November 14, 2016

Jim Clinton, Mayor
City of Bend
710 NW Wall St.
Bend, Oregon 97703

Alan Unger, Chair
Deschutes County Board of Commissioners
PO Box 6005
Attn: BoCC
Bend, OR 97708-6005

RE: Approval of Urban Growth Boundary Expansion (Order 001878) - CORRECTED

The Department of Land Conservation and Development (DLCD) received a submittal from the City of Bend and Deschutes County regarding an expansion of the Bend urban growth boundary (UGB) of 2,380 acres on October 7, 2016. I am pleased to inform you that the amendment is approved. This letter constitutes the department’s order approving the task as provided in OAR 660-025-0150(1)(a).

The department received objections to this work task. The department’s response to the objections is contained in the attached report.

Those who submitted a valid objection may appeal this approval order to the Land Conservation and Development Commission, pursuant to OAR 660-025-0150(6). An appeal must:

- Be filed with the department’s Salem office within 21 days of the date the director's action was sent;
- Show that the person participated in the local proceedings leading to adoption of the work task orally or in writing;
- Clearly identify a deficiency in the work task sufficiently to identify the relevant section of the submitted task and the statute, goal, or administrative rule the local government is alleged to have violated; and
- Suggest a specific modification to the work task necessary to resolve the alleged deficiency.

Appeal letters must be received by DLCD’s Salem office by December 5, 2016.
I commend the efforts of Bend and Deschutes County officials and staff in completing the UGB amendment.

Please feel free to contact your DLCD regional representative, Scott Edelman, at 541-318-7921 or scott.edelman@state.or.us, if you have any questions or need assistance.

Yours truly,

Jim Rue
Director

cc via e-mail: Eric King, Bend City Manager
Nick Arnis, Bend Growth Management Director
Tom Anderson, Deschutes County Administrator
Nick Lelack, Deschutes County Community Development Director
Paul Dewey, Central Oregon LandWatch
Jeff Condit for Brooks Resources Corp.
Charley Miller
Ken Atwell
DLCD (Edelman, Hogue, Holmstrom, Howard)
I. SUMMARY OF DECISION

The Department of Land Conservation and Development (department) finds that the actions of the City of Bend (city) and Deschutes County (county) to expand the Bend urban growth boundary (UGB) for residential, employment, and public land need complies with the statewide planning goals, related statutes, and implementing administrative rules, based on the findings and conclusions contained in this report. Accordingly, the submittal is approved.

II. REVIEW PROCEDURES AND CRITERIA

A. Jurisdiction

OAR 660-025-0175(1) provides:

A local government must submit the following land use decisions to the department for review for compliance with the applicable statewide planning goals, statutes and rules in the manner provided for review of a work task under ORS 197.633:

***

(b) An amendment of an urban growth boundary by a city with a population of 2,500 or more within its urban growth boundary that adds more than 50 acres to the area within the urban growth boundary, except as provided by ORS 197A.325 and OAR 660-038-0020(10);

***

Bend’s population is greater than 2,500 and the amendment includes more than 50 acres, so the city properly submitted the amendment to the department for review.
B. Director Review

OAR 660-025-0150(1) provides that, in response to a submittal, the director may take action as follows:

(a) Issue an order approving the completed work task;
(b) Issue an order remanding the work task to the local government including a date for resubmittal;
(c) Refer the work task to the commission for review and action; or
(d) The director may issue an order approving portions of the completed work task provided these portions are not affected by an order remanding or referring the completed work task.

OAR 660-025-0150(9) provides that the director’s standard of review is the same as that for the commission, which is expressed in OAR 660-025-0160(2):

(a) For evidentiary issues, whether there is substantial evidence in the record as a whole to support the local government’s decision.
(b) For procedural issues, whether the local government failed to follow the procedures applicable to the matter before the local government in a manner that prejudiced the substantial rights of a party to the proceeding.
(c) For issues concerning compliance with applicable laws, whether the local government’s decision on the whole complies with applicable statutes, statewide land use planning goals, administrative rules, the comprehensive plan, the regional framework plan, the functional plan and land use regulations. The commission shall defer to a local government’s interpretation of its comprehensive plan or land use regulation in the manner provided in ORS 197.829 or to Metro’s interpretation of its regional framework plan or functional plans. For purposes of this subsection, “complies” has the meaning given the term “compliance” in the phrase “compliance with the goals” in ORS 197.747.

A director’s decision approving or partially approving a submittal may be appealed to the commission only by a person who filed a valid objection. OAR 660-025-0150(6)(a). Appeals of a director’s decision must be filed with the department’s Salem office within 21 days of the date the director’s action was mailed. OAR 660-025-0150(6)(c).

C. Review Criteria

The substantive criteria for this residential UGB expansion includes: Goal 1 (citizen involvement), Goal 2 (adequate factual basis), Goal 5 (scenic areas and open spaces), Goal 9 (economic opportunities analysis); Goal 10 (housing needs analysis); Goal 11 (infrastructure planning); Goal 12 (transportation planning) and Goal 14 (land need determination, locational analysis and urbanization report). UGB amendments also must comply with ORS 197.298. This submittal is reviewed for compliance with the Goal 2 requirement for an adequate factual base and the relevant portions of administrative rules that implement the relevant goals.
III. BACKGROUND AND DESCRIPTION OF SUBMITTAL

A. Background

In 2009, the Land Conservation and Development Commission partially approved and partially remanded a UGB amendment submitted by the city and county earlier that year. The order implementing that decision (10-REMAND-PARTIAL ACKNOW-001795) provided detail regarding the deficiencies in the 2009 submittal and explanation for how to remedy those deficiencies. The city used that order as guide for reconsideration of its long-term urban land need and devoted considerable time and resources in a renewed effort to accommodate the identified need. Because the earlier submittal was partially approved, the city was not required to “start over”; it did not reset the planning period but rather continued with a planning horizon of 2028.

The city adopted Ordinance No. 2271 on September 21, 2016, amending the UGB to add 2,380 acres of land for needed housing, employment and other urban uses, and making other conforming plan amendments. The county adopted the amendments on September 26, 2016. The department received notice of adoption of the UGB amendment on October 7, 2016 (“submittal”).

The city’s analysis included information to provide a factual base for a 2,380-acre expansion based on a 20-year need for urban land as required by Goal 2.

In establishing a preliminary study area, the city considered all lands within two miles of the UGB. This study area included over 18,000 acres, all of which was exception land, providing more than enough possible expansion areas for consideration in the UGB expansion.1 The city used indicators related to the Goal 14 location factors to rank properties in order to narrow the lands to be included in expansion scenarios. This exercise led the city to identify 5,400 acres of exception land for further evaluation.

The city developed scenarios based on geographic areas that it identified as most suitable to satisfy identified land needs. In addition, the city developed supplemental area maps designed to ensure that all property that scored in the top quartile of indicator scores received a similar level of evaluation. A detailed analysis of the scenarios and supplemental areas resulted in a selection of one of the scenarios as the “preferred scenario.”

