



## BOARD OF COMMISSIONERS

### BOARD OF COUNTY COMMISSIONERS MEETING

1:00 PM, MONDAY, JUNE 16, 2025

Allen Room - Deschutes Services Building - 1300 NW Wall Street - Bend

(541) 388-6570 | [www.deschutes.org](http://www.deschutes.org)

### AGENDA

**MEETING FORMAT:** In accordance with Oregon state law, this meeting is open to the public and can be accessed and attended in person or remotely, with the exception of any executive session.

Members of the public may view the meeting in real time via YouTube using this link: <http://bit.ly/3mmlnzy>. **To attend the meeting virtually via Zoom, see below.**

**Citizen Input:** The public may comment on any topic that is not on the current agenda. Alternatively, comments may be submitted on any topic at any time by emailing [citizeninput@deschutes.org](mailto:citizeninput@deschutes.org) or leaving a voice message at 541-385-1734.

When in-person comment from the public is allowed at the meeting, public comment will also be allowed via computer, phone or other virtual means.

**Zoom Meeting Information:** This meeting may be accessed via Zoom using a phone or computer.

- To join the meeting via Zoom from a computer, use this link: <http://bit.ly/3h3oqdD>.
- To join by phone, call 253-215-8782 and enter webinar ID # 899 4635 9970 followed by the passcode 013510.
- If joining by a browser, use the raise hand icon to indicate you would like to provide public comment, if and when allowed. If using a phone, press \*9 to indicate you would like to speak and \*6 to unmute yourself when you are called on.
- When it is your turn to provide testimony, you will be promoted from an attendee to a panelist. You may experience a brief pause as your meeting status changes. Once you have joined as a panelist, you will be able to turn on your camera, if you would like to.



Deschutes County encourages persons with disabilities to participate in all programs and activities. This event/location is accessible to people with disabilities. If you need accommodations to make participation possible, call (541) 388-6572 or email [brenda.fritsvold@deschutes.org](mailto:brenda.fritsvold@deschutes.org).

**Time estimates:** The times listed on agenda items are estimates only. Generally, items will be heard in sequential order and items, including public hearings, may be heard before or after their listed times.

## CALL TO ORDER

## CITIZEN INPUT

The Board of Commissioners provides time during its public meetings for citizen input. This is an opportunity for citizens to communicate to the Commissioners on matters that are not otherwise on the agenda. Time is limited to 3 minutes.

The Citizen Input platform is not available for and may not be utilized to communicate obscene or defamatory material.

**Note:** In addition to the option of providing in-person comments at the meeting, citizen input comments may be emailed to [citizeninput@deschutes.org](mailto:citizeninput@deschutes.org) or you may leave a brief voicemail at 541.385.1734.

## AGENDA ITEMS

- [1.](#) **1:00 PM** Consideration of agreement with the Greater Redmond Area Enterprise Zone sponsors to extend the property tax exemption for capital investment by i3D Manufacturing to five total consecutive years
- [2.](#) **1:15 PM** Annual Update from Jericho Road
- [3.](#) **1:30 PM** Work Session for a Road Name Change – File No. 247-25-000149-RN
- [4.](#) **1:40 PM** Work Session: Cascades Academy Plan Amendment and Zone Change
- [5.](#) **1:55 PM** Reconsideration of Letter of Support for BLM Funding Request for Acquiring Paulina Meadows

## OTHER ITEMS

*These can be any items not included on the agenda that the Commissioners wish to discuss as part of the meeting, pursuant to ORS 192.640.*

## EXECUTIVE SESSION

*At any time during the meeting, an executive session could be called to address issues relating to ORS 192.660(2)(e), real property negotiations; ORS 192.660(2)(h), litigation; ORS 192.660(2)(d), labor negotiations; ORS 192.660(2)(b), personnel issues; or other executive session categories.*

*Executive sessions are closed to the public; however, with few exceptions and under specific guidelines, are open to the media.*

6. Executive Session under ORS 192.660 (2) (e) Real Property Negotiations

**ADJOURN**



## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** June 16, 2025

**SUBJECT:** Consideration of agreement with the Greater Redmond Area Enterprise Zone sponsors to extend the property tax exemption for capital investment by i3D Manufacturing to five total consecutive years

**RECOMMENDED MOTION:**

Move approval of Document No. 2025-620, an agreement with the Greater Redmond Area Enterprise Zone sponsors to extend the property tax exemption for capital investment by i3D Manufacturing to five total consecutive years.

**BACKGROUND AND POLICY IMPLICATIONS:**

This item requests Board approval of a two-year extension for the i3D Enterprise Zone (EZone) Extended Abatement Agreement.

At 26 full-time employees, i3D has been among Redmond's faster growing firms and is located at 1263 SW Lake Rd. i3D Manufacturing manufactures a wide range of 3-D metal printed products that serve the aviation/aerospace sector.

All employment lands in the city of Redmond are part of the state's EZone program. This program allows qualifying businesses and investments to receive a 100% abatement of property taxes associated with the assessed value of new qualifying capital improvements. Companies continue to pay taxes on the value of the land and any capital investments that are not eligible for the abatement.

Depending upon the nature of the program, EZone abatements can range from three (3) years; to five (5) years (known as the Extended program). The duration of the abatement is connected to the number of jobs created and wage level.

The three-year abatement does not have an average wage requirement; however, the Extended abatement requires wages that are certified at 150% of Deschutes County average annual compensation (\$93,654).

Compensation under the criteria includes salary, overtime, bonuses, medical and retirement benefits. Not all jobs created need to exceed the 150% average annual compensation criteria, but rather an average of the overall compensation for all net new jobs needs to exceed the 150% average annual compensation criteria. If less than half of the jobs meet the compensation criteria, then that qualifies for a one-year extension. If more than half of the jobs meet the compensation criteria, then that qualifies for a two-year extension.

Extended abatements need to be approved by the sponsor(s) of the EZone. It is the prerogative of the sponsor agency whether the approval is made by the governing body or administratively. The Greater Redmond Area EZone has three co-sponsors: the City of Redmond; Deschutes County; and the City of Sisters. The City of Redmond's policy is that the Redmond City Council approves all extended EZone agreements.

Additionally, the City of Redmond waives or reduces, depending upon specific set criteria, land-use, building and permitting fees.

i3D has used the Enterprise Zone program two previous times beginning in 2020. At that time they were a move project coming from the Columbia Gorge area and projected to add 15 jobs to the region with a projected \$6.5 million investment. The current project is projected to be \$26 million including a partial remodel and new equipment. The requirement is to add 20 jobs to the current total of 26 full-time positions. I3D is growing rapidly and is committed to being a strong community partner.

In July 2024, i3D submitted an application requesting an extended abatement. The project being undertaken is modification of two buildings totaling 32,500 square feet across the street from the current facility, plus equipment. Total project cost is \$26,000,000 (\$9,000,000 capital construction and remodeling and \$17,000,000 in equipment). The firm has committed to create 20 new full-time jobs in Redmond by the first year of exemption (estimated to be 2025). Over half of the new jobs' compensation exceed 150% of Deschutes County average wage. The application and wage documentation have been validated by City staff and REDI staff. This EZone Extended Abatement Agreement is for two additional years.

The City of Redmond approved the EZone extension on May 27, 2025. The City of Sisters will consider the Ezone extension on June 11, 2025.

#### **BUDGET IMPACTS:**

Foregone property tax revenue.

#### **ATTENDANCE:**

Steve Curley, REDI Director



**Greater Redmond Area Enterprise Zone Extended Abatement**

**WRITTEN AGREEMENT WITH THE GREATER REDMOND AREA ENTERPRISE ZONE SPONSORS TO EXTEND PROPERTY TAX EXEMPTION TO FIVE CONSECUTIVE YEARS IN TOTAL FOR CAPITAL INVESTMENT BY i3D Manufacturing]**

The sponsors of the Greater Redmond Area Enterprise Zone comprising the governing bodies of [the City of Redmond, Sisters and Deschutes County] (hereinafter the “Zone Sponsor”) and i3D Manufacturing (hereinafter the “Firm”) do hereby enter into an agreement pursuant to ORS 285C.160 for extending the period of time in which the Firm will receive a property tax exemption on its [proposed] investment[s] in qualified property in the Greater Redmond Area Enterprise Zone contingent on certain special requirements.

The Zone Sponsor and the Firm jointly acknowledge: That subject to the Firm’s timely submission of an application for authorization, the satisfaction of applicable requirements under ORS 285C.050 to 285C.250 (the “Statute”), and the Zone Sponsor’s approval thereof, the Firm is eligible for three years of property tax exemption on its qualified property. So long as the Firm elects to continue to receive this property tax exemption and continues to qualify, then this agreement shall have no effect on this three-year exemption. Nothing in this agreement shall be construed as a waiver of the qualification requirements of the Statute. If the Firm loses its qualified status for any reason set forth in the Statute, then this agreement becomes null and void.

The Zone Sponsor extends The Firm's property tax exemption an additional two years on all property that initially qualifies in the Greater Redmond Area Enterprise after the initial assessment year beginning on January 1, 2025 and, thus, sets a total period of exemption of five consecutive years during which statutory requirements for the standard three-year enterprise zone exemption must also be continuously satisfied.

**CONFIRMATION OF STATUTORY PROVISIONS**

In order to receive the additional two years of enterprise zone exemption granted herein, the Firm agrees under 285C.160(3)(a)(A) that for each year of the entire exemption period, including the first three years and the additional one or two years, all of the Firm's new employees will receive an average rate of compensation equal to or greater than 150 percent of the county average annual wage, as determined at the time the enterprise zone tax exemption is authorized in accordance with the specific definitions and guidelines in Oregon Administrative Rules (OAR), Chapter 123, Division 674 (123674-0600), the “Compensation standard” .

Only “Affected Employees” are counted. Affected Employees means persons, positions or jobs under ORS 285C.050(13) that satisfy the following criteria: (a) included as “employment of the firm” in accordance with OAR 123-674-0200; and (b) new jobs filled for the first time: (A) after the date of Application under ORS 285C.140(1), even if an individual filling the job is already employed by the eligible business firm in another position that is refilled within the zone; and (B) on or before December 31 at the end of the initial exemption year, and located within the current boundaries of the Greater Redmond Area Enterprise Zone.

Only full-time, year-round and non-temporary employees engaged a majority of their time in the Firm's eligible operations consistent with ORS 285C.135 including but not limited to persons who perform eligible activities as described in OAR 123-674-1100 or 123-674-1200(3) or (4) and OAR 123-674-0200 are counted, regardless of whether such employees are leased, contracted for or otherwise obtained through an external agency or are employed directly by the Firm.

#### SCHOOL SUPPORT FEE

The governing body of the Greater Redmond Area Enterprise Zone established the rate of a school support fee at 15 percent. The school support fee will be collected based on years four and five of an extended abatement and applies to the amount abated. This fee will be paid directly to the Redmond School District.

By November 1<sup>st</sup> in any applicable year, the governing body of the zone sponsor will provide the district will all information necessary for the district to collect the fee directly from the business firm. By December 1<sup>st</sup> in any applicable year, the district shall send to the business firm a notice of the required fee, with a due date not later than December 31<sup>st</sup> of the same year. The district shall be responsible for making refunds to business firms of overpayments. If a fee payment is delinquent for more than 60 days following the date of delinquency or any later date allowed for curing the delinquency, the Board shall give written notice of the delinquency to the business firm and the assessor of the county.

#### LOCAL ADDITIONAL REQUIREMENTS

The Zone Sponsor does not request any requirement of The Firm and relinquishes all rights to make the additional [one/two] years of property tax exemption granted herein contingent on additional requirements that might otherwise be reasonably requested under ORS 285C.160(a)(B).]

ACCEPTING FOR THE CO-SPONSORS OF THE GREATER REDMOND AREA ENTERPRISE ZONE:



Signature: \_\_\_\_\_

Ed Fitch, Mayor,  
City of Redmond

Date: May 27, 2025

Signature: \_\_\_\_\_

Tony DeBone, Board Chair,  
Deschutes County

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Jennifer Letz, Mayor,  
City of Sisters

Date: \_\_\_\_\_,

ACCEPTING FOR THE FIRM:

Signature: \_\_\_\_\_

*Representative Signature*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Printed Name / Title*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*City, State, Zip*

\_\_\_\_\_  
*Phone / Fax*

\_\_\_\_\_  
*Email*





## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** June 16, 2025

**SUBJECT:** Annual Update from Jericho Road

**RECOMMENDED MOTION:**

N/A

**BACKGROUND AND POLICY IMPLICATIONS:**

Jericho Road will present an update to the Board on its programs and services.

**BUDGET IMPACTS:**

NA

**ATTENDANCE:**

Don Senecal, consultant to the Jericho Road Board of Directors



## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** June 16, 2025

**SUBJECT:** Work Session for a Road Name Change – File No. 247-25-000149-RN

**RECOMMENDED MOTION:**

Work Session in preparation for signature of Board Order No. 2025-022. This item is scheduled on the Consent Agenda for June 18, 2025.

**BACKGROUND AND POLICY IMPLICATIONS:**

Staff will provide background to the Board regarding an application for a Road Name Change (247-25-000149-RN). DCC 16.16.030(I) requires the Board to sign an order approving the name within 10 days of the staff decision becoming final.

**BUDGET IMPACTS:**

None

**ATTENDANCE:**

Haleigh King, Senior Planner



## COMMUNITY DEVELOPMENT

## MEMORANDUM

**TO:** Board of County Commissioners (Board)

**FROM:** Haleigh King, Senior Planner

**DATE:** June 11, 2025

**SUBJECT:** June 16<sup>th</sup> Work Session for the Road Name Assignment of Conquest Road  
(CDD File No. 247-25-000149-RN)

---

**Background**

Cardwell Road is an existing, unimproved 60-foot-wide right-of-way. The right-of-way is owned by Deschutes County and is classified as a rural local roadway. The southern terminus connects to Butler Market Road, a County owned and maintained, rural arterial. The northern terminus ends at the southeast corner of the property currently addressed as 63350 Abbey Road (Deschutes County Map and Tax Lot 17-13-18C-000100). This road segment and the segment subject to the rename request is approximately 1,288 feet in length.

This application request is to change the name of an existing unimproved right-of-way, Cardwell Road, to Conquest Road. The property outlined in red below has received tentative subdivision approval to establish eight (8) rural residential lots (County File No. 247-24-000401-TP). The subdivision has not received final plat approval at this time. The tentative subdivision layout shows the improvement of and continuation of the existing Cardwell Road to serve these future lots. The developer and property owner for the subdivision has requested the road name Conquest Road for the public right-of-way to serve these proposed lots.



