



BOARD OF COMMISSIONERS

BOARD OF COUNTY COMMISSIONERS MEETING

9:00 AM, WEDNESDAY, SEPTEMBER 4, 2024

Barnes Sawyer Rooms - Deschutes Services Building - 1300 NW Wall Street – Bend
(541) 388-6570 | 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 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/3h3oqD>.
- 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.

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

PLEDGE OF ALLEGIANCE

CITIZEN INPUT: Citizen Input may be provided as comment on any topic that is not on the agenda.

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

CONSENT AGENDA

1. Approval of Document No. 2024-672, accepting a Drug-Free Communities Grant from the CDC
2. Approval of minutes of the BOCC July 22, 2024 meeting

ACTION ITEMS

3. **9:10 AM** Proclamation: Suicide Prevention Awareness Month
4. **9:25 AM** North Juniper Ridge Managed Camp or Similar Temporary Sheltering Opportunities Discussion and Preparation for Joint Meeting with the Bend City Council
5. **9:45 AM** Public Hearing and Consideration of Order 2024-030 approving the Pahlisch Homes annexation
6. **9:55 AM** Newberry Geothermal Project Update
7. **10:10 AM** Grant opportunity to explore the development of a recreational campground on County-owned property at Fort Thompson Lane
8. **10:25 AM** Board Order No. 2024-034 authorizing Facilities Director and/or County Administrator approval and signature on budgeted costs for the Courthouse Expansion construction project
9. **10:30 AM** Deliberations: Remand of 710 Properties/Eden Properties Plan Amendment and Zone Change

LUNCH RECESS

Continued ACTION ITEMS

9. Continuation of Deliberations: Remand of 710 Properties/Eden Properties Plan Amendment and Zone Change

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.

11. Executive Session under ORS 192.660 (2) (h) Litigation

ADJOURN



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 4, 2024

SUBJECT: Acceptance of a Drug Free Communities Grant from the CDC

RECOMMENDED MOTION:

Move approval of Document No. 2024-672, accepting a Drug Free Communities Grant from the CDC.

BACKGROUND AND POLICY IMPLICATIONS:

Originally administered by SAMSA, but currently being administered by the Centers for Disease Control and Prevention (CDC), the Drug Free Communities Grants provide up to \$125,000 per year to community coalitions to strengthen the infrastructure among local partners to reduce and prevent local youth substance use. Grants are awarded for a five-year term with a possible five-year extension.

Deschutes County Health Services was initially awarded a Drug-Free Communities Grant in September of 2015. This latest award continues the annual funding for the tenth and final year.

BUDGET IMPACTS:

\$125,000 for the period September 30, 2024, through September 29, 2025. This funding was reflected in the 2024-25 adopted budget.

ATTENDANCE:

Jessica Jacks, Public Health Program Manager



Award# 5 NH28CE003141-05-00
FAIN# NH28CE003141
Federal Award Date: 07/21/2024

Recipient Information

1. Recipient Name
DESCHUTES COUNTY
1300 NW Wall St
Public Health
Bend, OR 97703-1959
--

2. Congressional District of Recipient
02

3. Payment System Identifier (ID)
1936002292A4

4. Employer Identification Number (EIN)
936002292

5. Data Universal Numbering System (DUNS)
030805147

6. Recipient's Unique Entity Identifier (UEI)
SVJRCF7JN519

7. Project Director or Principal Investigator
Ms. Crystal Sully
Crystal.Sully@deschutes.org
458-231-4856

8. Authorized Official
Ms. Cheryl Smallman
cheryl.smallman@deschutes.org
5413227449

Federal Agency Information
CDC Office of Financial Resources

9. Awarding Agency Contact Information
SeQuoyah Hill
GMO/ GMS
kwj3@cdc.gov
770-488-2884

10. Program Official Contact Information
Katherine Hardin
Program Officer
uaq7@cdc.gov
334.744.0597

Federal Award Information

11. Award Number
5 NH28CE003141-05-00

12. Unique Federal Award Identification Number (FAIN)
NH28CE003141

13. Statutory Authority
Drug-Free Communities Act, 21 USC 1531 et seq., P.L. 105-20

14. Federal Award Project Title
Shared Future Coalition

15. Assistance Listing Number
93.276

16. Assistance Listing Program Title
Drug-Free Communities Support Program Grants

17. Award Action Type
Non-Competing Continuation

18. Is the Award R&D?
No

Summary Federal Award Financial Information

19. Budget Period Start Date	09/30/2024	- End Date	09/29/2025
20. Total Amount of Federal Funds Obligated by this Action			\$125,000.00
20a. Direct Cost Amount			\$113,636.00
20b. Indirect Cost Amount			\$11,364.00
21. Authorized Carryover			\$0.00
22. Offset			\$0.00
23. Total Amount of Federal Funds Obligated this budget period			\$0.00
24. Total Approved Cost Sharing or Matching, where applicable			\$187,500.00
25. Total Federal and Non-Federal Approved this Budget Period			\$312,500.00
26. Period of Performance Start Date	12/31/2020	- End Date	09/29/2025
27. Total Amount of the Federal Award including Approved Cost Sharing or Matching this Period of Performance			\$1,165,728.00

28. Authorized Treatment of Program Income
ADDITIONAL COSTS

29. Grants Management Officer - Signature
Mrs. Rhonda Colbert
Grants Management Officer

30. Remarks



Award# 5 NH28CE003141-05-00
FAIN# NH28CE003141
Federal Award Date: 07/21/2024

Recipient Information
Recipient Name DESCHUTES COUNTY 1300 NW Wall St Public Health Bend, OR 97703-1959 --
Congressional District of Recipient 02
Payment Account Number and Type 1936002292A4
Employer Identification Number (EIN) Data 936002292
Universal Numbering System (DUNS) 030805147
Recipient's Unique Entity Identifier (UEI) SVJRCF7JN519
31. Assistance Type Cooperative Agreement
32. Type of Award Other

33. Approved Budget (Excludes Direct Assistance)	
I. Financial Assistance from the Federal Awarding Agency Only	
II. Total project costs including grant funds and all other financial participation	
a. Salaries and Wages	\$64,989.00
b. Fringe Benefits	\$44,244.00
c. Total Personnel Costs	\$109,233.00
d. Equipment	\$0.00
e. Supplies	\$0.00
f. Travel	\$1,500.00
g. Construction	\$0.00
h. Other	\$2,903.00
i. Contractual	\$0.00
j. TOTAL DIRECT COSTS	\$113,636.00
k. INDIRECT COSTS	\$11,364.00
l. TOTAL APPROVED BUDGET	\$125,000.00
m. Federal Share	\$125,000.00
n. Non-Federal Share	\$187,500.00

34. Accounting Classification Codes						
FY-ACCOUNT NO.	DOCUMENT NO.	ADMINISTRATIVE CODE	OBJECT CLASS	CFDA NO.	AMT ACTION FINANCIAL ASSISTANCE	APPROPRIATION
4-9390JXS	21NH28CE003141	CE	41.51	93.276	\$125,000.00	75-24-0943



DEPARTMENT OF HEALTH AND HUMAN SERVICES Notice of Award

09/04/2024 Item #1.

Centers for Disease Control and Prevention

Award# 5 NH28CE003141-05-00

FAIN# NH28CE003141

Federal Award Date: 07/21/2024

Direct Assistance

BUDGET CATEGORIES	PREVIOUS AMOUNT (A)	AMOUNT THIS ACTION (B)	TOTAL (A + B)
Personnel	\$0.00	\$0.00	\$0.00
Fringe Benefits	\$0.00	\$0.00	\$0.00
Travel	\$0.00	\$0.00	\$0.00
Equipment	\$0.00	\$0.00	\$0.00
Supplies	\$0.00	\$0.00	\$0.00
Contractual	\$0.00	\$0.00	\$0.00
Construction	\$0.00	\$0.00	\$0.00
Other	\$0.00	\$0.00	\$0.00
Total	\$0.00	\$0.00	\$0.00

AWARD ATTACHMENTS

DESCHUTES COUNTY

5 NH28CE003141-05-00

1. Terms and Conditions

Budget Period: 10
Fiscal Agent Name: Deschutes County
Coalition Name: The Shared Future Coalition

AWARD INFORMATION

Incorporation: In addition to the federal laws, regulations, policies, and CDC General Terms and Conditions for Non-research awards at <https://www.cdc.gov/grants/federal-regulations-policies/index.html>, the Centers for Disease Control and Prevention (CDC) hereby incorporates Notice of Funding Opportunity (NOFO) number **CDC-RFA-CE20-2003**, entitled **Drug-Free Communities (DFC) Support Program**, and application dated **March 7, 2024**, as may be amended, which are hereby made a part of this Non-research award, hereinafter referred to as the Notice of Award (NOA).

Total Approved Funding is included in Summary Federal Award Financial Information on page 1 of the NOA. All future year funding will be based on satisfactory programmatic progress and the availability of funds.

The federal award amount is subject to adjustment based on total allowable costs incurred and/or the value of any third party in-kind contribution when applicable.

Note: Refer to the Payment Information section for Payment Management System (PMS) subaccount information.

Financial Assistance Mechanism: Grant

Key Personnel: In addition to the Principal Investigator/Project Director identified in this Notice of Award, the application and work plan included individuals considered key personnel. In accordance 45 CFR Part 75.308, the recipient must request prior approval from CDC to change the following individual/position:

Crystal Sully – Principal Investigator/Program Director and Project Coordinator
Cheryl Smallman –Authorized Organization Representative

Expanded Authority: The recipient is permitted the following expanded authority in the administration of the award.

- Carryover of unobligated balances from one budget period to a subsequent budget period. Unobligated funds may be used for purposes within the scope of the project as originally approved. Recipients will report use, or intended use, of carried over unobligated funds in Section 12 “Remarks” of the annual Federal Financial Report. If the GMO determines that some or all of the unobligated funds are not necessary to complete the project, the GMO may restrict the recipient’s authority to automatically carry over unobligated balances in the future, use the balance to reduce or offset CDC funding for a subsequent budget period, or use a combination of these actions.

FUNDING RESTRICTIONS AND LIMITATIONS

Unallowable Cost: The following item of cost has been added to the DFC Funding Restrictions. All other terms and conditions issued with the original award remain in effect throughout the budget period unless otherwise changed, in writing, by the Grants Management Officer.

- **Vaping Detection Devices:** DFC funds may not be used for Vaping Detection Devices.

Indirect Costs: The recipient’s indirect costs are approved and based on a de minimis rate of ten (10) percent of modified total direct costs (MTDC) as defined in 45 CFR Part 75.2, effective September 30, 2024.

Matching Funds Requirement: The required level of non-federal participation for the Drug Free Communities Grant Program is listed below:.

Grant Year	Matching Requirement
1-6	100%
7-8	125%
9-10	150%

Matching is generally calculated on the basis of the federal award amount and is comprised of recipient contributions proposed to support anticipated costs of the project during a specific budget period (confirmation of the existence of funding is supplied by the recipient via their Federal Financial Report). The recipient must be able to account separately for stewardship of the federal funding and for any required matching; it is subject to monitoring, oversight, and audit. The recipient may not use matching expenditures to count toward any Maintaining State Funding requirement.

When a recipient requests a carryover of unobligated funds from prior year(s), matching funds equal to the new requirement must be on record in the CDC grant file, or the recipient must provide evidence with the carryover request.

REPORTING REQUIREMENTS

DFC Progress Report:

In addition to the CDC Annual Performance/Progress Report (APR) which also serves as the non-competing continuation application, all DFC Recipients are required to submit a DFC Progress Report in August of the current calendar year (e.g. August 2024). The CDC program office will be in communication about the exact date. The report must be submitted through the DFC Me system (<https://dfcme.ondcp.eop.gov/>). For more information on the DFC Me system, please contact the DFC National Evaluation Team at dfc_evaluators@icf.com .

Core Measures Data

DFC recipients are required to provide core measures data every two years, via the DFC Me system, on the following core measures for alcohol, tobacco, marijuana, and (illicit) use of prescription drugs for three grades (6th-12th) with a recommended combination of at least one middle school grade and at least one high school grade:

- 1. Past 30-day use
- 2. Perception of risk or harm
- 3. Perception of parental disapproval of use
- 4. Perception of peer disapproval of use

Year 6 Recipients

Year 6 recipients who received continuous funding between Years 5 and 6 will remain on the core measure reporting schedule established in the first five years of DFC funding.

Year 6 recipients who have not had sequential years of DFC funding will need to speak with the DFC National Evaluation Team to determine when to report core measures. Please contact the DFC National Evaluation Team at dfc_evaluators@icf.com for more information.

PROGRAM OR FUNDING GENERAL REQUIREMENTS

Key Personnel Requirements: The following are updates to the DFC Key Personnel Requirements. All other terms and conditions issued with the original award remain in effect throughout the budget period unless otherwise changed, in writing, by the Grants Management Officer.

Authorized Organization Representative (AOR)

- The AOR must not be the same person as the project coordinator.

Program Director or Principal Investigator (PD/PI)

- The PI/PD is no longer required to be an employee of the recipient organization.

Award Expectations and Noncompliance: We can take corrective actions if your performance is poor. This means CDC may impose other enforcement actions in accordance with [45 CFR 75.371-Remedies for Noncompliance](#).

PAYMENT INFORMATION

Payment Management System Subaccount: Funds awarded in support of approved activities have been obligated in a subaccount in the PMS, herein identified as the “P Account”. Funds must be used in support of approved activities in the NOFO and the approved application.

The grant document number identified beginning on the bottom of Page 2 of the Notice of Award must be known in order to draw down funds.

CLOSEOUT REQUIREMENTS

Standard closeout reporting requirements are identified in the General Terms and Conditions, which are published on the CDC website at <https://www.cdc.gov/grants/federal-regulations-policies/index.html>.



BOARD OF
COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 4, 2024

SUBJECT: Proclamation: Suicide Prevention Awareness Month

RECOMMENDED MOTION:

Move approval of a proclamation declaring September as Suicide Prevention Awareness Month in Deschutes County.

BACKGROUND AND POLICY IMPLICATIONS:

Staff will provide a brief update of the outreach and awareness occurring during this month and throughout the year and resources available to the public.

BUDGET IMPACTS:

None

ATTENDANCE:

Caroline Suiter, Mental Health Promotion Strategist
Bethany Kuschel, Suicide Prevention Project Coordinator

BEFORE THE BOARD OF COMMISSIONERS OF DESCHUTES COUNTY, OREGON

PROCLAMATION

**RECOGNIZING SEPTEMBER
AS SUICIDE PREVENTION AWARENESS MONTH**

WHEREAS, in the United States, one person dies by suicide every 11 minutes, with over 49,000 deaths every year in our country;

WHEREAS, in Deschutes County, approximately three people die by suicide each month. In Oregon, for youth ages 5 to 24, suicide is the second leading cause of death. Each person's death by suicide affects at least 135 other people, which translates to at least 50% of the US population has known someone who has lost their life to suicide; friends and family members are forever changed by this loss;

WHEREAS, in Deschutes County, roughly 58% of all suicide deaths are by firearm. For youth, 65% of the suicide deaths of those aged 10-17 is by firearm. Both of these trends are higher than the state and national averages;

WHEREAS, many of the people who have died by suicide never received effective behavioral health services for many reasons including the stigma of using behavioral health treatment and the stigma associated with losing a loved one to suicide;

WHEREAS, far too many Deschutes County residents die by suicide each year;

WHEREAS, Deschutes County is dedicated to partnering with local behavioral health and health care organizations, state and local agencies, military/Veterans organizations, educational institutions, and the community at large, to reduce the frequency of suicide attempts and deaths, and the pain for those affected by suicide deaths, through:

1. Recognizing suicide as a significant public health issue in Deschutes County and declaring suicide prevention a countywide priority;
2. Supporting accessible behavioral health services for all areas in our county;

- 3. Helping to de-stigmatize help-seeking behaviors;
- 4. Acknowledging that everyone plays a role in helping to prevent suicide; and
- 5. Encouraging initiatives known to be effective at preventing suicide attempts and death.

NOW THEREFORE, BE IT RESOLVED that the Deschutes County Board of Commissioners do hereby designate the month of September, 2024 as “Suicide Prevention Awareness Month” in Deschutes County and urge Deschutes County residents to learn how they can help because *Suicide Prevention Is Everyone’s Business*.

Dated this _____ day of September 2024, by the Deschutes County Board of Commissioners.

