

ORDINANCE NO. NS-2209

AN ORDINANCE AMENDING BEND DEVELOPMENT CODE SECTION 2.7.500; MEDICAL DISTRICT OVERLAY ZONE SPECIAL DEVELOPMENT STANDARDS

Findings

- A. The Planning Commission held a duly-noticed public hearing on August 12, 2013, to consider the proposed amendment to Bend Development Code Section 2.7.500. The Planning Commission recommended approval to the City Council, including recommended findings.
- B. The Bend City Council held a public hearing on September 18, 2013 to consider the Planning Commission's recommendation.
- C. The requested Development Code amendment approved by this Ordinance is consistent with all applicable standards and criteria, including those set forth in Bend Development Code Chapter 4.6.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend Development Code Section 2.7.500 Medical District Overlay Zone Special Development Standards is amended as shown in Exhibit A.

Section 2. The City Council adopts the findings in Exhibit B.

First reading: September 18, 2013.

Second reading and adoption by roll call vote: October 2, 2013.

YES: Mayor Clinton
Councilor Jodie Barram
Councilor Mark Capell
Councilor Scott Ramsay
Councilor Victor Chudowsky
Councilor Doug Knight
Councilor Sally Russell

NO: none



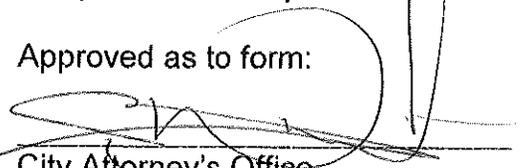
Jim Clinton, Mayor

ATTEST:



Robyn Christie, City Recorder

Approved as to form:



City Attorney's Office

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EXHIBIT A

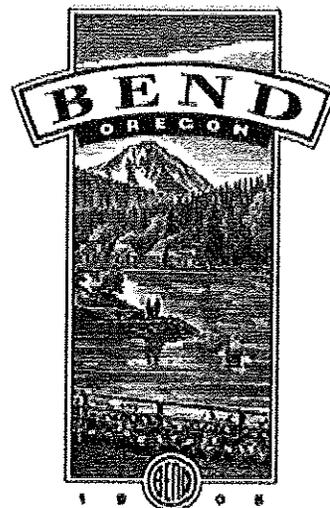
2.7.540 Special Development Standards.

B. Standards for Commercial/Retail Uses and Eating and Drinking Establishments.

1. Drive-up windows and /or drive-through services shall not be permitted.
2. A restaurant, delicatessen, cafeteria, or coffee shop may include an outdoor seating/eating area, provided the outdoor area consists of an all-weather surface not greater than 900 square feet in gross floor area and screened from ~~public rights-of-way~~ and residentially zoned properties by a ~~completely-sight-obscuring~~ hedge and/or fence as determined through the Site Plan Review process.
3. For service commercial/retail uses and eating and drinking establishments as allowed in Table 2.7.520:
 - a. There shall be no more than a total of eight acres of site area developed for stand-alone service commercial/retail uses and/or eating and drinking establishments within the Medical District Overlay Zone on residentially zoned land.
 - b. Four of the allowable eight acres shall be located south of Neff Road and are in addition to the existing Commercial Convenience zoned property along 27th Street and Cushing Drive (Watt Way) and Medical Center Drive ~~south of Neff Road~~.
 - c. The other four acres of allowable area shall be located north of Neff Road.

EXHIBIT B

FINDINGS IN SUPPORT OF File # PZ 12-456



PROJECT NUMBER: PZ 13-326

APPLICANT: Steve Toomey
Erich Schultz
600 SW Columbia St., Suite 6100
Bend, OR 97702

OWNER: Michael Kendrick
2847 NW Three Sisters Dr.
Bend, OR 97701

AGENTS: Deborah McMahon
60352 Arnold Market Road
Bend, Oregon 97702

LOCATION: The applicant owns property within the Medical District Overlay Zone that is located at the southeast corner of Medical Center Drive and Neff Road. The property is identified as 1500 NE Cushing Dr. The proposal is not specific to the applicant's property, but instead applies to the entire Medical District Overlay Zone.

REQUEST: The applicant is proposing to amend the Medical District Overlay (MDOZ) text to allow the 4 acres of floating service commercial use to be developed anywhere within the Medical District Overlay Zone. The applicant also proposed an amendment to the development standard to increase the size for outside seating areas and to eliminate the provision for screening the outside seating.