There are six (6) properties with abutting property lines along the road to be renamed. No abutting property takes direct access or are addressed from the existing Cardwell Road.

### Staff Decision

The Community Development Department (CDD) reviewed the requested road name assignment under file no. 247-25-000149-RN. In consultation with the Deschutes County Property Address Coordinator, Staff found the name Conquest Road complied with DCC 16.16.030(E)(1) and (2).

Under DCC 16.16.030(B), public comments on the proposed road name are limited to those parties owning property abutting the affected road or having an address on the affected road. Staff mailed notice of the application to these parties on March 14, 2025, and a notice of the staff decision was mailed on June 2, 2025. Staff received no public comments.

The staff decision will become final, absent an appeal, at the end of the 10-day appeal period on June 12, 2025, at 4pm.

### Next Steps

DCC 16.16.030(I) requires the Board to sign an order approving the name within 10 days of the staff decision becoming final. If the Board approves the proposed road name, the Board must sign the corresponding order, Board Order 2025-022, no later than June 23, 2025. Approving this order at the meeting scheduled on June 18, 2025 will ensure this timeline is met.

If staff receive any appeals prior to the June 18<sup>th</sup> meeting, staff will bring the materials to the Board's attention and enter them into the record.

Attachments:

File No. 247-25-000149-RN Findings and Decision

Board Order 2025-022

Road Location Map



## COMMUNITY DEVELOPMENT

### FINDINGS AND DECISION

**FILE NUMBER:** 247-25-000149-RN

**APPLICANT:** Jason Bethers

**REQUEST:** The applicant requests to establish the name Conquest Road for an existing, public, unimproved local road which is currently named Cardwell Road.

The subject local road extends north from Butler Market Road, and is approximately ¼ mile long. The subject local access road is located on Tax Map 17-13-18C.

**STAFF CONTACT:** Haleigh King, Senior Planner  
Phone: 541-383-6710  
Email: [Haleigh.king@deschutes.org](mailto:Haleigh.king@deschutes.org)

**RECORD:** Record items can be viewed and downloaded from:  
[www.buildingpermits.oregon.gov](http://www.buildingpermits.oregon.gov)

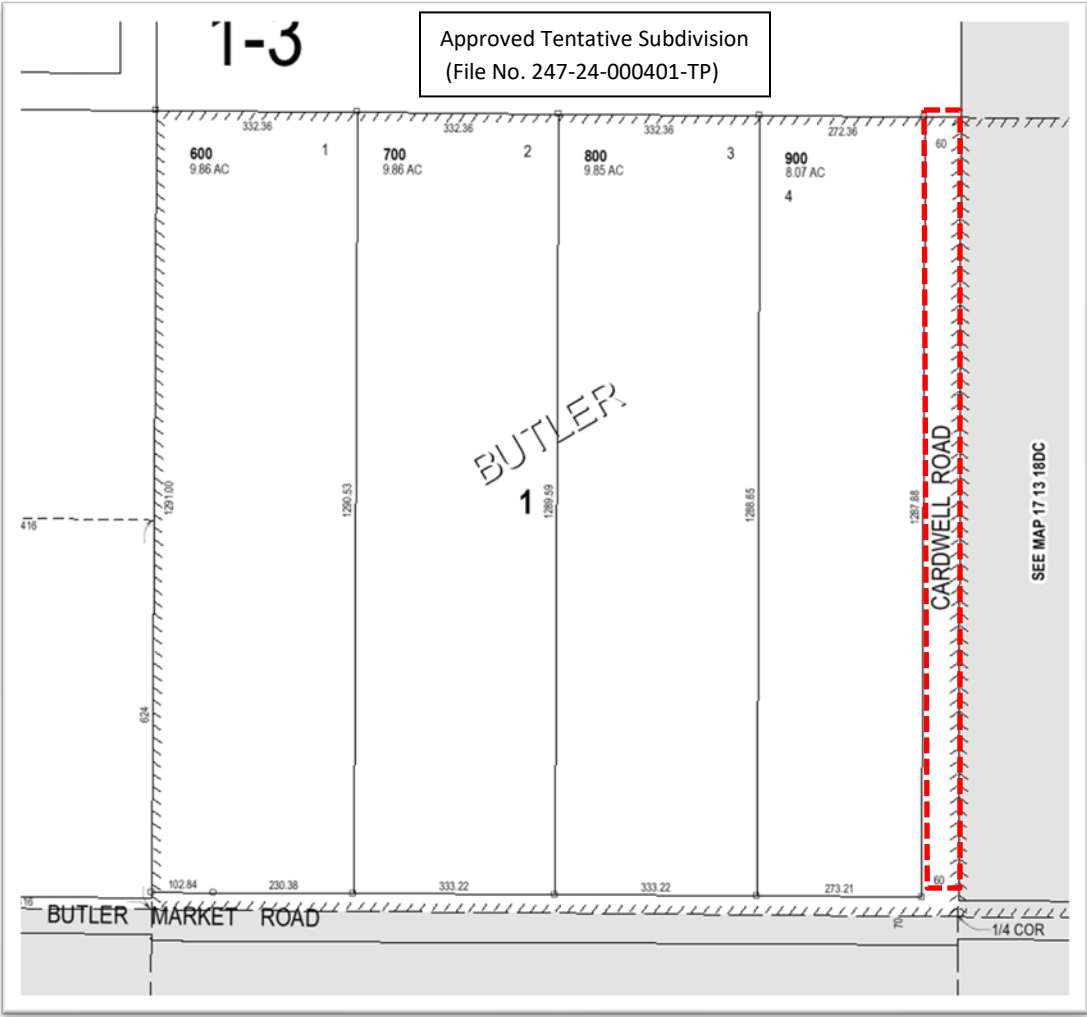
#### I. APPLICABLE CRITERIA:

Deschutes County Code (DCC)  
Title 16, Addresses and Road Names  
Chapter 16.16, Road Naming  
Title 22, Deschutes County Development Procedures Ordinance

#### II. BASIC FINDINGS:

**ROAD DESCRIPTION:** Cardwell Road is an existing, unimproved 60-foot-wide right-of-way. The right-of-way is owned by Deschutes County and is classified as a rural local roadway. The southern terminus connects to Butler Market Road, a County owned and maintained, rural arterial. The northern terminus ends at the southeast corner of the property currently addressed as 63350 Abbey Road (Deschutes County Map and Tax Lot 17-13-18C-000100). This road segment and the segment subject to the rename request is approximately 1,288 feet in length.

Figure 1 - Vicinity Map and Subject Road to be Renamed



**AFFECTED PROPERTIES:** There are six (6) properties with abutting property lines along the road to be renamed. No abutting property takes direct access or are addressed from the existing Cardwell Road. The following properties have property lines abutting this road:

ADDRESS	ASSESSOR MAP AND TAX LOT
22190 Butler Market Road	171318C000900
22220 Parker Lane	171318DC00400
22229 Parker Lane	171318DC00500
63215 Peterman Lane	171318DC01000
63205 Peterman Lane	171318DC01100
63325 Peterman Lane	171318DB00300

As noted above, all properties abutting the subject roadway are addressed from another roadway; therefore, no property addresses will need to be changed as a result of this road name change request.

**REVIEW PERIOD:** The subject application was submitted on March 3, 2025, and the application was deemed complete on April 2, 2025. This application will be reviewed in accordance with DCC 16.16 and requires final approval by the Board of County Commissioners (BOCC) per DCC 16.16.030(I).

**PUBLIC AGENCY COMMENTS:** The Planning Division mailed notice on March 14, 2025 to several public agencies and received the following comments:

Deschutes County Address Coordinator, Tracy Griffin

Good afternoon Jason. The most appropriate road particular for this right-of-way will be "Road" so your right-of-way name will be Conquest Road.

Deschutes County Senior Transportation Planner, Tarik Rawlings

I have reviewed the transmittal materials for 247-25-000149-RN to rename Cardwell Road to "Conquest Drive" for an existing, public, unimproved roadway extending north from Butler Market Road. The subject road is found on County Assessor's Tax Map 17-13-18C and extends approximately .25 miles north from Butler Market Road.

Staff notes that there are no duplicate names for "Conquest" within the Road Name database. Based on the particular road standards outline in DCC 16.16.030(E)(2)(a-j), staff believes that, due to the non-curving North/South orientation of the subject roadway, the term "Road" or "Street" is likely more appropriate than "Drive". Staff recommends that the applicant coordinate with the County Property Address Coordinator to determine if this proposed renaming may cause confusion to 9-1-1 or other first responders. The applicant may also need to coordinate directly with the County Road Department to determine if any road sign requirements are associated with the proposal.

The proposed road name change does not consume road capacity as that term is commonly understood and, therefore, no System Development Charges (SDCs) are associated with the proposal.

Thanks for the opportunity to comment and please let me know if you have any questions.

Central Oregon Irrigation District, Daniel S Downing

COID has no comments concerning: The applicant requests to establish the name Conquest Drive (or Street) for an existing, public, unimproved local road which is currently named Cardwell Road.

The following agencies did not respond to the notice: 911, Bend Fire & Rescue, Deputy State Fire Marshal, Deschutes County Assessor, Deschutes County Road Department, Deschutes County Sheriff's Office, Cascade Natural Gas Co., Pacific Power and Light, Bend Cable Communications, CenturyLink.



**PUBLIC COMMENTS:** Notice was sent to the six (6) affected properties per DCC 16.16.030(B). The applicant also complied with the posted notice requirements of Section 22.24.030(B) of Title 22. The applicant submitted a Land Use Action Sign Affidavit indicating the applicant posted notice of the land use action on March 12, 2025. No public comments were received.

### III. **FINDINGS & CONCLUSIONS:**

#### **CHAPTER 16.16, ROAD NAMING**

##### Section 16.16.010, Road Naming Authority.

- A. *Deschutes County, through the Community Development Department, shall have the authority to and shall assign road names to roads requiring names as provided in DCC 16.16.***

**FINDING:** The subject road naming application is being reviewed by the Deschutes County Community Development Department. This criterion is met.

##### Section 16.16.020, Unnamed Roads.

***All unnamed public and private roads and other roadways which provide access to three or more tax lots, or which are more than 1,320 feet in length, shall be assigned a name in accordance with the procedures in DCC 16.16.030.***

**FINDING:** The subject road is currently named Cardwell Road, therefore, it is currently named. This application does not seek to name an unnamed road, but instead change an existing road name. This criterion does not apply.

##### Section 16.16.030, Procedures for Naming New Roads.

- A. *Application.***
- 1. *The naming of a road may be initiated by the Community Development Department, Planning Commission, the Board, or by application of adjacent property owners, developers, or public agencies which may be affected by road names.***

**FINDING:** This application was initiated by Eastbourne LLC<sup>1</sup> on March 3, 2025. This criterion is met.

- 2. *An application to name a road shall be submitted to the Community Development Department and shall include, at a minimum, the following:***
  - a. *Name of applicant;***
  - b. *Location of road by description and or map;***
  - c. *Legal status of road, if known;***

---

<sup>1</sup> Eastbourne LLC owns the abutting property, Map 17-13-18C, Tax Lot 100.

- d. Proposed road name, with two alternate proposed names;**
- e. Reason for name request;**
- f. Petition(s) attached, if any, and**
- g. Fee, if any, as established by the Board.**

**FINDING:** The applicants submitted the required information and fee identified above. These criteria are met.

- B. Notice of a proposed name assignment shall be sent to all persons owning property abutting the affected road or having an address on the affected road. Such notices shall be sent within 10 days of the receipt of an application, if any, or other action initiating the proposed road name assignment.**

**FINDING:** On March 14, 2025, staff mailed notice of this pending application to the six (6) property owners abutting the subject road to be renamed. This criterion is met.

- C. Persons receiving notice under DCC 16.16.030(B) shall promptly notify any tenants or other occupants of the affected property of the proposed road name assignment.**
- D. Any person receiving notice under DCC 16.16.030(B) above may comment in writing on the proposed name within 10 days from the date of notice.**

**FINDING:** The mailed notice included a statement requiring the recipient to notify any tenants or other occupants of the affected property of the proposed road name assignment. No public comments were received. These criteria are met.

**E. Standards**

- 1. General. The proposed road name shall:**
  - a. Be limited to a maximum of two words.**
  - b. Not duplicate existing road names, except for continuations of existing roads.**
  - c. Not sound so similar to other roads as to be confusing.**
  - d. Not use compass directions such as North, East, South, etc., as part of the road name.**
  - e. Not use designations such as Loop, Way, Place, etc., as part of the road name.**
  - f. Improve or clarify the identification of the area.**
  - g. Use historical names, when possible.**
  - h. Reflect a consensus of sentiment of affected property owners and occupants, when possible, subject to the other standards contained in DCC 16.16.030.**

**FINDING:** The applicant has not proposed any alternate road names other than Conquest Road.

- 2. Particular Roads. The proposed road name shall also conform to the following standards:**

- a. *North/South roads shall be called "roads" or "streets."*
- b. *East/West roads shall be called "avenues."*
- c. *Roads dead-ending in a turnaround 1,000 feet or less from their beginning points shall be called "courts."*
- d. *Roads of reduced right-of-way or curving roads of less than 1,000 feet shall be called "lanes" or "terraces."*
- e. *Curving roads longer than 1,000 feet shall be called "drives" or "trails."*
- f. *Roads that deviate slightly from the main course of a road with the same name, are less than 1,000 feet in length, shall be called "places."*
- g. *Roads that are four lanes or more shall be called "boulevards."*
- h. *Historical roads shall be called "market roads."*
- i. *Roads running at oblique angles to the four points of the compass, less than 1,000 feet in length, shall be called "ways." (See Appendix "D," attached hereto.)*
- j. *Roads that begin at and circle back onto the same road, or that are circular or semicircular, shall be called "circles" or "loops."*

**FINDING:** The road segment to be renamed is approximately 1,288 feet in length and has a north-south orientation. Given these circumstances, staff finds "Road" is the appropriate suffix. These criteria are met.

**F. *Staff Review and Road Name Assignment: The Community Development Department shall review road name applications and shall assign road names under the following procedure:***

- 1. *Verify legal status of road with the County Clerk's office and Road Department.*

**FINDING:** Cardwell Road was created and publically dedicated as part of the Butler Subdivision recorded<sup>2</sup> on June 8, 1983. The Deschutes County Clerk's Office and Road Department have records of this approved subdivision and the creation of this public road. This criterion is met.