The city refined the preferred scenario by: (1) reallocating residential and employment land among and within the expansion areas to promote “complete neighborhoods,” (2) adjusting the expansion areas based on refined analysis of the Goal 14 factors, (3) changing the expansion areas based on adjustments to assumptions on potential infill development, and (3) adding properties with a specific commitment to providing affordable housing.

The department received four objections to the submittal. Each is addressed in section IV of this report.

1 None of the land in the 18,000-acre study area was designated for farm or forest use.
B. **Description of Submittal**

The city amended its comprehensive plan map to expand the UGB to accommodate needed housing, employment and other urban uses through the planning period ending in 2028. As required by OAR 660-024-0040 and 660-024-0050, the analysis includes a buildable lands inventory (submittal, p. 13237), housing needs analysis (submittal, p. 13296), and economic opportunities analysis (submittal, 13411) as well as amendments to its transportation system plan (submittal, p. 13723) and several chapters of the city’s comprehensive plan related to housing, economy, transportation, and growth management (submittal, pp. 13304–13236, 13679). A boundary location analysis, as required by OAR 660-024-065 and 660-024-0067, is included. Submittal, p. 13539. Findings addressing goal and rule requirements were also adopted. Submittal, p. 12562. Properties included in the UGB are shown in Attachment A.

IV. **Objections**

The department received letters of objection from Charley Miller (Attachment B), Central Oregon LandWatch (Attachment C), Brooks Resources Corporation (Attachment D) and Ken Atwell (Attachment E). A summary of these objections and the department’s responses are provided in this subsequent subsections of this section.

A. **Validity of Objections**

OAR 660-025-0140(2) provides that in order for an objection to be valid, it must:

(a) Be in writing and filed with the department's Salem office no later than 21 days from the date the local government sent the notice;
(b) Clearly identify an alleged deficiency in the work task or adopted comprehensive plan amendment sufficiently to identify the relevant section of the final decision and the statute, goal, or administrative rule the submittal is alleged to have violated;
(c) Suggest specific revisions that would resolve the objection; and
(d) Demonstrate that the objecting party participated orally or in writing in the local process leading to the final decision.

The objections from Central Oregon LandWatch and Brooks Resources Corporation satisfy these criteria. These objections are valid.

The objection submitted by Ken Atwell does not satisfy all of the criteria. This objection was not submitted within the 21-day objection period. The city submitted the UGB amendment on October 7, 2016, so the objection period ended on October 28, 2016. The city forwarded all the objections it had received to the department on October 31, 2016. That transmittal included an e-mail from Mr. Atwell that was dated October 28 (before the deadline) and addressed to the department. Attachment E. However, the department did not receive the e-mail. The department finds that this objection does not satisfy OAR 660-025-0140(2)(a) in that it was not filed with the department within the 21-day deadline.
In addition, and more significantly, the objection does not satisfy OAR 660-025-0140(2)(b). The objection does not clearly identify the alleged deficiency in a manner that permits the department to identify the statute, goal, or administrative rule that the submittal allegedly violates. While the letter raises points that may have been relevant to the city during its consideration of the UGB amendment, the department’s review is limited to evidentiary, procedural, and compliance issues as spelled out in OAR 660-025-0160(2) (see subsection II.B of this report). The criteria for a valid objection require that the objector identify a deficiency in the submittal, and the statute, goal, or administrative rule that was violated, and the Atwell letter does not do that. Therefore, criterion (b) is not satisfied.

The objection from Charley Miller also does not allege a deficiency for the department to identify the relevant provisions of goal, rule or statute. The objection letter states that the record should include copies of deed restrictions and voluntary agreements on the properties brought into the UGB with owner commitments to provide affordable housing. The objection deos not cite a statute, goal, or rule that requires the city to demand affordable housing agreements or deed restrictions in order to comply with any requirement related to UGB amendments. Therefore, criterion (b) is not satisfied.

Because the objection from Ken Atwell was not timely filed and does not identify a deficiency in the submittal, the objection is not valid. Because the objection from Charley Miller does not identify a deficiency in the submittal, the objection is not valid. Neither of these objections is addressed further in this report.

**B. Valid Objections and Department Responses**

The two valid objections contain the following specific objections. The Department Response to each objection relies, in part, on the “Remand Record References of Objections filed to Bend UGB Amendment” letter (Attachment F) submitted by the city pursuant to OAR 660-025-0130(4)(a).

1. **Central Oregon LandWatch**

   The objection states that Central Oregon LandWatch “support[s] the City of Bend’s Urban Growth Boundary (UGB) plan and do not believe it is necessary to remand.” The objections allege deficiencies with regard to Goal 7, Natural Hazards, and Goal 10, Housing, and in both cases the objections are based on an assertion that additional findings that “could be made” to support the plan. The proposed solution is to add findings related to wildfire risk reduction and affordable housing. Neither objection proposes to change anything within the record; they are only intended to highlight and emphasize elements already incorporated into the comprehensive plan and UGB expansion.

   Department Response: These objections do not allege deficiencies that result in non-compliance with a relevant goal, rule, or statute, but only propose to strengthen the findings related to elements already included in the plan.

   This objection is rejected.
2. Brooks Resources

The objection states that, overall, Brooks Resources “supports the City’s decision and amendments and supports acknowledgement of the decision.” The point of objection deals with how the city describes the Court of Appeals decision on 1000 Friends v. Land Conservation and Development and City of McMinnville in relation to the application of Goal 14 factors to determine whether higher-priority land is adequate to accommodate the amount of land needed under ORS 197.298(1). However, the objection states “that the City applied the correct locational considerations in the correct sequence under Goal 14 and ORS 197.298(1)” and, further, states they “do not believe that remand is either necessary or beneficial.” The proposed solution is that “in its decision acknowledging the City’s ordinances that LCDC note that Goal 14 factors 1 and 2 do apply to the location decision and were correctly applied by the City in the context of the City’s application of ORS 197.298(3) under the McMinnville decision.”

Department Response: Brooks Resources objection is not based on a deficiency in the city’s actual application of Goal 14 factors related to higher priority land, only in its description of how the McMinnville case applies. The objector is correct that Goal 14 location factors 1 and 2 apply to the Bend UGB amendment.

This objection is rejected.

V. DEPARTMENT REVIEW

The department reviewed the UGB amendment submitted on October 7, 2016, by the City of Bend and Deschutes County pursuant to the authority in OAR 660-025-0175(1) and OAR 660-025-0150 (see section II of this report). The review considered relevant goals, rules, and statutes (see subsection II.C of this report) and valid objections (see section IV of this report) pursuant to OAR 660-025-0140(4). The results of the review of objections and the submittal generally is contained in a report pursuant to OAR 660-025-0140(6).

The department review found that the submittal contains appropriate evidence, analysis, and findings to demonstrate that the UGB amendment complies with relevant goals, rules and statutes. No deficiencies were identified.
VI. OVERALL CONCLUSIONS AND DECISION

The city and county adopted amendments to the Bend comprehensive plan and properly submitted them to the department for review. The submittal consists of findings of fact, conclusions, and implementing ordinances adopted by the city and county.