Through the hearing process the proposal was modified to allow the four acres of service commercial uses to develop on residentially zoned properties located south of Neff Road within the MDOZ and not rely on the redevelopment of the existing CC zoned lands to fulfill the intent of the code.

APPLICABLE CRITERIA:

- (1) City of Bend Development Code,
 - (a) Chapter 4.6; Land Use District Map and Text Amendments
- (2) Oregon Administrative Rules 660-012-0060, Plan and Land Use Regulation Amendments
- (3) Oregon Administrative Rules Chapter 660, Division 15, Oregon Statewide Planning goals

3. **PROPOSAL:** The applicant is proposing amendments to the Medical District Overlay Zone (MDOZ) to eliminate the locational standards for siting service commercial/retail uses, allowing the uses to locate anywhere within the MDOZ overlay zone.
4. **PUBLIC NOTICE AND COMMENTS:** On July 12, 2013, the City of Bend Planning Division sent a combined notice of the request and the public hearing notice for August 12, 2013. The notice was sent to property owners of record as shown on the most recent property tax assessment roll within the Medical District Overlay Zone plus property owners within 250 feet of the MDOZ. Various agencies were also sent notices. Their comments and recommendations were considered and are contained in the project file.

Notice of the proposed text amendment was sent to DLCD via email on June 20, 2013 followed by a written notice by mail on June 24, 2013.
5. **APPLICATION ACCEPTANCE DATE:** The Development Code Text Amendment application was submitted on June 18, 2013. At staff's request, a revised version of the proposed text, and an amended burden of proof statement was submitted on June 19, 2013, at which time the application was accepted as complete.

APPLICATION OF THE CRITERIA

CONFORMANCE WITH CITY OF BEND DEVELOPMENT CODE

CHAPTER 2.7, SPECIAL PLANNED DISTRICTS

FINDING: The applicant is proposing to modify the Medical District Overlay Zone text to eliminate the locational standards for service commercial/retail uses within the MDOZ. Since the adoption of the Medical District Overlay Zone in 2004, only one project that included a service commercial use has been approved. However that proposal was never constructed and has since expired.

The MDOZ consists of three different zoning districts; RH, RM and CC. The code is structured so that the service commercial uses are permitted outright in the CC zone and are conditionally allowed in the residential zones located north of Neff Road. Through the conditional use process, the applicant will be required to show that the subject property is adequate for the use and that if the use is approved, it will not have any negative impacts on surrounding property.

CHAPTER 4.6, LAND USE DISTRICT MAP AND TEXT AMENDMENTS

4.6.100 Purpose.

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this code, the Bend Area General Plan, the Bend Area General Plan Map and the Land Use District Map. These will be referred to as "map and text amendments." Amendments may be necessary from time to time to reflect

changing community conditions, needs and desires, to correct mistakes, or to address changes in the law.

4.6.200 Legislative Amendments.

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

FINDING: The proposed text amendment will apply to all of the properties within the MDOZ rather than specifically to the applicant's property. Therefore, the proposal will be reviewed as a legislative amendment. The criteria for a legislative amendment are addressed below.

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

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

FINDING: The applicant submitted a burden of proof addressing the criteria for a quasi-judicial amendment. The criteria are similar in that both a legislative and quasi-judicial amendment must be consistent with State land use law and the local adopted Comprehensive Plan.

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

The City of Bend has an acknowledged Comprehensive Plan. The Bend Development Code implements the policies of the Comprehensive Plan (Bend Area General Plan). The 2004 adoption of the Medical District Overlay Zone into the Bend Development Code was found to be consistent with the Statewide Planning Goals. Therefore, the proposed text amendment must demonstrate compliance with the Statewide Planning Goals as addressed below.

Goal 1: Citizen Involvement, is "To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process." The Medical District Overlay Zone was created through an intense public involvement process. An amendment to the Overlay Zone text must utilize public involvement as a means to inform the proposal. The City sent notice to affected property owners and will hold a public hearing before the Planning Commission before forwarding a recommendation on to the City Council for a second public hearing.

Goal 2, Land Use Planning, is "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." This goal emphasizes the importance of involving

citizens and affected governments, and providing them with the opportunity to review and comment on proposed plan changes. The proposal is a text amendment to eliminate the locational criteria for service commercial/retail uses within the Medical District Overlay Zone. The proposed Development Code text has been crafted to be consistent with The Bend Area General Plan, a comprehensive plan which has been acknowledged by the Oregon Department of Land Conservation and Development (DLCD). The proposed amendment does not alter the administration of the code or the established requirements which ensure a factual base for all decisions. Therefore, the proposal complies with Statewide Planning Goal 2.