- 2. *Check proposed road name(s) to avoid duplication or confusing similarity with other existing road names, with those on approved preliminary land divisions and with those approved for future use.*

**FINDING:** The Deschutes County Address Coordinator confirmed the proposed road name is unique and there are no other similarly named roads in Deschutes County. This criterion is met.

- 3. *Perform a field check, when necessary.*
- 4. *Assist the applicant or other affected person(s) to find alternate names when required.*

**FINDING:** For the purposes of this review, staff relied on existing County records and aerial images

<sup>2</sup> Reference County Surveyor No. 83-9281.

to verify the applicable requirements. As detailed in this decision, the proposed name Conquest Road satisfies the applicable requirements. Therefore, no alternate names were necessary or submitted. These criteria are met.

5. ***Notify appropriate persons, departments and agencies of the road name application, and request comments.***
6. ***Review and consider all comments submitted.***
7. ***Assign a road name in accordance with the standards set forth in DCC 16.16.030(E) above.***

**FINDING:** As detailed in the Basic Findings above, the appropriate persons, departments and agencies received notice of this pending application. All of the submitted comments were reviewed in coordination with the Deschutes County Property Address Coordinator and the assigned name, Conquest Road, meets the standards of DCC 16.16.030(E). These criteria are met.

- G. ***Notice of Staff Decision. Following assignment of a road name by the Community Development Department, notice of the road name assignment shall be sent to all persons entitled to notice under DCC 16.16.030(B).***
- H. ***Appeal. Affected property owners and occupants shall have the right to appeal the assignment of a road name by the Community Development Department. Such appeals shall be conducted in accordance with the provisions of the Deschutes County Development Procedures Ordinance, except where the provisions of DCC 16.16.030 conflict with the procedures ordinance, in which case the provisions of DCC 16.16.030 shall apply. Affected property owners and occupants shall have 10 days from the date of the staff decision in which to file an appeal. Issues on appeal shall be limited to whether the Community Development Department correctly applied the criteria set forth herein.***

**FINDING:** A Notice of Staff Decision will be mailed in accordance with the requirements of DCC 16.16.030(B). This notice will include information on the right to appeal as detailed above. These criteria will be met.

- I. ***A road name assignment becomes final when no further right of appeal established herein is possible. Within 10 days of the road name assignment becoming final, the Board shall sign an order establishing the road name as assigned by the Community Development Department.***

**FINDING:** Within ten (10) days of this decision becoming final and absent an appeal, the proposed road name assignment of Conquest Road will become final under Board Order 2025-022. This criterion will be met.

- J. ***The affected property owners and occupants shall have 180 days from the date of the Board order of road name assignment to begin using the road name.***

**FINDING:** To ensure compliance a condition of approval has been added. This criterion will be met.

- K. Notice of Decision. Following the order of the Board naming a road, the Community Development Department shall:**
- 1. Notify the applicant requesting the road name of the action**
  - 2. Send copies of the order naming the road to the following:**
    - a. Road Department**
    - b. Assessor's Office and Tax Office**
    - c. Postmaster**
    - d. Planning Department**
    - e. County Clerk's office**
    - f. Affected telephone and other utilities**
    - g. Affected fire department(s)**
    - h. Local school district(s)**
    - i. Emergency services, i.e., police, fire, 911, etc.**
  - 3. File the original order naming a new road with County Clerk**
  - 4. On a monthly basis, the Community Development Department shall publish a list of changed road names in a newspaper of general circulation designated for the purpose of the Board.**

**FINDING:** Following review of the Board Order, staff will provide notice of the Board Order to the required entities identified above and the Board Order will be recorded in the Deschutes County Clerk's records. The proposed road name will be published in a newspaper with the list of changed road names. These criteria will be met.

#### Section 16.16.040 Procedures And Standards For Changing Existing Road Names

***The following procedures and standards shall apply to the changing of existing road names:***

- A. An existing road name may be changed by the Community Development Department if the existing name:**
- 1. Duplicates a pre-existing road name within the same postal zip code or geographic area;**
  - 2. Sounds like or is spelled so similarly to a pre-existing road name in the same postal zip code or geographic area as to cause confusion between the two roads;**
  - 3. Is known by more than one name;**
  - 4. Is different than the name of the road of which it is a continuation; or**
  - 5. Is not consistent with County road naming standards set forth in DCC 16.16.**

**FINDING:** This application request is to change the name of an existing unimproved right-of-way, Cardwell Road, to Conquest Road. The property outlined in red below has received tentative subdivision approval to establish eight (8) rural residential lots (County File No. 247-24-000401-TP). The subdivision has not received final plat approval at this time. The tentative subdivision layout shows the improvement of and continuation of the existing Cardwell Road to serve these future

lots. The developer and property owner for the subdivision has requested the road name Conquest Road for the public right-of-way to serve these proposed lots.

Thus, to be consistent with the planned internal subdivision road name, the existing Cardwell Road right-of-way which will serve this future road and connect the subdivision access to Butler Market Road will need to be renamed so that there is one consistent road name throughout.

**B. *In choosing which road name to change as between two or more roads with the same or similar names (affected roads), the department shall consider the following factors:***

- 1. *The number of properties, developed and undeveloped, abutting each affected road;***
- 2. *The length of time a name has been in use to designate each affected road and whether the name used to designate each road has any historic significance;***
- 3. *Whether one affected road as named is relatively better known by the general public than the other affected road or roads as named;***
- 4. *Any showing that a proposed road name change would be relatively more burdensome to abutting property owners than if another affected road name were changed.***

**FINDING:** The applicant has chosen to rename the 1,288-foot-long segment of Cardwell Road to Conquest Road. Six (6) properties currently abut Cardwell Road and no addresses will be affected. There is nothing in the record indicating any historical significance of the name Cardwell Road and there were no objections from the six property owners who received notice of the requested name change. Staff also finds it is appropriate to rename Cardwell Road prior to final platting and dwelling construction within the planned subdivision in order to ensure consistency in street naming and eliminate possible confusion.

**C. *Proposed name changes shall proceed under the process specified under DCC 16.16.030.***

**FINDING:** The requested road name change will follow the process specified under DCC 16.16.030, above.

**IV. CONCLUSION:**

Based on the foregoing findings, staff concludes that the proposed road name can comply with the applicable standards and criteria of the Deschutes County Road Naming Ordinance if conditions of approval are met.

Other permits may be required. The applicants are responsible for obtaining any necessary permits from the Deschutes Road Department as well as any required state and federal permits.

The Deschutes County Road Department will coordinate the posting of a new road sign with the

Property Address Coordinator. Please coordinate with the Deschutes County Road Department regarding fees related to the creation and installation of the new road sign.

**V. DECISION:**

**APPROVAL**, subject to the following conditions of approval.

**VI. CONDITIONS OF APPROVAL:**

- A.** The affected property owners and occupants shall have 180 days from the date of the Board Order of road name assignment to begin using the road name. Note: This requirement will only impact property owners and occupants that currently take access from.
- B.** ***Prior to final plat approval for File No. 247-24-000401-TP***, Applicant shall cause for the installation of new road name signage in accordance with applicable Deschutes County Road Department standards. Applicant may either engage a contractor to furnish and install new road name signage, which will be subject to the applicant or their contractor obtaining a right of way activity permit from the Road Department, or pay the applicable fee to have the Road Department furnish and install new road name signage.

**VII. DURATION OF APPROVAL:**

**This decision becomes final ten (10) days after the date mailed**, unless appealed by a party of interest. Issues on appeal shall be limited to whether the Community Development Department correctly applied the criteria set forth herein. To appeal, it is necessary to submit a Notice of Appeal, the appeal fee of \$250.00 and a statement raising any issue relied upon for appeal with sufficient specificity to afford the Hearings Body an adequate opportunity to respond to and resolve each issue.

Within ten (10) days of this decision becoming final and absent an appeal, the Board of County Commissioners shall approve the subject road name assignment pursuant to Board Order 2025-022.

Copies of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost. Copies can be purchased for 25 cents per page.

**NOTICE TO MORTGAGEE, LIEN HOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.**

**DESCHUTES COUNTY PLANNING DIVISION**

A handwritten signature in black ink that reads "Haleigh King". The script is cursive and fluid.

Written by: Haleigh King, AICP, Senior Planner

A handwritten signature in black ink that reads "Jacob Ripper". The script is cursive and fluid.

Reviewed by: Jacob Ripper, AICP, Principal Planner

Attachment: Road Location Map



# File Number 247-25-000149-RN

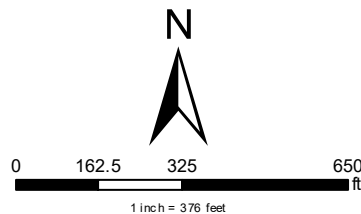
Proposed Name to be  
"Conquest Road"



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community,  
Deschutes County GIS



Date: 9/5/2024



For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Assigning the Name of Conquest Road  
to a 1,288-foot portion of a 60-foot-wide public  
road right-of-way currently named Cardwell  
Road.

\*

\*

\*

\*

ORDER NO. 2025-022

WHEREAS, Jason Bethers on behalf of Eastbourne LLC has applied to change an existing road name pursuant to Deschutes County Code, Title 16, Addresses and Road Names, to assign the name of Conquest Road to a 1,288-foot portion of a 60-foot-wide public road right-of-way located in Township 17 South, Range 13 East, Section 18C, W.M.,

WHEREAS, all public notices required to be given under 16.16.030(B) regarding the proposed name have been given; and

WHEREAS, the appeal period for appealing the Community Development Department’s approval expired; and

WHEREAS, DCC 16.16.030(I) requires road names be assigned by order of the Board of County Commissioners; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, HEREBY ORDERS as follows:

Section 1. That the name of Conquest Road be assigned to a 1,288-foot portion of a 60-foot-wide public road right-of-way located in Township 17 South, Range 13 East, Section 18C, W.M., as set forth in Exhibit “A”, attached hereto and incorporated herein.

Dated this \_\_\_\_\_ of \_\_\_\_\_, 20\_\_

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

\_\_\_\_\_  
ANTHONY DEBONE, CHAIR

\_\_\_\_\_  
PATTI ADAIR, VICE CHAIR

ATTEST:

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
PHIL CHANG, COMMISSIONER



# File Number 247-25-000149-RN

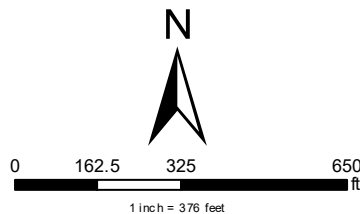
Proposed Name to be  
"Conquest Road"



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community,  
Deschutes County GIS



Date: 9/5/2024





## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** June 16, 2025

**SUBJECT:** Work Session: Cascades Academy Plan Amendment and Zone Change

**RECOMMENDED MOTION:**

Work Session in preparation for the Public Hearing on June 18<sup>th</sup>.

**BACKGROUND AND POLICY IMPLICATIONS:**

The Board of County Commissioners ("Board") will convene a work session on June 16, 2025, to prepare for a Public Hearing scheduled on June 18, 2025. Cascades Academy of Central Oregon is requesting a Comprehensive Plan Amendment and Zone Change (File nos. 247-24-000392-PA, 393-ZC).

The purpose of this work session is to facilitate Board review of the application materials and to identify key topics for discussion at the upcoming public hearing.

Additional background information is included in the Staff Memorandum. Record materials are available on the project website: <https://bit.ly/CascadesAcademy>

**BUDGET IMPACTS:**

None.

**ATTENDANCE:**

Nicole Mardell, AICP, Senior Planner  
Will Groves, Planning Manager



## COMMUNITY DEVELOPMENT

## MEMORANDUM

**TO:** Board of County Commissioners

**FROM:** Nicole Mardell, AICP, Senior Planner

**DATE:** June 11, 2025

**SUBJECT:** Work Session: Cascades Academy Plan Amendment and Zone Change

---

The Board of County Commissioners ("Board") will convene a work session on June 16, 2025, to prepare for a Public Hearing scheduled on June 18, 2025. Cascades Academy of Central Oregon is requesting a Comprehensive Plan Amendment and Zone Change (File nos. 247-24-000392-PA, 393-ZC). The purpose of this work session and memo is to facilitate Board review of the application materials and to identify key topics for discussion at the upcoming public hearing.

The record is available for inspection at the following link: <https://bit.ly/CascadesAcademy>

## I. BACKGROUND

The subject property is comprised of seven (7) tax lots with a total area of 22.5 acres, including 4.03 acres zoned Surface Mine and 18.47 acres zoned EFU-Tumalo/Redmond/Bend Subzone. Four (4) taxlots are partially within the Landscape Management Combining Zone associated with State Highway 20 and the Deschutes River. The EFU properties are also within the Surface Mining Impact Area Combining Zone associated with Mining Site No. 370. The property is irregular in shape and is located immediately south of the Tumalo Rural Community and west of State Highway 20. Refer to Attachment A for location and zoning maps.

Cascades Academy, the applicant and property owners, request a change to the Comprehensive Plan designation of the subject property from Agricultural (AG) and Surface Mining (SM) to Rural Residential Exception Area (RREA) and a corresponding Zone Change from Exclusive Farm Use – Tumalo/ Redmond/ Bend subzone (EFU-TRB) & Surface Mining (SM) to Multiple Use Agricultural (MUA-10). The applicant intends to rezone the property to allow for expansion of the existing school on an adjacent parcel, although they are not requesting approval for the school or other specific development as part of this application.

The applicant argues the subject property does not qualify as "agricultural land" under Oregon Revised Statutes (ORS) or Oregon Administrative Rules (OAR) definitions, and there are no active



mining operations at the former surface mine site. Further, the Applicant argues that no exception to Statewide Planning Goal 3, Agricultural Land, is required because the subject property is not agricultural land.

A soil study, conducted by a certified soil scientist, determined the subject property contains approximately 68.6% or 16.59 acres of Land Capability Class 7 and 8 nonirrigated soils. According to the soil study, the subject property is comprised of soils that do not qualify as Agricultural Land<sup>1</sup>. The soil study was verified as completed and meeting the requirements of OAR 660-033-0045(6)(a) by the Department of Land Conservation and Development on May 27, 2025 for four parcels and June 5, 2025, for the remaining three parcels.

Pertaining to the Surface Mine zoning, tax lots 4200, 4300, and 4400 are inventoried as part of Site No. 370 in the County's inventory of mineral and aggregate sites only for "storage" uses. The tax lots were never intended to be mined and do not contain significant mineral or aggregate resources.

## **II. PUBLIC COMMENTS**

Central Oregon Landwatch provided oral and written comments in opposition to the proposal, which are addressed in the attached Hearings Officer recommendation. No additional comments have been received following the issuance of the Hearings Officer Recommendation.