The department has determined that the actions of the city to amend its UGB comply with the applicable statewide planning goals, related statutes, and implementing administrative rules, based on the findings and conclusions contained in this report. All valid objections to the submittal are rejected.

The submittal is approved.

ATTACHMENTS
A. Map of Bend UGB Amendment
B. Charley Miller Objection (10/28/16)
C. Central Oregon Landwatch Objection (10/27/16)
D. Brooks Resources Corporation Objection (10/28/16)
E. Ken Atwell Objection
F. Remand Record References of Objections filed to Bend UGB Amendment (10/4/16)
I support the Bend UGB amendment as proposed, but please accept the attached minor objection.

Thank you.

Charley Miller
110 Ne Greenwood Avenue
Bend, Oregon 97701
October 28, 2016

To: Periodic Review Specialist, Department of Land Conservation and Development

From: Charley Miller

Re: Bend Urban Growth boundary Amendment

I have participated in the Bend UGB process for over a decade, most recently as a member of the Boundary TAC.

Between the end of March 2016 when the work of the boundary TAC was competed and the final meeting of the UGB steering committee on April 21, 2016, there were several properties that were proposed to be added to the UGB proposal, many with the promise for affordable housing. Staff created changes in assumptions to Masterplan requirements and Redevelopment to support the addition of these properties. According to the minutes, The Steering Committee agreed and directed staff to utilize these changes. They also directed staff to obtain draft deed restrictions regarding affordable housing prior to UGB adoption hearings and create enabling policies. I assume that this was key to these properties being included. In addition the committee directed staff to finalize the growth management chapter to include special site policies and policies on affordable housing. I do find modifications in the growth management chapter addressing policies regarding affordable housing, but am unable to find reference to the voluntary agreements or deed restrictions that were referred to in the minutes related to affordable housing.

I strongly support the amendment as proposed, but feel the agreements need to be included.

Thank you.
To Whom It Concerns:

Please find attached the Objection of Central Oregon LandWatch for additional findings to support the Bend UGB Plan. Please confirm that this has been received, and let me know if you have any questions or need anything further.

Sincerely,

Paul Dewey,
Executive Director
541-420-8455
October 27, 2016

Attention: Periodic Review Specialist
Department of Land Conservation and Development
645 Capitol Street NE, Suite 150
Salem, OR 97301
E-mail: DLCD.PR-UGB@state.or.us

Copied:
Damian Syrnyk, Senior Planner
City of Bend Growth Management
Department
709 NW Wall Street, Suite 102
Bend, OR 97701
Dsyrnyk@bendoregon.gov

Matt Martin, Associate Planner
Deschutes County
PO Box 6005
Attn: Community Development
Bend, OR 97708-6005
Matt.martin@deschutes.org

Re: Objection to DLCD regarding City of Bend Urban Growth Boundary Plan
City Ordinance 2271; County Ordinances 2016-022 and -023

Dear Director Rue,

We support the City of Bend’s Urban Growth Boundary (UGB) plan and do not believe it is necessary to remand, but we object on the basis that additional findings could have been made in support of the plan.

Throughout the UGB planning process, LandWatch has been the leading public interest group advocating for a limited expansion to prevent urban sprawl, encourage cost-effective growth, protect wildlife habitat, and foster affordable housing. After appealing the City’s original proposal, LandWatch was an active participant in the process that created this new and much-improved UGB plan, as reflected in our testimony and participation throughout the Record.

The forward-thinking UGB plan the City has developed with substantial public input will help guide Bend’s transition from a large town to a small city. We support this plan because it reduces urban sprawl by 70% compared to the original proposal, increases density sensitively with strategic Opportunity Areas, addresses wildfire and wildlife habitat with the Westside Transect, provides a framework for strengthening complete communities, and provides for affordable housing. Additionally, LandWatch commends the City for going above and beyond the requirements for Land Use Planning Goals 7 and 10. Even so, we believe additional findings could be made.
Goal 7 – Natural Hazards

Oregon’s Statewide Planning Goal 7 is to protect people and property from natural hazards. In Bend, we are highly concerned about the threat of wildfire. The most dangerous and hard to fight wildfires have historically occurred in the forested areas to the west of Bend. The Awbrey Hall fire in 1990 destroyed 22 homes just west of the current urban growth boundary, and in 2014, the Two Bulls fire caused more than 200 homes to be evacuated on the west side. Building at urban densities in the forest west of Bend would create a potentially life-threatening risk for residing, fire-fighting, and evacuating from that area.

During the planning process, the City considered the risks of the natural hazard wildfire in the evaluation of the UGB expansion areas. In addition to the findings on OAR 660-015 (section 9-1 of the Findings document), the City’s plan for a Westside Transect helps to satisfy Goal 7 (as well as Goal 5), and the following findings could be added:

- The Westside Transect concept will help satisfy the requirements of Goal 7 by designing more fire-safe communities and addressing development where the city abuts permanent natural areas such as the Deschutes National Forest, Shevlin Park, and Tumalo Creek. The resulting proposal, for a transect in the western expansion areas, was overwhelmingly supported by the Boundary Technical Advisory Group. It is defined in the Growth Management chapter as follows: “a transitional residential development pattern from urban to rural using a variety of housing types integrated with the surrounding natural landscape to minimize the impact on sensitive eco-systems, wildlife and to reduce the risk of wildfire” (pg. 15). This development pattern will reduce urban-level densities in the Wildland-Urban Interface, comparatively lowering the risk of catastrophic fire in the expansion areas west of Bend.

Goal 10 – Housing

Oregon’s Statewide Planning Goal 10 is to provide for the housing needs of the citizens of the state, and requires cities to plan for the provision of appropriate types and amounts of land that is necessary and suitable for housing that meets the housing needs of households of all income levels. This is particularly difficult and important in Bend, where housing prices are so high that the average family cannot afford the average home.

More than half of the households in Deschutes County are cost-burdened because they pay more than 30% of their income on housing costs. In addition, there are very few housing units available for rent – vacancy rates have been below 1.5% for the past four years, and as of June, 2016, the vacancy rate for apartments was just 0.62%. This can, in part, be attributed to the historic trend where the majority of units built in Bend have been single-family houses.

The proposed Urban Growth Boundary addresses this affordable housing crisis in several ways. The inventory of multi-family housing will increase by 74% over the planning period (2014-
2028) as a result of the proposed plan designations and zone changes for the opportunity areas and the efficiency measures to be added to the Bend Development Code (Findings, pg. 9-18). Diversifying the housing mix will make a greater variety of housing options at different price points available for renters and buyers, but does not guarantee affordability.

Additional findings could be made regarding Goal 10:

- The provision of a minimum of 270 affordable housing units will help meet the requirements of Goal 10. In order to increase the supply of truly affordable housing, four of the expansion areas include landowner-proposed affordable housing requirements in the Comprehensive Plan. This will result in a minimum of 145 housing units required to be affordable for households earning up to 80% of Area Median Income (AMI) for units for sale and 60% of AMI for units for rent for 50 years and a minimum of 125 housing units required to be affordable for households earning up to 30% AMI for 50 years. This proposal helps satisfy Goal 10.

