



**REGULAR MEETING and PUBLIC HEARING
OF THE NORTH BEND PLANNING COMMISSION
Thursday, October 13, 2022, 6:30-8:30 PM**

PLEASE NOTE: This meeting will be held at City Hall, 920 SE Cedar Falls Way, North Bend, WA.

Members of the public may choose to attend in person or by teleconference. As the in-person/teleconference hybrid meeting option is new technology to City Staff it is strongly encouraged that members of the public that are attending by teleconference provide comments in advance of the meeting.

AGENDA

- 1) Call to order and roll call**
- 2) Opportunity for public comment on non-agenda items (3 minutes per person)**
- 3) Approval of Minutes of September 8, 2022 Planning Commission Meeting**
- 4) Planning Commission recommendation on Transportation Element of the Comprehensive Plan**
- 5) Public Hearing for Bakes Marine Development Agreement**
- 6) Adjournment by 8:30 unless otherwise approved by Commission**

Next Meeting: October 27th

The meeting is available online meeting via Zoom. Click the link below to join the meeting or dial in via telephone via the number below. You will be required to have a registered Zoom Account and display your full name to be admitted to the online meeting. See further instructions on Zoom meeting participation on the next page following the agenda. To sign up for a Zoom account: <https://zoom.us/join>

Join Zoom Meeting

<https://us02web.zoom.us/j/85009844678?pwd=aHprWGt1ZXhTdHB6VGhkQWNpbGtRZz09>

Meeting ID: 850 0984 4678

Passcode: 262149

Dial by your location +1 253 215 8782 US (Tacoma)

Find your local number: <https://us02web.zoom.us/u/kcrGtzNWfU>

Agenda & Package distribution by hard copy: Planning Commissioners requesting it, City Hall Front Desk.

Agenda & Package distribution by e-mail: Mayor, Council, Planning Commission, Administrator, City Clerk, City Attorney, CED Director, other relevant staff.

Agenda and packet are also available to the public from Notify Me via the City's website.



GUIDELINES FOR CITIZEN PARTICIPATION

At Planning Commission Meetings

General Online Meeting Public Comment Instructions.

1. **Written public comments** may be submitted by email to rdeming@northbendwa.gov. Comments must be provided no later than 4:30pm the day of the meeting, so that a copy can be forwarded to the Planning Commission prior to the meeting.
2. **Spoken public comments using a computer or smartphone** will be accepted though the teleconference meeting. You will need to be logged into your Zoom account and display your full name to be admitted to the meeting.
 - a. You can download the Zoom client or connect to the meeting in-browser. If using your browser, make sure you are using a current up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer.
 - b. You can download the Zoom application onto your phone from the Apple App Store or Google Play Store and enter the meeting ID.
 - c. You will need to enter the Meeting ID and Password to join the meeting, listed on the meeting invite links.
 - d. You may be asked to enter an email address and name. We request that you identify yourself by name, as this will be visible online and will be used to notify you that it is your turn to speak.
 - e. Please use the "Chat Feature" to indicate you wish to speak. The Chat feature can be accessed by clicking on the chat button, typing your message with your name and address, and tapping send. You will then be called at the appropriate time. Please limit your remarks to the 3-minute time limit.
3. **Spoken public comments using a phone.** Use the telephone number listed on the meeting invite links. When you wish to speak on an agenda item hit *9 on your phone so we know that you wish to speak. You will be asked to provide your first and last name along with your address before providing your comments. When called, please limit your remarks to the 3-minute time limit allotted.

Citizen Participation and Contribution. Citizens are welcome and encouraged to attend all Planning Commission meetings and are encouraged to participate and contribute to the deliberations of the Commission. Recognition of a speaker by the Planning Commission Chair is a prerequisite to speaking and is necessary for an orderly and effective meeting. It will be expected that all speakers will deliver their comments in a courteous and efficient manner. At any time during the meeting anyone making out-of-order comments or acting in an unruly manner will be subject to removal from the meeting.

Right to Speak at Public Hearing. Any person has the right to speak at any Public Hearing on the item on the agenda after the staff report and any clarifying questions of the Planning Commission, but before the Planning Commission has discussed the item and action is taken. Speakers are requested to supply their contact information requested on the sign-in sheet to assist the Clerk with the Minutes.

Manner of Addressing Planning Commission. Each person desiring to address the Planning Commission shall stand, state his/her name and address for the record, and unless further time is granted by a majority of the Planning Commission, must limit his/her remarks to three (3) minutes. All remarks shall be addressed to the Chair of the Planning Commission and not to any member individually. All speakers shall be courteous and shall not engage in, discuss or comment on personalities or indulge in derogatory remarks or insinuations.

Spokesperson for Group of Persons. In order to expedite matters and to avoid repetitious presentations, delay or interruption of the orderly business of the Planning Commission, whenever any group of persons



wishes to address the Planning Commission on the same subject matter, it shall be proper for the Chair of the Planning Commission to request that a spokesperson be chosen by the group to address the Planning Commission.

Items Not on the Agenda (Citizen's Comments). The Chair of the Planning Commission will provide an opportunity for Citizens to speak on any subject that is not part of the Planning Commission Agenda for that night's meeting. Each person desiring to address an item that is not on the Planning Commission Agenda shall stand, state his/her name and address for the record, state the subject he/she wishes to discuss, if he/she is representing a group or organization the name should be stated, and unless further time is granted by a majority of the Planning Commission, must limit his/her remarks to three (3) minutes. Speakers are requested to supply the contact information requested on the sign-in sheet to assist the Clerk with the Minutes.

NORTH BEND PLANNING COMMISSION
- ACTION MEETING MINUTES -
Thursday, September 8, 2022, 6:30 – 8:30 PM
In Person & Virtual Online Meeting

PLEASE NOTE: This meeting will be held at City Hall, 920 SE Cedar Falls Way, North Bend, WA.

Members of the public may choose to attend in person or by teleconference. As the in-person/teleconference hybrid meeting option is new technology to City Staff it is strongly encouraged that members of the public that are attending by teleconference provide comments in advance of the meeting.

Also, Please Note: A complete video recording of this meeting is available on the City of North Bend YouTube website, at www.youtube.com under: City of North Bend

AGENDA ITEM #1: CALL TO ORDER

The meeting was called to order at 6:30 PM.

ROLL CALL

Planning Commissioners present: Brian Aylward, James Boevers, Olivia Moe, Juliano Pereira, Hannah Thiel, Suzan Torguson (Chair) and Coreen Wilson. City Staff Present: Mike McCarty, Senior Planner; Tom Mohr, Deputy Public Works Director, and Bre Keveren, Communications Manager. Guests: Kendra Breiland and Drew Heckathorn, both representatives from consultant Fehr & Peers.

AGENDA ITEM #2: Opportunity for Public Comment

There were no public in attendance at tonight's meeting.

AGENDA ITEM #3: Approval of June 23, 2022 Planning Commission Meeting Minutes

Motion by Commissioner Thiel, seconded by Commissioner Pereira, to approve the June 23, 2022 Planning Commission Meeting Minutes. The motion passed unanimously.

AGENDA ITEM #4: Update to the Transportation Element of the Comprehensive Plan

a) Introduction by City's consultant preparing the update, Fehr and Peers.

Consultants Kendra Breiland and Drew Heckathorn, both representatives from consultant Fehr & Peers, spoke at the introduction.

b) Public Hearing. There were no public at the meeting.

c) Planning Commission deliberation (no action at tonight's meeting).

There was deliberation on the update to the Transportation Element of the Comprehensive Plan between the Commissioners, City Staff, and consultants from Fehr & Peers.

AGENDA ITEM #5 – Adjournment by 8:30 PM Unless Otherwise Approved by the Planning Commission

The Meeting Adjourned at 7:29 PM.

NEXT PLANNING COMMISSION MEETING:

The next Planning Commission meeting has not been scheduled.



Staff Report and Planning Commission Recommendation Updated Transportation Element of the Comprehensive Plan

Meeting Date: October 13, 2022

Proponent: City of North Bend

Staff Recommendation: A Motion to recommend City Council approval of the proposed updated Transportation Element of the Comprehensive Plan.

I. Purpose of Proposed Municipal Code Amendments:

The City of North Bend, as coordinated by its Transportation Consultant Fehr and Peers, is preparing a major update to the Transportation Element of the North Bend Comprehensive Plan. The update is a part of the periodic update to the Comprehensive Plan due in 2024 and is being updated for consistency with the City's current growth targets established by the Puget Sound Regional Council, and requirements of the Growth Management Act and the Puget Sound Regional Council Vision 2050 Plan.