Patti Adair, Chair

Anthony DeBone, Vice Chair

ATTEST:

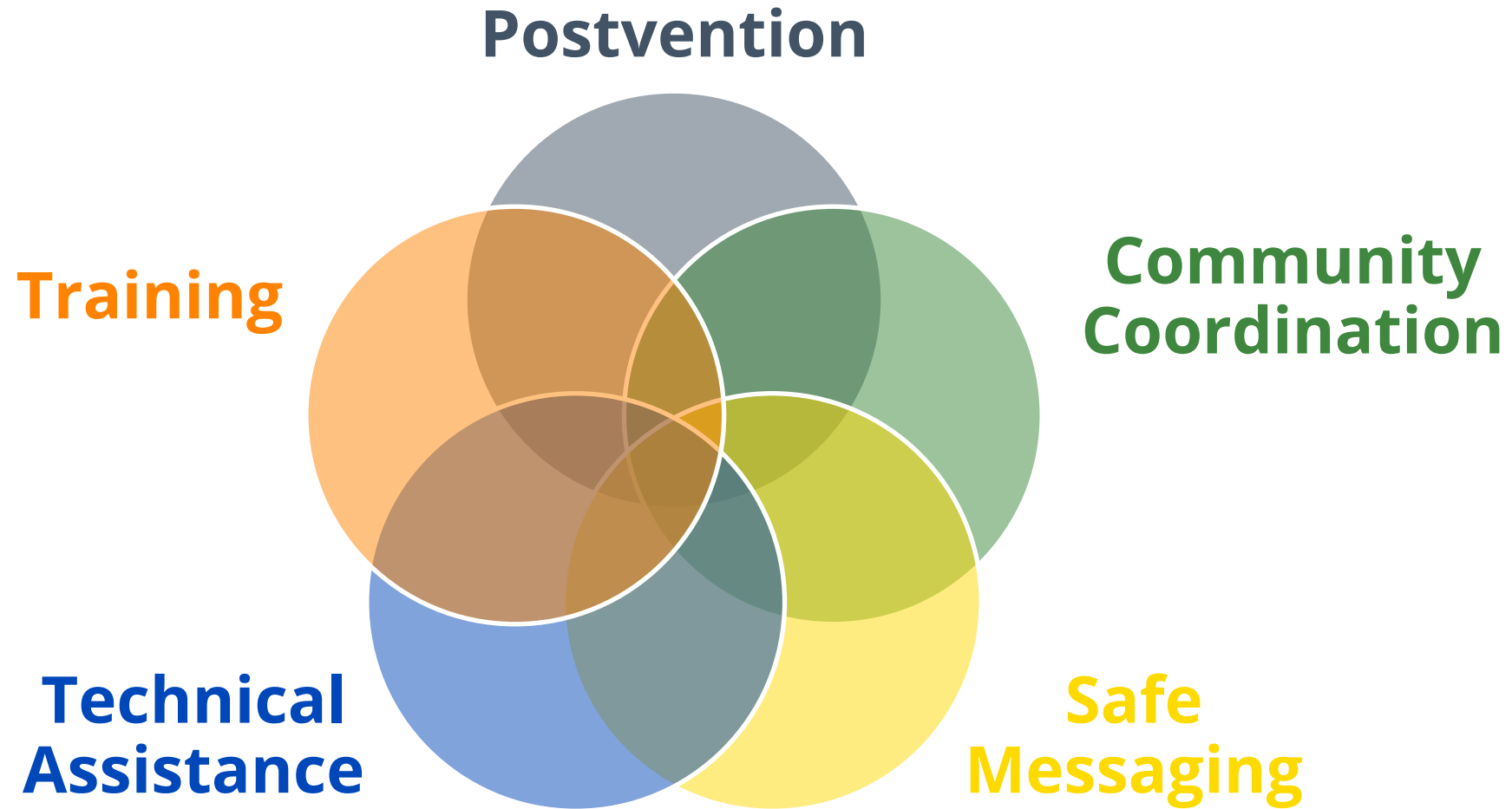
Recording Secretary

Phil Chang, Commissioner

National Suicide Prevention Awareness Month 2024



Suicide Prevention Program Overview




Data and Resources

Deschutes County

Historically, in Deschutes County, roughly three people die by suicide each month.

KNOW
YOUR
RESOURCES!

CALL
DESCHUTES COUNTY
24- HOUR CRISIS LINE
541-322-7500 EXT #9



Youth in Deschutes County

- We also know that 58% of all Deschutes County deaths among 10-17 year olds were suicide. This is higher than the State of Oregon and the Nation.
- In the last decade, suicide is the leading cause of death for ages 10-17 in Deschutes County.



Lethal Means in Deschutes County



- Reducing access to lethal means is a vital suicide prevention intervention.
- Over the past three years, 61% of all Central Oregon suicide deaths of youth ages 24 and under were by firearm.



Overview

- Suicide is a complex public health issue.
- We must remain vigilant.
- One death by suicide is too many.



National Suicide Prevention Awareness Month Events

ASFP Out Of Darkness Walk

WALK WITH US

TO PREVENT SUICIDE

Saturday September 7th

Alpenglow Park

Bend, Oregon

Registration Starts at 11:00am

Walk Starts at 11:45am



American
Foundation
for Suicide
Prevention



OUT OF THE
DARKNESS
Community Walks



American
Foundation
for Suicide
Prevention



CENTRAL OREGON

SUICIDE
PREVENTION
ALLIANCE



2024 National Suicide Prevention Awareness Week

CANDLELIGHT VIGIL

Join us for a community event that will include activities for community connecting and healing, stories, poetry, music, and a moment of silence to honor and remember those we have lost to suicide.



Thursday September 12th

6:30pm-8:00pm

Downtown Bend
Bend-La Pine Schools Ed Center
520 NW Wall Street



Candlelight Vigil



COMMUNITY C.A.L.M. PRESENTATION

TUESDAY SEPTEMBER 17, 2024

5:30PM-7:00PM

EASTSIDE DESCHUTES LIBRARY

- 62080 DEAN SWIFT RD STE 170,
BEND, OR 97701

In honor of Suicide Prevention Awareness Month, please join Central Oregon Suicide Prevention Alliance in a community event filled with education, awareness, and resources about suicide prevention and the important need to help loved one's lower access to lethal means in a time of crisis.

S.A.F.E.
Secure Ammunition & Firearms Effectively

Community Counseling on Access to Lethal Means (CALM) Presentation



Esperanza, Ayuda y Sanación 2024

In honor of:

Hispanic Heritage Month ☪
National Suicide Prevention Awareness Month

ESPERANZA, AYUDA Y SANACIÓN



FRIDAY 27 DE SEPTIEMBRE



6:30 P.M.-8:30 P.M.

VIRTUAL O EN PERSONA



Virtual: Zoom

En Persona: LCA Community Room
2680 NE Twin Knolls Dr., #110, Bend



GRATIS

PRESENTADO POR:



HEALTH SERVICES
PUBLIC HEALTH



Gratitude and Recognition



Thank You!

For your willingness to highlight this important health matter in our community, we thank you!

Caroline Suiter, MPH

*Mental Health Promotion
Strategist*

caroline.suiter@deschutes.org
541-668-0760

Bethany Kuschel, MPP

*Suicide Prevention Project
Coordinator*

bethany.kuschel@deschutes.org
541-322-7534





BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 4, 2024

SUBJECT: North Juniper Ridge Managed Camp or Similar Temporary Sheltering Opportunities Discussion and Preparation for Joint Meeting with the Bend City Council

RECOMMENDED MOTION:

None.

BACKGROUND AND POLICY IMPLICATIONS:

On August 28, 2024, Commissioners directed staff to schedule a Board discussion on the legal opportunities to establish a managed camp or similar temporary sheltering opportunities on City or County-owned property, zoned Exclusive Farm Use, at the north end of Juniper Ridge.

On September 5, the Board of County Commissioners and Bend City Council will conduct a joint meeting, including an agenda item to discuss managed camp strategies in support of the Coordinated Houseless Response Office and specifically opportunities at the north end of Juniper Ridge.

BUDGET IMPACTS:

To be determined.

ATTENDANCE:

- Nick Lelack, County Administrator
- Erik Kropp, Deputy County Administrator
- David Doyle, Legal Counsel
- Stephanie Marshall, Senior Assistant Legal Counsel
- Peter Gutowsky, Community Development Director
- Kristie Bollinger, Property Manager



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 4, 2024

SUBJECT: Public Hearing and Consideration of Order 2024-030 approving Pahlisch Homes annexation

RECOMMENDED MOTION:

Hold the public hearing and move approval of Order 2024-030, approving the annexation of approximately 50 acres into the Bend Park & Recreation District at the request of Pahlisch Homes.

BACKGROUND AND POLICY IMPLICATIONS:

Pahlisch Homes submitted a petition to annex approximately 50 acres into the Bend Park & Recreation District. The Assessor’s Office and County Clerk reviewed and certified the petition. The property is in the City of Bend and the City has approved the petition.

BUDGET IMPACTS:

None

ATTENDANCE:

David Doyle, Legal Counsel

REVIEWED
[Signature]
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

Order Approving Easton annexation into
Bend Park & Recreation District

*
* ORDER NO. 2024-030
*

WHEREAS, Pahlisch Homes (“Petitioner”) submitted a petition requesting annexation of the property identified in Exhibit A in the petition attached to this Order, into Bend Park & Recreation (“District”); and

WHEREAS, the Deschutes County Clerk’s Office and Assessor’s Office verified that the petition was signed by a registered voter or a landowner, respectively, for the property as indicated in Exhibit B in the petition attached to this Order; and

WHEREAS, Oregon Department of Revenue reviewed the petition and granted preliminary approval, as indicated in Exhibit C in the petition attached to this Order; and

WHEREAS, this property identified in Exhibit A is located in the city of Bend and the city has approved the petition as indicated by the signature of its authorized representative on the petition, and

WHEREAS, the Board held a duly noticed public hearing on September 4, 2024, to determine whether the affected area would benefit by annexation of said territory into the District; now, therefore

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

Section 1. The petition for annexation and all exhibits attached to this Order are hereby incorporated by reference.

Section 2. The petition for annexation is hereby approved, and the property identified in Exhibit A is declared annexed and included in the District.

Section 3. A copy of the signed Order will be forwarded to the Oregon Department of Revenue, Oregon Secretary of State Archives Division, Deschutes County Assessor’s Office and County Clerk’s Office, and the District.

Section 4. The purpose of this District is to provide park and recreation services.

Dated this ___ day of _____, 2024.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

PATTI ADAIR, CHAIR

ANTHONY DeBONE, VICE CHAIR

ATTEST:

Recording Secretary

PHIL CHANG, COMMISSIONER

PETITION TO ANNEX PROPERTY INTO
Bend Park and Recreation District
(Name of District)

To: The Board of County Commissioners, Deschutes County, Oregon

The undersigned, in support of this Petition, state as follows:

1. This Petition for Annexation is filed pursuant to ORS 198.850 to 198.859 on July 21, 2024 (date) and Petitioners request the Board commence proceedings to annex the territory described herein into Bend Park and Recreation District (name of district), Deschutes County, Oregon.
2. The Board of Bend Park and Recreation District (name of district) approved the petition pursuant to ORS 198.850 on July 9, 2024 (insert date).
3. The principal act for Bend Park and Recreation District (name of district) is ORS 266.010.
(Proper statutory reference required, see ORS 198.010 for listing of appropriate principal act)
5. The territory subject to this Petition for Annexation is primarily inhabited uninhabited (circle one). This petition is signed by land owners and/or registered voters in the area proposed to be annexed as indicated opposite their respective signature, and all signatures were obtained on or after the June 5 day of, 2024.
6. The property street address(es) of land for annexation (if known) is/are See attached list and the total acreage is ±50.06. A description of the boundaries of the territory to be annexed is attached hereto as **Exhibit "A"** and depicted on the map attached as **Exhibit "B"**.
7. This Petition has been signed by at least 15 percent of the electors, or 100 electors whichever number is lesser, registered in the area proposed to be annexed; or at least 15 owners or owners of 10 percent of the land, (whichever is greater) within the area proposed to be annexed.
8. A security deposit form and payment is attached to this petition.

Signed this 2nd day of April, 2024 by Pahlisch Homes, Inc, Chief Petitioner(s).

Signature _____
Address, City, State, ZIP 210 SW Wilson Ave. #100, Bend OR 97702

DATED this 9th day of July, 2024
Approved by the Board of Bend Park + Rec District
Name of District
District Signature Michelle Healy
By: Michelle Healy
(Print Name)
Title: Executive Director

DATED this 16th day of July, 2024
(if applicable) Approved by City of Bend
City Signature Karen Swenson
By: Karen Swenson
(Print Name)
Title: Senior Planner



AKS ENGINEERING & FORESTRY
 2777 NW Lolo Drive, Suite 150, Bend, OR 97703
 P: (541) 317-8429

AKS Job #7326

EXHIBIT A BPRD ANEXATION

A tract of land located in the Southwest Quarter of Section 15, the Northwest Quarter of Section 22, and the Northeast Quarter of Section 21, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, and being more particularly described as follows:

Beginning at the northeast corner of the Southwest Quarter of the Southwest Quarter of Section 15; thence along the north line of the Northwest Quarter of the Southeast Quarter of the Southwest Quarter of Section 15, North 89°56'30" East 659.44 feet to the east line of said Northwest Quarter of the Southeast Quarter of the Southwest Quarter; thence along said east line, South 00°25'08" West 661.94 feet to the south line of said Northwest Quarter of the Southeast Quarter of the Southwest Quarter; thence along said south line, South 89°59'09" West 657.53 feet to the east line of said Southwest Quarter of the Southwest Quarter; thence along said east line, South 00°15'14" West 662.00 feet to the Southeast corner of said Southwest Quarter of the Southwest Quarter, also being on the centerline of Knott Road; thence along the east line of the Northwest Quarter of the Northwest Quarter of Section 22, South 00°18'13" East 30.00 feet to the south right-of-way line of said Knott Road (30.00 feet from centerline); thence leaving said right-of-way line, along a line parallel with and 30.00 feet south of said centerline, North 89°59'31" West 651.50 feet to the west line of Instrument Number 2017-45024, Deschutes County Official Records; thence along said west line, South 00°16'58" West 10.00 feet to said south right-of-way line of Knott Road (40.00 feet from centerline); thence along said right-of-way line on the following courses: North 89°59'31" West 485.32 feet; thence along a non-tangent curve to the right, with a Radius of 30.00 feet (Radius Point bears North 31°06'05" West), a Central Angle of 27°13'54", an Arc Length of 14.26 feet, and a Chord of South 72°30'52" West 14.12 feet to a point of reverse curvature (varying in width from centerline); thence along a curve to the left, with a Radius of 756.00 feet, a Central Angle of 03°10'57", an Arc Length of 41.99 feet, and a Chord of South 84°32'20" West 41.99 feet to a point of compound curvature; thence along a curve to the left, with a Radius of 131.00 feet, a Central Angle of 33°42'29", an Arc Length of 77.07 feet, and a Chord of South 66°05'37" West 75.96 feet to a point of compound curvature; thence along a curve to the left, with a Radius of 36.00 feet, a Central Angle of 28°46'08", an Arc Length of 18.08 feet, and a Chord of South 34°51'19" West 17.89 feet to the east right-of-way line of Tekampe Road (35.00 feet from centerline); thence along said right-of-way line, South 00°16'58" West 56.32 feet; thence at a right angle to said right-of-way line, North 89°43'02" West 70.00 feet to the west right-of-way line of said Tekampe Road (35.00 feet from centerline); thence along said right-of-way line on the following courses: North 00°16'58" East 27.75 feet; thence North 89°39'10" West 9.77 feet (varying in width from centerline); thence along a non-tangent curve to the left, with a Radius of 156.01 feet (Radius Point bears South 74°15'45" West), a Central Angle of 31°52'46", an Arc Length of 86.80 feet, and a Chord of North 31°40'38" West 85.69 feet to a point of compound curvature; thence along a curve to the left, with a Radius of 35.95 feet, a Central Angle of 43°33'11", an Arc Length of 27.33 feet, and a Chord of North 69°23'37" West 26.67 feet to said south right of



AKS ENGINEERING & FORESTRY
 2777 NW Lolo Drive, Suite 150, Bend, OR 97703
 P: (541) 317-8429

AKS Job #7326

way line of Knott Road (varying in width from centerline); thence along said right-of-way line on the following courses: South 88°49'48" West 75.54 feet; thence along a curve to the right, with a Radius of 30.00 feet, a Central Angle of 29°50'46", an Arc Length of 15.63 feet, and a Chord of North 76°14'49" West 15.45 feet; thence North 61°19'26" West 12.59 feet (30.00 feet from centerline); thence leaving said right-of-way line, along a line parallel with and 30.00 feet south of the centerline of said Knott Road on the following courses: North 89°37'11" East 212.02 feet; thence South 89°59'31" East 39.75 feet to a line parallel with and 40.00 feet east of said centerline of Tekampe Road; thence along said parallel line, North 00°16'58" East 29.93 feet to a line parallel with and 40.00 feet east of the centerline of SE 15th Street; thence along said parallel line, North 00°03'38" West 1321.33 feet to the north line of said Southwest Quarter of the Southwest Quarter of Section 15; thence along said north line, North 89°54'42" East 1278.46 feet to the Point of Beginning.