Conclusion

Oregon’s visionary land use system created more than forty years ago has preserved the natural abundance we all now enjoy, including farm and range land, open space, working forests, and well-planned communities. The Statewide Planning Goals provide cities the blueprint for successful city planning, and some of the most significant issues Bend faces are addressed by the Statewide Planning Goals.

The City of Bend’s Urban Growth Boundary Plan more than adequately addresses Goals 7 and 10, which relate to natural hazards and housing, and accordingly should not be remanded. LandWatch objects only to add more supportive findings.

Sincerely,

s/ Paul Dewey

Paul Dewey
Executive Director
Central Oregon LandWatch

50 SW Bond St., Ste. 4 | Bend, OR 97702
Phone: (541) 647-2930
www.centraloregonlandwatch.org
Dear Periodic Review Specialist: Please accept the attached Bend UGB Submittal objection from Brooks Resources Corporation.

Thank you for your consideration.

- Jeff

Jeffrey G. Condit, P.C.
Partner

Miller Nash Graham & Dunn LLP
3400 U.S. Bancorp Tower | 111 S.W. Fifth Avenue | Portland, Oregon 97204
Office: 503.224.5858 | Fax: 503.205.8639
E-Mail | Bio | Social | Blogs

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October 28, 2016

VIA E-MAIL
DLCD.PR-UGB@STATE.OR.US

Attention: Periodic Review Specialist
Department of Land Conservation and Development
635 Capitol Street N.E., Suite 150
Salem, Oregon 97301

Subject: Objection—Bend Urban Growth Boundary Amendment

Dear Periodic Review Specialist:

We represent Brooks Resources Corporation ("Brooks"). In accordance with OAR 660-024-0080, OAR 660-025-0100, and OAR 660-025-0175, Brooks submits the following objection in response to the City of Bend's Notice of Urban Growth Boundary Amendment submitted on October 7, 2016.

**Participation Before the Local Government:** Brooks participated extensively both in person and in writing before the City of Bend in this case. See, e.g., City of Bend UGB Legal Record on Remand, pages 00452, 00851, 03685, 04963, 06068, and 06149.

**Identified Deficiency in the Decision:** Overall, Brooks supports the City's decision and amendments and supports acknowledgement of the decision by the Land Conservation and Development Commission ("LCDC"). Consequently, Brooks wants to ensure that the City's findings of fact ("City Findings") will be strong enough to support its decision, both before LCDC and on any appeal. There is one section in the City Findings where we believe that the City misstates the applicable law.

On pages 7-9 of the City Findings, the City states:

"The Council finds that the Court of Appeals decision on the McMinnville UGB addressed the application of suitability screening criteria. 1000 Friends v. Land Conservation and Development Commission and City of
McMinnville, 244 Or App 239 (2011). In addition to the reasons listed in 197.298(3), the Court reasoned that Goal 14 Factor 3 (Comparative environmental, social, economic and energy consequences, or ESEE) and Factor 4 (Compatibility with nearby farm and forest activities), but not other Goal 14 Factors, are applied to determine whether higher priority land "is inadequate to accommodate the amount of land needed" under ORS 197.298(1)."

We represented the City of McMinnville during the proceeding that led to the McMinnville decision. The 58-page McMinnville decision is very complex, but we do not think that it is quite accurate to state that the Goal 14 factors other than factors 3 and 4 do not apply to determine the suitability of lands for inclusion in the UGB.

The McMinnville Court struggled with the similarity between the ORS 192.298(3) bases for exclusion of the land and what were then Goal 14 factor 3 (orderly and economic provision of public facilities) and factor 4 (efficient accommodation of land needs). The court held "that the more specific limitations in ORS 197.298(3) displace the application of their more generic and flexible Goal 14 counterparts in the application of ORS 197.298(1)." 244 Or App at 263-264. The court concludes that for purposes of determining whether higher-priority lands are "adequate" to meet the identified land need under ORS 197.298(1), a local government applies ORS 197.298(3) and those Goal 14 locational factors (factors 5 and 7) that are not counterparts to the ORS 197.298(3) factors. 244 Or App at 264-265.

But the Court did not state that Goal 14 factors 3 and 4 are not applicable; rather, it stated that they applied in the next step of the analysis in accordance with ORS 197.298(3):

"ORS 197.298 operates, in short, to identify land that could be added to the UGB to accommodate a needed type of land use. Thereafter, Goal 14 works to qualify land that, having been identified already under ORS 197.298, should be added to the boundary. * * *

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1 The difference in the factor citations between the City's decision and the McMinnville case is because LCDC amended Goal 14 in 2006. McMinnville was decided under the pre-2006 version of Goal 14, and the City of Bend is proceeding under the post-2006 version. See City Findings Section 7.2.1. The factors were not substantively changed, but were reorganized. Factor 3 (orderly and economic provisions of services) is now factor 2, and former factor 4 (efficient accommodation of land needs) is now factor 1.

2 Now factors 3 and 4 (see note 1).
"It is at this point in the analysis that cost efficiencies in the provision of public facilities and services become relevant. Considerations of Goal 14, factor 3 (provision of public facilities and services) and factor 4 (efficiency of land uses), at this point—in combination with the other Goal 14 locational factors—may prompt the discarding of candidate land identified under ORS 197.298, and the selection of land otherwise consistent with the Goal 14 factors." 244 Or at 265-266 (emphasis in the original).

**Suggested Specific Correction:** We think that it is clear from a review of the City's overall analysis in Section 7 of its findings that the City applied the correct locational considerations in the correct sequence under Goal 14 and ORS 197.298(3) as interpreted in the McMinnville decision. So we do not believe that remand is either necessary or beneficial. Rather, we suggest that in its decision acknowledging the City's ordinances that LCDC note that Goal 14 factors 1 and 2 do apply to the location decision and were correctly applied by the City in the context of the City's application of ORS 197.298(3) under the McMinnville decision.

**Conclusion:** Brooks submits this objection in an excess of caution in order to support the City's decision and to avoid remand on a technicality. Brooks otherwise commends the City and Deschutes County on the decision and on the inclusive, transparent, collaborative, and exhaustive public process that led to it.

Very truly yours,

Jeffrey G. Condit, P.C.

cc: Ms. Mary Winters, City Attorney, City of Bend
I wish I could be more optimistic but all I saw through the process was well intentioned people working numbers to follow the rules, but with no understanding of how or when the City could do it's part to make it real.
Ingredients of a HOUSING RED LINE

belongs over there
Early into the planner's UGB Open House presentation on October 1, 2015,* he pointed to Southeast Bend, where approximately 80% of the expansion is planned, and said "that's where affordable housing belongs". His logic was based on the notion that less expensive raw land, ignoring a tight rental market, results in lower rents.