The Transportation Element provides a framework to guide transportation investments over the next 20 years in accordance with the community's vision and goals. The Transportation Element includes both short- and long-range strategies (programs, policies, and project recommendations) that advance the development of an integrated multimodal transportation system in North Bend. The City is required to update the Transportation Element by 2024 to align with adoption of the City's Comprehensive Plan and comply with the State's Growth Management Act (GMA). Beyond meeting these requirements, the Transportation Element update plays a vital role in maintaining the City's eligibility for future grant funding and identifies the future transportation system necessary to accommodate the growth and development of North Bend. This Transportation Element provides an overview of North Bend's transportation system – describing both the existing system and potential future opportunities and constraints. In doing so, this document serves as a long-range planning road map that will aid the community in achieving its overall transportation vision in the future. The Transportation Element also provides the foundation for development regulations contained in the North Bend Municipal Code and Public Works Standards.

Proposed amendments include revisions to the transportation policies, level of service standards (including adding pedestrian and bicycle standards), traffic forecasts, and planned transportation system and facility improvements.

II. Impacts of Proposed Amendment

NBMC 20.08.070 and .080 requires that applications for municipal code amendments be evaluated for their environmental, economic, and cultural impacts, as well as impacts to surrounding properties. These impacts are evaluated below.

From: [Mike McCarty](#)
To: [Todd Gray](#); [Planning Commission](#)
Cc: [Kurt Nelson](#); [Kendra Breiland](#); [Drew Heckathorn](#); [Tom Mohr](#); [Rebecca Deming](#)
Subject: RE: Transportation Element Public Hearing Notice
Date: Tuesday, September 6, 2022 8:13:00 AM

Todd,

Thank you for your comment (below). By way of this email, I'm providing it to the Planning Commission for their consideration at the hearing.

Regarding protection of critical areas, a suggestion to our Planning Commission (and our consultant coordinating the update) to address your comment may be to add to Objective 2.3 as follows (underline added):

Objective 2.3: Comply with federal and state stormwater controls and treatment, groundwater protection, critical areas, and endangered species act requirements related to construction, operation, and maintenance of the North Bend Transportation System.

Also of note, the Critical Areas Element (Chapter 2) and the Shoreline Element (Chapter 10) of the North Bend Comprehensive Plan provide the primary policy basis for the City's Critical Area Regulations (NBMC 14.05-14.11) and Shoreline Regulations (NBMC 14.20), and provide far more policies regarding avoidance and protection of critical areas and their buffers, including relating to transportation improvements. Here's a link to our existing Comprehensive Plan where you can view those chapters:

[Comprehensive Plan | North Bend, WA - Official Website \(northbendwa.gov\)](#)

Sincerely,
Mike

Mike McCarty, AICP
Senior Planner
City of North Bend Community and Economic Development
920 SE Cedar Falls Way
North Bend, WA 98045
(425) 888-7649



From: Todd Gray <toddgray@tulaliptribes-nsn.gov>
Sent: Friday, September 2, 2022 3:38 PM
To: Mike McCarty <MMCCARTY@NORTHBENDWA.GOV>
Cc: Kurt Nelson <knelson@tulaliptribes-nsn.gov>
Subject: RE: Transportation Element Public Hearing Notice

You don't often get email from toddgray@tulaliptribes-nsn.gov. [Learn why this is important](#)

Hi Mike,

I'm the environmental reviewer with The Tulalip Tribes Natural Resources Department. I've taken a look at the Transportation Element, and see that there is almost no mention of environmentally sensitive areas, such as wetlands, streams, and buffer zones to these areas. I expect any transportation expansions will likely involve making decisions about whether to route certain roadways close to, or through, some of these sensitive areas. We recommend adding language to Goal 2 of the TE that expresses the importance of making decisions to avoid these areas to the greatest extent possible when planning roadways of any kind.

It is of paramount importance to The Tulalip Tribes that these critical areas are protected, as they are all intrinsically tied to the health and abundance of our salmon, which we so deeply depend upon. We hope the City of North Bend shares our understanding, and will prioritize protection and avoidance of these critical areas.

I know the SEPA notification and comment period will be forthcoming, but wanted to express our thoughts before the hearing, for the City's benefit.

Thank you,

Todd Gray

Environmental Protection Ecologist
The Tulalip Tribes | Natural Resources Dept.
360-716-4620 | toddgray@tulaliptribes-nsn.gov

From: Mike McCarty

Sent: Tuesday, August 23, 2022 3:52 PM

To: Matthew Baerwalde ; Steven Mullen-Moses ; Cindy Spiry ; wfwoctap@fws.gov; Rebecca Deming ; Don DeBerg ; Lee, Kevin A (DFW) ; ann.harrie@snoqualmietribe.us; Barton, Chase (Chase.Barton@kingcounty.gov) ; Tom Meagher ; Scott, Todd ; jday@johndayhomes.com; Richard Young ; Laura.murphy@muckleshoot.nsn.com; Amy Biggs ; klyste@stillaguamish.com; Kurt Nelson ; KCParks.LegalNotices@kingcounty.gov; abiggs@svtbus.org; NWS Compliance ; dahp@snoqualmietribe.us; Mark Noll ; Bre Keveren ; Tom Mohr ; Jamie Burrell ; Rebecca Deming ; Dan Marcinko ; Mark Rigos ; Brian Tucker ; Tom Meagher ; mobility@hopelink.org; SRaphael@hopelink.org; Dylan Gamble ; accounts@northbenddowntown.org; susan@mtsiseniorcenter.org; info@snovalley.org; Maggie Moore ; rkoskey@psrc.org; k.breiland@fehrandpeers.com; asklocalservices@kingcounty.gov; marissa.alegria@kingcounty.gov; Reynolds, Jesse ; malcolmc@svsd410.org; Bolotin, Leah
Subject: Transportation Element Public Hearing Notice

WARNING: This email originated outside of our organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Agencies, Tribal Contacts, and interested parties,

Attached is a notice of public hearing regarding the City of North Bend's proposed draft updated Transportation Element of the Comprehensive Plan. The City and its transportation consultant, Fehr and Peers, has been preparing this update for the City's periodic major Comprehensive Plan update due in 2024, and will be presenting the draft and taking public comment at the hearing. We welcome your questions and comments on the draft and your participation at the hearing. Please note that SEPA will be conducted later in the process, and will be noticed separately, with its own comment period.

(While the draft is attached, note the associated figures are too large of a file size to include here, but they are available on the link on the City's website as indicated on the public notice).

If you are not the appropriate contact at your respective agency for considering the City of North Bend's draft Transportation Element, please forward this notice on to the correct person.

Sincerely,
Mike

Mike McCarty, AICP
Senior Planner
City of North Bend Community and Economic Development
920 SE Cedar Falls Way
North Bend, WA 98045
(425) 888-7649



From: [Amy Biggs](#)
To: [Mike McCarty](#)
Subject: FW: Transportation Element Public Hearing Notice
Date: Tuesday, September 6, 2022 4:03:09 PM
Attachments: [image002.png](#)

Clarification of my comment...
Please forward to the Planning Commission.

Thanks,
Amy

Amy Biggs
Director, Snoqualmie Valley Transportation
A project of Mt. Si Senior Center
425-888-7001 Ext. 109
www.SVTBus.org

OFFICIAL Feedback – for public consumption – can say this:

- Suggestion: Add expectation for frequency and daily/weekend transit service expectations.
- Prior to making the statement (9. Below), it would benefit the City to have King County Metro tell you exactly what “economically feasible” means to them. Otherwise, I would leave this out. Too vague, and what is economically feasible to us may not be to them.



Thanks,

Amy

Amy Biggs
Director, Snoqualmie Valley Transportation
A project of Mt. Si Senior Center
425-888-7001 Ext. 109
www.SVTBus.org

From: [Mike McCarty](#)
To: [Vander Sluis, John](#); [Planning Commission](#)
Cc: [Knauer, Jennifer](#); [Tom Mohr](#); [Rebecca Deming](#)
Subject: RE: Transportation Element Public Hearing Notice
Date: Thursday, September 8, 2022 4:36:00 PM
Attachments: [image002.png](#)

Hi John,

I didn't hear confirmation from you about whether this was a hearing comment or just a technical correction comment, so to be safe I'm forwarding it to the Planning Commission for consideration at the hearing, as well as to our consultant preparing the update.

Thank you for the comment and correction.