All comments and materials are included in the electronic record.

## **III. HEARINGS OFFICER RECOMMENDATION**

The Deschutes County Hearings Officer held a public hearing on November 14, 2024. On February 26, 2025, the Hearings Officer issued a recommendation of denial for the proposed Plan Amendment and Zone Change, citing a lack of evidence demonstrating compliance with Statewide Planning Goal 5 pertaining to wetland, scenic road, and scenic water resources associated with the subject property.

On April 4, 2025, the applicant provided additional application materials, including an Environmental, Social, Economic, and Energy (ESEE) analysis to address concerns in the Hearings Officer's recommendation. On June 9, 2025, DLCD staff provided comments to staff regarding the ESEE analysis which have been uploaded to the record under "Comments & Submittals – Agencies".

## **IV. BOARD CONSIDERATION**

As the property includes lands designated for agricultural use, Deschutes County Code 22.28.030(C) requires the application to be heard *de novo* before the Board, regardless of the determination of the Hearings Officer.

## **V. NEXT STEPS**

---

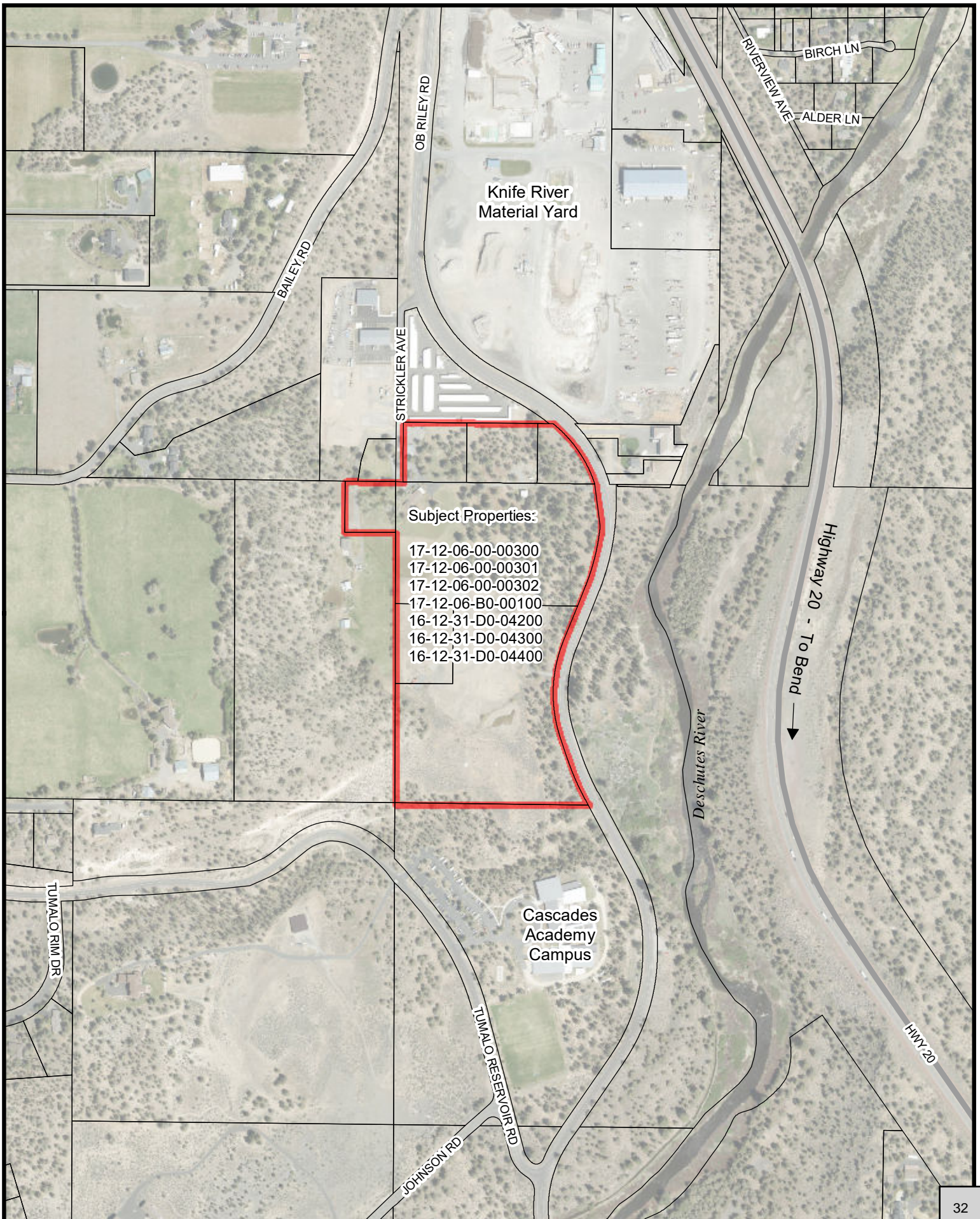
<sup>1</sup> The phrase 'agricultural soils' is defined in OAR 660-033-0020.

Based on the feedback received from the Board at the Work Session, staff will prepare for the upcoming public hearing.

- Attachment A:** Subject Property Maps  
**Attachment B:** Hearing Officer Recommendation



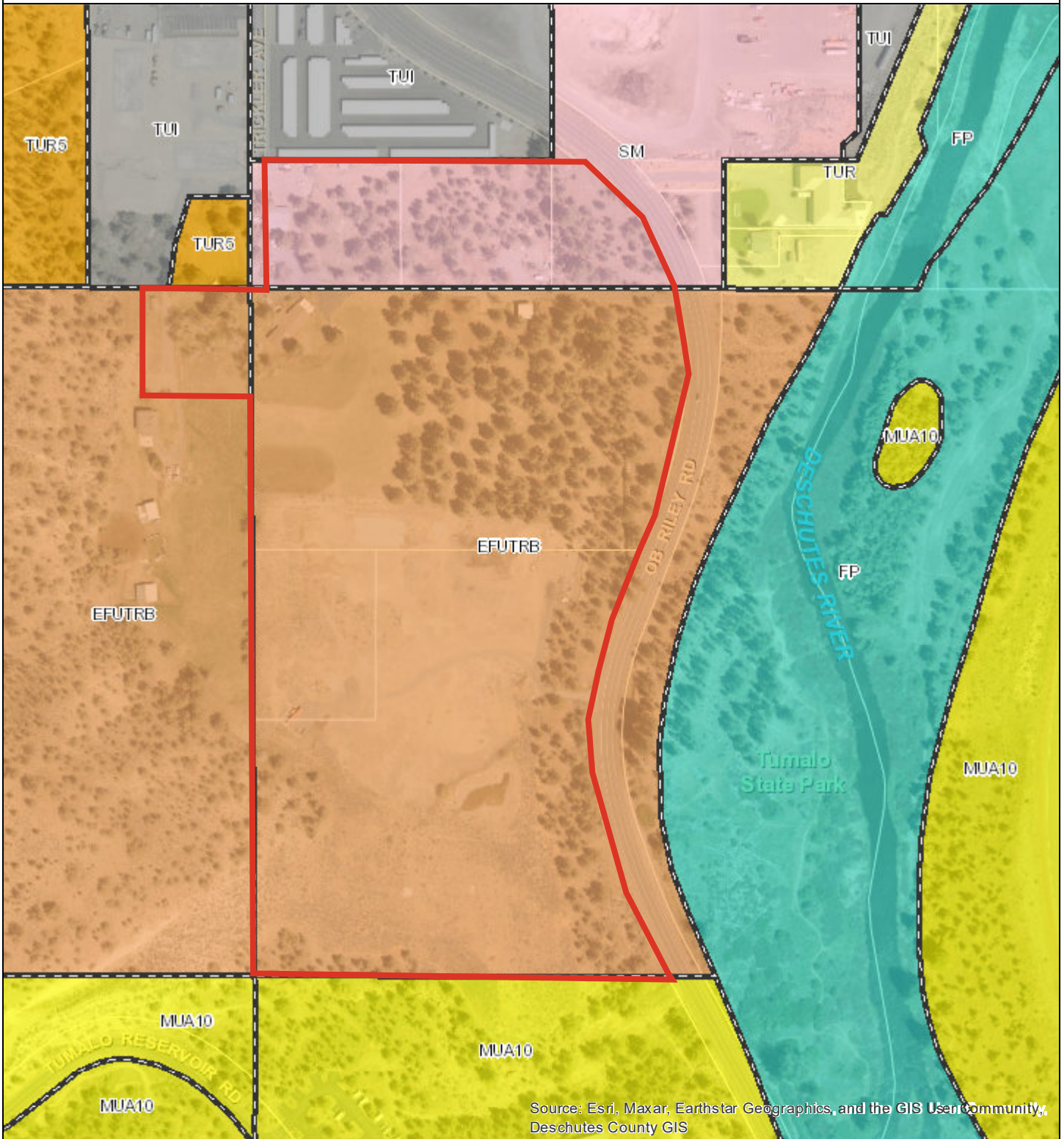
Location Map





# 247-24-000392-PA / 247-24-000393-ZC

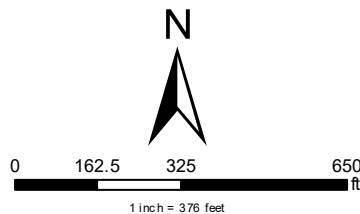
## Zoning Map (Detailed)



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community, Deschutes County GIS