The above tract of land contains 50.06 acres more or less.

The basis of bearings for this description are based on "Easton, Phase 1"

7/3/2024

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

OREGON
 MAY 11, 2021
 JACOB ALLEN CARSON
 94570PLS
 RENEWS: 12/31/25

EXHIBIT A EXHIBIT B

A TRACT OF LAND LOCATED IN THE SW 1/4 OF SEC. 15, THE NW 1/4 OF SEC. 22 AND THE NE 1/4 OF SEC. 21, T18S, R12E, W.M., CITY OF BEND, DESCHUTES COUNTY, OREGON

N61°19'26"W 12.59'
 C7 L=15.63'
 S88°49'48"W 75.54'
 C6 L=27.33'
 C5 L=86.80'
 N89°39'10"W 9.77'
 N00°16'58"E 27.75'

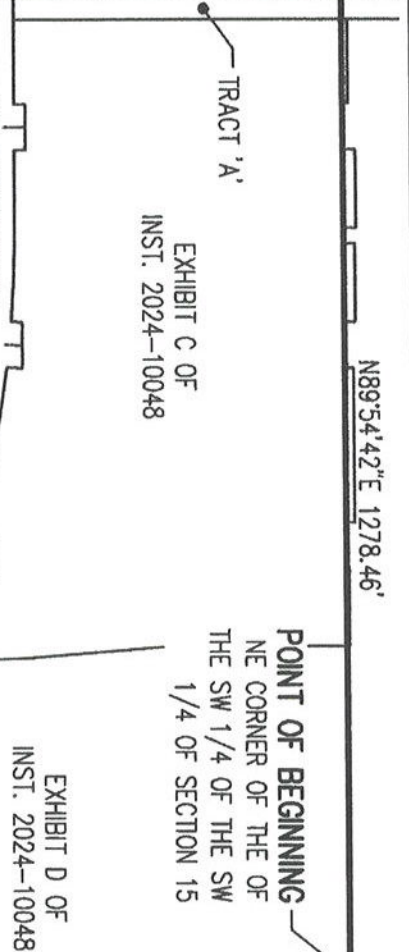
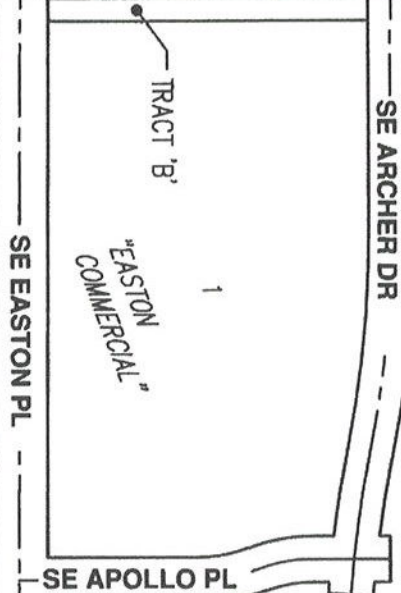
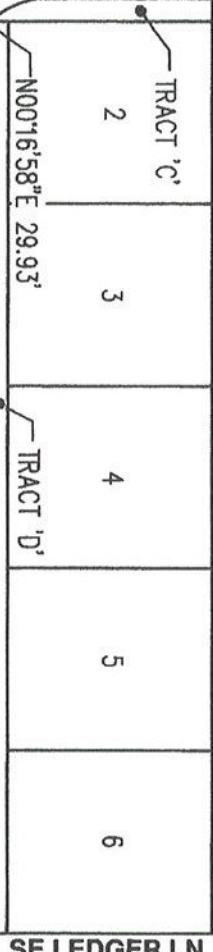
TEKAMPE RD

SE 15TH ST

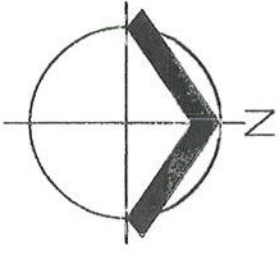
N00°03'38"W 1321.33'

N89°43'02"W 70.00'
 C4 L=18.08'
 S00°16'58"W 56.32'
 C1 L=14.26'
 N89°59'31"W 485.32'

C3 L=77.07'
 C2 L=41.99'



PREPARED FOR
 PAHLISCH HOMES
 210 SW WILSON AVE #100
 BEND, OR 97702



7/3/2024

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

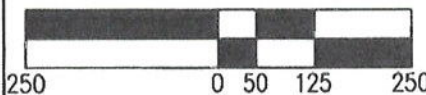
OREGON
 MAY 11, 2021
 JACOB ALLEN CARSON
 94570PLS
 RENEWS: 12/31/25

KNOTT RD

N89°59'31"W 651.50'
 S00°16'58"W 10.00'
 INST. 2017-45024

SE LEDGER LN

S00°15'14"W 662.00'
 INST. 2018-37904
 SCALE: 1" = 250 FEET



CURVE TABLE				
CURVE	RADIUS	DELTA	LENGTH	CHORD
C1	30.00'	27°13'54"	14.26'	S72°30'52"W 14.12'
C2	756.00'	3°10'57"	41.99'	S84°32'20"W 41.99'
C3	131.00'	33°42'29"	77.07'	S66°05'37"W 75.96'
C4	36.00'	28°46'08"	18.08'	S34°51'19"W 17.89'
C5	156.01'	31°52'46"	86.80'	N31°40'38"W 85.69'
C6	35.95'	43°33'11"	27.33'	N69°23'37"W 26.67'
C7	30.00'	29°50'46"	15.63'	N76°14'49"W 15.45'

S89°59'09"W 657.53'

POINT OF BEGINNING
 NE CORNER OF THE SW 1/4 OF THE SW 1/4 OF SECTION 15

EXHIBIT B OF
 INST. 2024-03501

S00°25'08"W 661.94'

AKS ENGINEERING & FORESTRY, LLC
 2777 NW LOLO DR, STE 150
 BEND, OR 97703
 541.317.8429 WWW.AKS-ENG.COM



BPRD ANNEXATION

DATE: 5/21/2024
 DRWN: JAC CHKD: PDF
 AKS JOB: EXHIBIT
 7326 B

Property Street Addresses of Land for Annexation into Bend Park and Recreation District:

1. 60901 Raintree Drive, Bend, OR 97702 (181215CD01400)
2. No Situs Address (Map/Tax Lot 181215CD01402)
3. No Situs Address (Map/Tax Lot 181215CC00100)
4. No Situs Address (Map/Tax Lot 181215CC00200)
5. No Situs Address (Map/Tax Lot 181215CC00300)
6. Multiple Situs Addresses (Map/ Tax Lot 181215CC00400) (see below)
7. No Situs Address (Map/Tax Lot 181215CC00500)
8. No Situs Address (Map/Tax Lot 181215CC00600)
9. No Situs Address (Map/Tax Lot 181215CC00700)
10. No Situs Address (Map/Tax Lot 181215CC00800)
11. No Situs Address (Map/Tax Lot 181215CC00900)
12. No Situs Address (Map/Tax Lot 181215CC01000)
13. No Situs Address (Map/Tax Lot 181215CC01100)
14. No Situs Address (Map/Tax Lot 181215CC01200)



Deschutes County Property Information

Situs Addresses for Account #288223

Report Date: 5/7/2024 10:02:40 AM

Address

- 20024 SE EASTON PL 137, BEND, OR 97702
- 20024 SE EASTON PL 138, BEND, OR 97702
- 20024 SE EASTON PL 139, BEND, OR 97702
- 20024 SE EASTON PL 140, BEND, OR 97702
- 20024 SE EASTON PL 141, BEND, OR 97702
- 20024 SE EASTON PL 142, BEND, OR 97702
- 20024 SE EASTON PL 143, BEND, OR 97702
- 20024 SE EASTON PL 144, BEND, OR 97702
- 20024 SE EASTON PL 237, BEND, OR 97702
- 20024 SE EASTON PL 238, BEND, OR 97702
- 20024 SE EASTON PL 239, BEND, OR 97702
- 20024 SE EASTON PL 240, BEND, OR 97702
- 20024 SE EASTON PL 241, BEND, OR 97702
- 20024 SE EASTON PL 242, BEND, OR 97702
- 20024 SE EASTON PL 243, BEND, OR 97702
- 20024 SE EASTON PL 244, BEND, OR 97702
- 20024 SE EASTON PL 337, BEND, OR 97702
- 20024 SE EASTON PL 338, BEND, OR 97702
- 20024 SE EASTON PL 339, BEND, OR 97702
- 20024 SE EASTON PL 340, BEND, OR 97702
- 20024 SE EASTON PL 341, BEND, OR 97702
- 20024 SE EASTON PL 342, BEND, OR 97702
- 20024 SE EASTON PL 343, BEND, OR 97702
- 20024 SE EASTON PL 344, BEND, OR 97702
- 20028 SE EASTON PL 145, BEND, OR 97702
- 20028 SE EASTON PL 146, BEND, OR 97702
- 20028 SE EASTON PL 147, BEND, OR 97702
- 20028 SE EASTON PL 148, BEND, OR 97702
- 20028 SE EASTON PL 149, BEND, OR 97702
- 20028 SE EASTON PL 150, BEND, OR 97702
- 20028 SE EASTON PL 151, BEND, OR 97702
- 20028 SE EASTON PL 152, BEND, OR 97702
- 20028 SE EASTON PL 245, BEND, OR 97702
- 20028 SE EASTON PL 246, BEND, OR 97702

EXHIBIT A

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20028 SE EASTON PL 247, BEND, OR 97702
20028 SE EASTON PL 248, BEND, OR 97702
20028 SE EASTON PL 249, BEND, OR 97702
20028 SE EASTON PL 250, BEND, OR 97702
20028 SE EASTON PL 251, BEND, OR 97702
20028 SE EASTON PL 252, BEND, OR 97702
20028 SE EASTON PL 345, BEND, OR 97702
20028 SE EASTON PL 346, BEND, OR 97702
20028 SE EASTON PL 347, BEND, OR 97702
20028 SE EASTON PL 348, BEND, OR 97702
20028 SE EASTON PL 349, BEND, OR 97702
20028 SE EASTON PL 350, BEND, OR 97702
20028 SE EASTON PL 351, BEND, OR 97702
20028 SE EASTON PL 352, BEND, OR 97702
20032 SE EASTON PL 129, BEND, OR 97702
20032 SE EASTON PL 130, BEND, OR 97702
20032 SE EASTON PL 131, BEND, OR 97702
20032 SE EASTON PL 132, BEND, OR 97702
20032 SE EASTON PL 133, BEND, OR 97702
20032 SE EASTON PL 134, BEND, OR 97702
20032 SE EASTON PL 135, BEND, OR 97702
20032 SE EASTON PL 136, BEND, OR 97702
20032 SE EASTON PL 229, BEND, OR 97702
20032 SE EASTON PL 230, BEND, OR 97702
20032 SE EASTON PL 231, BEND, OR 97702
20032 SE EASTON PL 232, BEND, OR 97702
20032 SE EASTON PL 233, BEND, OR 97702
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20032 SE EASTON PL 329, BEND, OR 97702
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20032 SE EASTON PL 331, BEND, OR 97702
20032 SE EASTON PL 332, BEND, OR 97702
20032 SE EASTON PL 333, BEND, OR 97702
20032 SE EASTON PL 334, BEND, OR 97702
20032 SE EASTON PL 335, BEND, OR 97702
20032 SE EASTON PL 336, BEND, OR 97702
20036 SE EASTON PL 153, BEND, OR 97702
20036 SE EASTON PL 154, BEND, OR 97702

EXHIBIT A

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- 20036 SE EASTON PL 155, BEND, OR 97702
- 20036 SE EASTON PL 156, BEND, OR 97702
- 20036 SE EASTON PL 157, BEND, OR 97702
- 20036 SE EASTON PL 158, BEND, OR 97702
- 20036 SE EASTON PL 159, BEND, OR 97702
- 20036 SE EASTON PL 160, BEND, OR 97702
- 20036 SE EASTON PL 253, BEND, OR 97702
- 20036 SE EASTON PL 254, BEND, OR 97702
- 20036 SE EASTON PL 255, BEND, OR 97702
- 20036 SE EASTON PL 256, BEND, OR 97702
- 20036 SE EASTON PL 257, BEND, OR 97702
- 20036 SE EASTON PL 258, BEND, OR 97702
- 20036 SE EASTON PL 259, BEND, OR 97702
- 20036 SE EASTON PL 260, BEND, OR 97702
- 20036 SE EASTON PL 353, BEND, OR 97702
- 20036 SE EASTON PL 354, BEND, OR 97702
- 20036 SE EASTON PL 355, BEND, OR 97702
- 20036 SE EASTON PL 356, BEND, OR 97702
- 20036 SE EASTON PL 357, BEND, OR 97702
- 20036 SE EASTON PL 358, BEND, OR 97702
- 20036 SE EASTON PL 359, BEND, OR 97702
- 20036 SE EASTON PL 360, BEND, OR 97702
- 20040 SE EASTON PL, BEND, OR 97702
- 20044 SE EASTON PL 161, BEND, OR 97702
- 20044 SE EASTON PL 162, BEND, OR 97702
- 20044 SE EASTON PL 163, BEND, OR 97702
- 20044 SE EASTON PL 164, BEND, OR 97702
- 20044 SE EASTON PL 165, BEND, OR 97702
- 20044 SE EASTON PL 166, BEND, OR 97702
- 20044 SE EASTON PL 167, BEND, OR 97702
- 20044 SE EASTON PL 168, BEND, OR 97702
- 20044 SE EASTON PL 261, BEND, OR 97702
- 20044 SE EASTON PL 262, BEND, OR 97702
- 20044 SE EASTON PL 263, BEND, OR 97702
- 20044 SE EASTON PL 264, BEND, OR 97702
- 20044 SE EASTON PL 265, BEND, OR 97702
- 20044 SE EASTON PL 266, BEND, OR 97702
- 20044 SE EASTON PL 267, BEND, OR 97702
- 20044 SE EASTON PL 268, BEND, OR 97702
- 20044 SE EASTON PL 361, BEND, OR 97702

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- 20044 SE EASTON PL 362, BEND, OR 97702
- 20044 SE EASTON PL 363, BEND, OR 97702
- 20044 SE EASTON PL 364, BEND, OR 97702
- 20044 SE EASTON PL 365, BEND, OR 97702
- 20044 SE EASTON PL 366, BEND, OR 97702
- 20044 SE EASTON PL 367, BEND, OR 97702
- 20044 SE EASTON PL 368, BEND, OR 97702
- 21105 SE ARCHER DR 101, BEND, OR 97702
- 21105 SE ARCHER DR 102, BEND, OR 97702
- 21105 SE ARCHER DR 103, BEND, OR 97702
- 21105 SE ARCHER DR 104, BEND, OR 97702
- 21105 SE ARCHER DR 105, BEND, OR 97702
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- 21105 SE ARCHER DR 307, BEND, OR 97702
- 21105 SE ARCHER DR 308, BEND, OR 97702
- 21105 SE ARCHER DR 309, BEND, OR 97702

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- 21105 SE ARCHER DR 310, BEND, OR 97702
- 21105 SE ARCHER DR 311, BEND, OR 97702
- 21105 SE ARCHER DR 312, BEND, OR 97702
- 21109 SE ARCHER DR 113, BEND, OR 97702
- 21109 SE ARCHER DR 114, BEND, OR 97702
- 21109 SE ARCHER DR 115, BEND, OR 97702
- 21109 SE ARCHER DR 116, BEND, OR 97702
- 21109 SE ARCHER DR 117, BEND, OR 97702
- 21109 SE ARCHER DR 118, BEND, OR 97702
- 21109 SE ARCHER DR 119, BEND, OR 97702
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- 21109 SE ARCHER DR 319, BEND, OR 97702
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- 21113 SE ARCHER DR 121, BEND, OR 97702
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- 21113 SE ARCHER DR 221, BEND, OR 97702
- 21113 SE ARCHER DR 222, BEND, OR 97702
- 21113 SE ARCHER DR 223, BEND, OR 97702
- 21113 SE ARCHER DR 224, BEND, OR 97702
- 21113 SE ARCHER DR 225, BEND, OR 97702

EXHIBIT A

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21113 SE ARCHER DR 226, BEND, OR 97702
21113 SE ARCHER DR 227, BEND, OR 97702
21113 SE ARCHER DR 228, BEND, OR 97702
21113 SE ARCHER DR 321, BEND, OR 97702
21113 SE ARCHER DR 322, BEND, OR 97702
21113 SE ARCHER DR 323, BEND, OR 97702
21113 SE ARCHER DR 324, BEND, OR 97702
21113 SE ARCHER DR 325, BEND, OR 97702
21113 SE ARCHER DR 326, BEND, OR 97702
21113 SE ARCHER DR 327, BEND, OR 97702
21113 SE ARCHER DR 328, BEND, OR 97702

EXHIBIT A

09/04/2024 Item #5.