Sincerely,

Mike

Mike McCarty, AICP
Senior Planner
City of North Bend Community and Economic Development
920 SE Cedar Falls Way
North Bend, WA 98045
(425) 888-7649



From: Vander Sluis, John <jvandersluis@kingcounty.gov>
Sent: Thursday, September 8, 2022 1:30 PM
To: Mike McCarty <MMCCARTY@NORTHBENDWA.GOV>
Cc: Knauer, Jennifer <Jennifer.Knauer@kingcounty.gov>
Subject: FW: Transportation Element Public Hearing Notice

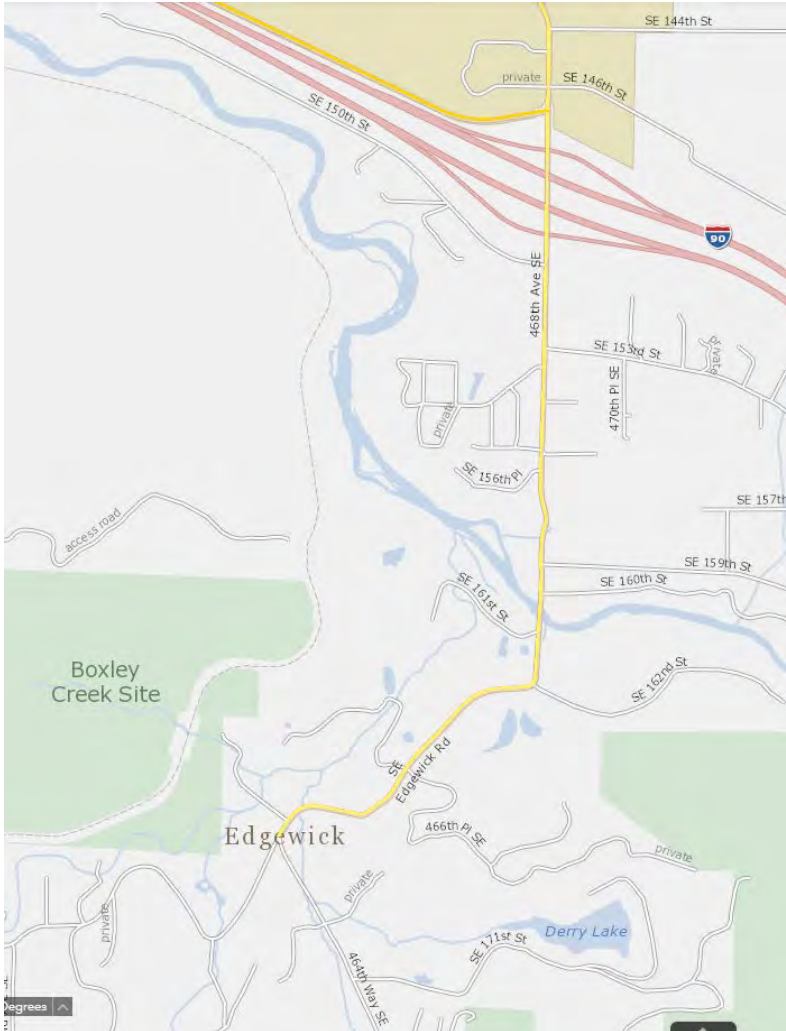
You don't often get email from jvandersluis@kingcounty.gov. [Learn why this is important](#)

Good afternoon,

I was forwarded the proposed update to your Comprehensive Plan Transportation Element and would like to share a technical correction to your Functional Classification Map ("Figure 2 - Roadway Functional Classification"). The county maintained portion of 468th Ave SE is classified as a collector much farther south than is shown in the map. The road continues as a collector as it becomes SE Edgewick Road and becomes a local road where it meets 464th Way SE, as shown in yellow in the map below. You may also want to consider symbolizing county-maintained and city-maintained roads separately; we often find that residents are unaware of the agency responsible for their roadway and the corresponding differences in urban and rural levels of service.

Thank you,

John Vander Sluis, Planner | Road Services Division, King County Department of Local Services |
206-263-0621
24/7 Help Line 206-477-8100 | maint.roads@kingcounty.gov | www.kingcounty.gov/roads



From: Mike McCarty <MMCCARTY@NORTHBENDWA.GOV>

Sent: Tuesday, August 23, 2022 3:52 PM

To: Matthew Baerwalde <Mattb@snoqualmtribe.us>; Steven Mullen-Moses <steve@snoqualmtribe.us>; Cindy Spiry <cindy@snoqualmtribe.us>; wfwocap@fws.gov; Rebecca Deming <RDeming@northbendwa.gov>; Don DeBerg <DDEBERG@NORTHBENDWA.GOV>; Lee, Kevin A (DFW) <Kevin.Lee@dfw.wa.gov>; Ann Harrie <ann.harrie@snoqualmtribe.us>; Barton, Chase <Chase.Barton@kingcounty.gov>; Tom Meagher <TMEAGHER@NORTHBENDWA.GOV>; Scott, Todd <Todd.Scott@kingcounty.gov>; jday@johndayhomes.com; ryoung@tulaliptribes-nsn.gov; Laura.murphy@muckleshoot.nsn.com; Amy Biggs <abiggs@svtbus.org>; klyste@stillaguamish.com; Kurt Nelson <knelson@tulaliptribes-nsn.gov>; KCParks Legal Notices <KCParks.LegalNotices@kingcounty.gov>; Amy Biggs <abiggs@svtbus.org>; NWS Compliance <NWS.Compliance@usace.army.mil>; dahp@snoqualmtribe.us; Mark Noll

<MNoll@northbendwa.gov>; Bre Keveren <BKeveren@northbendwa.gov>; Tom Mohr <TMOHR@NORTHBENDWA.GOV>; Jamie Burrell <JBURRELL@NORTHBENDWA.GOV>; Rebecca Deming <RDeming@northbendwa.gov>; Dan Marcinko <DMarcinko@northbendwa.gov>; Mark Rigos <mrigos@northbendwa.gov>; Brian Tucker <BTUCKER@NORTHBENDWA.GOV>; Tom Meagher <TMEAGHER@NORTHBENDWA.GOV>; mobility@hopelink.org; SRaphael@hopelink.org; Dylan Gamble <dgamble@snoqualmiewa.gov>; accounts@northbenddowntown.org; Susan Kingsbury-Comeau <susan@mtsiseniorcenter.org>; info@snovalley.org; Maggie Moore <MMoore@psrc.org>; rkoskey@psrc.org; k.breiland@fehrandpeers.com; AskLocalServices <ASKLocalServices@kingcounty.gov>; Alegria, Marissa <Marissa.Alegria@kingcounty.gov>; Reynolds, Jesse <jesreynolds@kingcounty.gov>; malcolmc@svsd410.org; Bolotin, Leah <BolotiL@wsdot.wa.gov>

Subject: Transportation Element Public Hearing Notice

[EXTERNAL Email Notice!] External communication is important to us. Be cautious of phishing attempts. Do not click or open suspicious links or attachments.

Agencies, Tribal Contacts, and interested parties,

Attached is a notice of public hearing regarding the City of North Bend's proposed draft updated Transportation Element of the Comprehensive Plan. The City and its transportation consultant, Fehr and Peers, has been preparing this update for the City's periodic major Comprehensive Plan update due in 2024, and will be presenting the draft and taking public comment at the hearing. We welcome your questions and comments on the draft and your participation at the hearing. Please note that SEPA will be conducted later in the process, and will be noticed separately, with its own comment period.

(While the draft is attached, note the associated figures are too large of a file size to include here, but they are available on the link on the City's website as indicated on the public notice).

If you are not the appropriate contact at your respective agency for considering the City of North Bend's draft Transportation Element, please forward this notice on to the correct person.

Sincerely,
Mike

Mike McCarty, AICP
Senior Planner
City of North Bend Community and Economic Development
920 SE Cedar Falls Way
North Bend, WA 98045
(425) 888-7649



From: [Rebecca Deming](#)
To: [Planning Commission](#)
Cc: [Mike McCarty](#)
Subject: FW: Comments on Planning Commission 9/8 meeting - Transportation Element
Date: Thursday, September 8, 2022 5:30:30 PM

Please see the below public comment for tonight's public hearing.

Rebecca Deming
Community and Economic Development Director
City of North Bend
920 SE Cedar Falls Way
North Bend, WA 98045
(425) 888-7646

-----Original Message-----

From: mthomas bangstick.net <mthomas@bangstick.net>
Sent: Thursday, September 8, 2022 4:31 PM
To: Rebecca Deming <RDeming@northbendwa.gov>
Subject: Comments on Planning Commission 9/8 meeting - Transportation Element

Rebecca:

A few comments on the transportation element update:

1. Would like to see an allowance to use sidewalk materials and/or construction that favors trees and reduces repair costs. eg asphalt over formed concrete, ramp over roots, reduced widths, and similar. We lose too many trees over sidewalks.
2. On Level of Service concerned there is no discussion of key projects such as the Readiness Center and Vehicle Maintenance Facility aka National Guard and its traffic properties.