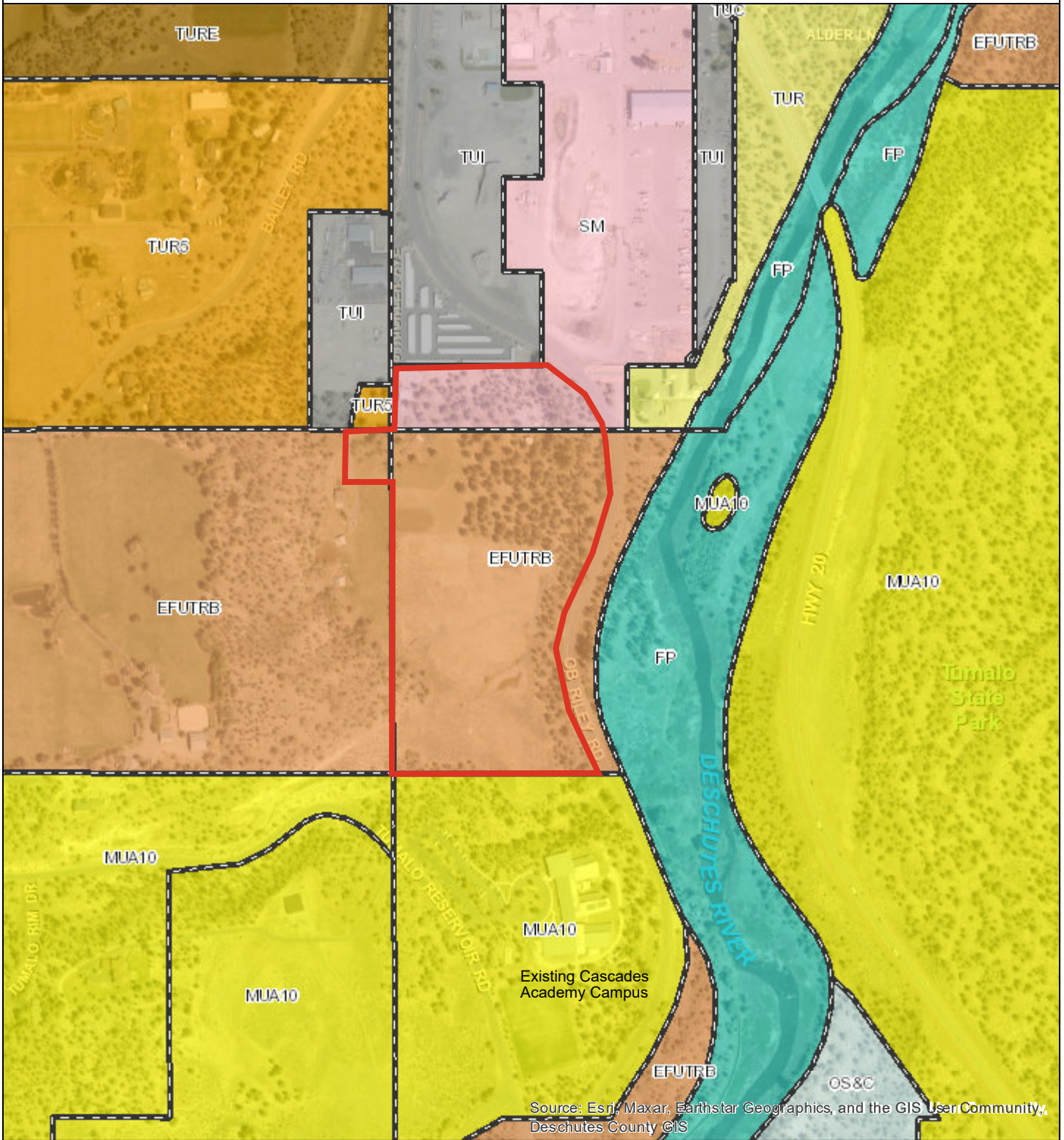
Date: 6/10/2025



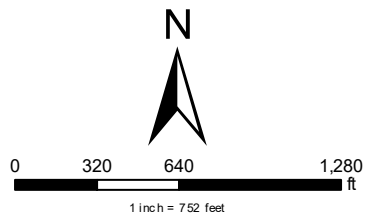


# 247-24-000392-PA / 247-24-000393-ZC

## Zoning Map (Overview)



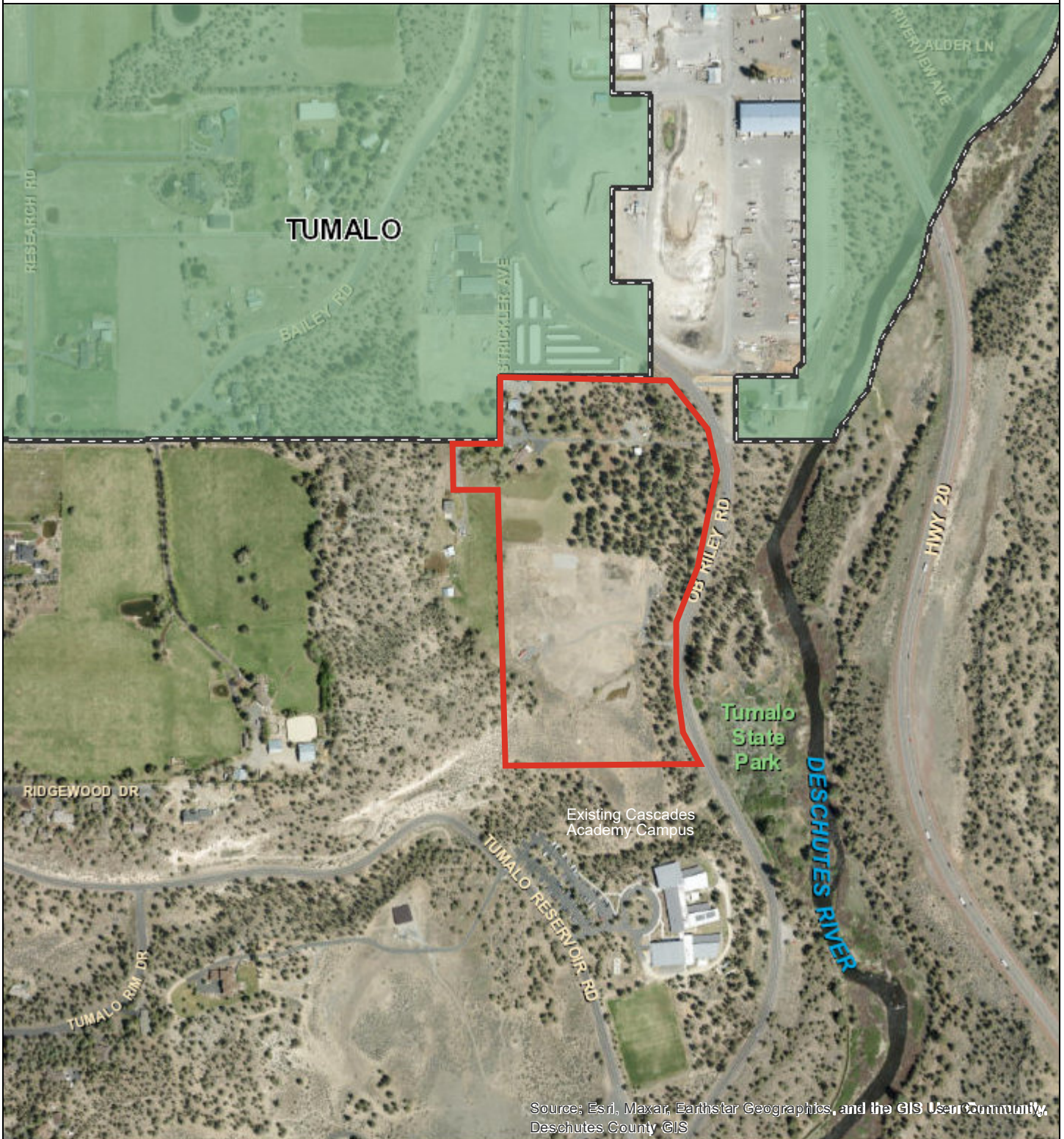
Date: 6/10/2025



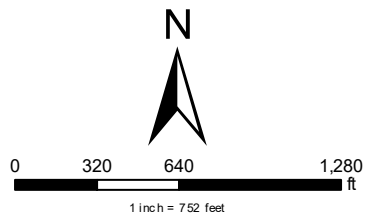


# 247-24-000392-PA / 247-24-000393-ZC

## Tumalo Rural Community Boundary



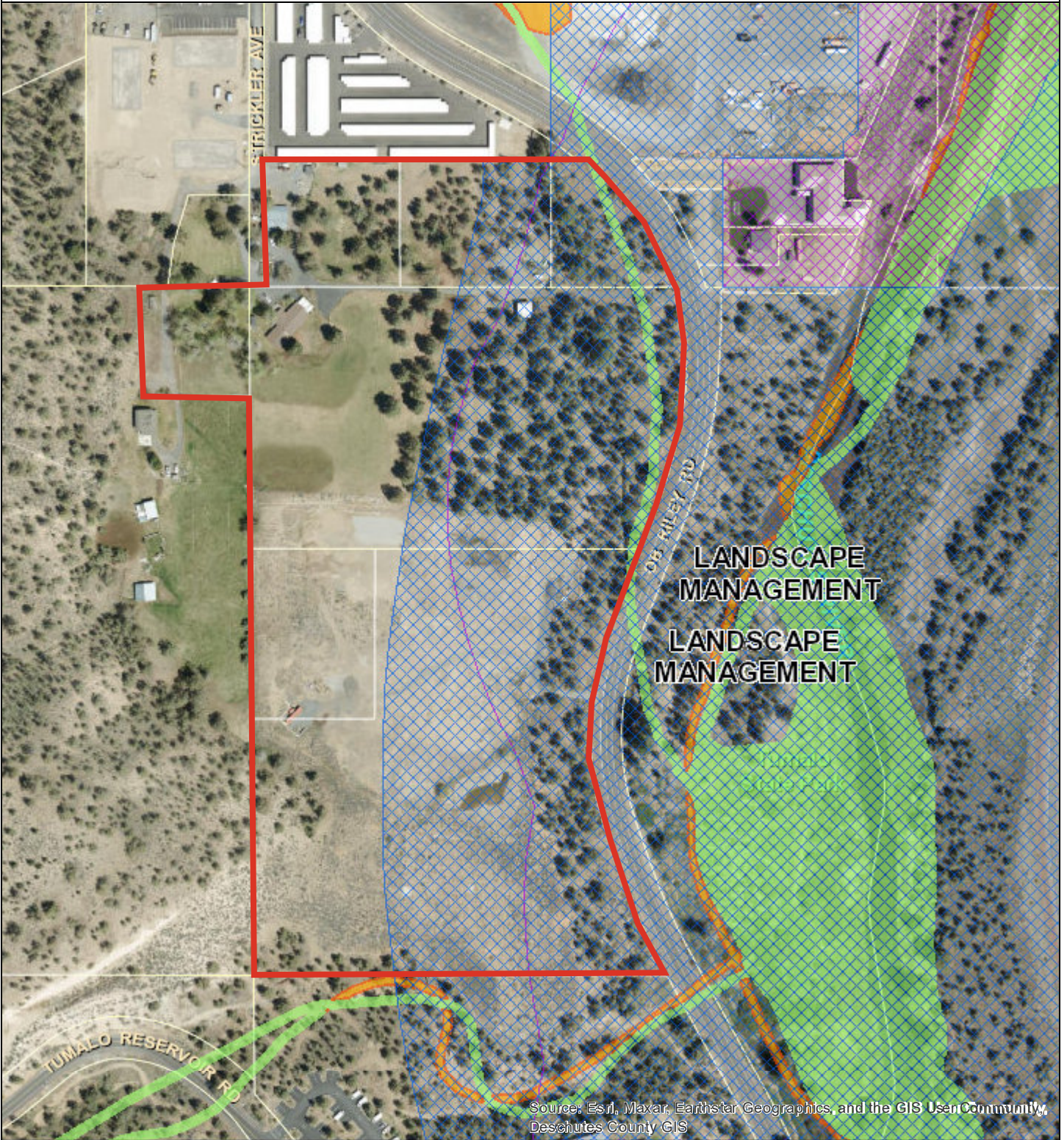
Date: 6/10/2025



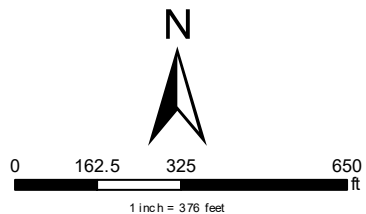


# 247-24-000392-PA / 247-24-000393-ZC

## Goal 5 Resources



Date: 6/10/2025



- LM Zone - River
- LM Zone - Road
- Wetland





Attachment B Hearings Officer Recommendation

**RECOMMENDATION AND FINDINGS OF  
THE DESCHUTES COUNTY HEARINGS OFFICER**

**FILE NUMBERS:** 247-24-000392-PA, 393-ZC

**HEARING DATE:** November 14, 2025, 1:00 p.m.

**HEARING LOCATION:** Videoconference and  
Barnes & Sawyer Rooms  
Deschutes Services Center  
1300 NW Wall Street  
Bend, OR 97708

**APPLICANT:** Cascades Academy of Central Oregon

**SUBJECT PROPERTY:**

- 64325 O.B. Riley Rd; Assessor map 17-12-06, tax lot 301
- 64345 O.B. Riley Rd; Assessor map 17-12-06, tax lot 300
- 64375 O.B. Riley Rd; Assessor map 17-12-06, tax lot 302
- 64385 O.B. Riley Rd; Assessor map 17-12-06B, tax lot 100
- No address; Assessor map 16-12-31D, tax lot 4200
- No address; Assessor map 16-12-31D, tax lot 4300
- 64411 O.B. Riley Rd; Assessor map 16-12-31D, tax lot 4400

**REQUEST:** Applicant requests approval of a Comprehensive Plan Amendment to change the designation of the Subject Property. If approved, Tax Lots 4200, 4300, and 4400 would change from the Surface Mine (SM) designation to Rural Residential Exception Area (RREA), and Tax Lots 100, 300, 301, and 302 would change from Agriculture (AG) to Rural Residential Exception Area (RREA). Applicant also requests a corresponding Zone Change to rezone all Tax Lots on the Subject Property from either Surface Mining (SM) or Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA-10).

**HEARINGS OFFICER:** Tommy A. Brooks

**SUMMARY OF RECOMMENDATION:** The Hearings Officer finds that the record is not sufficient to support the requested Comprehensive Plan Amendment and Zone Change, specifically with respect to the requirements of Statewide Planning Goal 5. The Hearings Officer therefore recommends the Deschutes County Board of Commissioners DENY the Application unless the Applicant demonstrates the requested Comprehensive Plan Amendment and Zone Change are consistent with Statewide Planning Goal 5.

///

## **I. STANDARDS AND CRITERIA**

Title 18 of the Deschutes County Code, the County Zoning Ordinance:

Chapter 18.04, Title, Purpose, and Definitions

Chapter 18.16, Exclusive Farm Use Zones (EFU)

Chapter 18.32, Multiple Use Agricultural (MUA-10)

Chapter 18.52, Surface Mining (SM)

Chapter 18.136, Amendments

Title 22, Deschutes County Development Procedures Ordinance

Deschutes County Comprehensive Plan

Chapter 2, Resource Management

Chapter 3, Rural Growth Management

Appendix C, Transportation System Plan

Oregon Administrative Rules (OAR), Chapter 660

Division 12, Transportation Planning

Division 15, Statewide Planning Goals and Guidelines

Division 23, Procedures and Requirements for Complying with Goal 5

Division 33, Agricultural Land

Oregon Revised Statutes (ORS)

Chapter 215.010, Definitions

Chapter 215.211, Agricultural Land, Detailed Soils Assessment

## **II. BACKGROUND AND PROCEDURAL FINDINGS**

### **A. Nature of Proceeding**

The Subject Property consists of seven Tax Lots. Tax Lots 4200, 4300, and 4400 currently carry the Surface Mine (SM) Comprehensive Plan designation and are zoned Surface Mining (SM). Tax Lots 100, 300, 301, and 302 currently carry the Agriculture (AG) Comprehensive Plan designation and are zoned Exclusive Farm Use-Tumalo/Redmond/Bend subzone (EFU). This matter comes before the Hearings Officer as a request for approval of a Comprehensive Plan Map Amendment (“Plan Amendment”) to change the designation of the Subject Property from Surface Mining (SM) and Agriculture (AG) to Rural Residential Exception Area (RREA). The Applicant also requests approval of a corresponding Zoning Map Amendment (“Zone Change”) to change the zoning of the Subject Property to Multiple Use Agricultural (MUA-10).

The primary bases of the request in the Application are the Applicants’ assertions that: (1) the Subject Property does not contain a significant Goal 5 resource; (2) the Subject Property is not part of the

remaining surface mining operation; and (3) the Subject Property does not qualify as “agricultural land” under the applicable provisions of the Oregon Revised Statutes or Oregon Administrative Rules governing agricultural land. Based on those assertions, the Applicant is not seeking an exception to Statewide Planning Goal (“Goal”) 3 for the Plan Amendment or Zone Change. Although the Applicant intends to use the Subject Property for the expansion of an existing school on an adjacent parcel, the Applicant is not requesting the approval of the school or of any other specific development as part of the Application.

### B. Notices and Hearing

The Application is dated June 24, 2024. On July 16, 2024, the County issued a Notice of Application to several public agencies and to property owners in the vicinity of the Subject Property (together, “Application Notice”). The Application Notice invited comments on the Application. The County also provided notice of the Plan Amendment to the Department of Land Conservation and Development (“DLCD”) on September 27, 2024.

The County mailed a Notice of Public Hearing on September 30, 2024 (“Hearing Notice”) announcing an evidentiary hearing (“Hearing”) for the requests in the Application. Pursuant to the Hearing Notice, I presided over the Hearing as the Hearings Officer on November 14, 2024, opening the Hearing at 1:00 p.m. The Hearing was held via videoconference, with Staff, representatives of the Applicant, and other participants in the hearing room. The Hearings Officer appeared remotely. The Hearing concluded at 2:06 p.m.

At the beginning of the Hearing, I provided an overview of the quasi-judicial process and instructed participants to direct comments to the approval criteria and standards, and to raise any issues a participant wanted to preserve for appeal if necessary. I stated I had no *ex parte* contacts to disclose or bias to declare. I asked for but received no objections to the County’s jurisdiction over the matter or to my participation as the Hearings Officer.

Prior to the conclusion of the Hearing, the Applicant requested and agreed to leaving the written record open to take additional evidence. At the conclusion of the Hearing, I announced that the written record would remain open: (1) until December 5, 2024, for any participant to provide additional evidence (“Open Record Period”); (2) until December 19, 2024, for any participant to provide rebuttal evidence to evidence submitted during the Open Record Period; and (3) until January 2, 2025, for the Applicant only to provide a final legal argument, without additional evidence.

### C. Review Period

Because the Application includes the request for the Plan Amendment, the 150-day review period set forth in ORS 215.427(1) is not applicable.<sup>1</sup> The Staff Report also notes that the 150-day review period is not applicable by virtue of Deschutes County Code (“DCC” or “Code”) 22.20.040(D). No participant in the proceeding disputed that conclusion.

---

<sup>1</sup> ORS 215.427(7).

### III. SUBSTANTIVE FINDINGS AND CONCLUSIONS

#### A. Staff Report

Prior to the Hearing, on November 4, 2024, the Deschutes County Planning Division (“Staff”) issued a report setting forth the applicable criteria and presenting the evidence in the record at that time (“Staff Report”).