NAME OF DISTRICT: Bend Park and Recreation

Withdrawal Annexation

PRINT NAME	DATE SIGNED	PROPERTY ADDRESS/ RESIDENCE ADDRESS (If Different)	LANDOWNER IN THE PROPOSED TERRITORY/ REGISTERED VOTER IN THE PROPOSED TERRITORY
1 <u>LAM 204 LLC</u> Print Name [Redacted] Signature	<u>11/14/24</u> Date	<u>21113 SE Archer Drive, Bend, OR 97702</u> (and multiple) <u>PROPERTY ADDRESS</u> <u>210 SW Wilson Avenue, Suite 100</u> <u>Bend, OR 97702</u> <u>RESIDENCE ADDRESS (If Different)</u>	Landowner Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>±6.46</u> Registered Voter Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
2 Print Name Signature	Date	PROPERTY ADDRESS RESIDENCE ADDRESS (If Different)	Landowner Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/> Registered Voter Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
3 Print Name Signature	Date	PROPERTY ADDRESS RESIDENCE ADDRESS (If Different)	Landowner Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/> Registered Voter Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
4 Print Name Signature	Date	PROPERTY ADDRESS RESIDENCE ADDRESS (If Different)	Landowner Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/> Registered Voter Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
5 Print Name Signature	Date	PROPERTY ADDRESS RESIDENCE ADDRESS (If Different)	Landowner Yes <input type="checkbox"/> No <input type="checkbox"/> Acreage <input type="checkbox"/> Registered Voter Yes <input type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>

I, Cherene Hale, identify and circulate this petition, and every person who signed this petition did so in my presence. Signature Cherene Hale

County of Clark State of Washington
 SUBSCRIBED AND SWORN before me this 4 day of June, 2024
 Notary Public for Oregon, Stephanie L. Marek
Washington My Commission Expires: 9-14-27



EXHIBIT A

09/04/2024 Item #5.

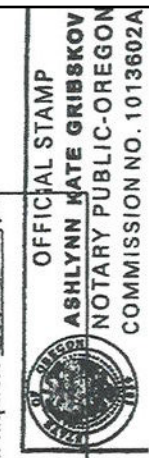
NAME OF DISTRICT: Bend Park and Recreation

Withdrawal Annexation

PRINT NAME	DATE SIGNED	PROPERTY ADDRESS/ RESIDENCE ADDRESS (If Different)	LANDOWNER IN THE PROPOSED TERRITORY/ REGISTERED VOTER IN THE PROPOSED TERRITORY
1 <u>Pahlisch Homes at Easton LP</u> [Redacted] Signature: [Redacted]	<u>6/5/24</u> Date	<u>181215CC00100</u> PROPERTY ADDRESS <u>210 SW Wilson Ave., Suite 100, Bend, OR 97702</u> RESIDENCE ADDRESS (If Different)	Landowner Yes <input checked="" type="checkbox"/> No _____ Acreage <u>±8.59</u> Registered Voter Yes _____ No _____ Pre _____
2 <u>Pahlisch Homes at Easton LP</u> [Redacted] Signature: [Redacted]	<u>6/5/24</u> Date	<u>60901 Raintree Drive, Bend, OR 97702</u> PROPERTY ADDRESS <u>210 SW Wilson Ave., Suite 100, Bend, OR 97702</u> RESIDENCE ADDRESS (If Different)	Landowner Yes <input checked="" type="checkbox"/> No _____ Acreage <u>±4.36</u> Registered Voter Yes _____ No _____ Pre _____
3 <u>Pahlisch Homes at Easton LP</u> [Redacted] Signature: [Redacted]	<u>6/5/24</u> Date	<u>181215CD01402</u> PROPERTY ADDRESS <u>210 SW Wilson Ave., Suite 100, Bend, OR 97702</u> RESIDENCE ADDRESS (If Different)	Landowner Yes <input checked="" type="checkbox"/> No _____ Acreage <u>±5.79</u> Registered Voter Yes _____ No _____ Pre _____
4 <u>Pahlisch Homes at Easton LP</u> [Redacted] Signature: [Redacted]	<u>6/5/24</u> Date	<u>181215CC00200</u> PROPERTY ADDRESS <u>210 SW Wilson Ave., Suite 100, Bend, OR 97702</u> RESIDENCE ADDRESS (If Different)	Landowner Yes <input checked="" type="checkbox"/> No _____ Acreage <u>±0.30</u> Registered Voter Yes _____ No _____ Pre _____
5 <u>Pahlisch Homes at Easton LP</u> [Redacted] Signature: [Redacted]	<u>6/5/24</u> Date	<u>181215CC00300</u> PROPERTY ADDRESS <u>210 SW Wilson Ave., Suite 100, Bend, OR 97702</u> RESIDENCE ADDRESS (If Different)	Landowner Yes <input checked="" type="checkbox"/> No _____ Acreage <u>±0.29</u> Registered Voter Yes _____ No _____ Pre _____

I, Caroline Hale, certify that I circulated this petition, and every person who signed this petition did so in my presence. Signature: [Signature]

County of Deschutes State of Oregon
SUBSCRIBED AND SWORN before me this 5th day of June, 2024
Notary Public for Oregon Ashlynn Griskov My Commission Expires: June 21, 25



(affix notary stamp)

EXHIBIT A

09/04/2024 Item #5.

NAME OF DISTRICT: _____ Withdrawal Annexation

PRINT NAME	DATE SIGNED	PROPERTY ADDRESS/ RESIDENCE ADDRESS (If Different)	LANDOWNER IN THE PROPOSED TERRITORY/ REGISTERED VOTER IN THE PROPOSED TERRITORY
1 Pahlisch Homes at Easton LP [Redacted Signature] Signature	<u>6-5-24</u> Date	<u>181215CC00500</u> PROPERTY ADDRESS <u>210 SW Wilson Ave., Suite 100, Bend, OR 97702</u> RESIDENCE ADDRESS (If Different)	Landowner Yes <input checked="" type="checkbox"/> No _____ Acreage <u>±0.18</u> Registered Voter Yes _____ No _____ Pre _____
2 Pahlisch Homes at Easton LP [Redacted Signature] Signature	<u>6-5-24</u> Date	<u>181215CC00600</u> PROPERTY ADDRESS <u>210 SW Wilson Ave., Suite 100, Bend, OR 97702</u> RESIDENCE ADDRESS (If Different)	Landowner Yes <input checked="" type="checkbox"/> No _____ Acreage <u>±0.57</u> Registered Voter Yes _____ No _____ Pre _____
3 Pahlisch Homes at Easton LP [Redacted Signature] Signature	<u>6-5-24</u> Date	<u>181215CC00700</u> PROPERTY ADDRESS <u>210 SW Wilson Ave., Suite 100, Bend, OR 97702</u> RESIDENCE ADDRESS (If Different)	Landowner Yes <input checked="" type="checkbox"/> No _____ Acreage <u>±1.45</u> Registered Voter Yes _____ No _____ Pre _____
4 Pahlisch Homes at Easton LP [Redacted Signature] Signature	<u>6-5-24</u> Date	<u>181215CC00800</u> PROPERTY ADDRESS <u>210 SW Wilson Ave., Suite 100, Bend, OR 97702</u> RESIDENCE ADDRESS (If Different)	Landowner Yes <input checked="" type="checkbox"/> No _____ Acreage <u>±1.45</u> Registered Voter Yes _____ No _____ Pre _____
5 Pahlisch Homes at Easton LP [Redacted Signature] Signature	<u>6-5-24</u> Date	<u>181215CC00900</u> PROPERTY ADDRESS <u>210 SW Wilson Ave., Suite 100, Bend, OR 97702</u> RESIDENCE ADDRESS (If Different)	Landowner Yes <input checked="" type="checkbox"/> No _____ Acreage <u>±1.45</u> Registered Voter Yes _____ No _____ Pre _____

I, Chanelle Hardy (affix notary stamp) presented this petition, and every person who signed this petition did so in my presence. Signature: Chanelle Hardy

County of Deschutes State of Oregon
 SUBSCRIBED AND SWORN before me this 5th day of June, 2024. My Commission Expires June 21, 2025
 Notary Public for Oregon Ashlynn Griboski
 Signature Ashlynn Griboski

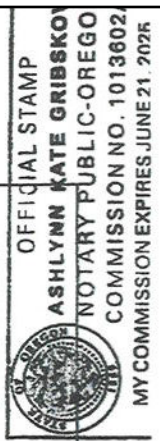


EXHIBIT A

09/04/2024 Item #5.

NAME OF DISTRICT: _____ Withdrawal Annexation

	PRINT NAME	DATE SIGNED	PROPERTY ADDRESS/ RESIDENCE ADDRESS (If Different)	LANDOWNER IN THE PROPOSED TERRITORY/ REGISTERED VOTER IN THE PROPOSED TERRITORY	I, <u>Charlene Hodge</u> certify that I articulated this petition, and every person who signed this petition did so in my presence. Signature: <u>Charlene Hodge</u>	County of <u>Deschutes</u> State of <u>Oregon</u> SUBSCRIBED AND SWORN before me this <u>5th</u> day of <u>June</u> , 20 <u>24</u> Notary Public for Oregon <u>Ashlynn Griboskov</u> My Commission Expires: <u>June 21, 25</u>	Signature <u>Ashlynn Griboskov</u>
1	<u>Pahlisch Homes at Easton LP</u> _____ _____ Signature	<u>6-5-24</u> Date	<u>181215CC01000</u> PROPERTY ADDRESS <u>210 SW Wilson Ave., Suite 100, Bend, OR 97702</u> RESIDENCE ADDRESS (If Different)	Landowner Yes <input checked="" type="checkbox"/> No _____ Acreage <u>±1.45</u> Registered Voter Yes _____ No _____ Pre _____			
2	<u>Pahlisch Homes at Easton LP</u> _____ _____ Signature	<u>6-5-24</u> Date	<u>181215CC01100</u> PROPERTY ADDRESS <u>210 SW Wilson Ave., Suite 100, Bend, OR 97702</u> RESIDENCE ADDRESS (If Different)	Landowner Yes <input checked="" type="checkbox"/> No _____ Acreage <u>±1.45</u> Registered Voter Yes _____ No _____ Pre _____			
3	<u>Pahlisch Homes at Easton LP</u> _____ _____ Signature	<u>6-5-24</u> Date	<u>181215CC001200</u> PROPERTY ADDRESS _____ RESIDENCE ADDRESS (If Different)	Landowner Yes <input checked="" type="checkbox"/> No _____ Acreage <u>±9.36</u> Registered Voter Yes _____ No _____ Pre _____			
4	_____ Print Name _____ Signature	_____ Date	_____ PROPERTY ADDRESS _____ RESIDENCE ADDRESS (If Different)	Landowner Yes _____ No _____ Acreage _____ Registered Voter Yes _____ No _____ Pre _____			
5	_____ Print Name _____ Signature	_____ Date	_____ PROPERTY ADDRESS _____ RESIDENCE ADDRESS (If Different)	Landowner Yes _____ No _____ Acreage _____ Registered Voter Yes _____ No _____ Pre _____			

OFFICIAL STAMP
ASHLYNN KATE GRIBOSKOV
NOTARY PUBLIC-OREGON
COMMISSION NO. 10136024

(affix notary stamp)

Security Deposit

Special District Formation or Reorganization

EXHIBIT A

09/04/2024 Item #5.
ORS 198.775

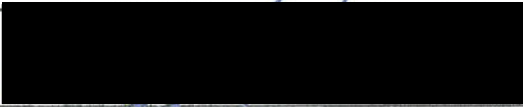
Formation

Annexation

Withdrawal

Dissolution

District and Precinct Information		
Name of District Bend Park and Recreation District		
Number of Precincts in District	Amount of Deposit per Precinct	Total Deposit (max of \$10,000)

Chief Petitioners					
I/We hereby declare if the costs of the attempted formation annexation, withdrawal or dissolution of Bend Park and Recreation district exceeds the deposit, I/we will pay to the county treasurer the amount of the excess cost (ORS 198.775)					
Name print Pahlisch Homes, Inc.					
Residence 210 SW Wilson Avenue, Suite 100			Mailing Address if different		
City Bend	State OR	Zip Code 97702	City	State	Zip Code
Amount of Contribution/Value of Secured Deposit \$100			Kind of Contribution* <input checked="" type="checkbox"/> Cash <input type="checkbox"/> Bond <input type="checkbox"/> Other Security Deposit		

Name print			Signature		
Residence			Mailing Address if different		
City	State	Zip Code	City	State	Zip Code
Amount of Contribution/Value of Secured Deposit			Kind of Contribution* <input type="checkbox"/> Cash <input type="checkbox"/> Bond <input type="checkbox"/> Other Security Deposit		

Name print			Signature		
Residence			Mailing Address if different		
City	State	Zip Code	City	State	Zip Code
Amount of Contribution/Value of Secured Deposit			Kind of Contribution* <input type="checkbox"/> Cash <input type="checkbox"/> Bond <input type="checkbox"/> Other Security Deposit		

Continued on the reverse side of this form

EXHIBIT A

09/04/2024 Item #5.

Person/Organizations Providing Any Part of Cash/Security Deposit					
Name print			Signature		
Residence			Mailing Address if different		
City	State	Zip Code	City	State	Zip Code
Amount of Contribution/Value of Secured Deposit			Kind of Contribution*		
			<input type="checkbox"/> Cash	<input type="checkbox"/> Bond	<input type="checkbox"/> Other Security Deposit

Name print			Signature		
Residence			Mailing Address if different		
City	State	Zip Code	City	State	Zip Code
Amount of Contribution/Value of Secured Deposit			Kind of Contribution*		
			<input type="checkbox"/> Cash	<input type="checkbox"/> Bond	<input type="checkbox"/> Other Security Deposit

Name print			Signature		
Residence			Mailing Address if different		
City	State	Zip Code	City	State	Zip Code
Amount of Contribution/Value of Secured Deposit			Kind of Contribution*		
			<input type="checkbox"/> Cash	<input type="checkbox"/> Bond	<input type="checkbox"/> Other Security Deposit

Additional Description

*Provide additional description of security deposit below, on the back of this form or on separate sheets. Additional contributors may be listed on separate sheets and attached.

\$100 check payable to Deschutes County.



County Clerk

Petition for Annexation to Bend Park and Recreation District

Clerk's Certification

I, Steve Dennison, Deschutes County Clerk, do hereby certify that the number of registered voters at the addresses listed in the petition are as follows:

- Taxlot 181215CD01400, 60901 Raintree Dr, Bend, OR 97702 - *1 Active Registered Voter*
- Taxlot 181215CD01402, ****NO SITUS ADDRESS****, *0 Active Registered Voters*
- Taxlot 181215CC00100, ****NO SITUS ADDRESS****, *0 Active Registered Voters*
- Taxlot 181215CC00200, ****NO SITUS ADDRESS****, *0 Active Registered Voters*
- Taxlot 181215CC00300, ****NO SITUS ADDRESS****, *0 Active Registered Voters*
- Taxlot 181215CC00400, Multiple Situs Addresses (See below), *0 Active Registered Voters*
 - *20024 SE Easton Pl, Bend, OR 97702*
 - *20028 SE Easton Pl, Bend, OR 97702*
 - *20032 SE Easton Pl, Bend, OR 97702*
 - *20036 SE Easton Pl, Bend, OR 97702*
 - *20040 SE Easton Pl, Bend, OR 97702*
 - *20044 SE Easton Pl, Bend, OR 97702*
 - *21105 SE Archer Dr, Bend, OR 97702*
 - *21109 SE Archer Dr, Bend, OR 97702*
 - *21113 SE Archer Dr, Bend, OR 97702*
- Taxlot 181215CC00500, ****NO SITUS ADDRESS****, *0 Active Registered Voters*
- Taxlot 181215CC00600, ****NO SITUS ADDRESS****, *0 Active Registered Voters*
- Taxlot 181215CC00700, ****NO SITUS ADDRESS****, *0 Active Registered Voters*
- Taxlot 181215CC00800, ****NO SITUS ADDRESS****, *0 Active Registered Voters*
- Taxlot 181215CC00900, ****NO SITUS ADDRESS****, *0 Active Registered Voters*
- Taxlot 181215CC01000, ****NO SITUS ADDRESS****, *0 Active Registered Voters*
- Taxlot 181215CC01100, ****NO SITUS ADDRESS****, *0 Active Registered Voters*
- Taxlot 181215CC01200, ****NO SITUS ADDRESS****, *0 Active Registered Voters*

Dated this 31st day of July, 2024.

