, except for the Hooker Creek operation. The area is in transition to meet demand for office, retail, residential uses, and very light industrial uses. The applicant's request for ME zoning best suits the surrounding area, provides greater flexibility for the vacant lot, and a broader range of use for the office buildings.

The factors described above constitute changes to the neighborhood or community.

3. Compliance with Provisions of Section 4.6.600 and TPR.

Section 4.6.600 provides as follows:

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.

As previously noted, the applicant's TIA shows that the proposed plan amendment and zone change, under a theoretical redevelopment scenario, could significantly affect a transportation facility. Solutions to mitigate this situation are permitted by the TPR.

The Old Mill District at its inception and through additional modifications has met the TPR and established a trip threshold which is managed by the City and applicant via the trip cap debit system. The applicant proposes to meet the TPR mitigation option described in TIA whereby the subject properties will be limited by the current trip cap debiting process established for Old Mill District under the existing IG zoning. The TIA shows that the site will be limited to the same number of pm peak hour trips as if it retained its IG zone/designation, or 113 pm peak hour trips. For this reason, the TIA concluded that the proposed plan amendment and zone change would not require changes to the functional classification of existing or planned transportation facilities, or a change to the standards implementing the comprehensive plan. Based on the analysis contained in the TIA, the proposed plan amendment and zone change is consistent with, and satisfies, the requirements of, the TPR.