The Staff Report concludes that the Applicant has met the burden of proof necessary to justify the Plan Amendment and Zone Change, and it makes several findings with respect to the approval standards. Because some of the information, analysis, and findings provided in the Staff Report are not refuted, portions of the findings below refer to the Staff Report and, in some cases, adopt sections of the Staff Report as my findings. In the event of a conflict between the findings in this Decision and the Staff Report, the findings in this Decision control.

#### B. Code, Plan, and Statewide Planning Goal Findings

The legal criteria applicable to the requested Plan Amendment and Zone Change were set forth in the Application Notice and appear in the Staff Report. This Recommendation addresses each of those criteria, as set forth below, in addition to other issues raised by the participants.

##### 1. Title 18 of the Deschutes County Code, County Zoning

###### Section 18.136.010, Amendments

*DCC Title 18 may be amended as set forth in DCC 18.136. The procedures for text or legislative map changes shall be as set forth in DCC 22.12. A request by a property owner for a quasi-judicial map amendment shall be accomplished by filing an application on forms provided by the Planning Department and shall be subject to applicable procedures of DCC Title 22.*

The Applicant is the owner of the Subject Property and submitted the Application and the necessary Application form. The Applicant has requested a quasi-judicial Plan Amendment and filed the Application for that purpose, together with the request for the Zone Change. It is therefore appropriate to review the Application using the applicable procedures contained in Title 22 of the Deschutes County Code.

###### Section 18.136.020, Rezoning Standards

*The applicant for a quasi-judicial rezoning must establish that the public interest is best served by rezoning the property. Factors to be demonstrated by the applicant are:*

- A. *That the change conforms with the Comprehensive Plan, and the change is consistent with the plan's introductory statement and goals.*

According to the Applicant and the Staff Report, the County’s application of this Code provision does not necessarily involve the direct application of the Plan’s introductory statements and goals as approval



criteria. Rather, consistency with the Plan can be determined by assessing whether the proposal is consistent with specific Plan goals and policies that may be applicable to the proposal.

The Applicant identified multiple Plan goals and policies it believes are relevant to the Application.<sup>2</sup> Among those goals and policies are those set forth in: (1) Section 2.2 of Chapter 2, relating to Agricultural Land Policies; (2) Section 2.4 of Chapter 2, relating to Goal 5; (3) Section 2.10 of Chapter 2, relating to surface mining; (4) Section 2.7 of Chapter 2, relating to Open Spaces, Scenic Views and Sites; (5) Section 3.2 of Chapter 3, relating to Rural Development; (6) Section 3.3 of Chapter 3, relating to rural housing; and (7) Section 3.7 of Chapter 3, relating to transportation. The Application explains how the Plan Amendment and Zone Change is consistent with these goals and policies.

No participant asserts that the Application does not comply with DCC 18.136.020(A), disputes the Applicant's characterization of the Plan's goals and policies presented in the Application, or identifies other Plan goals and policies requiring consideration. Central Oregon LandWatch ("COLW") does raise issues related to some of these policies – e.g., whether the Subject Property constitutes agricultural land and the Applicant's compliance with transportation rules – but does so in the context of whether the Application satisfies various state administrative rules, and COLW does not go as far to say that the Application is inconsistent with these Comprehensive Plan policies. COLW's specific arguments are addressed below in separate findings responding to the specific issues COLW raises.

Based on the foregoing, I find that this Code provision is satisfied.

*B. That the change in classification for the subject property is consistent with the purpose and intent of the proposed zone classification.*

The purpose of the MUA-10 zoning district is stated in DCC 18.32.010 as follows:

The purposes of the Multiple Use Agricultural Zone are to preserve the rural character of various areas of the County while permitting development consistent with that character and with the capacity of the natural resources of the area; to preserve and maintain agricultural lands not suited to full-time commercial farming for diversified or part-time agricultural uses; to conserve forest lands for forest uses; to conserve open spaces and protect natural and scenic resources; to maintain and improve the quality of the air, water and land resources of the County; to establish standards and procedures for the use of those lands designated unsuitable for intense development by the Comprehensive Plan, and to provide for an orderly and efficient transition from rural to urban land use.

The Applicant's Burden of Proof asserts that "[a]pproval of the application is consistent with the purpose of the MUA-10 zoning district," and quotes the purpose set forth above. The Applicant supports that assertion by stating that the Subject Property is not suited to full-time commercial farming, and that the

---

<sup>2</sup> See page 8-16 of the Applicant's Burden of Proof Statement submitted with the Application ("Application Narrative").

zone change will allow the expansion of a school, which the Applicant asserts is a low-density development that conserves open spaces and protects natural and scenic resources. The Staff Report repeats the Applicant's assertions and agrees that the requested Zone Change is consistent with the purpose of the proposed zoning.

COLW disputes the Applicant's assertion that the Subject Property is not suitable for farming, but it does not dispute the Applicant's other assertions that the requested zone change is consistent with the purpose of the zone. Nor does COLW assert that this Code provision is not satisfied. Although COLW argues that the zone change is not "necessary" to allow the contemplated school expansion (because some schools are allowed on EFU land), that argument does not describe why the requested zone change would be inconsistent with the purpose of the MUA-10 designation. Nor does this Code provision require a showing that the Zone Change is "necessary." COLW's arguments relating to the suitability of the Subject Property for farming are addressed in other findings below.

Based on the foregoing, and in the absence of persuasive countervailing evidence or argument, I find that the requested zone change is consistent with the purpose of the MUA-10 zone and this Code provision is satisfied.

*C. That changing the zoning will presently serve the public health, safety and welfare considering the following factors:*

*1. The availability and efficiency of providing necessary public services and facilities.*

As noted in the Staff Report, this criterion specifically asks if the Zone Change will *presently* serve public health, safety, and welfare. The Applicant provided the following as support for why this criterion is met:

- Necessary public facilities and services are available to serve the Subject Property, including electric power and water
- Transportation access to the Subject Property is available, and the impact of increased traffic on the transportation system is non-existent and, to the contrary, the planned rezone results in a reduction in potential trips generated from the Subject Property
- The Subject Property receives police services from the Deschutes County Sheriff and fire service from Rural Fire Protection District # 2
- There are no known deficiencies in public services or facilities that would negatively impact public health, safety, or welfare

The Staff Report confirms that, prior to development of the Subject Property, the Applicant would be required to comply with the applicable requirements of the Code, at which time additional assurances of adequate public services and facilities will also be verified.

No participant in this proceeding disputed the Applicant's or Staff's characterization of this Code provision or the Applicant's evidence presented to show compliance with this Code provision.

Based on the foregoing, I find that services are currently available and sufficient for the Subject Property, and that they can remain available and sufficient if the Subject Property is developed under the MUA-10 zone. I therefore find this Code provision is satisfied.

2. *The impacts on surrounding land use will be consistent with the specific goals and policies contained within the Comprehensive Plan.*

The Applicant asserts the following:

The MUA-10 zoning is consistent with the specific goals and policies in the comprehensive plan discussed above. The MUA-10 zoning allows rural uses consistent with the uses of many other properties in the area of the subject property.

The zone change will not impose new impacts on the EFU-zoned land adjacent to or nearby the subject property because many of those properties are residential properties, hobby farms, already developed with dwellings, not engaged in commercial farm use, are idle, or are otherwise not suited for farm use due to soil conditions, topography, or ability to make a profit farming.

As discussed below, the subject property is not agricultural land, is comprised of predominantly Class 7 and 8 soils, and as described by the soil scientist, Mr. Kitzrow, the nonproductive soils on the subject property make it not suitable for commercial farming or livestock grazing. The subject property is not land that historically has been or could be used in conjunction with the adjacent irrigated property for any viable agricultural use and any future development of the subject property would be subject to building setbacks.

The Staff Report agrees that the Applicant has demonstrated the impacts on surrounding land use will be consistent with the specific goals and policies contained within the Plan. COLW disputes the Applicant's assertion that the Subject Property is not suitable for agriculture, or that it is predominantly composed of Class 7 and Class 8 soils, but COLW does not assert that any potential impacts are inconsistent with Plan goals and policies. Nor does COLW dispute the Applicant's characterization of the applicable goals and policies. COLW's arguments relating to farming suitability and soil classifications are addressed below.

Based on the foregoing, and in the absence of persuasive countervailing evidence or argument, I find that this Code provision is satisfied.

- D. *That there has been a change in circumstances since the property was last zoned, or a mistake was made in the zoning of the property in question.*

The Applicant's Burden of Proof addresses this Code provision, in part, with an explanation that purports to describe a mistake in the zoning of the property. However, that explanation simply describes the history

of EFU zoning in the state and the fact that resource zoning was originally applied “using a broad brush.” But this portion of the Burden of Proof also acknowledges that “[t]he EFU zoning designation was likely based on the best soils data that was available to the County at the time it was originally zoned.” I find that the Applicant has not established that an actual mistake was made when the property was zoned EFU. According to the Applicant, a change in circumstances exists since the Subject Property was originally zoned for agriculture in the 1970’s, including: (1) the collection of new soils data showing the property does not have agricultural soils; (2) the transfer of the property from the owner of mining Site No. 370; (3) market changes reducing the viability of commercial farming both on the Subject Property and in the area in general; and (4) encroaching development. The Staff Report agrees with the Applicant’s findings regarding the existence of a change in circumstances.

COLW submitted comments asserting that the Application does not satisfy CDC DCC 18.136.020(D), but those comments simply state that the property was rezoned to EFU in 2001 and “there has neither been a change in circumstances since that decision, nor was any mistake made in that decision.” COLW repeated that conclusion in oral comments during the Hearing. COLW does not attempt to explain the portion of its comments relating to an absence of changed circumstance, nor does it attempt to refute the evidence provided by the Applicant that circumstances have indeed changed. COLW’s argument in this regard is therefore not developed enough for me to respond to, and lacks supporting evidence that allows me to infer the basis on which it makes its claim.

Based on the Applicant’s evidence, and in the absence of evidence or a developed argument challenging the Applicant’s evidence, I find that this Code provision is satisfied.

Section 18.52, Surface Mining Zone

Section 18.52.200, Termination of the Surface Mining Zoning and Surrounding Surface Mining Impact Area Combining Zone

- A. *When a surface mining site has been fully or partially mined, and the operator demonstrates that a significant resource no longer exists on the site, and that the site has been reclaimed in accordance with the reclamation plan approved by DOGAMI or the reclamation provisions of DCC 18, the property shall be rezoned to the subsequent use zone identified in the surface mining element of the Comprehensive Plan.*

This Code provision contemplates that a property with the SM zoning designation may be rezoned under certain circumstances. Specifically, property can be rezoned once the “surface mining site” has been fully or partially mined, no longer has a significant resource, and has been reclaimed in accordance with applicable reclamation plans and Code provisions. The Code also contemplates that a post-mining “subsequent use zone” will be identified and that, through the rezoning process, that subsequent use zone will apply to the property.

The Applicant asserts that this criterion is not applicable. Currently, only tax lots 4200, 4300, and 4400 of the Subject Property retain the SM zoning designation. The Applicant notes that those parcels, which are part of Site No. 370, were included in the County’s inventory of mineral and aggregate sites only for “storage” uses. According to the Applicant, it was never intended that these tax lots would be mined, no

minerals were ever extracted from these tax lots, no Department of Geology and Mineral Industries (“DOGAMI”) or County reclamation plan applies to these tax lots, and the soils reports confirms that there is no significant resource on these tax lots. The Staff Report agrees with the Applicant’s analysis. COLW asserts that the Application does not satisfy DCC 18.52.200, but only as it relates to tax lots 300, 301, and 302, which is discussed in more detail below. COLW does not dispute the Applicant’s assertion that DCC 18.52.200 is not applicable to tax lots 4200, 4300, and 4400.

I agree with the Applicant that DCC 18.52.200 is not applicable in this context. Looking at the language in that Code provision, it applies to a “surface mining site” that was identified as having a significant resource and that is capable of being mined (wholly or partially) and later reclaimed. The inventory of mineral and aggregate sites included in the record shows that Site No. 370 is not such a site, as evidenced by the fact that it is listed as a “storage” site rather than as a mining type (e.g. sand and gravel or pumice) and the fact that no quantity of mineral is listed for that site. The absence of any intended mining is further evidenced by the fact that no reclamation plan applies to these tax lots.

As just noted, COLW asserts that the Application nevertheless violates DCC 18.52.200 with respect to tax lots 300, 301, and 302. Those tax lots previously carried the SM zoning designation, but have been zoned EFU since 2001 when the County adopted Ordinance No. 2001-027 (the “2001 Rezoning Decision”). The 2001 Rezoning Designation applied DCC 18.52.200 to these three tax lots, which were part of mining Site No. 304. According to COLW, DCC 18.52.200 states that when the County removes the SM zone from a surface mining site, “the property shall be rezoned to the subsequent use zone identified in the surface mining element of the Comprehensive Plan.” As a result of that language, according to COLW, once that subsequent use zone is in place, it cannot be changed again. Specifically, COLW states that “[a]pproving the current application would violate DCC 18.52.200 by rezoning the subject property to a different zone than the zone identified in the County’s comprehensive plan.”

I disagree with COLW’s argument for multiple reasons. First, DCC 18.52.200 applies to properties that are zoned SM. Tax lots 300, 301, and 302, however, are zoned EFU. Nothing in the language of this Code provision states or implies that it can or should be applied to properties in zones other than the SM zone. This Code provision therefore does not apply to these three tax lots. Second, this Code provision is silent with respect to subsequent applications for rezoning property. The language simply states that, once a site no longer has a significant resource it can be rezoned and, if it is rezoned, the County must apply the identified subsequent use zone. The 2001 Rezoning Decision did just that – by rezoning these three tax lots to the EFU zone. If the Code were intended to prohibit a future property owner from rezoning the property again, one would expect to find such a limitation in the Code language, but no such limitation exists. Third, the 2001 Rezoning Decision itself is silent on this matter. It contains no conditions of approval or other limiting language preventing the property owner from seeking to rezone the property in the future. Finally, this Code provision must be read in context with other language in the Code. DCC 18.136.020 establishes the criteria for rezoning property. Those criteria contain no exceptions for properties that were already rezoned pursuant to DCC 18.52.200.

Based on the foregoing, I find that a Plan Amendment and Zone Change is available to the Applicant as long as all other criteria are satisfied, and that DCC 18.52.200 is not applicable to any of the tax lots comprising the Subject Property under these circumstances.