Goals 3, 4, and 5 are not applicable because the properties do not include any agricultural land, forest land, or inventoried open spaces, scenic areas, historic resources, or natural resources.

Goal 6 is not applicable because the proposed changes will not have any impacts to air, water and land resources quality.

Goals 7 and 8 are not applicable because the subject properties are not within an identified natural hazard area, nor within an area identified for recreational use.

Goal 9, Economic Development is *"To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens."* The Medical District Overlay Zone includes a mix of residential, commercial and employment lands. There will be no significant net change in the area comprising each of the distinct zoned areas within the MDOZ as a result of this proposal. Rather, the elimination of the locational criteria for 4 acres of service commercial/retail uses will foster economic development by locating the uses in an efficient manner in an area where there is demand for service commercial retail uses.

The change will not result in a loss of economic lands. Therefore this change is considered "insignificant" under OAR 660-009-0010[4] and does not trigger any additional findings regarding an economic opportunities analysis under Goal 9.

Goal 10: Housing, *"To provide for the housing needs of the citizens of the State."* The proposed amendment will not impact the City's projected housing needs, as the amendment does not seek to change the residential plan designations within the MDOZ. Staff notes that the proposal will allow up to 4 acres of land to be developed with service commercial/retail uses. In addition, the code currently allows for other non-residential uses to develop on the RH and RM zoned properties within the Medical District Overlay Zone.

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 MDOZ is zoned and plan designated to accommodate a variety of uses including medium and high density residential development, medical uses and related services. These uses are intended to be served by the necessary public facilities and services, i.e., sanitary sewer, water, storm drainage, police, fire, schools, parks, etc. These facilities and services were determined to be available in 2004 when the MDOZ was adopted. The proposed text amendment to eliminate the locational criteria for the service commercial/retail uses will not impact the availability and adequacy of public facilities.

Goal 12: Transportation is *"To provide and encourage a safe, convenient, and economic transportation system."* The proposal will have minimal effect on the transportation system in

and around the Medical District Overlay. A transportation analysis will be required for subsequent site development. A site specific analysis will identify impacts and mitigation necessary for development as required by the Bend Development Code and in compliance with the Transportation Planning Rule. The applicant's proposal will not result in any changes that would hinder provision of a safe, convenient and economic street system serving local travel needs for motorists, pedestrians, and bicyclists. Therefore, this proposal is in conformance with this planning goal.

Goal 13: Energy is "To conserve energy." The proposed text amendment will encourage service commercial uses in areas where those uses are in demand. The proximity of service commercial uses near existing employment will reduce vehicle trips and encourage alternative modes of travel.

Goal 14: Urbanization is "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 proposed text amendment will apply to land that is within the Bend city limits and the Urban Growth Boundary and will encourage an efficient use of land.

Staff finds that the proposed text amendment is consistent with the Statewide Planning Goals. The Statewide Planning Goals are implemented through the Oregon Revised Statutes (ORS). Therefore, the proposed text amendment to the MODZ is consistent with State land use law.

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

FINDING: The Bend Area General Plan is silent with regard to the Medical District Overlay Zone. The district is clearly a designation intended to provide opportunities for employment in medical services and associated supportive uses. Below are plan policies related to the MDOZ:

CHAPTER 1 – PLAN MANAGEMENT AND CITIZEN INVOLVEMENT

The transportation ↔ land use connection (Plan Goals, page 1-2)

Policies

- 2. The city and special districts shall work toward the most efficient and economical method for providing their services within the UGB.**
- 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.**

FINDING: The city initiated the creation of the MDOZ as a special district to preserve land around the hospital for future medical and related uses. Clustering medical uses and related services into one area general area creates efficiencies for both the businesses and the customer and saves money for both private and public entities. The text amendment to remove the locational standards for siting non-medical, service commercial/retail uses may result in efficiencies in the marketplace. Placing service commercial/retail uses in close

proximity to large employment centers will encourage alternate modes of travel including walking and transit whereby reducing vehicle trips and promoting a healthy lifestyle.

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.

FINDING: As stated earlier in this report, the City sent out written notice to all property owners of record within the MDOZ and to property owners within 250 feet of the MDOZ boundary. The notice included information about the request and the date of the Public Hearing. A second public hearing will take place with the City Council to consider the Planning Commission's recommendation.