My research background with HUD and FHA caused me to immediately hear a statement suggesting a housing RED LINE was being drawn. So I went to a subsequent Planning Commission meeting.

doesn't belong here
At the November 9, 2015,** regular meeting of the Bend Planning Commission a brief presentation by Rockland Dunn, reporting for the UGB Boundary TAC, centered primarily on the finding that multi-family housing did not belong in West Bend. This finding was based on the fact that there are "only six river crossings" - Mt. Washington/Butler Market*, Portland*, Newport/Greenwood, Galveston, Colorado*, Columbia, Mt. Washington/Reed Market* - providing access to the area, all providing continuous access well into West Bend, and four provide full access to Hwy. 97. At the November 9, 2015,*** meeting of the ix access points might appear to be a unique problem until one looks at getting beyond a few blocks into Northeast or Southeast Bend. Northeast Bend where only seven entry points - Cooley, Empire*, Butler Market*, Revere*, Portland/Neff, Greenwood, Franklin/Bear Creek, Wilson* - with only six providing continuous access well into the area, and three provide full access to Hwy. 97. Southeast Bend where there are only seven entry points - Wilson*, Reed Market*, Brosterhous, Powers/Chase*, Murphy*, China Hat*, Knott* - with only five providing continuous access well into Northeast Bend, three of which are further restricted by railroad crossings, and only three provide full access to Hwy. 97. After this comparison the logic for restricting affordable multifamily housing in West Bend appears to be driven less by the fact that there are "only six river crossings" and more by the fact that 90% of the people on the UGB committees are from West Bend. Though the process leading to the proposed Bend UGB expansion plan may be flawed, this objection to the plan is not directed at the significant allocation of affordable multifamily housing to Southeast Bend. This objection is intended to address what is missing from this expansion plan allocation.

identifiable and unresolved barriers
The Bend Planning Commission, apparently following the UGB Boundary TAC finding presented by Rockland Dunn, recently denied a 12 acre multifamily housing proposal for West Bend property located at the intersection of two major arterial roads and across from a college campus and proposed neighborhood commercial complex. It would be hard to imagine a better location for such a development and a better example of how multifamily housing should be located throughout Bend.

The proposed zoning for the portion of Southeast Bend referred to as "The Elbow" (see Map 1) includes five commercial zones, one approximately 12 to 15 acres in size and four 20 to 30 acres, in an area approximately two miles square. This total commercial area roughly equals that of Downtown Bend, all of the commercial in West Bend, and about half of the entire retail/commercial Mill district. The feasibility of this volume of commercial space is further complicated by the fact that a tenant's target market is drawn from only north and west since the land south and east is National Forest or designated "resource land" and undevelopable. Since a typical grocery store or similar anchor tenant requires a 1.5 to 2 mile separation from a competitor to be successful, this location with National Forest and resource land eliminating potential market to the south or east would require almost twice that. To provide
appropriate access to this size of required market without requiring many target customers to go 2 miles beyond a direct path, the Murphy Road extension, with HWY. 97 access, must be completed prior to successful commercial development.

The need for this extension is further magnified when the planned industrial land is added to the analysis of access to The Elbow. With 4,600 jobs estimated for both The Elbow and The Thumb, since both areas will share the same out of area access for employees, peak traffic on 27th Street/Knott Road will demand alternate routes in and out of the area for residents. This again makes the Murphy extension critical.

The proposed zoning for the portion of Southeast Bend referred to as "The Thumb" (see Map 2) is even more problematic. With 70-80 acres of commercial zone suggested by the plan, it is apparent that the desire is to develop a retail area to turn some nearby retail trips to this area and away from the more distant Downtown Bend, Mill District, and even farther. To turn consumer traffic away from established brand name options requires that this retail area provide similar options. Such anchor tenants require a large trade area and more access than just Knott Road so that the Cooley Road to Empire traffic jam is avoided. Since again the market area of this location is lost to the south and east due to National Forest and resource land, additional access must come from minor arterials. Again the Murphy Extension, with Hwy. 97 access, is critical to allow access to 15th Street, but much of the near market to the west across Hwy. 97 is faced with a trip 2 miles out of the way to access this commercial area via Murphy Road or Baker/Knott Road. The Baker/Knott Road option only adds to the potential backup onto Hwy. 97 due to the railroad crossing and the left turn stops that are part of this interchange.

The Baker/Knott Road interchange was considered by the 2009 Central Oregon Rail study to be among the most critical and yet the most expensive crossing to address. But initiating a resolution of this issue now is critical to the success of the UGB expansion proposal. From Cooley Road to Powers the Hwy 97 Parkway has a full access interchange every mile. The distance from Powers, which is an incomplete street when used to access Southeast Bend, to Baker/Knott Road on Hwy 97 is 3.5 miles without cross traffic or access other than 90 degree turns on and off. In a meeting of the Southeast Bend Neighborhood Association where the UGB expansion proposal was presented, the discussion of traffic improvements included the statement that railroad and Hwy. 97 overpasses would connect China Hat Road on the east with Ponderosa St. on the west. I presented to the August 25, 2016, Joint County Commission and Bend City Council Meeting (Exhibit B) evidence that this proposed bridging was impossible to accomplish within the existing China Hat Road ROW without blocking access to Parrell Road, a frontage road, and the Stonegate subdivision on the east side of Hwy. 97, and the Hwy 97 off ramp ROW to Ponderosa St on the west side. I illustrated the ROW requirements necessary to accomplish both this valuable connection and a revision of the Baker/Knott Road interchange that eliminates the crossing left turns. The Baker/Knott Road revision would be unnecessary, however, if ODOT reverted to the original Murphy Project plan (Exhibit C) where a frontage road connected the HWY. 97 So. exit at Ponderosa St. to Baker Road west of the railroad at a significant cost savings. The existing Knott Road interchange would then allow traffic to exit onto Knott Road without a stop, and local traffic would stop. Regardless of which approach is followed, it is critical that ROW be purchased to allow this connection of Ponderosa and China Hat Road. Without this access, the zoning for a 60-80 acre commercial complex is totally inappropriate and an burdens the landowner with an unsalable concept.

Without these access improvements, the physical barriers strengthen the notion of a RED LINE which would define an area uniquely different than the rest of Bend due to the concentration of affordable multifamily housing. What makes a complete neighborhood is access that causes inhabitants feel like
they are still part of the larger community rather than being displaced. It has been proven over and over again that a concentration of housing density in an area of town with access limited by not only limited entry points but also by railroad crossings, complex street patterns, and countless stop signs and lights leads to limited economic, social, and political interaction with and support by the larger community. A neighborhood isolated in this way is not a "complete neighborhood" because lack of access to the larger market makes it difficult to attract bankable tenants in its proposed commercial districts. Without such tenants the planned convenience and commercial zones become little more than strip malls because they can't offer access to a larger trade area to the prospective tenant. This is where the economic market interacts with the planned neighborhood to create economic reality.

MAP 1

![Map Image]

MAP 2

![Map Image]
This is where a hint of a RED LINE begins to magnify itself. Any threat to Federal funding adds to a Red LINE's power and visibility by placing the improved access and service to the impacted area. It's simply a matter of what people don't know about an area because they don't drive through it, they in turn don't support area. Southeast Bend as defined by the UGB process is just such an area (see Exhibit A).