- B. Concurrent with such rezoning, any surface mining impact area combining zone which surrounds the rezoned surface mining site shall be removed. Rezoning shall be subject to DCC 18.136 and all other applicable sections of DCC 18, the Comprehensive Plan and DCC Title 22, the Uniform Development Procedures Ordinance.*

As proposed by the Applicant, the Surface Mining Impact Area (SMIA) combining zone associated with the Subject Property and the remaining properties within Site No. 370 would remain in place. No participant objects to that portion of the Applicant's proposal. Based on the foregoing, I find that this Code provision will be implemented if the Application is approved as part of the final action by the County's Board of Commissioners ("Board").

## 2. DCC 22.20.015(A)(2)

COLW asserts that the Application cannot be approved because the Applicant is in violation of a condition of approval applicable to portions of the Subject Property. DCC 22.20.015(A)(2) provides that the County cannot make a land use decision for a property if the "property is in violation of applicable land use regulations, and/or the conditions of approval of any previous land use decisions or building permits previously issued by the County."

According to COLW, prior County decision SP-93-59 approved a site plan for surface mining and reclamation on tax lots 300, 301, and 302. As part of that decision, the County imposed certain reclamation requirements, including the reclamation plan associated with a DOGAMI permit, and incorporated those into the conditions of approval for that decision. COLW asserts that the conditions of the Subject Property as described in the Applicant's Soil Report demonstrates that these reclamation requirements are unmet and, therefore, in violation of the conditions of approval in the County's prior decision. COLW further asserts that, until the site reclamation is complete, the County cannot make any land use decisions concerning the Subject Property.

The Applicant responds that the County has previously determined that the reclamation requirements from the SP-92-59 decision have been completed. According to the Applicant, the 2001 Rezoning Decision discussed above conclusively establishes that the conditions of SP-92-59, the DOGAMI reclamation plan, and a related development agreement containing the same requirements were met, which is what justified the rezoning of tax lots 300, 301, and 302 back to the EFU zone. The Applicant asserts that COLW's arguments constitute an impermissible "collateral attack" on the 2001 Rezoning Decision.

I find that this issue can be resolved without the need to determine whether COLW's arguments amount to a collateral attack of the County's prior decision for three distinct and independent reasons. First, the restriction set forth in DCC 22.20.015(A) applies only where there has been a "violation" of a condition of approval. DCC 22.20.015(C) defines a "violation" as existing when "the property has been determined to not be in compliance either through a prior decision by the County or other tribunal, or through the review process of the current application, or through an acknowledgement by the alleged violator in a signed voluntary compliance agreement." Here, not only has a violation not been determined to exist, the only prior adjudication of the issue came to the opposite conclusion and determined no violation existed.

Second, the evidence in the record is that the County and DOGAMI each determined that the reclamation activities that occurred were satisfactory. Those determinations were made in 2001 and were closer in time to when the reclamation activities occurred. The result of the reclamation as it exists today may not be what COLW would expect them to be, but the entities reviewing the results at the time provide better evidence of whether and how the reclamation activities were implemented.

Finally, I disagree with COLW that the reclamation conditions it points to are ongoing obligations of the property owner. Those conditions were imposed as part of the review of a site plan allowing surface mining activities. With the approval of the 2001 Rezoning Decision, the property was rezoned and the surface mining use was no longer allowed on the property. The conditions of approval relating to surface mining therefore no longer had any purpose. Absent any condition of approval in the 2001 Rezoning Decision that kept those conditions alive, there is simply no basis to apply a condition of approval where there is no longer an approved use to be conditioned.

Based on the foregoing, I find that DCC 22.20.015(A)(2) does not prevent the Applicant from seeking the Plan Amendment or Zone Change, and that the County is not precluded from approving the Application on that basis.

### 3. Deschutes County Comprehensive Plan Goals and Policies

As previously noted, the Applicant and Staff Report both identify several Plan goals and policies potentially relevant to this Application. Staff's discussion of those goals and policies appears on pages 14 through 23 of the Staff Report. No participant in this proceeding identified other applicable goals and policies, or otherwise asserted that the proposal is inconsistent with the plans and policies the Applicant and Staff identified. I therefore adopt the findings in the Staff Report as my findings relating to the Plan goals and policies. The issues raised by COLW that are related to the County's Plan goals and policies, but which specifically address various state administrative rules, are addressed in later findings.

### 4. Oregon Administrative Rules

The participants to this proceeding have identified several state administrative rules that may be directly applicable to the Applicant's proposal. The findings in this section address each of those rules.

#### a. OAR 660-023-0180

The Applicant and the Staff Report identify multiple provisions in OAR 660-023-0180 as being applicable to the Application. In summary, those provisions provide a process by which a County should amend an acknowledged inventory or plan with regard to mineral and aggregate resources, including a process for determining the significance of a resource, whether for the purpose of listing a new resource or de-listing an existing resource. Only the Applicant and the Staff Report address this administrative rule, and no other participant asserts that the Application does not satisfy the provisions in OAR 660-023-0180. I therefore adopt the findings on pages 23-26 of the Staff Report addressing this administrative rule as my findings.

b. OAR 660-006-0005

The Applicant addresses OAR 660-006-0005 to demonstrate that the Subject Property does not qualify as “forest lands” and, therefore, that Goal 4 is not applicable to the request in the Application. The Staff Report indicates that it agrees with the Applicant’s analysis, and no other participant objects to the Applicant’s conclusion that the Subject Property does not qualify as “forest lands”. For the reasons stated in the Application and the Staff Report, I agree that the Subject Property does not qualify as “forest lands” and, therefore, that Goal 4 does not apply.

c. Goal 3 Administrative Rules

A major issue in this proceeding is whether the Subject Property qualifies as “agricultural land” under Goal 3 and its implementing rules. The Applicant seeks to establish that the Subject Property is not agricultural land. In support of its position, the Applicant submitted to the record an Order 1 Soil Survey (“Soil Study”) prepared by a certified professional soil scientist, Gary A. Kitzrow of Growing Soils Environmental Associates (GSEA). The Staff Report agrees with the Applicant’s position and the findings in the Soil Study, concluding that the Subject Property consists predominantly of Class VII and VIII soils and, therefore, does not constitute agricultural lands. COLW, on the other hand, asserts that the Subject Property is not only agricultural land, but that it is high value farmland that must be zoned EFU, and that the EFU designation cannot be changed without first taking an exception to Goal 3.

As a starting point, COLW argues that the Applicant cannot rely on ORS 215.211 and the Soil Study to change the zoning designation of the Subject Property because the property qualifies as high value farmland using U.S. Natural Resources Conservation Service (“NRCS”) classifications. COLW’s argument is rooted in OAR 660-033-0030(8), which COLW believes requires that the NRCS must be used for the approval of certain land use applications on high-value farmland and that additional soil information cannot be used. According to COLW, OAR 660-033-0090 and OAR 660-033-0120, which are referenced in OAR 660-033-0030(8), mean, together, that “[w]hen the NRCS soil classes and rating show that a property is high-value farmland, the only uses allowed on that land are those specified in OAR 660-033-0120, and counties must apply EFU zoning to such lands.”

COLW’s argument in this regard does not reflect the actual language of the rules. First, OAR 660-033-0090 states that the EFU zone must apply to “agricultural lands”, which may be high-value farmland or not high-value farmland. Once it is determined that land is agricultural land, and that it is high-value farmland, that rule states that only those uses authorized on high-value farmland under OAR 660-033-0120 are allowed. But the current application is not concerned with allowing a particular use, so the provisions of OAR 660-033-0090 and OAR 660-033-0120 are not at issue. Those provisions would be triggered only if the Subject Property were first deemed to be agricultural land and then a specific use were proposed. Here, the task is to determine if the Subject Property is agricultural land at all. If it is, then the rule provisions COLW relies on may be applicable. If it is not, then the Subject Property will not be agricultural land at all, whether high-value farmland or something else, and those provisions would not apply.



OAR 660-033-0020(1)(a)(A)

COLW alternatively argues that the Subject Property qualifies as agricultural land under the definitions set forth in OAR 660-033-0020(1)(a), the first of which, in subsection (A), relies on the NRCS classifications. Under that definition, “agricultural lands” includes “Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon.” The Subject Property could qualify as “agricultural lands” under that definition because the applicable NRCS soil classifications include large amounts of Class III soils (when irrigated). However, the Applicant relies on ORS 215.211, which it asserts grants a property owner the right to rely on more detailed information in lieu of the NRCS classifications. The Applicant uses the Soil Study for that purpose, and the Soil Study concludes that the soils on the Subject Property are predominantly Class VII and VIII soils.

As the Land Use Board of Appeals (“LUBA”) has explained, “ORS 215.211 allows a site-specific analysis of soils where a person believes that such information would, compared to the information provided by the NRCS, assist a county in determining whether land is agricultural land.”<sup>3</sup> In that case, the applicant sought to change a property’s Plan designation from AG to Rural Industrial (RI). The applicant in that case also relied on a site-specific Order 1 soil survey prepared by a qualified soil scientist. LUBA upheld the County’s reliance on that soil survey as part of its determination that the property at issue in that case consisted predominantly of Class VII and Class VIII soils unsuitable for farming.

Based on the language in ORS 215.211 and LUBA’s acknowledgment of that statute, I find that the County is not precluded from considering the Order 1 soil survey when applying OAR 660-033-0020(1)(a)(A), as long as doing so is consistent with OAR 660-033-0030(5), which implements ORS 215.211. COLW does not dispute that the survey complies with OAR 660-033-0030(5). The Staff Report, however, notes that the Applicant has not provided confirmation of the Soil Study from DLCD, a requirement of OAR 660-033-0030(5)(b) by virtue of its cross reference to OAR 660-033-0045. The Applicant and Staff suggest a condition of approval requiring a response from DLCD prior to the Plan Amendment and Zone Change becoming final. No other participant objected to that approach. Because this Decision does not recommend approval of the Plan Amendment and Zone Change, it does not include any suggested conditions. However, if the Board subsequently approves the Application, and if the Applicant still has not provide documentation from DLCD, such a condition seems warranted and necessary.

Based on the foregoing, and considering the more detailed evidence provided by the Applicant’s soil scientist against the NRCS designation of the Subject Property, I find that that the Subject Property does not qualify as agricultural land under Goal 3 as defined in OAR 660-033-0020(1)(a)(A), but that the Applicant has not complied with all procedural aspects of OAR 660-033-0030(5) and must do so before the Plan Amendment and Zone Change are approved. That does not end the inquiry, however, as COLW also argues that the Subject Property qualifies as agricultural land under the other sections of OAR 660-033-0020(1)(a).

---

<sup>3</sup> *Central Oregon Land Watch v. Deschutes County*, \_\_ Or LUBA \_\_ (LUBA No. 2023-008, April 24, 2023) (“LUBA No. 2023-008”).

OAR 660-033-0020(1)(a)(B)

COLW next argues that the Subject Property is “agricultural land” as defined in OAR 660-033-0020(1)(a)(B). That rule states that land qualifies as agricultural land if it is “suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices.”

COLW addresses each of the subsection (B) factors, concluding that the Subject Property is suitable for farm use based on any one of those factors. The Applicant similarly addresses each of those factors, concluding that the Subject Property is not suitable for farm use. Having reviewed the evidence and arguments presented by these participants, a primary difference in their positions comes down to the definition of “farm use”, which ORS 215.203(2)(a) defines as:

The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof.

According to COLW, the Subject Property could be employed for multiple farm uses because: (1) the soil fertility is high-value farmland; (2) it can be used for livestock, on its own or in conjunction with other lands; (3) the climate is the same as the climate of surrounding agricultural lands; (4) irrigation water is available; (5) it is part of a larger block of productive agricultural land; (6) any technological and energy inputs needed to farm the property are not unique; and (7) it is an accepted farm practice to improve the property for farming, such as removing rocks, tilling and fertilizing soil, and improving irrigation infrastructure. COLW also notes that the Subject Property has historically had an irrigated pasture.

The Applicant does not dispute that some “farming” may be possible on the Subject Property. Rather, the Applicant asserts that, based on these same factors, farming activities would not be “profitable” and, therefore, do not arise to the level of a “farm use” as defined by ORS 215.203(2)(a). The Applicant supports its assertions with evidence from the Soil Study and farmers with experience engaging in farm uses. The Applicant’s explanation includes addressing its inability to engage in farm uses on the Subject Property even if the Subject Property is considered in conjunction with other parcels.

As just one example, the Applicant provided evidence that the Subject Property could not support enough forage for even one cow to graze and that any revenue gained from raising one cow would be more than offset by all the costs necessary to engage in that activity. Similarly, the Applicant provided evidence that the costs of adding additional irrigation infrastructure are unreasonable and prohibitive. The Applicant also notes that the historical use on the site as an irrigated pasture does not necessarily inform whether such a use constitutes a “farm use” under current conditions as COLW suggests – for example, because the economics of farm activities have changed over time.

As it relates to this administrative rule, the competing evidence submitted by the parties makes this a close call. Having reviewed and weighed that evidence, however, I find that the quantitative and more-detailed

evidence provided by the Applicant is more persuasive, and I conclude that it is more likely than not that the Subject Property is not suitable for farm uses as defined in ORS 215.203(2)(a).

OAR 660-033-0020(1)(a)(C)

As a final argument on this issue, COLW asserts that the Subject Property is “agricultural land” as defined in OAR 660-033-0020(1)(a)(C). That rule states that land qualifies as “agricultural land” if it “is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.” COLW specifically asserts that the extra traffic, noise, and human presence resulting from a zone change “threatens the viability of current and potential farm practices in the area.” The Applicant responds, in part, by noting how LUBA has interpreted this rule to require “some connection between the subject property and adjacent or nearby farm practices, such that the property must remain as ‘agricultural land’ in order to permit such practices on other lands to be undertaken.”<sup>4</sup> In that case, LUBA agreed that it is not only that the land itself must be necessary to permit farm practices on other lands, but the land’s resource designation and zoning must be “necessary” to permit farm practices on other lands.

LUBA acknowledges that this “necessary” standard is a high one, and some conflicts may be allowed. But where specific conflicts are identified, they must be assessed. COLW, however, does not identify specific conflicts that will happen as a result of the change in zoning, only potential conflicts that may arise. Indeed, specific conflicts would be difficult to identify because the Application does not propose a specific development. The Applicant does contemplate using the Subject Property for the expansion of an existing school, but COLW acknowledges that such a use is authorized under current zoning. Thus, the change in zoning would not be the cause of the conflicts COLW urges must be avoided in order for other properties to continue farming.

Based on the foregoing, I find that the evidence in the record does not allow me to conclude that the Subject Property is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands and, therefore, the Subject Property does not qualify as agricultural land under this part of the rule.