Steve Dennison
Deschutes County Clerk



DESCHUTES COUNTY ASSESSOR'S OFFICE

CARTOGRAPHY DEPARTMENT

1300 NW Wall Street, Suite 204 | Bend, Oregon 97703

Office: (541) 388-6508 | **Fax:** (541) 382-1692

Website: <https://www.deschutes.org/assessor>

Property Info: <https://dial.deschutes.org/>

July 31, 2024

Steve Dennison

Deschutes County Clerk

Re: Bend Park & Recreation District (PAHLISCH HOMES AT EASTON LIMITED PSHIP)

Please be advised the attached petition meets the requirements of ORS 198.

Sincerely,

Gregg Rossi



Gregg Rossi | Chief Cartographer

Deschutes County Assessor's Office, Cartography Dept.

1300 NW Wall St. Suite 204 | Bend, Oregon 97703 PO Box 6005 | Bend, Oregon 97708

Tel: (541) 617-4703 | Fax: (541) 382-1692

AYERS Robert A * DOR

From: Daniel Robinson <robinsond@aks-eng.com>
Sent: Friday, May 31, 2024 4:27 PM
To: Boundary Changes * DOR
Cc: Sara Anselment; Joey Shearer; Kira Marchant; Jacob Carson
Subject: Annexation Map and Legal Description for area to be annexed into Bend Park and Recreation District (BPRD)
Attachments: 20240531 BPRD Annexation Map and Legal.pdf

Good afternoon –

Please find attached a map and legal description for review and approval by the Department of Revenue. The property to be annexed into BPRD is currently within the City of Bend but outside the current boundaries of the BPRD. The map includes 13 map/tax lots, located in southern Bend, Oregon, which are part of the Easton Master Plan:

[181215CD01400](#)

[181215CD01402](#)

[181215CC00100](#)

[181215CC00400](#)

[181215CC00700](#)

[181215CC00800](#)

[181215CC00900](#)

[181215CC01000](#)

[181215CC01100](#)

[181215CC00200](#)

[181215CC00300](#)

[181215CC00500](#)

[181215CC00600](#)

Please confirm receipt and an expected timeline, if possible. In review of the map, please let us know if you have any questions or need any other information.

Thank you,
 Daniel

Daniel Robinson, AICP



AKS ENGINEERING & FORESTRY, LLC

2777 NW Lolo Drive, Suite 150 | Bend, OR 97703

Phone: (541) 317-8429 | www.aks-eng.com | robinsond@aks-eng.com

Offices in: Bend, OR | Keizer, OR | The Dalles, OR | Tualatin, OR | Kennewick, WA | Vancouver, WA | White Salmon, WA

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply e-mail and immediately delete the message and any attachments without copying or disclosing the contents. AKS Engineering and Forestry shall not be liable for any changes made to the electronic data transferred. Distribution of electronic data to others is prohibited without the express written consent of AKS Engineering and Forestry.

EXHIBIT C
Boundary Change Preliminary Review

DOR 9-P125-09/04/2024 Item #5.



Cadastral Information Systems Unit
PO Box 14380
Salem, OR 97309-5075
fax 503-945-8737
boundary.changes@dor.oregon.gov

City of Bend
Planning Dept.
PO Box 431
Bend OR 97709

June 12, 2024

Documents received: 5/31/2024
From: Daniel Robinson

This letter is to inform you that the Description and Map for your planned Annexation to the BPRD (BPRD Annexation) in Deschutes County have been reviewed per your request. They MEET the requirements of ORS 308.225 for use with an Order, Ordinance, or Resolution which must be submitted to the Deschutes County Assessor and the Department of Revenue in final approved form before March 31 of the year in which the change will become effective.

Preliminary Review

If you have any questions please contact Robert Ayers, 503-983-3032



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 4, 2024

SUBJECT: Newberry Geothermal Project Update

RECOMMENDED MOTION:
None—information only.

BACKGROUND AND POLICY IMPLICATIONS:

Since 2012, AltaRock Energy of Seattle has conducted research at the Newberry National Volcanic Monument in the Deschutes National Forest to determine the feasibility and viability of enhanced geothermal systems for renewable energy production. The purpose of the project is to develop and test geothermal reservoir technology and its potential to generate electricity in areas that have underground heat but little or no natural water.

The Bureau of Land Management issued a lease for this research, which involves a 10,000-foot deep geothermal well. Other project partners are the Pacific Northwest National Laboratory and Oregon State University.

A significant amount of data has already been collected at this site. New work, which is scheduled to commence the second week of September, will aid in developing advanced modeling scenarios for further research and development.

BUDGET IMPACTS:
None

ATTENDANCE:
David Stowe, The Ardell Group



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 4, 2024

SUBJECT: Grant opportunity to explore the development of a recreational campground on County-owned property at Fort Thompson Lane

RECOMMENDED MOTIONS:

Option 1: Move to approve an application for a grant to the Oregon State Parks and Recreation’s County Opportunity Grant Program to fund planning for and/or developing new camping and/or support facilities for the County-owned property at Fort Thompson Lane.

Option 2: Move to not approve an application for a grant to the Oregon State Parks and Recreation’s County Opportunity Grant Program to fund planning for and/or developing new camping and/or support facilities for the County-owned property at Fort Thompson Lane.

BACKGROUND AND POLICY IMPLICATIONS:

Oregon State Parks and Recreation Department has a County Opportunity Grant Program (COGP) to fund qualified projects for Oregon counties. Staff seeks guidance from the Board on whether to apply for this grant opportunity. If the Board directs the submission of an application, staff recommends the application specify that any funds granted would be used to develop a Master Conceptual Plan, including a point of access assessment, for a recreational campground located on County-owned property at Fort Thompson Lane.

The grant opportunity opened August 1, 2024. Applications are due by October 1, 2024.

Eligible Projects include:

- Acquisition – Acquiring property for public camping facilities
• Development – Developing new campgrounds and/or support facilities
• Rehabilitation – Rehabilitating grounds or structures to meet ADA requirements
• Planning – Planning for future development of overnight camping facilities, including park master plans

Match criteria: Counties with more than 30,000 residents require a 50% local match.

BUDGET IMPACTS:

It is estimated that a Master Conceptual Plan will cost between \$150,000 - \$200,000. If the Board directs staff to apply for the grant and funds are awarded, staff estimates that the County cost share for the plan would be between \$75,000 - \$100,000.

The COGP is expected to be awarded in the Spring of 2025 and staff anticipates that any County cost share could be included in the FY 2026 budget. Potential funding sources could include Fund 130 (Park Acquisition and Development) or Fund 165 (Video Lottery).

ATTENDANCE:

Jen Patterson, Strategic Initiatives Manager



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 4, 2024

SUBJECT: Board Order No. 2024-034 authorizing Facilities Director and/or County Administrator approval and signature on budgeted costs for the Courthouse Expansion construction project

RECOMMENDED MOTION:

Move approval of Order No. 2024-034 authorizing Facilities Director and/or County Administrator approval and signature on budgeted costs for the Courthouse Expansion construction project.

BACKGROUND AND POLICY IMPLICATIONS:

The Board previously approved the guaranteed maximum price of \$36,722,789 for the Courthouse Expansion construction project. This Order will authorize the Facilities Director and/or County Administrator to approve and sign (above standard authority thresholds) for charges included within the guaranteed maximum price approved by the Board in February.

BUDGET IMPACTS:

None—all subject expenditures have already been budgeted and approved.

ATTENDANCE:

Lee Randall, Facilities Director

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

Order authorizing Facilities Director and/or County Administrator to approve and sign payments for approved budgeted costs of the Courthouse Expansion Construction project *
* ORDER NO. 2024-034
*

WHEREAS, the Board of Commissioners on February 21, 2024, approved Amendment #2 (Document No. 2024-138) to the Pence Contractors courthouse expansion construction project to include and authorize expenditures (including contingency) up to a guaranteed maximum price of \$36,722,789; and

WHEREAS, during the Board meeting on February 21, 2024, staff presented, and the Board authorized the overall project budget of \$43.9M; and

WHEREAS, Deschutes County Code designates expenditure signature authority for department heads, County Administrator and the Board of Commissioners; and

WHEREAS, the Board of Commissioners recognize the need to proceed expeditiously so as to keep the construction project on schedule and within budgeted authorization; now therefore,

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

Section 1. Notwithstanding signature authority limits in DCC, the Facilities Director and/or the County Administrator are authorized to approve and sign all charges, invoices, or demands for payment associated with the courthouse expansion construction project provided that same are within the budgeted and prior-approved guaranteed maximum price of \$36,722,789 and/or the overall project budget of \$43.9M.

Dated this ___ day of _____, 2024.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

PATTI ADAIR, CHAIR

ANTHONY DeBONE, VICE CHAIR

ATTEST:

Recording Secretary

PHIL CHANG, COMMISSIONER



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 4, 2024

SUBJECT: Deliberations: Remand of 710 Properties/Eden Properties Plan Amendment and Zone Change - 247-24-000395-A (247-21-001043-PA, 1044-ZC)

RECOMMENDED MOTION:

At the conclusion of deliberations, the Board can choose one of the following options:

- Continue deliberations to a date and time to be scheduled; or
• Close deliberations and propose a motion to approve or deny the application, and direct staff to return at a later date with a draft decision.

To the extent the Board decides to approve the Plan Amendment and Zone Change, a motion as follows will likely be appropriate:

The Board moves to approve the remanded Plan Amendment and Zone Change for file nos. 247-24-000395-A, 247-21-001043-PA, and 247-21-001044-ZC.

To the extent the Board decides to deny the Plan Amendment and Zone Change, that motion will need to be crafted to address the Board's specific concerns, as discussed in the deliberations.

BACKGROUND AND POLICY IMPLICATIONS:

The Board of Commissioners (Board) will deliberate on September 4, 2024 to consider a remand decision of the Oregon Land Use Board of Appeals (LUBA) regarding a Plan Amendment and Zone Change application proposed by 710 Properties, LLC (Applicant) originally approved by the Board under files 247-21-001043-PA, 1044-ZC. A public hearing was held on July 24, 2024. The full record is located on the project webpage: https://www.deschutes.org/cd/page/luba-remand-247-24-000395-247-21-001043-pa-and-247-21-001044-zc-eden-central-properties

BUDGET IMPACTS:

None.

ATTENDANCE:

Haleigh King, Associate Planner



MEMORANDUM

TO: Deschutes County Board of Commissioners (Board)

FROM: Haleigh King, Associate Planner

DATE: August 28, 2024

SUBJECT: Deliberations – Remand of Eden Properties Plan Amendment and Zone Change – 247-24-000395-A (247-21-001043-PA, 1044-ZC)

The Board held a public hearing on July 24, 2024, to consider a remanded decision of the Oregon Land Use Board of Appeals, affirmed by the State Court of Appeals. The remanded decision is a request for a Plan Amendment and Zone Change (file nos. 247-21-001043-PA, 1044-ZC) for nine tax lots totaling approximately 710 acres to the west of Terrebonne and north of Highway 126. The Board is scheduled to deliberate on September 4, 2024 in consideration of the request.

I. BACKGROUND

The applicant, 710 Properties, LLC/Eden Central Properties, LLC, is requesting a Comprehensive Plan Amendment to re-designate the subject properties from Agriculture to Rural Residential Exception Area and a Zoning Map Amendment to rezone the properties from Exclusive Farm Use (EFU) to Rural Residential (RR-10). The subject property totals ±710 acres in size.

The application was originally approved by a Board majority on December 14, 2022 following a public hearing held on August 17, 2022, a subsequent open record period. Following Board approval, the application was appealed to the Oregon Land Use Board of Appeals (LUBA) and the Court of Appeals and was remanded back to the County for additional review on a number of specific issue areas discussed below. The remand was then initiated by the applicant for County review on June 26, 2024. The final day in which the County must issue a final decision is October 24, 2024.

II. OPEN RECORD PERIOD

Following the July 24, 2024 hearing, the written record was left open for a total of 28 days consisting of the following: 14 days for New Evidence and Testimony, seven (7) days for Rebuttal, and seven (7) days for Applicant’s Final Legal Argument.

During the initial 7-day segment of the 28-day open record period, staff received 27 public comments, including the applicant’s submittal which included Exhibit Nos. 48 to 75, as new evidence and

testimony. During the second 7-day segment of the open record period, staff received four (4) rebuttal responses to the new evidence and testimony that was received, including the applicant's submittal which included Exhibit Nos. 76 to 111. The Applicant's final legal argument was received on August 21, 2024, at the conclusion of the open record period and includes Exhibit Nos. 111-115.

The new evidence and testimony received during the open record largely reiterated concerns and arguments that were raised during public testimony of the Board's public hearing on July 24, 2024. During this first open record period, Staff received an agency comment from Department of Land Conservation and Development (DLCD) restating their concerns with the application and referencing their original April 19, 2022 letter to be reentered into the record. Other concerns include, but are not limited to, impacts to wildlife, impacts to groundwater and aquifer levels, future potential development of the subject property, traffic impacts, and the validity of the applicant's argument regarding the property's suitability for farm use, as defined by state statute.

The rebuttal testimony received during the open record period largely reiterated concerns and arguments that were raised during public testimony and during the first open record period including, but are not limited to, traffic impacts on surrounding farm operations, water impacts, general land use compatibility, and the subject property's qualifications as agricultural land, or lack thereof.

III. BOARD DELIBERATIONS

On September 4, 2024 the Board will deliberate on the remanded Plan Amendment and Zone Change requests. If the Board finds that additional deliberations are necessary, the Board may schedule a future date for continued deliberations. Due to the limited time to process the remand application, Staff will include a placeholder for this item on the September 16, 2024 Board agenda if the Board chooses to continue deliberations. If the Board finds no additional deliberations are necessary, the Board may vote the application.

Board Decision Matrix

Staff has provided a decision matrix summarizing the issue areas, and information from the open record period and previous public hearings as an attachment to this memorandum. As identified on the decision matrix, there are decision points for the Board to determine whether issues areas have been sufficiently addressed.

IV. NEXT STEPS

If the Board determines that additional deliberations are necessary, staff will include a place holder for this item on the September 16, 2024 agenda. If the Board concludes their deliberations during the September 4, 2024 meeting, the Board may then vote on whether to approve or deny the Plan Amendment and Zone Change. If the Board renders a vote during the September 4, 2024 or any future meeting, staff will coordinate with the Board to return for a future meeting to review the draft decision, draft ordinance and relevant exhibits. If appropriate, the first reading of the ordinance can be initiated at that time.

V. MOTION

To the extent the Board decides to approve the Plan Amendment and Zone Change, a motion as follows will likely be appropriate:

The Board moves to approve the remanded Plan Amendment and Zone Change for file nos. 247-24-000395-A, 247-21-001043-PA, and 247-21-001044-ZC.

To the extent the Board decides to deny the Plan Amendment and Zone Change, that motion will need to be crafted to address the Board's specific concerns, as discussed in the deliberations.