In economic geography, as much as a planner tries to place affordable housing near lower and middle income employment, that lower or middle income employee will still rationalize the even lower cost of housing in Redmond or La pine is worth the time and expense of a commute. All of this leads to the fact that as much as the gravitational model suggests to the planner that people in this complete neighborhood - 2,000 households and 4,000 jobs - will walk to shop and bike to nearby work, the distant employee can discount of the cost of commute, prefer even lower cost housing, and confound the logic of the model.

**lack of positive image**
In Bend where outdoor lifestyle is so important, the apartment or compact housing dwellers in the planed Southeast need neighborhood amenities that draw them out into the neighborhood. Without a definite effort to create a positive identity with Southeast Bend for its inhabitants, even if the expense of such amenities seems to run against the notion of affordable, this hint of a RED LINE could become the worst of what it denotes. With two substantial undeveloped parks in The Elbow, and 40-50 acres of dedicated perpetual open space in the Mountain High subdivision adjacent to The Thumb, there needs to be an aggressive effort to initiate their development. Exhibit B contains a map of a possible multiuse pathway to connect these open space elements.

**corrective measures**
These are a few of the elements missing from the UGB expansion plan just a vision. Without an attached action plan that suggests how and when these barriers to real "complete neighborhoods" will be removed I'm left with "belongs over there", "not here", and the fear that a RED LINE could be the reality.

---

a These access points have immediate or close access to the 97 Parkway with acceleration lanes - 4 of 6 to West Bend, 2 of 7 to Northeast, 3 of 7 to Southeast.
b These are incomplete streets that only go 2-4 blocks into an area of Bend and then end.

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* Participation in this meeting limited to sign-in (Remand Record page 04308) and the sign-in sheet is the extend of the online UGB Remand record of this meeting, though it may be on file elsewhere.
**Bend Planning Commission Monday, November 9, 2015 5:30 PM Regular Meeting City Council Chambers - City Hall 710 NW Wall Street Bend, Oregon 97701 1. ROLL CALL: Laura Fritz Karon Johnson Vincent Mercurio Joan Olender Vinci Bill Wagner, Chair Rex Wolf, Vice Chair ....3. UPDATE: UGB Boundary TAC, Rockland Dunn, (10 minutes) While there was video of the remainder of this meeting, the presentation by Rockland Dunn was not on the video minutes.
***Presented at the November 10, 2015, Residential TAC meeting, recorded in the record of the December 14, 2015, UGB Steering Committee minutes
BEND BY THIRDS

Bend divides itself into thirds, in terms of acreage, quite evenly - West Side, Northeast, Southeast. However each third can be treated quite differently. While the West Side is exempt from multifamily - per report to City Council - due to only seven river crossings (Mt. Washington/Butler Mkt, Portland, Newport/Greenwood, Galveston, Colorado, Columbia, Mt. Washington/Reed Market*) - leading to isolation and traffic congestion, the Southeast is considered the prime location for multifamily/affordable housing with only six** railroad crossings - Wilson, Reed Market, Country Club, China Hat, Baker Road.*** But the planning staff seems to explain this contradiction with the comment that the land is less expensive "over there" and that "affordable housing" belongs there.

* for which a portion of all SDC road charges from development in any area of Bend continue to pay
** Murphy Road RR Crossing sits waiting for funding to make the Murphy Crossing project truly effective
*** the Baker Road crossing was identified in the 2009 Central Oregon Rail study as the most critical and most expensive to address. With proper attention to the identified Ward property this could be addressed with less expense and more comprehensive traffic issue resolution.
While the WEST SIDE is considered*, with ONLY six river crossings, to be so constrained that it can’t accommodate multi-family housing, the SOUTHEAST SIDE, with only six points around the railroad, is considered to be the target for affordable/multi-family housing.

While river bridge crossings cause some traffic concentration,
1 Mt. Washington/Butler Market, 2 Portland, 3 Newport/Greenwood, 4 Galveston, 5 Colorado, 6. Columbia, Mt. Washington/Reed Market
they do not represent the stoppage and potential danger of five of the six rail crossings
1 Wilson** (signaled on grade), 2 Reed Market*** (signaled on grade),
3 Brosterhous Rd. (height restricted narrow underpass), 4 Country Club** (signaled on grade, potential underpass),
5 China Hat Rd.** (signaled on grade, potential overpass), 6 Baker Road*** (signaled on grade, potential overpass)
which could receive funding and attention given the proper development options for surrounding properties. Developer funding for the resolution of these issues is not only dependent upon SDC charges but also increased property values derived from "off grade" crossings and the lack of "on grade" crossing signal and whistle noise.

* per planning TAC report at 11/9/15 Planning Commission meeting
** Used presently and more so in the future by fully loaded school buses
*** Considered by the 2009 rail crossing study to be the most critical and expensive crossing to address
"Key Disadvantages" noted for the "Thumb" are "heavily reliant on US 97 for connections to the rest of the city" and "average trip lengths are long".

It is not the fault of this City Council or Planning Commission that the previous path of Third Street/Hwy 97 turned into a continuous strip mall with little cross traffic control, and it is understandable that the Highway Dept. wants to control access to the 97 Bypass. But, while all of the Westside encounters not one stoplight on a trip to downtown Bend, two stoplights to Cascade Village, and none to the Mill District; trips from the Southeast encounter 5-8 stoplights without using the 97 Bypass.

Even using the 97 Bypass presents its own challenges - "right turn only" access onto 55+ mph traffic - since there isn't an acceleration lane access northbound onto 97 for over three miles south of Reed Market to the Baker/Knott Road interchange. Southbound use of the 97 Bypass is even more difficult with only one egress from the 97 Bypass to the Southeast - Powers Rd. - over the same 3 miles from Reed Market to the Baker/Knott Rd. interchange. This compares to a full interchange (3-6) with access to the West Side every mile north of Reed Market.

There is a critical triangle of property that is at the center of resolving many of the connectivity problems for both the "Thumb" as presently defined and the rest of Southeast Bend. This triangle is part of the Ward property, it is critical that the definition of the "Thumb" be reconsidered to include all of the Ward property to the Baker/Knott Rd. interchange with zoning sufficient to support the necessary infrastructure investment.
TO: Joint City Council and Board of Commissioners Public Hearing on UGB expansion

FR: Ken Atwell

Any planning effort can stumble over unintended consequences and this UGB expansion plan has the potential to stumble over its attention to vehicular miles traveled (VMT). At the heart of any supply and demand analysis over space, be it retail goods and consumers or jobs and employees, is the notion of gravitational pull. This approach starts with the assumption that, in the retail case, that a large retail store with extensive inventory will have a larger pull on a consumer than a smaller store with a necessarily less extensive inventory, given the same distance to each. The "cost" of time and distance versus the "benefit" of greater selection is what the consumer seeks optimize.

The traditional model starts with this basic equation and then adds "friction" considerations, perceptual and less quantifiable attitudes regarding the nature of the travel or the store. The Envision Tomorrow model used in this UGB effort can take this basic model and friction factors to a level complexity and sophistication that only today's computers allow, but it should only consider the factors in place over the plan timeline. This is where planners can use this model improperly.