A recommendation:

Traffic planning for known projects must consider the actual nature of the traffic such as batch arrival or departure. The guard facility has convoys of vehicles arriving and departing. Similarly schools have such properties such as mass arrivals/departures of buses and/or parents and/or students.

Thanks

Michael Thomas
1231 LaForest Drive SE
North Bend WA



9/9/2022

Mike McCarty
Senior Planner
City of North Bend
920 SE Cedar Falls Way
North Bend, WA 98045

Via e-mail to: mmccarty@northbendwa.gov

Re. Snoqualmie Tribe's comments on the Transportation Element of the City of North Bend Comprehensive Plan

Dear Mr. McCarty,

The Snoqualmie Indian Tribe (Tribe) has reviewed the proposed amendments and other materials related to the City of North Bend's (City's) Comprehensive Plan Transportation Element. The Tribe respectfully submits the following comments:

The City is already aware from previous comments from the Tribe that we support the levee setback aspect of City of North Bend project number T-021B. The Tribe's support for the levee setback is due in part to the expected benefits to natural resources and infrastructure that will result from increasing flood capacity along the South Fork Snoqualmie River to something closer to its natural state, as it existed before the constraints imposed by development. The City is also aware from prior comments that the Tribe does not support a road on top of or next to the proposed setback levee due to the increased footprint required by a road, and because of the sensitivity of this area regarding archaeological resources.

Since we observe that the City continues to prioritize and advance project T-021A (South Fork Avenue Extension - Bendigo to NW 8th Street [Nintendo Bypass]), we wish to re-emphasize to the City the known, documented sensitivity of this area of the South Fork Snoqualmie floodplain. Similarly, as we have cautioned the City previously, project T-049 (NW 8th Street Widening and Sidewalk between NBW and Bendigo [includes new Ribary Creek bridge]) is near a known archaeological site. The Tribe urges the City to limit further disturbance in the vicinity of known archaeological sites and aquatic resources such as Ribary Creek.

City of North Bend project number T-022 (South Fork Avenue Extension, Mt. Si Blvd to Maloney Grove) proposes a new bridge over the South Fork Snoqualmie River. Bridges have negative effects on aquatic resources. The South Fork Snoqualmie River is already severely functionally impaired due to the construction of I-90, a number of existing bridges over the river, and the maintenance of flood facilities such as dikes and levees throughout the City of North Bend. These facilities displace natural vegetation which would otherwise provide habitat value, and constrain the river within an artificially limited single-thread channel, reducing both the quantity and quality of habitat for protected and valuable aquatic resources, as well as reducing overall

Transportation Hearing Comment 5

system resiliency to floods and effects of climate change. A bridge at this location may also contribute to increased flood hazards, which are already an identified issue here. We recommend against exacerbating these issues by constructing more constraints on the river such as the new bridge associated with the proposed South Fork Avenue Extension from Mt. Si Blvd to Maloney Grove Ave. Additionally, this proposed bridge will cross Clough Creek near its confluence with the South Fork Snoqualmie. Clough Creek is an incredibly important tributary for spawning trout. Trout have been documented spawning in this creek from February through June. While we recognize that at this time that T-022 is proposed as a relatively low priority project, it has been rising in priority since it first made its way onto the City's TIP list. It has consistently been, and remains, the Tribe's recommendation and request not to impact this resource by constructing another channel and habitat constraint over Clough Creek. We also recommend that the City evaluate and pursue other alternatives in this area.

Thank you for the opportunity to submit comments on the City's Comprehensive Plan Transportation Element.

Sincerely,

A handwritten signature in black ink, appearing to read "Jaime Martin". The signature is fluid and cursive, with the first name "Jaime" and last name "Martin" clearly distinguishable.

Jaime Martin
Executive Director of Governmental Affairs & Special Projects
Snoqualmie Tribe

CC: Rob McFarland <RMcFarland@northbendwa.gov>; Mark Rigos MRIGOS@NORTHBENDWA.GOV;

- 1) **Environmental Impacts.** Negative environmental impacts are not anticipated from the updated Transportation Element. Positive environmental impacts from implementation of the Transportation Element result from policies encouraging bicycles, pedestrian mobility, and transit use, and reducing single-occupancy vehicle use and its associated climate and air quality impacts, and avoiding critical areas in developing new transportation infrastructure. On a broader/regional scale, the updated Transportation Element supports the overall environmental objectives of the Growth Management Act of preserving rural, resource, and natural lands outside of urban growth areas by planning for transportation improvements that support the City's planned land use and growth targets through the 2044 planning horizon within the City's Urban Growth Area.
- 2) **Economic Impacts.** The updated Transportation Element will have positive economic impacts on businesses and property owners within the community. The element provides for predictability regarding the City's long range transportation vision and planned improvements, and plans investments necessary to maintain transportation levels of service to ensure efficient mobility within the City.
- 3) **Cultural Impacts.** No cultural impacts are anticipated from the amendments. Transportation improvement projects that are implemented consistent with the Transportation Element will be subject to environmental and cultural resource reviews as appropriate, which will plan for addressing potential cultural resource impacts. State Environmental Policy Act review will be conducted for the Comprehensive Plan as a whole which will provide opportunity for further consideration of cultural impacts of the Comprehensive Plan including the Transportation Element, prior to its adoption in 2024.
- 4) **Impacts to Surrounding Properties.** The Transportation Element applies City-wide and not specific to individual properties. Future transportation improvement projects that are located on and/or adjacent to specific properties will be subject to public notification and permitting requirements, which will include evaluation of potential impacts to such properties consistent with State Environmental Policy Act review and review against City development regulations.

III. Compatibility of Proposed Amendment with North Bend Comprehensive Plan

In accordance with NBMC 20.08.080, Comprehensive Plan and development regulation amendments must be evaluated for compliance with the Comprehensive Plan. The proposed amendments are in compliance with the other elements of the Comprehensive Plan by implementing the housing and employment growth targets established for the City by the Puget Sound Regional Council. Further coordination and evaluation for consistency will occur upon development of updates to other elements of the City's Comprehensive Plan for the 2024 periodic update, including the Land Use Element and Housing Element. Amendments may be provided to the Transportation Element should revisions to those Elements result in incompatibility between the elements. The City will conduct a compatibility review of all elements prior to adoption of the periodic Comprehensive Plan update in 2024.

IV. Compatibility of Proposed Amendment with the North Bend Municipal Code (NBMC)

In accordance with NBMC 20.08.080, Comprehensive Plan amendments must be evaluated for compliance with the North Bend Municipal Code. The proposed amendment is compatible with the

North Bend Municipal Code, specifically including the zoning map, which is the basis for the employment and housing growth estimates established by the Puget Sound Regional Council to the City. The amendments are being prepared consistent with the amendment procedures in NBMC 20.08, and are consistent with, and implement the Concurrency regulations in NBMC 20.12.

V. Planning Commission Analysis:

Pursuant to NBMC 20.08.100, the Planning Commission shall consider the proposed amendment against the criteria in NBMC 20.08.100(B). A staff analysis is provided in italics under each criterion below.

1. Is the issue already adequately addressed in the Comprehensive Plan?
No. An update to the Transportation Element is required by state law (see below).
2. If the issue is not addressed in the Comprehensive Plan, is there a need for the proposed change?
Yes. The proposed update is necessary to ensure consistency with requirements of the Growth Management Act (GMA) and Puget Sound Regional Council (PSRC), as a required component of the City's periodic major update to the Comprehensive Plan due in 2024. Consistency with the GMA and PSRC Vision 2050 is required for certification of the City's Comprehensive Plan by PSRC for eligibility for various state and federal grants, which the City relies on to fund the transportation improvements identified in this Transportation Element and the City's Transportation Capital Facilities Plan. Without such certification and use of grants, the City would need to fund a much larger share of the cost of transportation improvements.
3. Is the proposed change the best means for meeting the identified public need?
Yes.
4. Will the proposed change result in a net benefit to the community?
Yes. The amendments will ensure a well-planned transportation system that keeps up with residential and employment growth (consistent with required growth targets established by PSRC), and ensures grant eligibility for funding such improvements, providing fiscal responsibility to North Bend taxpayers.

VI. Summary Findings:

1. The Planning Commission considered the proposed amendments on the draft regulations at their September 8 and September 22, 2022 meetings, including holding a public hearing on September 8, 2022.
2. Written public Comment was received for the September 8, 2022 hearing and is provided in the attached Exhibit B.
3. The City's Transportation Consultant, Fehr and Peers, has provided amendments based on feedback provided by the Planning Commission at their September 8, 2022 meeting.
4. Following consideration of public comment received for and at the September 8, 2022 hearing and subsequent review, the Planning Commission voted to recommend that Council approve the draft amendments.
5. The proposed amendments are consistent with the procedures established in NBMC 20.08, *Comprehensive Plan and Development Regulations Amendment Procedures*. The Planning

Commission finds that the proposed amendments are consistent with the criteria in NBMC 20.08.100(B) and would result in a net benefit to the community.