VI. RECORD

The record for File Nos. 247-24-000395-A (247-21-001043-PA, 1044-ZC) are as presented at the following Deschutes County Community Development Department website:

<https://www.deschutes.org/cd/page/luba-remand-247-24-000395-247-21-001043-pa-and-247-21-001044-zc-edon-central-properties>

ATTACHMENTS:

- 1) Board Decision Matrix

BOCC Decision Matrix – Remand of Eden Properties Plan Amendment/Zone Change

Land Use File No. 247-24-000395-A (247-21-001043-PA, 1044-ZC)

No.	Issue Area/Approval Criterion	LUBA Final Order and Opinion	Applicant Response	Opponent Testimony	Board Decision Points
1	<p><u>Definition of Agricultural Land and Farm Use pursuant to ORS 215.203 and OAR 660-033-0030</u></p> <p>OAR 660-033-0030(3) requires that “nearby or adjacent land, regardless of ownership, shall be examined to the extent that a lot or parcel is either ‘suitable for farm use’ or ‘necessary to permit farm practices to be undertaken on adjacent or nearby lands’ outside the lot or parcel.”</p> <p>Is the subject property suitable for farm use <u>in conjunction with other property?</u></p>	<p>(pg. 37) “Relating the profitability of farm related activity solely to the activity on the subject property places undue weight on profitability. The board of commissioners improperly weighed the consideration of profitability of the subject property operating independently.”</p> <p>The Board decision fails to consider the ability to use the subject property with a primary purpose of obtaining a profit in money <i>in conjunction with other property.</i></p>	<p>The Board’s 2022 decision identifies nearby or adjacent lands and the farm uses occurring there on at Rec-97-100. The former Volwood Farms, Nicol Valley Farms, Stabb and Buchanan properties are the only nearby or adjacent lands engaged in farm use.</p> <p>The Buchanan property was the only property identified as keeping livestock.</p> <p>The applicant asserts the subject property is not suitable for irrigated agriculture due to the prohibitive cost of financing the acquisition of water rights and the development and operation of wells, pumps, and irrigation pivots.</p> <p>Applicant’s Open Record Exhibits 73 and 111 include testimony from rancher Rand Campbell finding combined operations with the Buchanans would not be profitable and would not be undertaken by reasonable farmer with intention to make a profit in money – relied on accepted farm practice of raising, selling cattle at auction to estimate cattle revenue.</p> <p>Applicant Open Record Exhibit 107 – Declaration of Robert Turner who spoke with former Volwood Farms owners who stated they would not consider combining operations with the Eden Property due to lack of irrigation, improvement costs due to fencing, inadequate forage, difficult seeding process due to lack of water and arid climate for successful germination.</p> <p>Central Oregon ranch owner/operator Russ Mattis submitted comment (July 23, 2024) stating they would not consider grazing the subject property alone or in conjunction with his ranch properties due to setup costs for fencing, rock removal, establishing water rights.</p>	<p>B. and E. Buchanan, adjacent owners and operators of Keystone Natural Beef, state they would use the property to expand their cattle ranching operation and they assert the subject property is suitable for seasonal grazing for the following reasons (2024-07-24 Public Comment):</p> <ul style="list-style-type: none"> • No need for irrigation, winter moisture is sufficient for seasonal grazing • Turnout period for grazing cows on site would start in April/May and continue to early August • Introduce drought tolerant grasses • Grazing land with characteristics of the Eden property is a well-accepted farming practice in Central Oregon • Utilize property as a breeding development center for their registered cattle. • Terrain is conducive for a feedlot-type setting due to rocky hillsides and uneven terrain providing muscular training and maintaining hoof health • Submitted business plan, dated July 24, 2024. <p>DLCD (2024-08-07 Comment):</p> <ul style="list-style-type: none"> • Record provided by applicant does not fully explore Buchanan opportunity as it relates to the possible farm uses. • “Accepted farming practices of the greater Central Oregon region include seasonal rotation of livestock over multiple properties and large areas, many of which do not contain irrigation rights.” 	<p>Based on the evidence in the record, is the subject property suitable for farm use <u>in conjunction with other property?</u></p> <ol style="list-style-type: none"> 1. If no, then the Board can continue reviewing the applications and move onto the other issue areas. 2. If yes, then the Board must deny the application.

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2	<p><u>Definition of Agricultural Land and Imported Feed</u></p> <p>OAR 660-033-0020(1)(a)(B) defines agricultural land as "Land in other soil classes that is <u>suitable for farm use</u> as defined in ORS 215.203(2)(a), taking into consideration:</p> <ul style="list-style-type: none"> • 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 <p>Based on the above factors, is the subject property suitable for the feeding, breeding, management, and sale of livestock and poultry or the stabling or training of equines for the primary purpose of obtaining a profit in money <i>if feed is imported from off-site?</i></p>	<p>(pg. 41) ...the board of commissioners' interpretation is not supported by the text of OAR 660-033-0020(1)(a)(B) or ORS 215.203(2)(a), both of which are silent as to the source of the feed that is necessary to sustain animals involved in farm uses. ***</p> <p>Whether livestock, poultry, and equines are sustained with forage grown on-site or feed imported from off-site, their feeding, breeding, management, sale, stabling, and training potentially qualify as farm uses. The board of commissioners misconstrued OAR 660-033-0020(1)(a)(B) or ORS 215.203(2)(a) in concluding that land is suitable for farm uses involving animals only if sufficient feed can be grown on-site. ***</p> <p>(pg. 42) It may be that, even if feed is imported from off-site, the subject property is not suitable for the feeding, breeding, management, and sale of livestock and poultry or the stabling or training of equines for the primary purpose of obtaining a profit in money, given the factors listed in OAR 660-033-0020(1)(a)(B). However, the board of commissioners did not reach that conclusion. On remand, the county will have an opportunity to evaluate the testimony that 710 properties cites through the proper lens and reach its own conclusion.</p>	<p>Applicant's Final Legal Argument relies on evidence submitted to the record from rancher Rand Campbell who analyzes the economic viability of livestock, poultry, and stabling and training of equine operations – see Applicant's Exhibits 43 (cattle, goats), 47 (goats, sheep suitability factors), 50 (suitability for chickens), 108 (horse operations), 111 (cattle operations with the Buchanan Coyner Road property).</p> <p>Mr. Campbell's analysis of the imported feed and suitability issue is also supported by exhibits filed by the applicant, regarding livestock, poultry and equine uses. See, Exhibits 2-6, 12, 14 (significant financial losses for Lower Bridge alpaca operation), 20-24, 26-29, 32, 37, 64, 77.</p> <p>Mr. Campbell's analysis of combined operations concludes that importing feed is a money-losing proposition. He found that "the more hay a rancher needs to purchase and feed their cattle, the less profitable they will be" and "[i]ncreasing the number of cow-calf pairs would also lead to further losses due to reliance on expensive outside hay."</p>	<p>Central Oregon LandWatch (2024-07-24) asserts:</p> <ul style="list-style-type: none"> • Nearby feed stores in Redmond area can deliver feed directly to area farms and ranches for variety of livestock, equine, poultry uses. • Common practice to supply or supplement feed from feed stores. • No specific economic analysis included. <p>K. Nonella, Equine Nutritionist (2024-07-30) asserts that the subject property is well-suited for the stabling, training, and boarding of equines as horses need dry land acreage as well as goats due to adaptation to arid climates and browsing habits.</p>	<p>Based on the evidence in the record, is the subject property suitable for the feeding, breeding, management, and sale of livestock and poultry or the stabling or training of equines for the primary purpose of obtaining a profit in money <u>if feed is imported from off-site?</u></p> <ol style="list-style-type: none"> 1. If no, then the Board can continue reviewing the applications and move onto the other issue areas. 2. If yes, then the Board must deny the application.

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3	<p><u>Definition of Agricultural Land and Equipment and Facilities to support Farm Activities</u></p> <p>OAR 660-033-0020(1)(a)(B) defines agricultural land as "Land in other soil classes that is <u>suitable for farm use</u> as defined in ORS 215.203(2)(a), taking into consideration:</p> <ul style="list-style-type: none"> • 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" <p>ORS 215.203(2)(a) defines <u>farm use</u> in part as, "Farm use also includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection."</p> <p><u>Given the factors in OAR 660-033-0020(1)(a)(B), is the property suitable for the construction or maintenance of equipment and facilities used for farm activities even where those farm activities occur on other lands?</u></p>	<p>(pg. 44) "Under ORS 215.203(2)(a), "farm use" includes the [on-site] construction and maintenance of equipment and facilities used for farm activities" whether they occur on the subject property or elsewhere.</p> <p>(pg. 45) "The board of commissioners misconstrued OAR 660-033-0020(1)(a)(B) and ORS 215.203(2)(a) in concluding that land is suitable for that farm use only if the farm activities occur on the same land."</p>	<p>This use is limited, by its express terms, to the on-site <i>construction</i> and <i>maintenance</i> of equipment and facilities used for farm uses. Construction is the act of building something, typically a large structure, and maintenance is keeping the structure in good repair once it is built. These acts, and these acts alone, are allowed by this part of the definition of "farm use." The use does not include the uses that occur within the structure or with the equipment once constructed or maintained. The storage of farm equipment and/or farm products is only a farm use if it meets other parts of the definition of "farm use." ORS 215.203(2)(b).</p> <p>The preparation and storage of farm products and by-products is defined separately and earlier in ORS 215.203(2)(b) as a "farm use." That use is limited to the preparation and storage of products and by-products "<i>raised on such land.</i>" Farm equipment storage is allowed if it is a part of the current employment of the land for farm activities conducted with the primary purpose of obtaining a profit in money. The subject property is not suitable for conducting a "farm use" with that intention.</p> <p>The remaining issue is whether the subject property is a suitable place to construct or maintain a farm structure or farm equipment on the subject property for a farm use occurring on another property if the property is suitable for farm use. As a result, the applicant assessed whether the property is suitable for farm equipment repair facilities that serve "farm uses" only and the construction of farm equipment or structures on site for use elsewhere. A review of the seven suitability factors shows that the property is not suitable for these uses and other similar uses based on three or more of the seven suitability factors, as detailed in the Applicant's Final Legal Argument.</p>	<p>The Johnsons and others assert that the subject property is suitable for the construction of new homes so is appropriate for the construction of any type of farm structure.</p> <p>The Buchanans say they would like to store farm equipment on the property.</p> <p>DLCD asserts that the use allowed is "the construction and maintenance of equipment and facilities used to support farm practices including barns, agricultural storage sheds and other preparation facilities, processing facilities allowed by ORS 215.255, hay covers, cattle lanes, driveways, holding pens, and similar improvements and structures included in the definition of farm use..."</p> <p>Farm and ranch stores without a primary farm use on the subject parcel is a commercial activity in conjunction with farm use so the applicant's evidence is irrelevant. DLCD acknowledges that the property lacks 'urban services' and 'adequate transportation' to support a more intense use of the subject property but says that residential development would exceed the traffic generated by a single farm equipment business.</p>	<p>Similar to what DLCD noted in their comment, Staff understands that stand alone commercial farm and ranch stores are not permitted in the EFU Zone without a primary farm use on the subject property or otherwise "in conjunction with farm use."</p> <p>Staff understands the remanded issue requires additional evidence and conclusions regarding the suitability of the property for on-site construction and maintenance of equipment and facilities used for farm activities, even if those activities occur on other lands.</p>	<p>Given the factors in OAR 660-033-0020(1)(a)(B), is the property suitable for the construction or maintenance of equipment and facilities used for farm activities even where those farm activities occur on other lands?</p> <ol style="list-style-type: none"> 1. If no, then the Board can continue reviewing the applications and move on to other issue areas. 2. If yes, then the Board must deny the PA/ZC.

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4	<p><u>Definition of Agricultural Land – Part 2 – Legal Test</u></p> <p><u>Is retention of the property's agricultural designation necessary to permit farm practices on adjacent or nearby lands?</u></p> <p>OAR 660-033-0020(1)(a)(C) defines "agricultural land" as "Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands."</p>	<p>The County's findings identify the surrounding farm practices on tables that are a part of its decision (Rec-98-100). The findings, however, do not establish compliance with OAR 660-033-0020(1)(a)(C). This OAR "requires an evaluation of the impacts that redesignating and rezoning land from agricultural to non-resource will have on adjacent or nearby lands and a determination of whether those impacts will prevent farm practices on those lands" making it necessary to retain EFU zoning.</p> <p>The County's findings on remand must evaluate the impacts of water, traffic, nuisance and trespass and determine whether any of those impacts will prevent farm practices from continuing on adjacent or nearby lands.</p> <p>The Court of Appeals agreed with LUBA that the retention of EFU must meet the "high standard" that it is truly "necessary to permit farm practices on adjacent or nearby agricultural lands." The Court found that "necessary" means "whatever is essential for some purpose" and "things that must be had."</p>	<p>The tables in the decision identify adjacent and nearby lands and the farm practices occurring on those lands. The impacts test must be applied to those lands and those farm practices. The only likely exception is the Buchanan's use of their property for wintering cattle owned by Keystone Natural Beef which was not identified by the tables but was treated as an area farm use by LUBA for the combined operations test.</p> <p>Opponents did not address the relevance of LUBA's finding that the County had identified farm practices and adjacent and nearby lands and did not confine their evidence to lands and farm practices identified by the tables.</p> <p>Opponent Redside applies elements of the "significant impacts" test of <i>Stop the Dump</i> and ORS 215.296(1); not the more stringent "prevent farm practices" test established by LUBA and the Court of Appeals.</p>	<p>Redside argues that holdings of the <i>Stop the Dump</i> case apply even though the case addresses the "no significant impacts" test; a test more stringent than the "necessary to permit farm practices" test. (2024-08-14 J. Howsley)</p> <p>DLCD agrees that the "necessary to permit farm practices" test applies and claims that evidence has been provided that residential use may have "significant impacts related to traffic and new water demands" and that the applicant had not, as of August 7, 2024 provided substantial evidence that retaining EFU zoning is not necessary to permit farm practice on adjacent or nearby lands.</p>	<p>Staff recommends that the Board follow the test as set out by LUBA and the Oregon Court of Appeals.</p> <p>Staff recommends that the Board apply to "necessary to permit farm practices" test to the properties identified as adjacent and nearby properties in its prior decision.</p> <p>Staff recommends that the Board review the farm practices identified in its prior decision and determine whether the "necessary" test is met. Staff also recommends that, in an excess of caution, that the Board also address farm practices related to the Buchanan and Two Canyons LLC cattle operations in its decision.</p>	<p>Is retention of the property's agricultural designation necessary to permit farm practices on adjacent or nearby lands?</p> <ol style="list-style-type: none"> 1. If no, then the Board can continue reviewing the applications and move on to other issue areas. 2. If yes, then the Board must deny the PA/ZC.

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5	<p><u>Definition of Agricultural Land – Part 2A, Traffic</u></p> <p>OAR 660-033-0020(1)(a)(C) defines "agricultural land" as "Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands."</p>	<p>While the Board concluded that traffic impacts would not prevent farm practices on adjacent and nearby lands, the findings do not set out the facts which the Board believed and relied upon and did not explain how those facts led to this conclusion.</p>	<p>The subject property does not adjoin and lacks access to Lower Bridge Way and Buckhorn Road, rural collector streets designed to carry a significant amount of vehicle traffic. Any access that might be obtained across public lands will be limited to utility and emergency access only. Eden Central traffic will use Coyner Avenue for access and, therefore, will not interfere with Two Canyons, LLC's cattle driving operation (about 50 head of cattle).</p> <p>Joe Bessman, P.E (Applicant's Exhibit 49) has filed photos and detailed information re farm vehicles to support his opinion that Coyner Avenue and its shoulders are wide enough to allow the Buchanan haying and farm equipment and Eden Central traffic to pass while traveling down this road.</p> <p>Mr. Buchanan does not claim that other potential conflicts will prevent him from continuing accepted farm practices on his property. Open range law requires drivers to compensate Mr. Buchanan for harm to calves. Improved, relatively inexpensive fencing would cure the existing calf escape problem.</p> <p>Other opponents claim traffic will interfere with farm use but not that traffic impacts will prevent farm practices. Opponent Lori Johnson states, in her July 16, 2024 letter that EFU zoning "is not necessary to permit farming practice in the area" and Kelsey Nonella agrees.</p> <p>There are no livestock crossings along the route of travel to Hwy 126 from the Eden Central property.</p> <p>The Applicant includes a Condition of Approval limiting residential development to a maximum of 71 dwellings.</p>	<p>Redside claims Two Canyons, LLC moves cattle between two farm properties owned by Two Canyons, LLC along Lower Bridge Way and a short distance on Buckhorn Road.</p> <p>Mr. Buchanan says that Eden Central traffic will conflict with slow-moving vehicles. He says he would have no way of continuing our operation "if" he cannot get haying equipment down Coyner Avenue and onto his ranch.</p> <p>Mr. Buchanan says that the EFU zone should be preserved to prevent conflicts with farm equipment and cattle trucks that use Coyner Avenue and the not infrequent escape of small calves onto the road.</p> <p>Other opponents say that slow-moving farm vehicles use Coyner Avenue and other roads that pass properties that are not adjacent or nearby lands.</p> <p>Redside claims there is undisputed testimony of livestock crossings in the record citing a statement that the "farming community" has livestock crossing (singular).</p>	<p>Given the applicant's proposed condition of approval agreement, is it <i>necessary</i> for the Agricultural Land/EFU designation of the Eden Central property to be retained to permit farm practices to occur on adjoining or nearby agricultural lands due to traffic impacts?</p> <ol style="list-style-type: none"> 1. If no, then the Board can continue reviewing the applications and move onto the other issues areas. 2. If yes, then the Board must deny the PA/ZC.