The most significant example of this is the planning for the Thumb. If the desired zoning were acted upon by property owners before the needed transportation infrastructure is in place, both the VMT goal and the development vision would be surely missed. Consider the Baker/ Knott Road interchange, China Hat Road, and the Highway Department's reluctance to increase local access to Hwy. 97.

The Baker/ Knott Road interchange, which will necessarily be impacted by an increase of 2,300 households and 4,600 jobs in Southeast Bend. This interchange was one of the high priority, and the highest cost, rail crossing improvements needed according to the 2009 Central Oregon Rail Planning report. The solution proposed in that study (see attached) was estimated to cost $36 million. It involved removing the existing overpass structure, raising the entire facility between the highway and the railroad 24 feet above current grade while leaving all stops and cross traffic turns in place, and bridging both HWY 97 and the railroad.

A traffic circle might be the ideal way to sort out this dilemma of stops and cross traffic turns, but a circle with the appropriate radius for the truck volume here will not fit between the highway and tracks, and certainly not at 24 feet above grade. Such a traffic circle would fit on the Ward property between the present interchange and the canal. Without a working interchange here the viability of the 70 to 80 acre business/commercial complex planned for the Thumb and the resulting reduction of extended trips out of the Southeast, Southwest, and Old Farm neighborhoods of Bend would be questionable.

If we were to assume that such a business/commercial complex would, in a normal urban setting, draw primary customers from the full 360 degrees of a one mile radius circle, under current circumstances this complex could likely draw from only 30 degrees of that circle to the southwest and 30 to 40 degrees to the northeast. This is because of the National Forest to the east and the lack of access to the west to the Ponderosa neighborhood because of Hwy. 97. True, Ponderosa neighborhood customers could arrive via Brookwood and Baker Road but that adds to the distance and the friction of inconvenience. So now they would be more than a mile away and at that distance they drive to the CBD or farther.
This means a connection of China Hat and Ponderosa is needed to meet some of the VMT objectives desired. This, as well as a railroad overpass, was mentioned as a distant possibility by a Bend representative at a recent Southeast Bend Neighborhood meeting. This possibility is physically impossible using the existing ROW for the roads in question. The distance required to reach the necessary above grade elevations, while integrating on and off traffic, is significant and naturally elevated grade change for this on and off traffic integration is the only solution. So, the only way to overpass both Hwy 97 and the railroad, while having room to integrate both Parrell and the Stonegate neighborhood, is to cross the railroad 600 to 1,000 feet southwest of the current crossing and through the Ward property.

The only way to use the Hwy 97 southbound deceleration lane and exit potential of the current ODOT ROW under this double overpass configuration requires such exit traffic to be directed under the highway overpass and sorted out on the Baney property. It becomes apparent, then, that opening the Ponderosa neighborhood to shopping and employment opportunities proposed in Southeast Bend can not be done using the existing alignment of China Hat and Ponderosa. Also, development of the Baney and Ward properties without resolving these ROW issues could the quality and quantity of tenants in the Thumb commercial/business complex and foreclose this critical element in the connectivity and VMT objectives.

The second significant commercial/business/industrial complex proposed in this UGB plan is situated on Knott Road between 15th Street and 27th Street. Like the previous complex, it's consumer and employee market are cut off from Southwest Bend by the current lack of a Murphy Road railroad overpass. Again, if development in this complex is initiated while the timeline for this overpass is unknown or distant, the quality and quantity of tenants in this complex will be impacted as well as the VMT projection.

If there is an area of development in Bend that cries out for further discussion, possibly through an overlay process involving property owners, this Southeast expansion is certainly it. In such a discussion, an item that might be included is a dedicated multiuse path connecting from Thumb to Elbow. The unique topography of the area makes it possible to bridge cross traffic issues and create a special character for an area that was defined in the first public UGB open house as "where affordable housing belongs". Such an overlay agreement, to accomplish all of the above, would have to involve a dedication of SDCs from this area to these projects, as well as developer and other financial commitment.

Introduction to my background

Doctoral Studies: Urban/Regional Economics, Economic Geography, Planning Management
Research: HUD - Evaluation of planning management methods under A9S Review
HUD Interstate Land Sales - Detection of deceptive land sales practices
US Water Resources - Case study of project approval under revised 1970 Guidelines
Native American Community Action Program - Resource and Enterprise Development Program
Occidental Land Co. - Fiscal Impact of 12,000 acre Sierra Valley development after Measure 13 passage
International Harvester Co. - Location analysis for sale, service and inventory depots
Private Investor - preliminary plan acceptance for the then bankrupt 10,000 acre Eel River Ranch development
Private Investor - preliminary plan acceptance for the 7,000 acre Peavine Mountain development

One shouldn't raise a logical problem without the same logic being applied to a solution. The following maps present a possible solution.
Left turn from Knott to local stop
Right turn from local to Knott stop
Left turn from 97 to Knott thru
Right turn from Knott to 97 thru

Local traffic east and west and 97
So from Knott use existing bridge to west side of 97, west on Knott one way west between this access point and new Knott off ramp

Existing off ramp for Knott access only, Knott becomes two lanes eastbound for merging with traffic from circle Scale house access moved east

Dedicated Baker off ramp added to eliminate a required stop had the existing ramp were used, 97 north access from frontage road
The bridge access for Hwy 97 and railroad overpasses are show at approximate required length, the rise in elevation on the Ward property could allow for a circle or intersection with minimal need to additionally raise the elevation.

There are only two points on Knott where a circle of appropriate size for significant truck traffic can fit that will also allow for a dispersion point before a canal bridge and this point best serves the entire parcel.

Extension of the Scalehouse Road access the required 1,200 feet beyond an Interchange access point.
West of Country Club the natural elevation is above railroad grade but would require some bridging; an extension of this bridging would be required to cross Country Club.

Possible future extension into National Forest as part of a mountain bike trail.

Potential future park property on the Old Back Nine.

China Hat crossing could be dealt with in development plan.

With swift action access across the railroad tracks to the Park Dept. property might be available where the tops of railcars are below grade; and extension through the park to a similar rock formation on 15th Street where vehicles are below grade.

With swift action the lot on the south side of the entrance to the Hayden subdivision could be a bridging point to a natural above grade point on the east side of the road.

Concept for a dedicated combined use trail that connect parks and schools and shopping.

A unique opportunity to provide a neighborhood feature that would define it in a more prideful way than "that's where affordable housing belongs"
DAVID EVANS AND ASSOCIATES, INC.