Staff Recommendation:

Based on the findings above and pending consideration of public input to be provided, staff recommends approval of the draft Transportation Element of the Comprehensive Plan.

Mike McCarty, Senior Planner

Date

Planning Commission Recommendation

Following consideration of the Comprehensive Plan and Development Regulation Amendment process in NBMC 20.08.070 through 20.08.110 and public comment received, the Planning Commission recommends approval of the draft Transportation Element of the Comprehensive Plan.

Planning Commission Chair

Date

- Exhibit A: Draft Transportation Element
- Exhibit B: Written public comment received for 9/8/2022 hearing



Staff Report and Planning Commission Recommendation Bakes Development Agreement

Meeting Date: October 13, 2022

Proponent:

Bill Baker
Telegraph Properties, LLC
6424 East Lake Sammamish Parkway SE
Issaquah, WA 98029

Staff Recommendation: A Motion to recommend City Council approve the Development Agreement with Telegraph Properties, LLC for Bakes Marine Boat and Watercraft Sales

I. Summary of Development Agreement:

Telegraph Properties, LLC on behalf of Bill Baker and Paul Gregoire of Bakes Marine Consulting (“Bakes”) has approached the City of North Bend inquiring about developing a Bakes Marine Sales and Service Center on a vacant piece of property just east of the Mt Si Pub on Parcel 1323089065 along SE North Bend Way. The parcel is in the Neighborhood Business (NB) zone.

On July 22, 2022, the project was issued a Notice of Application for a 31,665 square foot building for Boat and Watercraft Sales for Bakes Marine. The operation will be comprised of warehouse and office tenant.

Bakes is requesting a Development Agreement (“DA”) to allow for a deviation in the North Bend Municipal Code (NBMC) Chapter 18.34.070 North Bend Commercial and Industrial Design Guidelines A-3a. Approval of the proposed Agreement allows the applicant to build a 31,665 square foot building, exceeding the maximum 15,000 square feet allowed by NBMC Design Guidelines. Bakes is also requesting the following minor deviations which can be approved administratively but are included in the DA to provide a full record of the requested and approved deviations:

- A deviation in the City’s design standards A-3 Streetscape Design Required Street Façade Building Line (RBL). The standards require the street façade to be built out to no less than 50% of the RBL for the first 10 feet of the depth of the lot. The remaining 50% may not be set back more than 10 feet from the RBL. The Site Plan shows the office/sales area in the center of the parcel at the RBL, but the remainder of the frontage is either access/parking or has the building setback in order to allow for a flagpole with landscaping and path.
- A deviation in the City’s landscape standards which require intermediate landscape islands within parking areas. The Project removes some of the islands but overall meets the required landscaping requirement allowances for the site by consolidating landscaping elsewhere. This will allow for larger vehicle and trailer maneuvering space and promotes

sustainable landscape design by reducing water consumption with less small or strip surfaces.

The purpose of DAs is clarified under 18.27.020, and in summary, allows for establishing standards and requirements for a specific project that may differ from portions of the City's development regulations, subject to approval by the City Council. A DA enabling a specific user to gain relief from standard code regulations has an advantage over amending the City's zoning regulations to enable additional relief in the city in that it provides a more limited "trial basis" for considering each applicant individually and provides more control as well as the ability to impose requirements that go above and beyond what is otherwise required in the municipal code and state law.

There are benefits and potential impacts with any deviation from code, which are evaluated below. The principal benefit to the City is the tax revenue, employment, and property investment to the City from having Bakes develop.

II. Planning Commission and Community and Economic Development (CED) Council Committee Review

The Planning Commission will provide their review and recommendation to the City Council following their consideration of public comment at a public hearing, as required per NBMC 18.27.025.

The CED Council Committee will review the proposal for a Development Agreement at a future meeting following Planning Commission recommendation.

III. Consistency with North Bend Municipal Code (NBMC) Chapter 18.27, Development Agreements

As stated in Chapter 18.27.020, the purposes for development agreements include creating certainty to applicants, consolidating numerous issues involved in complex development projects into a single controlling instrument, maximize efficient use of resources at the least economic cost to the public, and to strengthen the public planning process. The proposed DA, including this process for review and public hearing before the Planning Commission, achieves those purposes.

The Applicant has met the application requirements for a development agreement detailed in NBMC 18.27.030. The only deviations from the code are those detailed in the DA, primarily to build a larger building than what is otherwise allowed by code and to have site plan deviations for landscaping and front building setback build to line. By approving the larger building some additional design standard requirements such as a % volume for a single mass would be exceeded and need to be addressed with further rounds of review. Preliminary estimates show the warehouse building comprises around 80% of the volume, and the design standards limit to 75% maximum.

IV. Consistency with the North Bend Comprehensive Plan

Pursuant to NBMC 18.27.020(C), a Development Agreement should further the objectives of the Comprehensive Plan. The North Bend Comprehensive Plan does not speak in either support or opposition to the specific requests related to building size, parking lot landscaping or build to line but does speak the scale of new commercial development in the Edgewick Neighborhood. The Comprehensive Plan states: *Attention to the most appropriate zoning classifications and land uses is also a significant issue, as the North Bend Vision Plan clearly articulates the City's desire to manage new commercial development with attention to the scale and intensity suitable for a small city. Employment-generating uses should be given preference over larger-scale warehousing and storage uses.*

Per the Comprehensive Plan the Neighborhood Business zone is a commercial zoning district intended to allow a variety of small-scale retail centers for shops providing goods to serve the everyday needs of the surrounding population, where mixed-use development can be encouraged. The Design Standards for the E/W Interchange area provide additional planning and land use guidance to ensure a well-coordinated mix of office, employment park, research, and industrial, and light manufacturing uses, and to coordinate vehicular circulation and site design to minimize adverse impacts to adjacent residential areas and other commercial uses.

Per LU - Goal 4: *Focus future employment growth in designated economic opportunity areas including the downtown, the South Fork interchange and employment park area and the East North Bend Way to Edgewick corridor. Policy LU – 4.2 further Promotes pedestrian-scale development by utilizing shared driveways or existing roads and providing pedestrian-level amenities.* The development will connect to a new sidewalk along the frontage and the building entrance will front to the street per Design Standards. The applicant has also provided an economic model which estimates 12 employees will work at this location with first year sales forecasted at 5Million.

The proposal could also be considered to support certain policies within the Comprehensive Plan relating to Economic Development, including the following:

- Economic Development Goal 2: Create public and private opportunities for economic development that encourage and enable redevelopment of underperforming commercial sites.
- Capital Facilities Element Policy 4.9: Coordinate the City's land use and public works planning activities with an ongoing program of long-range financial planning to conserve fiscal resources available to implement the Capital Facilities Element.

The proposal is consistent with Economic Development Goal 2 in that it provides an opportunity for a new retail use within an existing underperforming commercial site. This furthers the intent of Goal 2 by providing a private opportunity for economic development that will benefit the City's finances. The proposal is consistent Capital Facilities Element Policy 4.9 in that it enables a use that will generate revenue to the City. See additional information on economic benefits under that section below.

V. Impacts of Proposal

NBMC 20.08.070 and .080 requires that applications for municipal code amendments be evaluated for their environmental, economic, and cultural impacts, as well as impacts to surrounding properties. While a development agreement is not a code amendment, the impacts of such a development agreement should likewise be considered. These impacts are evaluated below.

- 1) Environmental Impacts.** No environmental impacts are anticipated from approving the proposed Development Agreement. The proposal locates the business on an existing mostly cleared, flat lot with no critical areas present. The project proposes typical site improvements associated with a commercial development including parking, landscaping, stormwater controls, etc., which will be reviewed for consistency with the City's development and design regulations. Trees will be removed, and mitigation will be required per NBMC 19.10.
- 2) Economic Impacts.** North Bend would likely receive in the range of \$57,000 per year based on tax revenue from the development. This revenue would provide a benefit for the city in funding essential services such as police and fire, and in maintaining levels of service for streets, parks, and

other infrastructure that serves its citizens. Additionally, Bakes Marine will pay Impact Fees and General Facility charges which are one-time fees due at permit issuance.

3) Traffic Impacts. The applicant provided a traffic impact analysis as a part of their development application since their use exceeds 10 pm-peak hour trips, and mitigation measures would be imposed if warranted under the City's concurrency requirements. The TIA will include analysis for intersections that experience 10+ project peak hour trips. This would just include 468th Ave SE at SE North Bend Way and I-90 WB Ramps, which have already been analyzed thoroughly by the "468th Ave SE Middle Fork" corridor analysis last year. Since the Bakes Marine project only added ~12 trips at most, that's within normal day-to-day traffic fluctuations but will be further analyzed in detail during project review.