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6	<p><u>Definition of Agricultural Land - Part 2B, Water</u></p> <p>OAR 660-033-0020(1)(a)(C) defines "agricultural land" as "Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands."</p>	<p>Findings in the Board's decision must address water impacts and determine whether retaining the existing zoning and plan designation (Agriculture/EFU) is necessary to permit farm practices on adjacent or nearby agricultural lands.</p>	<p>As determined by the Board in 2022, "[a] professional water study conducted by GSI Water Solutions, Inc. found that the use of exempt wells to meet the water needs of new residents would be unlikely to have a measurable interference on agricultural wells and domestic wells in the area around the subject property."</p> <p>OWRD's Regional Manager Kyle Gorman testified in initial application proceedings that groundwater is available, that the aquifer is "robust" and that the aquifer in the area potentially influenced by pumping (Lower Bridge) is declining slowly over time due primarily to drought.</p> <p>The fact that the level of groundwater is dropping gradually is not evidence that water use by 71 homes will result in a discontinuation of irrigated farming on any adjacent or nearby farm property.</p> <p>Bob Long of CwM-H2O (2024-08-07 J. Howsley New Evidence) poses and answers questions not asked by LUBA other than to state that any exempt water use, no matter how small, will increase the rate of decline of groundwater. He offers no evidence that shows that the conclusions of the GSI Water Solutions water analysis are incorrect. He fails to quantify the impacts of water use by Eden Central wells or to establish that the Eden Central use, alone, will impose any additional costs to pump groundwater or to challenge GSI's finding that interfere with agricultural wells is unlikely water use by Eden Central will interfere with the Volwood well closest to the Eden Central.</p> <p>The Applicant proposes to include a Condition of Approval (Pg. 27 of Final Legal Argument and Exhibit 114) to voluntarily reduce the amount of water that could be used from exempt wells for irrigation from the permitted ½ acre of irrigation to ¼ acre. The Applicant proposes this to be memorialized in a Restrictive Covenant recorded to the property's title.</p> <p>The Applicant also includes a Condition of Approval limiting residential development to a maximum of 71 dwellings.</p>	<p>Opponents argue that the groundwater is dropping and, therefore, no new homes should be allowed to be built on the Eden Central property. Opponents assert that a rural development of this size would lower the groundwater and require area wells to be redrilled. Many commenters pointed to a variety of data regarding groundwater levels in the region and well log records that show that some area wells have be redrilled due to dropping groundwater levels.</p> <p>Redside introduced a letter written by Bob Long, RG, LHG, CWRE (2024-08-07 J. Howsley New Evidence) that crafts and answers questions other than those posed by LUBA in its decision. B. Long concludes that because exempt water users are not required by law to provide mitigation, any exempt use no matter how small will cause some decline in groundwater. He asserts that any slight decline will adversely affect agricultural water use and operations by increasing the cost of pumping well water and potentially requiring new wells to be drilled as water levels decline.</p>	<p>Given the applicant's proposed condition of approval agreement, is it necessary to retain EFU zoning to permit farm practices to be undertaken on adjacent and nearby agricultural lands due to water impacts related to the use of exempt groundwater wells by future owners of lots on the Eden Central property?</p> <ol style="list-style-type: none"> 1. If no, then the Board can continue reviewing the applications and move onto the other issues areas. 2. If yes, then the Board must deny the PA/ZC.

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7	<p>OAR 660-033-0020(1)(a)(C) <u>Definition of Agricultural Land – Part 2C, Nuisance and Trespass</u></p> <p>OAR 660-033-0020(1)(a)(C) defines "agricultural land" as "Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands."</p>	<p>Findings in the Board's decision must determine whether potential nuisance and trespass impacts will occur as a result of uses allowed by the RR10 zone and, if so, whether retaining the existing zoning and plan designation (Agriculture/EFU) is necessary to permit farm practices on adjacent or nearby agricultural lands.</p>	<p>No party asserts on remand that nuisance and trespass impacts will prevent farm practices from being undertaken on adjacent or nearby lands or present any testimony or evidence that these potential impacts will do so.</p> <p>The existing EFU zoning on the subject property could allow up to 24 non-farm dwellings and while the RR10 zoning would allow more dwellings, the impacts imposed will be the same as the minimal impacts imposed by a nonfarm dwelling.</p> <p>ORS 30.930-.947, the "Right to Farm" law limits nuisance and trespass lawsuits against farm operators.</p> <p>The applicant asks the County to impose a condition of approval agreement (Applicant's Exhibit 114), enforceable by a recorded restrictive covenant, that requires: (a) those who build new homes to sign the County's EFU waiver of remonstrance agreement that protects accepted farm practices; and (b) that requires new homes to meet a special 100' setback from properties engaged in farm use; and (c) to construct and fence on or near the common boundary (where missing) and post and maintain no trespassing signs along or close to the boundary with the former Volwood Farms property at intervals of 250' – the only farm property that adjoins the subject property at more than one point and that is not separated from it by a road. These measures will significantly minimize potential nuisance and trespass conflicts between farm and nonfarm uses.</p> <p>The Applicant includes a Condition of Approval limiting residential development to a maximum of 71 dwellings.</p>	<p>DLCD argued in 2022 that it was not clear how water, traffic, nuisance and trespass impacts under the new RR-10 zoning would impact area farm operations.</p> <p>In 2024, DLCD argues that testimony indicates that RR10 uses "may have significant impacts related to new residential traffic and new water demands" but does not claim that testimony indicates that nuisance and trespass impacts will be significant or will prevent farm practices from being undertaken on adjacent or nearby lands. This reflects the fact that evidence and arguments on remand about impacts has not included concerns about trespass or nuisance.</p>	<p>Considering the proposed conditions of approval agreement (Applicant's Exhibit 114), will potential nuisance and trespass impacts associated with the application request prevent the continuation of farm practices on nearby or adjacent lands?</p> <ol style="list-style-type: none"> 1. If no, then the Board can continue reviewing the applications and move onto the other issues areas. 2. If yes, then the Board must deny the PA/ZC.

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8a	<p><u>DCC 18.136.020(C)(2) and DCCP Agricultural Lands Goal 1 – Impacts on Surrounding Land Use, Board Interpretation of the Code and Goal</u></p> <p>DCC 18.136.020(C)(2) requires that <i>“impacts on surrounding land use will be consistent with the specific goal and policies contained within the Comprehensive Plan.”</i></p> <p>DCCP Agricultural Lands Goal 1 is to <i>“[p]reserve and maintain agricultural lands and the agricultural industry.”</i></p>	<p>(Pg 73-74) The County’s findings are <i>not</i> inadequate for failing to address surrounding non-resource lands.</p> <p>However, findings that an increase from 24 to 71 dwellings will have no greater water, wastewater or traffic impacts on surrounding agricultural lands and the agricultural industry, and findings relying on the distance of the property and surrounding agricultural lands to address these impacts are inadequate because it is unclear how this fact will mitigate water, wastewater or traffic impacts and achieve compliance with DCC 18.136.020(C)(2) and DCCP Agricultural Lands Goal 1. The County must consider evidence of impacts on surrounding agricultural lands vis-a-vis water, wastewater, and traffic.</p>	<p>The County is due deference in interpreting provisions of its code and comprehensive plan that are not mandated by State law. In this case, neither the code nor the plan text is mandated by state law. The applicant asks that the County interpret the Goal 1 and the impacts test of DCC 18.136.020(C)(2), as they relate to impacts of the proposed PA/ZC, as requiring compliance with the impact test formulated by LUBA based on the provisions of OAR 660-033-0020(1)(a)(C). That test will preserve and maintain agricultural lands and the agricultural industry by protecting surrounding agricultural lands. That test includes both adjoining and nearby lands that surround the property and the County has already properly identified those lands. Ensuring that farm practices on those lands will be able to continue assures that those lands and the industry will be preserved.</p> <p>The proposed interpretation of DCCP Agricultural Lands Policy Goal 1 is reasonable because Goal 1 is implemented by DCCP Policies 2.2.1 – 2.28. Policy 2.2.3 allows plan and zone map amendments for non-resource land “as allowed by State Statute, <i>Oregon Administrative Rules</i> and this Comprehensive Plan” – rules that include OAR 660-033-0020(1)(a)(C) that addresses impacts to adjoining and nearby lands.</p>	<p>Opponents did not, on remand, weigh in on the issue of the proper interpretation of DCC 18.136.020(C)(2) and DCCP Agricultural Lands Goal 1. They did claim that water, wastewater and traffic impacts would occur and that the application, therefore, should be denied. The traffic and water impacts have been addressed by this matrix under the analysis of OAR 660-033-0020(1)(a)(C). Issues related to wastewater impacts are addressed below.</p>	<p>Does the Board concur with the Applicant’s approach to analyze compliance with DCCP Agricultural Lands Goal 1 as it relates to DCC 18.36.020?</p> <ol style="list-style-type: none"> 1. If yes, the Board can continue reviewing the application materials and move onto the next issue area. 2. If no, how does the Board wish to interpret compliance with the above stated provisions and the impacts test?

No.	Issue Area/Approval Criterion	LUBA Final Order and Opinion	Applicant Response	Opponent Testimony	Board Decision Points
8b	<p><u>DCC 18.136.020(C)(2) and DCCP Agricultural Lands Goal 1 – Impacts on Surrounding Land Use – Analysis of Impacts</u></p> <p>DCC 18.136.020(C)(2) requires that <i>“impacts on surrounding land use will be consistent with the specific goal and policies contained within the Comprehensive Plan.”</i></p> <p>DCCP Agricultural Lands Goal 1 is to <i>“[p]reserve and maintain agricultural lands and the agricultural industry.”</i></p>	<p>The County must consider evidence of impacts on surrounding agricultural lands vis-a-vis water, wastewater, and traffic and determine whether they are consistent with DCCP Agricultural Lands Goal 1.</p>	<p>The applicant addressed water and traffic issues in its response to the requirements of OAR 660-033-0020(1)(a)(C). That response also establishes that the impacts on surrounding lands will be consistent with DCCP Agricultural Lands Goal 1.</p> <p>Certified Professional Soil Scientist and Registered Wastewater Specialist Brian Rabe, CPSS, WWS, based on his expertise and experience in addressing septic system and soils issues and his site-specific soil survey of the Eden Central property, advised “given the location of the property and the size of potential residential lots, it is my professional opinion that there will be no wastewater impacts on nearby or surrounding agricultural lands or the farm uses or farm practices on such lands.” Applicant Exhibit 36. Mr. Rabe specifically rejected claims made by Redside’s attorney, that nitrate testing of agricultural wells was necessary and provided evidence that nitrates are beneficially used in agriculture (Applicant Exhibit 48). He also rebutted Mr. Buchanan’s claim that “the drainage of sewage from 71 homes would result in significant negative changes in our farm practices” stating that no evidence support the claim (Applicant Exhibit 76).</p> <p>The Applicant proposes to include a Condition of Approval (Pg. 27 of Final Legal Argument and Exhibit 114) to voluntarily reduce the amount of water that could be used from exempt wells for irrigation from the permitted ½ acre of irrigation to ¼ acre. The Applicant proposes this to be memorialized in a Restrictive Covenant recorded to the property’s title.</p> <p>The Applicant includes a Condition of Approval limiting residential development to a maximum of 71 dwellings.</p> <p>Other conditions the Applicant proposes include:</p> <ul style="list-style-type: none"> • 100-foot setbacks from lands engaged in farm use and receiving farm tax deferral • Residential access only from NW Coyner Avenue. Other access points are emergency only. • No destination resort may be established on the property. • Waiver of Remonstrance precluding complaints against nearby farm practices. 	<p>Redside attorney James Howsley offered his opinion that the permeability of subsoils “means that wastewater from septic drain fields will flow down to the groundwater at a relatively high rate” and that there is no evidence of current or potential nitrate levels in nearby wells and that testing wells for nitrates is required to find that septic systems will not impact groundwater quality.</p> <p>Mr. Buchanan claims that “the drainage of sewage from 71 homes would result in significant negative changes in our farm practices” but did not identify any farm practices that would be impacted or offer scientific proof of this assertion. See, Billy Buchanan letter of 2024-08-07 and testimony at July 24, 2024 hearing.</p>	<p>Considering the proposed conditions of approval agreement (Applicant’s Exhibit 114), will the impacts of the zone change on surrounding land use be consistent with DCCP Agricultural Lands Goal 1, considering water, wastewater, and traffic impacts?</p> <ol style="list-style-type: none"> 1. If yes, then the Board can continue reviewing the applications and move to approve the application. 2. If no, the Board must deny the application.



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 4, 2024

SUBJECT: Deliberations: Remand of 710 Properties/Eden Properties Plan Amendment and Zone Change - 247-24-000395-A (247-21-001043-PA, 1044-ZC)

RECOMMENDED MOTION:

At the conclusion of deliberations, the Board can choose one of the following options:

- Continue deliberations to a date and time to be scheduled; or
- Close deliberations and propose a motion to approve or deny the application, and direct staff to return at a later date with a draft decision.

To the extent the Board decides to approve the Plan Amendment and Zone Change, a motion as follows will likely be appropriate:

The Board moves to approve the remanded Plan Amendment and Zone Change for file nos. 247-24-000395-A, 247-21-001043-PA, and 247-21-001044-ZC.

To the extent the Board decides to deny the Plan Amendment and Zone Change, that motion will need to be crafted to address the Board's specific concerns, as discussed in the deliberations.

BACKGROUND AND POLICY IMPLICATIONS:

The Board of Commissioners (Board) will deliberate on September 4, 2024 to consider a remand decision of the Oregon Land Use Board of Appeals (LUBA) regarding a Plan Amendment and Zone Change application proposed by 710 Properties, LLC (Applicant) originally approved by the Board under files 247-21-001043-PA, 1044-ZC. A public hearing was held on July 24, 2024. The full record is located on the project webpage: <https://www.deschutes.org/cd/page/luba-remand-247-24-000395-247-21-001043-pa-and-247-21-001044-zc-eden-central-properties>

BUDGET IMPACTS:

None.

ATTENDANCE:

Haleigh King, Associate Planner



COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Deschutes County Board of Commissioners (Board)

FROM: Haleigh King, Associate Planner

DATE: August 28, 2024

SUBJECT: Deliberations – Remand of Eden Properties Plan Amendment and Zone Change – 247-24-000395-A (247-21-001043-PA, 1044-ZC)

The Board held a public hearing on July 24, 2024, to consider a remanded decision of the Oregon Land Use Board of Appeals, affirmed by the State Court of Appeals. The remanded decision is a request for a Plan Amendment and Zone Change (file nos. 247-21-001043-PA, 1044-ZC) for nine tax lots totaling approximately 710 acres to the west of Terrebonne and north of Highway 126. The Board is scheduled to deliberate on September 4, 2024 in consideration of the request.

I. BACKGROUND

The applicant, 710 Properties, LLC/Eden Central Properties, LLC, is requesting a Comprehensive Plan Amendment to re-designate the subject properties from Agriculture to Rural Residential Exception Area and a Zoning Map Amendment to rezone the properties from Exclusive Farm Use (EFU) to Rural Residential (RR-10). The subject property totals ±710 acres in size.

The application was originally approved by a Board majority on December 14, 2022 following a public hearing held on August 17, 2022, a subsequent open record period. Following Board approval, the application was appealed to the Oregon Land Use Board of Appeals (LUBA) and the Court of Appeals and was remanded back to the County for additional review on a number of specific issue areas discussed below. The remand was then initiated by the applicant for County review on June 26, 2024. The final day in which the County must issue a final decision is October 24, 2024.

II. OPEN RECORD PERIOD

Following the July 24, 2024 hearing, the written record was left open for a total of 28 days consisting of the following: 14 days for New Evidence and Testimony, seven (7) days for Rebuttal, and seven (7) days for Applicant’s Final Legal Argument.

During the initial 7-day segment of the 28-day open record period, staff received 27 public comments, including the applicant’s submittal which included Exhibit Nos. 48 to 75, as new evidence and

testimony. During the second 7-day segment of the open record period, staff received four (4) rebuttal responses to the new evidence and testimony that was received, including the applicant's submittal which included Exhibit Nos. 76 to 111. The Applicant's final legal argument was received on August 21, 2024, at the conclusion of the open record period and includes Exhibit Nos. 111-115.

The new evidence and testimony received during the open record largely reiterated concerns and arguments that were raised during public testimony of the Board's public hearing on July 24, 2024. During this first open record period, Staff received an agency comment from Department of Land Conservation and Development (DLCD) restating their concerns with the application and referencing their original April 19, 2022 letter to be reentered into the record. Other concerns include, but are not limited to, impacts to wildlife, impacts to groundwater and aquifer levels, future potential development of the subject property, traffic impacts, and the validity of the applicant's argument regarding the property's suitability for farm use, as defined by state statute.