SUMMARY COST ESTIMATE

PROJECT: ODOT00000608
Central Oregon Rail Plan

CROSSING NO:
Baker Rd, Oxing of BNSF, US97

RAIL SEGMENT IDENTIFICATION:

RAIL SEGMENT LENGTH:

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SUBTOTAL $20,462,000

ADDITIONAL COSTS

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SUBTOTAL $12,377,200

TOTAL CONSTRUCTION COST

RIGHT-OF-WAY COSTS (Supplied by ODOT)

TOTAL CROSSING/SEGMENT COST $32,839,200

Assumptions/Notes:
Four lanes, median with 6 ft bike/shoulder and 6 ft sidewalks.
Retaining walls each side to reduce ROW costs. May be less cost to use embankment.
Span across RR and US 97 - remove existing US97 bridge to match new gradeline.
Raise existing on/off ramps - west ramps raise 24 feet - east ramps 4 ft - MSE walls each side.
Cul de sac intersecting local streets - maybe reconnect these streets toward the west.
Estimate based on rough lengths between features from attached sketch.
Profile is an estimate - assuming 0% grade along the existing ground.

Crossing 10A-005.60
Baker Rd., Bend -- Overcrossing

RATIONALE: Baker Rd intersects US97 approximately 600 feet to the east of the RR and is carried over US97 on a structure. The profile of this bridge will not match the needed profile over RR, therefore the bridge must be replaced. Assume the new overcrossing would be adjacent and to the north of the existing one. There are on/off ramps to US 97 that will need to be raised to match the profile of the overcrossing. There are approach streets to Baker Rd on the west side, which also must be raised to meet the new profile, rerouted or access stopped with a cul de sac.
With this approach the stopped and crossing right and left turn issues are not addressed, and the potential for Hwy. 97 off-ramp backup persists.
## SUMMARY COST ESTIMATE

**PROJECT:** ODOT0000608  
Central Oregon Rail Plan  
**CROSSING NO.:** China Hat Road (USFS Road 18)  
**RAIL SEGMENT IDENTIFICATION:**  

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**SUBTOTAL**  
$12,082,855  

**ADDITIONAL COSTS**  
- Utility Allowance: $100,000  
- Design/Surveying (10%): $1,208,266  
- Constr. Engr./Contingency (50%): $6,041,328  
- Special Costs (Unique to crossing or segment)  

**SUBTOTAL**  
$7,349,593  

**TOTAL CONSTRUCTION COST**  
$19,432,448  

**RIGHT-OF-WAY COSTS (Supplied by ODOT)**  

### TOTAL CROSSING/SEGMENT COST  
$19,432,248  

**Assumptions/Notes:**  
- Four lanes with 6 ft bike/shoulder and 6 ft sidewalks.  
- Retaining walls each side to reduce ROW costs.  
- Raise access road located about 600 ft NW 16.8 ft, - 40 ft width.  
- See note next page for impact of grade change along China Hat Road.  

---  

**China Hat Rd., Bend -- Overcrossing**  

**RATIONALE:** China Hat Rd. intersects with a driveway about 600 feet northwest of the RR and another driveway or local road about 800 ft. southwest of RR. A surface drainage detention pond is in the SE quadrant of the intersection with the RR. Because of the grade change, dropping from southeast to northwest, the southwest driveway can be accommodated but the northwest cannot because the access grade would have to be extended to the intersection with Parrell.
EXHIBIT C

8. No cross traffic
   No decel/accel lane
to/from 97 N or S

10. Traffic light to be
    removed
   No cross traffic
   No decel/accel lane
to/from 97 N or S

11. No traffic light
    Left turn lanes

12. Traffic circle added
    Bridge over 97 extends
    Murphy to Brookswood
    No accel lane access
to 97 N

13. Parrell stop signs at
    Murphy thru traffic

14. New bridge access
to 97 S

15. No cross traffic
    No decel/accel lane
to/from 97 N or S

16. Decel lane from 97 S
    Stop for rt turn from
    97 S onto Baker
    Railroad crossing can
    back up rt turn
    onto Baker
    Stop for lft turn across
    traffic from 97 S onto
    Knott
    Stop for lft turn across
    traffic from Baker
    onto 97 S
    Accel lane onto 97 S

17. Decel lane from 97 N
    Stop for left turn across
    traffic from 97 N
    onto Baker
    Railroad crossing can
    back up left turn
    onto Baker and rt
    turn onto 97 S
    Stop for rt turn from
    97 N onto Knott
    Stop for left turn across
    traffic from
    Baker onto 97 N
    Accel lane onto 97 N
VIA ELECTRONIC MAIL

November 4, 2016

Tabatha Hoge, Grants and Periodic Review Specialist
Oregon Department of Land Conservation and
Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

RE: Remand Record References for Objections filed to Bend UGB Amendment (Local File Numbers 07-361/247-16-0000-402-PA/247-16-0000-403-TA)

Dear Tabatha:

The City of Bend received copies of four (4) objections to the City's UGB amendment that were submitted to the Department on October 28, 2016. The City provides this letter pursuant to OAR 660-025-0130(4)(a) to provide the remand record references where an issue raised in an objection was addressed.

1. Charley Miller. Mr. Miller supports the UGB proposal but would like to see the addition of references to voluntary agreements or deed restrictions pertaining to the provision of affordable housing. This issue is addressed at Rem Rec 12260, 12784-12785.

2. Paul Dewey, Central Oregon Landwatch. Mr. Dewey supports the UGB proposal and recommends additional findings for Goal 7 (Natural Hazards) pertaining to the wildfire protective attributes of the proposed transect development in the western expansion areas, and for Goal 10 (Housing) pertaining to the provision of affordable housing. These issues are addressed at Rem Rec 12853, and 12856-12858.

3. Jeffrey Condit, for Brooks Resources. Mr. Condit supports the City's application of Goal 14 locational considerations established by the McMinnville decision and suggests that the Department confirm this in their decision. This issue is addressed at Rem Rec 12741, 10814, 4547, 6209, 6637, 6737, 6851, 10183, 10223, 11201, and 11223.

4. Ken Atwell. Mr. Atwell raised several objections. The City understands his objections to include:

   a. The City has not conducted adequate planning to support the proposed employment and housing allocated to the "Elbow" expansion area. This issue is addressed at Rem Rec. 12972, 12741, 12803, 13034, 13050, 12396, and 13359.

   b. The transportation system in Southeast Bend is inadequate to support the proposed expansion. This issue is addressed at Rem Rec 12972, 12741, 12803,
c. The proportion of multi-family housing proposed for the “Elbow” expansion area is disproportionately high compared to other areas. This issue is addressed at Rem Rec 12790-12791, 12792, 12741, 12803, 12598-12604.

d. The economic, social, environmental, and energy consequences for the proposed land uses in the “Elbow” were not appropriately weighed and balanced. This issue is addressed at Rem Rec 12792, 12741, 12803, 12768, 12790, 12780, 10814, 10230-10232, 10219-10220, 10223, 11223, 11251, 10183, 11201, 6619 to 6948, and 4998.

e. The City has not adequately identified subsequent planning requirements for the “Elbow” expansion area. This issue is addressed at Rem Rec 12792, 12741, 12803, 13110-13114, and 13119-13120.

Please contact us if you have any further questions.

Sincerely,

Damian Syrnyk, Senior Planner

Cc via Electronic Mail:
Rob Hallyburton and Scott Edelman, DLCD
Charley Miller
Paul Dewey for Central Oregon Landwatch
Jeffrey Condit for Brooks Resources
Ken Atwell