4) Impacts to Adjacent properties.

Potential impacts from the use at this location focus on its location on SE North Bend Way, in relatively proximity to nearby residential developments to the west. Bakes is a commercial use with impacts such as noise, light, and traffic. However, this property is zoned Neighborhood Business with Employment Park Industrial zone to the east which would have similar impacts. To the west per NBMC 18.13.050 the Neighborhood Business residential overlay district (NB MPOD) requires a 15-foot Type 1 landscape transition area, pursuant to Chapter 18.18 NBMC Table 1, shall be installed between the commercial properties abutting SE North Bend Way and the NB MPOD behind.

This applies to only a portion of the west property line and is included in a comment to the applicant. The purpose is to reduce incompatible uses and provide consistency with the character and build-out of existing lots in this area, continuing to allow single-family detached and cottage housing types within this portion of the NB zone. This area is unique as 455th Avenue SE and SE 141st Street remain private, which could limit commercial development.

The City's development regulations addressing landscaping and lighting would minimize visual impacts from the proposed development.

The proposal would have a positive impact in terms of new supporting infrastructure required for the development (new sidewalks, street trees, and landscaping, etc.), improving the developed condition of the surrounding neighborhood.

5) Social/cultural concerns. No social/cultural impacts are anticipated from approving the proposed Development Agreement.

VI. Planning Commission Review Findings:

The Planning Commission reviewed the Development Agreement on October 13 meeting and held a Public Hearing on the proposed matter. Any written public comment will be attached to the record (Exhibit 2).

VII. Summary Findings:

1. Pursuant to NBMC 18.27.025 A, a public hearing notice for the Public Hearing was published and mailed to properties within 300 feet, relevant agencies, and parties of record consistent with RCW 36.70B.200 and City Code Chapter 20.03.
2. A State Environmental Policy Act Determination will be issued for the project itself, not the DA.
3. The proposed DA is consistent with the intent and purpose of Chapter 18.27, Development Agreements, and the North Bend Comprehensive Plan.
4. The proposed DA is consistent with state law on development agreements per RCW 36.70B.170 through 36.70B.210 and has been approved in form by the City Attorney.

VIII. Requested Planning Commission Analysis:

The Planning Commission was asked to evaluate the draft DA together with the information provided in this staff report against public comment received at the hearing, and determine whether to recommend that the City Council approve the DA. The Planning Commission should consider whether, on balance, the DA is in the best interest of the City of North Bend, resulting in a net benefit to the community.

IX. Staff Recommendation:

Approving a Development Agreement to allow Boat and Watercraft Sales building of 31,665 square feet on Parcel 1323089065 will provide a benefit to the city from the added tax revenue received from allowing the use. The applicant's request for deviations for building setback and parking lot landscaping can be mitigated through compliance with complimentary sections of those codes and adherence to all other code criteria.

X. Planning Commission Recommendation

Following consideration of the staff report, draft Development Agreement, and public comment received at the public hearing, the Planning Commission recommends that the City Council *approve/deny* the Development Agreement. A motion providing this recommendation was passed ____ at the _____ Planning Commission Meeting.

Attachments:

1. Draft Development Agreement
2. Written comments received- (if applicable)

**DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF NORTH BEND
AND TELEGRAPH PROPERTIES, LLC. FOR BAKES MARINE BOAT AND
WATERCRAFT SALES**

THIS DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2022, by and between the City of North Bend, a municipal corporation of the State of Washington (“the City”) and Telegraph Properties, Inc., development applicant for a proposed Bakes Marine Boat and Watercraft Sales (“Bakes”), jointly (the “Parties”).

WHEREAS, Telegraph Properties, LLC applied for Site Plan Approval on July 5, 2022, for Parcel 1323089065 (collectively, the “Property”) for a 31,665 square foot building for Boat and Watercraft Sales for Bakes Marine. The operation will be comprised of warehouse and office tenant; and

WHEREAS, along with a complete site plan application, Bakes provided a memorandum requesting an Agreement and a Site and Zoning Summary which is on file with the city. The legal description, site plan and initial design plans as shown in Exhibits A- C, attached hereto and incorporated herein; and

WHEREAS, Bakes is requesting an Agreement to allow for a deviation in the North Bend Municipal Code (NBMC) Chapter 18.34.070 North Bend Commercial and Industrial Design Guidelines A-3a. Ground Floor Commercial Tenant Space which allows for up to 15,000sf, and Bakes requests authorization to construct a building larger than 15,000 sf; and

WHEREAS, Bakes is also requesting a deviation from parking lot landscaping requirements in regard to landscape islands and design standards to position the building further from the street than is contemplated by the landscape requirements; both the parking lot and the landscaping deviations can be approved administratively but are included in the DA in order to provide a full record of the requested and approved deviations; and

WHEREAS, the North Bend City Council wishes to retain the greatest percentage of business and corresponding tax dollars within the city; and

WHEREAS, the North Bend Municipal Code currently allows Boat and Watercraft Sales in the Neighborhood Business (NB) zone, and it is expected to bring employment and tax revenue which is a benefit to the city; and

WHEREAS, the Bakes development is consistent with North Bend’s Comprehensive Plan goals and policies for this area as it provides for increased use of underperforming commercial property, employment opportunities, and economic development within the City; and

WHEREAS, Chapter 18.27 of the NBMC and state law authorize the execution of a development agreement between a local government and a person having ownership or control of real property within its jurisdiction (RCW 36.70B.170(1)); and

WHEREAS, a development agreement must set forth the development standards and other provisions that shall apply to, govern, and vest the development, use and mitigation of the real property for the duration specified in the agreement (RCW 36.70B.170(1)); and

WHEREAS, a development agreement must be consistent with the applicable development regulations adopted by local government planning under chapter the Growth Management Act (RCW 36.70B.170(1)); and

WHEREAS, a development agreement must be approved by ordinance or resolution after a public hearing (RCW 36.70B.200); and

WHEREAS, a public hearing on this Agreement was held during a regular meeting of the Planning Commission on _____ and

WHEREAS, the Bakes application will be reviewed for conformance with all other applicable City codes and standards including a State Environmental Policy Act (SEPA) Determination; and

WHEREAS, on _____, the City Council passed Resolution No. _____, approving and authorizing the Mayor to enter into this Agreement on behalf of the city.

NOW THEREFORE, in consideration of the mutual promises set forth herein, the parties hereto agree as follows:

1. **The Project Site.** The Project Site consists of certain real property commonly known as:

Vacant Parcel No. 1323089065 located along SE North Bend Way, North Bend, Washington, as legally described in the attached **Exhibit A** (collectively “the Property”).

2. **The Project.** The Project is the development and use of the Project Site as a Bakes Marine location in compliance with NBMC (except as otherwise approved by this Agreement) and compliance with all state regulations as now existing or hereafter amended. The Project consists of construction of a 31,665 square foot building for Boat and Watercraft Sales for Bakes Marine. The operation will be comprised of warehouse and office tenant space and constructing associated site improvements including parking, street frontage improvements, stormwater, and landscaping.

Project Exceptions:

- a. Approval of this Agreement allows the applicant to build a 31,665 square foot building, exceeding the maximum 15,000 square feet allowed by NBMC Design

Guidelines. The additional commercial space will allow the owner to meet the demands of the current market.

- b. Approval of this Agreement allows the Director to approve a deviation in the City's design standards A-3 Streetscape Design Required Street Façade Building Line (RBL). The standards require the street façade to be built out to no less than 50% of the RBL for the first 10 feet of the depth of the lot. The remaining 50% may not be set back more than 10 feet from the RBL. The Site Plan shows the office/sales area in the center of the parcel at the RBL, but the remainder of the frontage is either access/parking or has the building setback in order to allow for a flagpole with landscaping and path. See Exhibit B. below.
- c. Approval of this Agreement allows the Director to approve a deviation in the City's landscape standards which require intermediate landscape islands within parking areas. The Project removes some of the islands but overall meets the required landscaping requirement allowances for the site by consolidating landscaping elsewhere. This will allow for larger vehicle and trailer maneuvering space and promotes sustainable landscape design by reducing water consumption with less small or strip surfaces.

Public/City Benefit:

In exchange for allowing a larger building footprint for ground floor commercial use the city anticipates the following benefits:

- a. Investment in the property and compliance with current codes will stimulate economic development.
- b. The Project will provide 12 jobs and approximately \$57,000 net sales per year resulting in a tax benefit to the city.
- c. Impact Fees from the Project are currently estimated at \$243,435. This includes impacts for stormwater, fire and transportation impact fees. General facility charges will also be paid for sewer, along with permitting and review fees to the city. Exact amount to be verified at permit issuance based on final permit details.