CHAPTER 6: THE ECONOMY AND LANDS FOR ECONOMIC GROWTH

Mixed Use Development

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

FINDING: The MDOZ is a mixed use special district that focuses on medical service uses in combination with multi-family housing and supporting non-medical uses. The proposal is not requesting to create a new mixed use development but instead to modify the existing MDOZ text to reflect the current demands within the area.

31. It is the intent of the Plan to allow commercial development adjacent to arterial streets and highways in areas designated for commercial development, provided that the developments access onto frontage roads or interior roads and that access onto the highway or arterial will be limited. Points of access will be encouraged that provide for adequate and safe entrances and exit, that favor right turns and merging over the use of traffic signals.

FINDING: The current standard for locating new service commercial/retail uses in the MDOZ applies to the existing CC zoned properties to the south of Neff Road and the remaining 4 acres can be applied on any properties north of Neff Road. The arterial roads within the MDOZ are Neff Road and 27th Street. There are a number of vacant or re-developable properties located north of Neff Road. However, there is only ½ acre of existing CC zoned land remaining south of Neff Road. Allowing four acres of residentially zoned land south of Neff Road to develop with service commercial uses makes available vacant properties located on arterial streets within the MDOZ and is consistent with the above Plan policy.

CHAPTER 7: TRANSPORTATION SYSTEMS

6.9.1 Transportation and Land Use

Objectives:

- **To promote land use patterns that support fewer vehicle trips and shorter trip**

lengths

- *To ensure that future development, including re-development will not interfere with the completion of Bend' transportation system*

Policies:

6. *The City shall continue to explore mixed use zoning as one of the land use patterns that will promote fewer vehicle trips and shorter trip lengths.*
7. *The City should be receptive to innovative development proposals, including zone changes, plan amendments and text changes that promote alternatives to vehicular traffic thus reducing vehicle trips and reduced trip lengths.*

FINDING: As stated earlier in this report, the MDOZ is a mixed use special district that focuses on medical service uses in combination with multi-family housing and non-medical related uses. The proposed text amendment will allow the non-medical service commercial/retail uses to locate in areas that will have the greatest benefit based on market demand. Locating service commercial uses near large employment centers will encourage increased pedestrian and transit use whereby reducing vehicle trips.

2. **The applicant can demonstrate a public need or benefit for the proposed amendment;**

FINDING: In 2004, when the Medical District Overlay Zone was adopted there was a need to create the special district to preserve land for future growth of the hospital and related uses. Part of that determination was that non-medical uses were an important part of the district to create a convenient and vibrant area for residents, employees and customers within the district.

Since the adoption of the Medical District Overlay Zone, there has been no "stand alone" service commercial/retail projects developed. An employee or customer within the MDOZ must travel as much as one mile to the nearest commercial service use. There is clearly a benefit to having service commercial retail uses within close proximity to the Hospital and Bend Memorial Clinic. Having a coffee shop and food services within walking distance would provide MDOZ employees and customers a convenient option.

The 2004 code designated the existing Convenience Commercial zoned properties as the location for the service commercial uses located south of Neff Road. As stated above, the majority of those properties have developed with medical uses or uses that are not supportive of the MDOZ. The proposal would allow up to four acres of residentially zoned properties south of Neff Road to develop with service commercial uses that would be supportive of the medical uses such as a restaurant, card shop, florist, and similar uses.

In addition, the applicant has requested a modification to the development standards to allow larger outside seating areas equivalent to the building footprint and reduced screening of these outdoor areas. Outdoor seating provides an inviting and vibrant setting within the medical district. However outside seating areas greater than 500 square feet are subject to the city parking standards and may increase the parking requirement. If the seating areas are kept small as anticipated by the existing code language, the park requirement is kept at a minimum. Staff agrees with the applicants request to reduce the screening from the public right of way. Outdoor cafes encourage walking and improve the street appeal.

The above findings demonstrate a public need and benefit for the proposed text amendment to allow up to four acres of service commercial/retail use on residentially zoned property south of Neff Road and to reduce the screening requirements for outdoor seating areas from the public right of way.

4.6.600 Transportation Planning Rule Compliance.

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

FINDING: The applicant has not proposed a change to the comprehensive plan or zoning district maps. The applicant's proposal is a text amendment to the Bend Development Code that will eliminate the locational criteria for siting 4 acres of service commercial/retail uses on residentially zoned land within the MDOZ. The applicant's proposal does not significantly affect a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060. When a site development proposal is submitted for review, a transportation analysis will be required to identify specific impacts resulting from the proposed development.

CONCLUSION:

Based on the findings as described above, the proposed Text Amendment meets the criteria for approval.