OAR 660-033-0020(1)(b)

The state’s administrative rules provide one more definition of “agricultural lands” in OAR 660-033-0020(1)(b) – “Land in capability classes other than I-IV/I-VI that is adjacent to or intermingled with lands in capability classes I-IV/I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed;...” The Applicant states that the Subject Property does not fall into this category and “is not, and has not, been a part of a farm unit”. The Staff Report agrees with the Applicant’s assessment, and no other participant challenges that assessment or argues that the Subject Property falls within this definition. Based on the foregoing, I find that the Subject Property is not “agricultural land” under OAR 660-033-0020(1)(b).

///

---

<sup>4</sup> *Central Oregon LandWatch et al. v. Deschutes County*, \_\_ Or LUBA \_\_ (LUBA No. 2023-006/009) (July 28, 2023).

#### d. Goal 5 Administrative Rules

COLW argues that the Application is not in compliance with OAR 660-023-0250(3)(b), which is part of Goal 5. Goal 5 and its implementing rules protect natural resources, scenic and historic areas, and open spaces. Pursuant to OAR 660-023-0250(3), the County does not have to apply Goal 5 as part of a post-acknowledgment plan amendment (“PAPA”) “unless the PAPA affects a Goal 5 resource.” One scenario in which a PAPA may affect a Goal 5 resource is when the “PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list.”<sup>5</sup>

COLW argues that the proposed Plan Amendment and Zone Change requires the Applicant to apply Goal 5 provisions because the Application “proposes to amend the plan designation and zoning for the subject property that would allow new uses – those permitted in the MUA-10 zone – on the subject property” and that those new uses may conflict with the County’s Goal 5-protected resources. The specific resources COLW identifies are Landscape Management Rivers, State Scenic Waterways, and wetlands.

The County regulates conflicting uses with Landscape Management Rivers and State Scenic Waterways through the application of the Landscape Management Combining zone (“LM Zone”), and the Subject Property currently carries the LM Zone designation.

The Applicant asserts that there is no need to apply Goal 5 in light of the County’s acknowledged Plan, which contains the LM Zone as a tool for protecting some Goal 5 resources. According to the Applicant, the Subject Property is already subject to the LM Zone and, to the extent there are any conflicts with a Goal 5 resource, that can be resolved at the time when specific development occurs and the County requires site plan approval for any development within the LM Zone. The Applicant specifically states that “[t]here is no requirement to apply Goal 5 directly to the application where, as here, the proposal does [not] introduce ‘new uses’ which would be conflicting with the Goal.”<sup>6</sup>

The Applicant’s response is not consistent with a relatively recent LUBA decision – the LUBA No. 2023-008 case cited above in footnote 3. That decision rejects the very approach to Goal 5 the Applicant seeks here. In that case, LUBA explained that its prior decisions require a local jurisdiction “to apply Goal 5 if the PAPA allows a new use that could conflict with Goal 5 resources.” LUBA then addressed a situation similar to the situation presented in this case and analyzed whether the new zoning (in that case, the RI zone on property that would retain the LM overlay) allowed uses on the subject property that were not allowed under the previous EFU zoning and whether those uses could conflict with protected Goal 5 resources.

LUBA’s decision acknowledged that the County previously conducted the appropriate Goal 5 analysis for other RI-zoned properties and applied the LM Zone to protect the Highway 97 scenic resource from conflicting uses on those properties. However, LUBA determined that, in the absence of evidence showing

---

<sup>5</sup> OAR 660-023-0250(3)(b).

<sup>6</sup> The Applicant’s Final Legal Argument actually states: “[t]here is no requirement to apply Goal 5 directly to the application where, as here, the proposal does introduce ‘new uses’ which would be conflicting with the Goal.” That appears to be a typo and I assume the Applicant intended to say “...does not introduce...”. That sentence would not otherwise make sense in the context in which it appears.

the prior Goal 5 analysis considered impacts from RI-type development on all properties, that analysis did not consider whether RI uses on farm-zoned property affected a Goal 5 resource. Indeed, LUBA concluded that “the county could not have, in its [prior Goal 5 analysis], evaluated whether development of those new uses on the subject property would excessively interfere with the protected scenic resource because those uses were not allowed on the property” at that time. Because the County’s decision in that case allowed “new uses that could conflict with inventoried Goal 5 resources,” LUBA concluded the County was required to address Goal 5 and, specifically, to comply with OAR 660-023-0250(3).

Based on that LUBA decision, I find that the Applicant’s argument that Goal 5 is not applicable is incorrect. The Plan Amendment and Zone Change would allow new uses on the Subject Property that were not previously allowed and that could conflict with a protected Goal 5 resource. Although the Applicant notes that its intended use is to expand an existing school, and that the current school was approved in the MUA-10 zone subject to the LM Zone, the Application is not limited to that use, and other uses allowed in the MUA-10 zone would be authorized after the zone change. The Applicant has not addressed those uses, much less considered their potential conflicts with listed Goal 5 resources. The Applicant’s response also does not address COLW’s assertion that wetlands will be impacted. It may be possible for the Applicant to show that the County’s prior Goal 5 analysis considered MUA-10 development on the Subject Property, or, if not, the Applicant may be able to demonstrate that the new uses allowed on the Subject Property do not significantly affect a Goal 5 resource. However, I find that the current record does not allow me to address either option. I therefore find that I cannot recommend approval of the Application on this basis and the Applicant must address this issue further before the Application is approved.

e. Goal 14 Administrative Rules

COLW argues that the Application is not in compliance with Goal 14. Goal 14 and its implementing rules “provide for an orderly and efficient transition from rural to urban land use.” *See* OAR 660-015-0000(14).

COLW’s specific argument is that the designation of the Subject Property to the MUA-10 zone would constitute urbanization of the Subject Property. According to COLW, the County must analyze several urbanization factors (“Curry factors”) as set forth in *1000 Friends of Oregon v. Land Conservation and Development Commission*, 301 Or 447, 474 (1986), which are also summarized by LUBA in *Oregon Shores Conservation Coalition v. Coos County*, 55 Or LUBA 545, 550 (2008). COLW bases its argument on its own assessment of the Curry factors.

One way to address this issue is to consider whether the MUA-10 zone actually authorizes urban uses. As the Applicant notes, this question has been asked and answered by the County, as described in the recent LUBA case *Central Oregon LandWatch v. Deschutes County*, \_\_ OR LUBA \_\_ (LUBA No. 2023-049, Feb. 15, 2024). In that case, LUBA considered nearly identical facts where the County approved a plan amendment and zone change from AG/EFU-TRB to RREA/MUA-10. Before turning to COLW’s arguments in that case, LUBA noted that the County’s Board of Commissioner’s had made the following finding:

Deschutes County Comprehensive Plan and Title 18 of the Deschutes County Code have been acknowledged by [the Land Conservation and

Development Commission (LCDC)] as being in compliance with every statewide planning goal, including Goal 14. The County specifically amended its comprehensive plan in 2016 to provide that the Rural Residential Exception Area Plan and its related MUA-10 and RR-10 zones should be applied to non resource lands. Ordinance 2016-005. This amendment is acknowledged, which means that the RREA plan designation and its related zoning districts, when applied to non-resource lands such as the subject property, do not result in a violation of Goal 14. (Emphasis added).

In other words, the County's Board has already interpreted its Plan and Code to mean that all uses allowed in the MUA-10 zone are rural in nature. This is similar to the Board's interpretation of other zones, like the Rural Industrial (RI) zone, which LUBA also considered in a similar case.<sup>7</sup> Based on the Board's interpretation, I find that it is not necessary to apply the *Curry* factors as urged by COLW, and that the change in zone to MUA-10 does not result in urbanization of the Subject Property.

f. Goal 12 Administrative Rules

Goal 12 relates to transportation. COLW argues that the Application fails to comply with Goal 12 and its implementing rules.

A primary regulation implementing Goal 12 is OAR 660-012-0060. That rule states:

If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
- (b) Change standards implementing a functional classification system; or
- (c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that

---

<sup>7</sup> See *Central Oregon Landwatch v. Deschutes County*, \_\_ Or LUBA \_\_ (LUBA No. 2022-075, Dec. 6, 2002); *aff'd* 324 Or App 655 (2023) (upholding County's finding that all uses in the RI zone are rural in nature, negating the need to undertake additional Goal 15 analyses).

would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

- (A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
- (B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or
- (C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

I find that this administrative rule is applicable to the Plan Amendment and the Zone Change because they involve an amendment to an acknowledged comprehensive plan. COLW asserts that the Application does not comply with this rule because the Applicant has not accurately estimated the vehicle trip generation of the proposed zoning, and specifically because the Applicant has not estimated the trip generation associated with the anticipated use of the Subject Property as a school.

The Applicant counters that its proposal will not result in a significant effect to the transportation system. In support of that assertion, the Applicant submitted a traffic study prepared by traffic engineer Joe Bessman, PE. The Applicant also notes that, because the Application seeks a zone change that allows multiple uses, not just the intended use, it was not required to analyze the school use specifically and, instead, was required to model a worst-case scenario based on all uses allowed.

The County's Transportation Planner agreed with the conclusions of the Applicant's engineer, including the methodology used. As a result, the Staff Report finds that the Plan Amendment and Zone Change will comply with the Transportation Planning Rule.

Based on the foregoing, I agree with the Applicant that it has sufficiently addressed transportation impacts and find that the Application satisfies this Goal 12 administrative rule.

#### 5. Other Statewide Planning Goals

Division 15 of OAR chapter 660 sets forth the Statewide Planning Goals and Guidelines, with which all comprehensive plan amendments must demonstrate compliance. The Applicant asserts the Application is consistent with all applicable Goals and Guidelines. No participant in this proceeding identified a Statewide Planning Goal with which the proposal does not comply, except those discussed above relating to Goal 3, Goal 5, Goal 12, and Goal 14. Having reviewed the evidence presented, and in the absence of any arguments relating to the other Goals, I adopt the Applicants' position and find that the Plan Amendment and Zone Change are consistent with the following applicable Goals:

**Goal 1, Citizen Involvement.** Deschutes County will provide notice of the application to the public through mailed notice to affected property owners and by requiring the applicant to post a "proposed land use action sign" on the subject property. Notice of the public hearings held regarding this application will be placed in the Bend Bulletin. A minimum of two public hearings will be held to consider the application.

**Goal 2, Land Use Planning.** Goals, policies, and processes related to zone change applications are included in the Deschutes County Comprehensive Plan and Titles 18 and 23 of the Deschutes County Code. The outcome of the application will be based on findings of fact and conclusions of law related to the applicable provisions of those laws as required by Goal 2.

**Goal 4, Forest Lands.** Goal 4 is not applicable because the subject property does not include any lands that are zoned for, or that support, forest uses. Forest land is defined by OAR 660-005-0010 as lands suitable for commercial forest use protection under Goal 4, which are identified using NCRS soil survey maps to determine average annual wood fiber production figures. The NCRS maps for the subject property map it with soil mapping units 98A and B, 26A and 101E. The NCRS Soils Survey for the upper Deschutes River lists all soils mapped by its survey that are suitable for wood crop production in Table 8 (Exhibit 15). None of the soils mapped on the subject property are listed in Table 8 as suitable for wood crop production.

**Goal 6, Air, Water, and Land Resources Quality.** The approval of this application will not impact the quality of the air, water, and land resources of the County. Any future development of the property would be subject to local, state, and federal regulations that protect these resources.

**Goal 7, Areas Subject to Natural Disasters and Hazards.** According to the Deschutes County DIAL property information and Interactive Map the entire Deschutes County, including the subject property, is located in a Wildfire Hazard Area. The subject property is also located in Rural Fire Protection District #2. Rezoning the property to MUA-10 does not change the Wildfire Hazard Area designation. Any future development of the property would need to demonstrate compliance with any fire protection regulations and requirements of Deschutes County.

**Goal 8, Recreational Needs.** This goal is not applicable because no development is proposed and the property is not planned to meet the recreational needs of Deschutes County. Therefore, the proposed rezone will not impact the recreational needs of Deschutes County.

**Goal 9, Economy of the State.** This goal does not apply to this application because the subject property is not designated as Goal 9 economic development land. In addition, the approval of this application will not adversely affect economic activities of the state or area. The proposed zone change will promote economic opportunities by rezoning underutilized property for a subsequent use.

**Goal 10, Housing.** The County's comprehensive plan Goal 10 analysis anticipates that farm properties with poor soils, like the subject property, will be converted from EFU to MUA-10 or RR-10 zoning and that these lands will help meet the need for rural housing. Cascades Academy supports rural housing by providing school services for the rural properties. Approval of this



application, therefore, is consistent with Goal 10 as implemented by the acknowledged Deschutes County comprehensive plan.

**Goal 11, Public Facilities and Services.** The approval of this application will have no adverse impact on the provision of public facilities and services to the subject site. Central Electric Cooperative serves the subject property with power, water and septic are provided on-site and the proposal will not result in the extension of urban services to rural areas.

**Goal 13, Energy Conservation.** The approval of this application does not impede energy conservation. In fact, Planning Guideline 3 of Goal 13 states “land use planning should, to the maximum extent possible, seek to recycle and re-use vacant land...” Cascades Academy provides school services to the rural community in close proximity to residential uses, thereby reducing vehicle miles traveled and conserving energy.

**Goals 15 through 19.** These goals do not apply to land in Central Oregon.

**V. CONCLUSION**

Based on the foregoing findings, I find the Applicant has NOT met the burden of proof with respect to the standards for approving the requested Plan Amendment and Zone Change. I therefore recommend to the County Board of Commissioners that the Application be DENIED unless the Applicant can meet that burden.

Dated this 21st day of February 2025



Tommy A. Brooks  
Deschutes County Hearings Officer



## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** June 16, 2025

**SUBJECT:** Reconsideration of Letter of Support for BLM Funding Request for Acquiring Paulina Meadows

**RECOMMENDED MOTION:**

N/A

**BACKGROUND AND POLICY IMPLICATIONS:**

During the June 11, 2025, BOCC meeting, the Commissioners discussed a request for a letter of support on behalf of the Western Rivers Conservancy. The draft letter supported the Bureau of Land Management's request for \$5,000,000 from the Fiscal Year 2026 Land and Water Conservation Fund (LWCF) to acquire the 674-acre Paulina Meadows property along Paulina Creek and the Little Deschutes River.

Commissioners Adair and Chang approved the motion to sign the letter of support and Commissioner DeBone abstained from voting. Commissioner Adair is asking to reconsider the motion passed during the June 11, 2025, BOCC meeting.

**BUDGET IMPACTS:**

None

**ATTENDANCE:**

Jen Patterson, Strategic Initiatives Manager