- 3. Release of Liability and Hold Harmless.** Bakes shall execute a release of liability and hold harmless agreement (hereafter "Release") in a form approved by the City Attorney, for itself, its agents, officers, elected officials and employees, from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution or seizure of property, or liabilities of any kind that result from any arrest or prosecution for violations of federal or state law. Additionally, within the Release, Bakes shall indemnify and hold harmless the City of North Bend and its agents, officers, elected officials, and employees from any claims, damages, or injuries brought by adjacent property owners or other third parties due to operations at Bakes and for any claims brought by employees, agents, guests, or invitees for problems, injuries, damages, or liability of any kind that may arise out of the operation.

5. **Effective Date and Duration.** This Agreement shall commence upon the effective date of the City Council resolution approving this Agreement (the “Effective Date”) and shall continue in force for a period of ten (10) years (the “Initial Term”) unless extended or terminated as provided herein. Following the expiration of the Initial Term or extension thereof, or if sooner terminated, this Agreement shall have no force and effect, subject however, to post-termination obligations of Bakes. Upon termination of this Agreement, Bakes and/or its successors under this Agreement shall have no protections as a legal non-conforming use pursuant to the City’s non-conforming use provisions currently adopted within NBMC Chapter 18.30 or as the NBMC is hereafter amended.
6. **Project is a Private Undertaking.** It is agreed among the parties that the Project is a private development, and that the City has no interest therein except as authorized in the exercise of its governmental functions.
7. **Agreement Binding on Future Landowners.** From time to time, as provided in this Agreement, Developer may sell or otherwise lawfully dispose of a portion of the Project Site to a person or entity (“Landowner”) who, unless otherwise released by the City, shall be subject to the applicable provisions of this Agreement related to such portion of the Project Site. Developer, and any subsequent Landowner, may free itself from further obligations relating to the sold, assigned, or transferred property, provided that the buyer, assignee, or transferee expressly assumes the obligations under this Agreement as provided herein. Notwithstanding, should construction not commence prior to a sale, assignment, or conveyance, any subsequent Landowner shall not be obligated to this Agreement.
8. **Planning and Development: Vesting.** Except as may otherwise specifically be provided in this Agreement, the Project shall be completed in accordance with all development and design standards of the North Bend Municipal Code, and all applicable environmental, building, and construction codes, and regulations contained therein, in effect at the time of submittal of complete permit applications.
9. **Permits Required.** Developer shall obtain all permits and pay all fees required under the NBMC or any other local, state, or federal law for this Project.
10. **Further Discretionary Actions.** Developer acknowledges that the City’s land use regulations contemplate the exercise of further discretionary powers by the City. These powers include, but are not limited to, review of additional permit applications under SEPA. Nothing in this Agreement shall be construed to limit the authority or the obligation of the City to hold legally required public hearings, or to limit the discretion of the City and any of its officers or officials in complying with or applying ordinances that govern the proposed uses of land, the density and intensity of use, and the design, improvement, construction standards and specifications applicable to the development of the Project.

11. Notice of Default/Opportunity to Cure/Dispute Resolution. In the event that either party, acting in good faith, believes the other party has violated the terms of this Agreement, the aggrieved party shall give the other party written notice of the alleged violation by sending a detailed written statement of the claimed breach. The other party shall have thirty (30) days from receipt of written notice in which to cure the claimed breach. This notice requirement is intended to facilitate a resolution by the parties of any dispute prior to the initiation of litigation or other contested proceedings. Upon notice of a claimed breach, the parties agree first to meet and confer in an attempt to resolve any dispute arising out of this Agreement. If the parties are unable to resolve the claimed breach, and prior to engaging in litigation to resolve any claimed breach or otherwise to enforce any provision of this Agreement, the parties shall first engage in non-binding mediation with the cost of the mediation to be split evenly.

12. Amendment: Effect of Agreement on Future Actions. This Agreement may be amended by mutual consent of the parties as provided in Section 25 herein, but only after a public hearing and other process required by RCW 36.70B. Nothing in this Agreement shall prevent the City Council from amending the Comprehensive Plan, Zoning Code, Official Zoning Map, or any other development regulations or ordinance as the City Council may deem necessary in the exercise of its legislative discretion as required by a serious threat to public health and safety.

13. Termination.

- a. This Agreement shall expire and be of no further force and effect if Developer does not construct the Project as described in this Agreement, or submits applications for development of the Project Site that are inconsistent with this Agreement as determined in the City's sole reasonable discretion;
or
- b. This Agreement shall terminate on the earlier of (1) the expiration of the Initial Term identified in Section 5 above, or (2) the Subject Property having been fully developed and all of Developer's obligations in connection therewith satisfied as determined in the City's sole reasonable discretion. Upon termination of this Agreement under this Subsection 14(B), the City shall record a notice of such termination in a form satisfactory to the City Attorney;
or
- c. This Agreement shall terminate upon Developer's abandonment of the Project. Developer shall be deemed to have abandoned the Project if the Project has not begun construction within 2 years of the Effective Date noted above.

14. Effect of Termination on Developer Obligations. Termination of this Agreement shall not affect any of Developer's obligations to comply with (a) the City Comprehensive Plan or any applicable zoning code(s), subdivision maps or other land use entitlements approved with respect to the Project; (b) any conditions or restrictions specified in this Agreement, and such obligations shall survive termination of this Agreement; or (c) obligations to pay assessments, liens, fees, or taxes, unless the termination or abandonment of the Project nullifies such obligations.

15. Effect of Termination on City. Upon termination of this Agreement, the Agreement shall have no further force or effect except as expressly provided herein.

16. Covenants Running with the Land. The conditions and covenants set forth in this Agreement and incorporated herein by the Exhibits shall run with the land, and the benefits and burdens shall bind and inure to the benefit of the parties. Bakes and every Landowner, purchaser, assignee or transferee of an interest in the Project Site, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of Bakes contained in this Agreement, as such duties and obligations pertain to the portion of the Project Site sold, assigned or transferred to it. A copy of the fully executed Agreement shall be recorded in accordance with Section 26 herein.

17. Specific Performance. The parties specifically agree that damages are not an adequate remedy for breach of this Agreement, and that the parties are entitled to compel specific performance of all material terms of this Agreement by any party in default hereof.

18. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity other than a party or a Landowner to challenge this Agreement or any provision herein, Bakes shall defend, indemnify, and hold the City, its officers, officials, employees, and volunteers harmless from any and all such claims, injuries, damages, losses or suits including attorney fees.

19. No Presumption Against Drafter. Bakes represents that it has been advised to seek legal advice and counsel from its attorney concerning the legal consequences of this Agreement, that it has carefully read the foregoing Agreement, and knows the contents thereof, and signs the same as its own free act, and that it fully understands and voluntarily accepts the terms and conditions of this Agreement. Both parties have had the opportunity to have this Agreement reviewed and revised by legal counsel, and the parties agree that no presumption or rule that ambiguity shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

20. Notices. Notices, demands, or correspondence to the City and Bakes shall be sufficiently given if dispatched by prepaid first-class mail to the following addresses:

TO CITY: City Administrator
 City of North Bend
 920 SE Cedar Falls Way
 North Bend, WA 98045

TO: Bill Baker
 Telegraph Properties, LLC

6424 East Lake Sammamish Parkway SE
Issaquah, WA 98029

Notice to the City shall be to the attention of both the City Administrator and the City Attorney. Notices to subsequent Landowners shall be required to be given by the City only for those Landowners who have given the City written notice of their address for such notice. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

- 21. Assignment.** This Agreement shall be binding and inure to the benefit of the parties. Bakes shall not assign its rights under this Agreement without the written consent of the City. Any assignment of this Agreement will be at the sole discretion of the City.
- 22. Governing Law and Venue.** This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. Venue for any action shall lie in King County Superior Court.
- 23. No Attorneys' Fees.** In the event of any litigation or dispute resolution process between the parties regarding an alleged breach of this Agreement, neither Party shall be entitled to any award of costs or attorneys' fees or expert witness fees.
- 24. Severability.** The provisions of this Agreement are separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this Agreement, or the validity of its application to other persons or circumstances.
- 25. Entire Agreement.** This Agreement contains the entire agreement between the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the parties hereto. Changes made in accordance with Section 12 herein shall be incorporated by written amendments or addenda signed by both parties and made.
- 26. Recording.** Bakes shall record an executed copy of this Agreement with the King County Auditor, pursuant to RCW 36.70B.190, no later than fourteen (14) days after the Effective Date and shall provide the City with a conformed copy of the recorded document within thirty (30) days of the Effective Date.
- 27. Reservation.** Pursuant to Washington Administrative Code 365-196-845, the City hereby reserves the right to impose new or different regulations upon Bakes to the extent required by a serious threat to public health and safety.

By their signatures below, the persons executing this Agreement each represent and warrant that they have full power and authority to bind their respective organizations, and that such

Print name: _____

NOTARY PUBLIC in and for the State of
Washington, residing at _____

Commission expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ____ day of _____, 2022, did personally appear before me, the undersigned Notary Public in and for the State of Washington, _____, who is known to me or produced satisfactory evidence that s/he is the person that executed the foregoing Development Agreement, and acknowledged that s/he signed the Agreement as his or her free and voluntary act for the uses and purposes mentioned therein.

GIVEN under my hand and official seal this ____ day of _____, 2020.

Print name: _____

NOTARY PUBLIC in and for the State of
Washington, residing at _____

Commission expires: _____

EXHIBIT A:

LEGAL DESCRIPTION:

PARCEL A:

THE NORTHWESTERLY 60 FEET OF THE SOUTHEASTERLY 310 FEET OF THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 23 NORTH, RANGE 8 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING NORTHERLY OF THE NORTHERLY MARGIN OF STATE HIGHWAY NO. 2, AS MEASURED ALONG SAID MARGIN AND AT RIGHT ANGLES THERETO;

EXCEPT THAT PORTION THEREOF LYING NORTHERLY OF A LINE, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF SAID SUBDIVISION WITH THE CENTERLINE OF STATE HIGHWAY NO. 2; THENCE NORTH 63°47'13" WEST ALONG SAID CENTERLINE A DISTANCE OF 733.84 FEET; THENCE AT RIGHT ANGLES, NORTH 26°12'47" EAST 616 FEET, MORE OR LESS, TO THE CENTER LINE OF A COUNTY ROAD KNOWN AS SURVEY NO. 1892 AND THE BEGINNING OF SAID LINE;

THENCE SOUTH 63°47'13" EAST TO THE EAST LINE OF SAID SUBDIVISION AND THE TERMINUS OF SAID LINE; AND EXCEPT THE SOUTHWESTERLY 120 FEET THEREOF.

PARCEL B:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 23 NORTH, RANGE 8 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING EASTERLY OF A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF SAID SUBDIVISION AND THE NORTHERLY MARGIN OF STATE HIGHWAY NO. 2; THENCE NORTHWESTERLY ALONG SAID MARGIN 250 FEET TO THE BEGINNING OF SAID LINE; THENCE AT RIGHT ANGLES NORTH 26°12'47" EAST TO THE EAST LINE OF SAID SUBDIVISION AND THE TERMINUS OF SAID LINE; EXCEPT THAT PORTION THEREOF DESCRIBED AS FOLLOWS:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 23 NORTH, RANGE 8 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF SAID SUBDIVISION WITH THE NORTHERLY MARGIN OF STATE HIGHWAY NO. 2; THENCE NORTHWESTERLY ALONG SAID MARGIN 250 FEET; THENCE AT RIGHT ANGLES NORTHEASTERLY 150 FEET; THENCE AT RIGHT ANGLES SOUTHEASTERLY 178.85 FEET, MORE OR LESS, TO THE EAST LINE OF THE SUBDIVISION; THENCE SOUTHERLY ALONG SAID LINE 166.02 FEET, MORE OR LESS, TO THE POINT OF BEGINNING;

(ALSO KNOWN AS LOT B OF KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L93L0081 RECORDED UNDER KING COUNTY RECORDING NO. 9307139005)

PARCEL C:

THE NORTHWESTERLY 60 FEET OF THE SOUTHEASTERLY 310 FEET OF THE SOUTHWESTERLY 120 FEET OF THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 23 NORTH, RANGE 8 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING NORTHERLY OF STATE ROAD NO. 2, AS MEASURED ALONG THE NORTHERLY MARGIN OF SAID ROAD AND AT RIGHT ANGLES THERETO.

PARCEL D:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 23 NORTH, RANGE 8 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF SAID SUBDIVISION WITH THE NORTHERLY LINE OF THE SUNSET HIGHWAY; THENCE NORTHWESTERLY ALONG THE HIGHWAY 250 FEET;

THENCE AT RIGHT ANGLES NORTHEASTERLY 150 FEET; THENCE AT RIGHT ANGLES SOUTHEASTERLY 178.85 FEET, MORE OR LESS, TO THE EAST LINE OF THE SUBDIVISION; THENCE SOUTHERLY ALONG SAID LINE 166.02 FEET, MORE OR LESS TO THE POINT OF BEGINNING.

(ALSO KNOWN AS LOT A OF KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L93L0081 RECORDED UNDER KING COUNTY RECORDING NO. 9307139005.)

EXHIBIT B: Site Plan

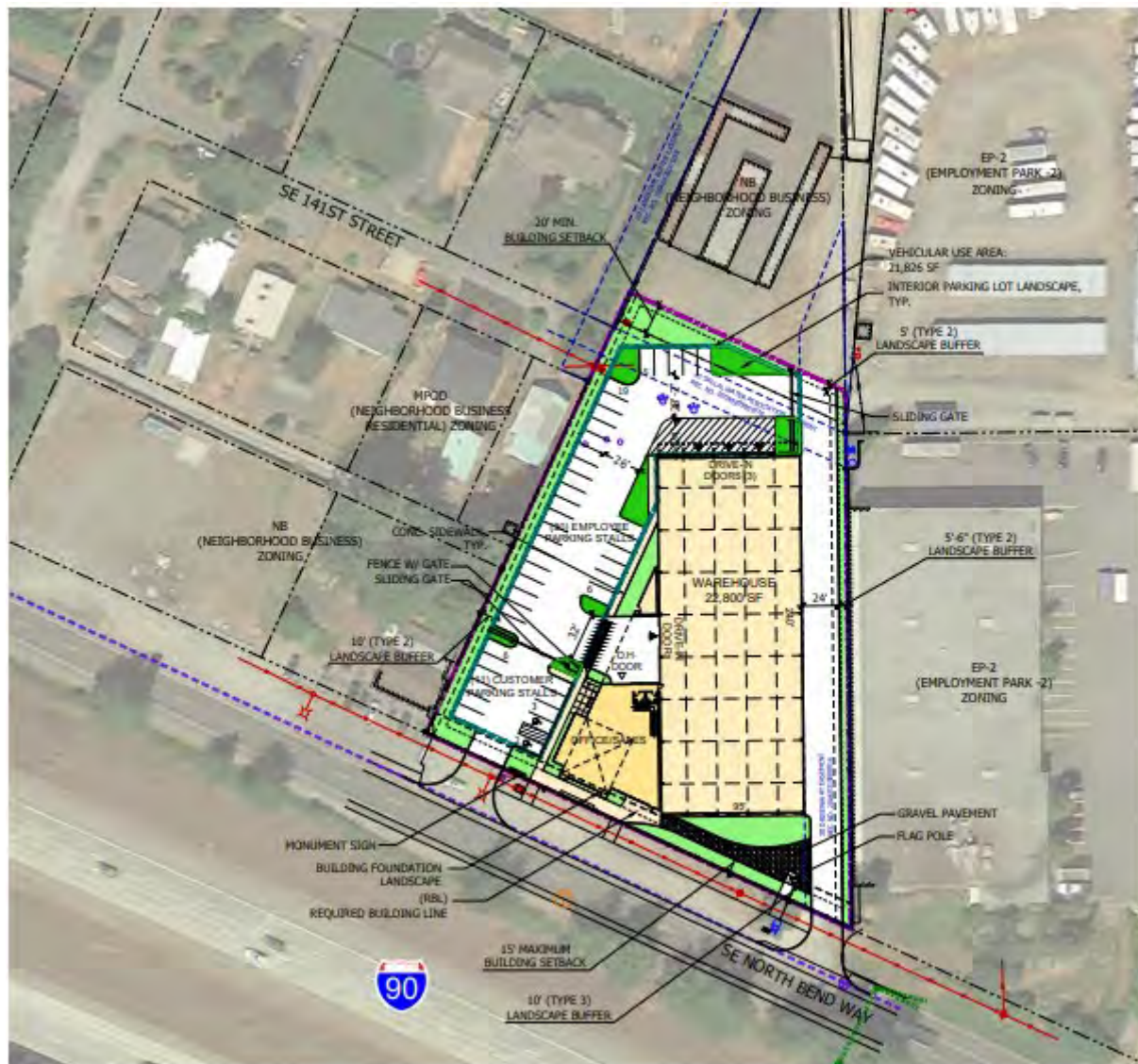


EXHIBIT C: Initial Design Elevations



VIEW LOOKING NORTHWEST