The rebuttal testimony received during the open record period largely reiterated concerns and arguments that were raised during public testimony and during the first open record period including, but are not limited to, traffic impacts on surrounding farm operations, water impacts, general land use compatibility, and the subject property's qualifications as agricultural land, or lack thereof.

III. BOARD DELIBERATIONS

On September 4, 2024 the Board will deliberate on the remanded Plan Amendment and Zone Change requests. If the Board finds that additional deliberations are necessary, the Board may schedule a future date for continued deliberations. Due to the limited time to process the remand application, Staff will include a placeholder for this item on the September 16, 2024 Board agenda if the Board chooses to continue deliberations. If the Board finds no additional deliberations are necessary, the Board may vote the application.

Board Decision Matrix

Staff has provided a decision matrix summarizing the issue areas, and information from the open record period and previous public hearings as an attachment to this memorandum. As identified on the decision matrix, there are decision points for the Board to determine whether issues areas have been sufficiently addressed.

IV. NEXT STEPS

If the Board determines that additional deliberations are necessary, staff will include a place holder for this item on the September 16, 2024 agenda. If the Board concludes their deliberations during the September 4, 2024 meeting, the Board may then vote on whether to approve or deny the Plan Amendment and Zone Change. If the Board renders a vote during the September 4, 2024 or any future meeting, staff will coordinate with the Board to return for a future meeting to review the draft decision, draft ordinance and relevant exhibits. If appropriate, the first reading of the ordinance can be initiated at that time.

V. MOTION

To the extent the Board decides to approve the Plan Amendment and Zone Change, a motion as follows will likely be appropriate:

The Board moves to approve the remanded Plan Amendment and Zone Change for file nos. 247-24-000395-A, 247-21-001043-PA, and 247-21-001044-ZC.

To the extent the Board decides to deny the Plan Amendment and Zone Change, that motion will need to be crafted to address the Board's specific concerns, as discussed in the deliberations.

VI. RECORD

The record for File Nos. 247-24-000395-A (247-21-001043-PA, 1044-ZC) are as presented at the following Deschutes County Community Development Department website:

<https://www.deschutes.org/cd/page/luba-remand-247-24-000395-247-21-001043-pa-and-247-21-001044-zc-eden-central-properties>

ATTACHMENTS:

- 1) Board Decision Matrix

BOCC Decision Matrix – Remand of Eden Properties Plan Amendment/Zone Change

Land Use File No. 247-24-000395-A (247-21-001043-PA, 1044-ZC)

No.	Issue Area/Approval Criterion	LUBA Final Order and Opinion	Applicant Response	Opponent Testimony	Board Decision Points
1	<p><u>Definition of Agricultural Land and Farm Use pursuant to ORS 215.203 and OAR 660-033-0030</u></p> <p>OAR 660-033-0030(3) requires that “nearby or adjacent land, regardless of ownership, shall be examined to the extent that a lot or parcel is either ‘suitable for farm use’ or ‘necessary to permit farm practices to be undertaken on adjacent or nearby lands’ outside the lot or parcel.”</p> <p>Is the subject property suitable for farm use <u>in conjunction with other property?</u></p>	<p>(pg. 37) “Relating the profitability of farm related activity solely to the activity on the subject property places undue weight on profitability. The board of commissioners improperly weighed the consideration of profitability of the subject property operating independently.”</p> <p>The Board decision fails to consider the ability to use the subject property with a primary purpose of obtaining a profit in money <i>in conjunction with other property.</i></p>	<p>The Board’s 2022 decision identifies nearby or adjacent lands and the farm uses occurring there on at Rec-97-100. The former Volwood Farms, Nicol Valley Farms, Stabb and Buchanan properties are the only nearby or adjacent lands engaged in farm use.</p> <p>The Buchanan property was the only property identified as keeping livestock.</p> <p>The applicant asserts the subject property is not suitable for irrigated agriculture due to the prohibitive cost of financing the acquisition of water rights and the development and operation of wells, pumps, and irrigation pivots.</p> <p>Applicant’s Open Record Exhibits 73 and 111 include testimony from rancher Rand Campbell finding combined operations with the Buchanans would not be profitable and would not be undertaken by reasonable farmer with intention to make a profit in money – relied on accepted farm practice of raising, selling cattle at auction to estimate cattle revenue.</p> <p>Applicant Open Record Exhibit 107 – Declaration of Robert Turner who spoke with former Volwood Farms owners who stated they would not consider combining operations with the Eden Property due to lack of irrigation, improvement costs due to fencing, inadequate forage, difficult seeding process due to lack of water and arid climate for successful germination.</p> <p>Central Oregon ranch owner/operator Russ Mattis submitted comment (July 23, 2024) stating they would not consider grazing the subject property alone or in conjunction with his ranch properties due to setup costs for fencing, rock removal, establishing water rights.</p>	<p>B. and E. Buchanan, adjacent owners and operators of Keystone Natural Beef, state they would use the property to expand their cattle ranching operation and they assert the subject property is suitable for seasonal grazing for the following reasons (2024-07-24 Public Comment):</p> <ul style="list-style-type: none"> • No need for irrigation, winter moisture is sufficient for seasonal grazing • Turnout period for grazing cows on site would start in April/May and continue to early August • Introduce drought tolerant grasses • Grazing land with characteristics of the Eden property is a well-accepted farming practice in Central Oregon • Utilize property as a breeding development center for their registered cattle. • Terrain is conducive for a feedlot-type setting due to rocky hillsides and uneven terrain providing muscular training and maintaining hoof health • Submitted business plan, dated July 24, 2024. <p>DLCD (2024-08-07 Comment):</p> <ul style="list-style-type: none"> • Record provided by applicant does not fully explore Buchanan opportunity as it relates to the possible farm uses. • “Accepted farming practices of the greater Central Oregon region include seasonal rotation of livestock over multiple properties and large areas, many of which do not contain irrigation rights.” 	<p>Based on the evidence in the record, is the subject property suitable for farm use <u>in conjunction with other property?</u></p> <ol style="list-style-type: none"> 1. If no, then the Board can continue reviewing the applications and move onto the other issue areas. 2. If yes, then the Board must deny the application.

No.	Issue Area/Approval Criterion	LUBA Final Order and Opinion	Applicant Response	Opponent Testimony	Board Decision Points
2	<p><u>Definition of Agricultural Land and Imported Feed</u></p> <p>OAR 660-033-0020(1)(a)(B) defines agricultural land as "Land in other soil classes that is <u>suitable for farm use</u> as defined in ORS 215.203(2)(a), taking into consideration:</p> <ul style="list-style-type: none"> • 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 <p>Based on the above factors, is the subject property suitable for the feeding, breeding, management, and sale of livestock and poultry or the stabling or training of equines for the primary purpose of obtaining a profit in money <i>if feed is imported from off-site?</i></p>	<p>(pg. 41) ...the board of commissioners' interpretation is not supported by the text of OAR 660-033-0020(1)(a)(B) or ORS 215.203(2)(a), both of which are silent as to the source of the feed that is necessary to sustain animals involved in farm uses. ***</p> <p>Whether livestock, poultry, and equines are sustained with forage grown on-site or feed imported from off-site, their feeding, breeding, management, sale, stabling, and training potentially qualify as farm uses. The board of commissioners misconstrued OAR 660-033-0020(1)(a)(B) or ORS 215.203(2)(a) in concluding that land is suitable for farm uses involving animals only if sufficient feed can be grown on-site. ***</p> <p>(pg. 42) It may be that, even if feed is imported from off-site, the subject property is not suitable for the feeding, breeding, management, and sale of livestock and poultry or the stabling or training of equines for the primary purpose of obtaining a profit in money, given the factors listed in OAR 660-033-0020(1)(a)(B). However, the board of commissioners did not reach that conclusion. On remand, the county will have an opportunity to evaluate the testimony that 710 properties cites through the proper lens and reach its own conclusion.</p>	<p>Applicant's Final Legal Argument relies on evidence submitted to the record from rancher Rand Campbell who analyzes the economic viability of livestock, poultry, and stabling and training of equine operations – see Applicant's Exhibits 43 (cattle, goats), 47 (goats, sheep suitability factors), 50 (suitability for chickens), 108 (horse operations), 111 (cattle operations with the Buchanan Coyner Road property).</p> <p>Mr. Campbell's analysis of the imported feed and suitability issue is also supported by exhibits filed by the applicant, regarding livestock, poultry and equine uses. See, Exhibits 2-6, 12, 14 (significant financial losses for Lower Bridge alpaca operation), 20-24, 26-29, 32, 37, 64, 77.</p> <p>Mr. Campbell's analysis of combined operations concludes that importing feed is a money-losing proposition. He found that "the more hay a rancher needs to purchase and feed their cattle, the less profitable they will be" and "[i]ncreasing the number of cow-calf pairs would also lead to further losses due to reliance on expensive outside hay."</p>	<p>Central Oregon LandWatch (2024-07-24) asserts:</p> <ul style="list-style-type: none"> • Nearby feed stores in Redmond area can deliver feed directly to area farms and ranches for variety of livestock, equine, poultry uses. • Common practice to supply or supplement feed from feed stores. • No specific economic analysis included. <p>K. Nonella, Equine Nutritionist (2024-07-30) asserts that the subject property is well-suited for the stabling, training, and boarding of equines as horses need dry land acreage as well as goats due to adaptation to arid climates and browsing habits.</p>	<p>Based on the evidence in the record, is the subject property suitable for the feeding, breeding, management, and sale of livestock and poultry or the stabling or training of equines for the primary purpose of obtaining a profit in money <u>if feed is imported from off-site?</u></p> <ol style="list-style-type: none"> 1. If no, then the Board can continue reviewing the applications and move onto the other issue areas. 2. If yes, then the Board must deny the application.

No.	Issue Area/Approval Criterion	LUBA Final Order and Opinion	Applicant Response	Opponent Testimony	Staff Comment	Board Decision Points
3	<p><u>Definition of Agricultural Land and Equipment and Facilities to support Farm Activities</u></p> <p>OAR 660-033-0020(1)(a)(B) defines agricultural land as "Land in other soil classes that is <u>suitable for farm use</u> as defined in ORS 215.203(2)(a), taking into consideration:</p> <ul style="list-style-type: none"> • 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" <p>ORS 215.203(2)(a) defines <u>farm use</u> in part as, "Farm use also includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection."</p> <p><u>Given the factors in OAR 660-033-0020(1)(a)(B), is the property suitable for the construction or maintenance of equipment and facilities used for farm activities even where those farm activities occur on other lands?</u></p>	<p>(pg. 44) "Under ORS 215.203(2)(a), "farm use" includes the [on-site] construction and maintenance of equipment and facilities used for farm activities" whether they occur on the subject property or elsewhere.</p> <p>(pg. 45) "The board of commissioners misconstrued OAR 660-033-0020(1)(a)(B) and ORS 215.203(2)(a) in concluding that land is suitable for that farm use only if the farm activities occur on the same land."</p>	<p>This use is limited, by its express terms, to the on-site <i>construction</i> and <i>maintenance</i> of equipment and facilities used for farm uses. Construction is the act of building something, typically a large structure, and maintenance is keeping the structure in good repair once it is built. These acts, and these acts alone, are allowed by this part of the definition of "farm use." The use does not include the uses that occur within the structure or with the equipment once constructed or maintained. The storage of farm equipment and/or farm products is only a farm use if it meets other parts of the definition of "farm use." ORS 215.203(2)(b).</p> <p>The preparation and storage of farm products and by-products is defined separately and earlier in ORS 215.203(2)(b) as a "farm use." That use is limited to the preparation and storage of products and by-products <i>"raised on such land."</i> Farm equipment storage is allowed if it is a part of the current employment of the land for farm activities conducted with the primary purpose of obtaining a profit in money. The subject property is not suitable for conducting a "farm use" with that intention.</p> <p>The remaining issue is whether the subject property is a suitable place to construct or maintain a farm structure or farm equipment on the subject property for a farm use occurring on another property if the property is suitable for farm use. As a result, the applicant assessed whether the property is suitable for farm equipment repair facilities that serve "farm uses" only and the construction of farm equipment or structures on site for use elsewhere. A review of the seven suitability factors shows that the property is not suitable for these uses and other similar uses based on three or more of the seven suitability factors, as detailed in the Applicant's Final Legal Argument.</p>	<p>The Johnsons and others assert that the subject property is suitable for the construction of new homes so is appropriate for the construction of any type of farm structure.</p> <p>The Buchanans say they would like to store farm equipment on the property.</p> <p>DLCD asserts that the use allowed is "the construction and maintenance of equipment and facilities used to support farm practices including barns, agricultural storage sheds and other preparation facilities, processing facilities allowed by ORS 215.255, hay covers, cattle lanes, driveways, holding pens, and similar improvements and structures included in the definition of farm use..."</p> <p>Farm and ranch stores without a primary farm use on the subject parcel is a commercial activity in conjunction with farm use so the applicant's evidence is irrelevant. DLCD acknowledges that the property lacks 'urban services' and 'adequate transportation' to support a more intense use of the subject property but says that residential development would exceed the traffic generated by a single farm equipment business.</p>	<p>Similar to what DLCD noted in their comment, Staff understands that stand alone commercial farm and ranch stores are not permitted in the EFU Zone without a primary farm use on the subject property or otherwise "in conjunction with farm use."</p> <p>Staff understands the remanded issue requires additional evidence and conclusions regarding the suitability of the property for on-site construction and maintenance of equipment and facilities used for farm activities, even if those activities occur on other lands.</p>	<p>Given the factors in OAR 660-033-0020(1)(a)(B), is the property suitable for the construction or maintenance of equipment and facilities used for farm activities even where those farm activities occur on other lands?</p> <ol style="list-style-type: none"> 1. If no, then the Board can continue reviewing the applications and move on to other issue areas. 2. If yes, then the Board must deny the PA/ZC.

Issue	Issue Area/Approval Criterion	LUBA Final Order and Opinion	Applicant Response	Opponent Testimony	Staff Comment	Board Decision Points
4	<p><u>Definition of Agricultural Land – Part 2 – Legal Test</u></p> <p><u>Is retention of the property's agricultural designation necessary to permit farm practices on adjacent or nearby lands?</u></p> <p>OAR 660-033-0020(1)(a)(C) defines "agricultural land" as "Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands."</p>	<p>The County's findings identify the surrounding farm practices on tables that are a part of its decision (Rec-98-100). The findings, however, do not establish compliance with OAR 660-033-0020(1)(a)(C). This OAR "requires an evaluation of the impacts that redesignating and rezoning land from agricultural to non-resource will have on adjacent or nearby lands and a determination of whether those impacts will prevent farm practices on those lands" making it necessary to retain EFU zoning.</p> <p>The County's findings on remand must evaluate the impacts of water, traffic, nuisance and trespass and determine whether any of those impacts will prevent farm practices from continuing on adjacent or nearby lands.</p> <p>The Court of Appeals agreed with LUBA that the retention of EFU must meet the "high standard" that it is truly "necessary to permit farm practices on adjacent or nearby agricultural lands." The Court found that "necessary" means "whatever is essential for some purpose" and "things that must be had."</p>	<p>The tables in the decision identify adjacent and nearby lands and the farm practices occurring on those lands. The impacts test must be applied to those lands and those farm practices. The only likely exception is the Buchanan's use of their property for wintering cattle owned by Keystone Natural Beef which was not identified by the tables but was treated as an area farm use by LUBA for the combined operations test.</p> <p>Opponents did not address the relevance of LUBA's finding that the County had identified farm practices and adjacent and nearby lands and did not confine their evidence to lands and farm practices identified by the tables.</p> <p>Opponent Redside applies elements of the "significant impacts" test of <i>Stop the Dump</i> and ORS 215.296(1); not the more stringent "prevent farm practices" test established by LUBA and the Court of Appeals.</p>	<p>Redside argues that holdings of the <i>Stop the Dump</i> case apply even though the case addresses the "no significant impacts" test; a test more stringent than the "necessary to permit farm practices" test. (2024-08-14 J. Howsley)</p> <p>DLCD agrees that the "necessary to permit farm practices" test applies and claims that evidence has been provided that residential use may have "significant impacts related to traffic and new water demands" and that the applicant had not, as of August 7, 2024 provided substantial evidence that retaining EFU zoning is not necessary to permit farm practice on adjacent or nearby lands.</p>	<p>Staff recommends that the Board follow the test as set out by LUBA and the Oregon Court of Appeals.</p> <p>Staff recommends that the Board apply to "necessary to permit farm practices" test to the properties identified as adjacent and nearby properties in its prior decision.</p> <p>Staff recommends that the Board review the farm practices identified in its prior decision and determine whether the "necessary" test is met. Staff also recommends that, in an excess of caution, that the Board also address farm practices related to the Buchanan and Two Canyons LLC cattle operations in its decision.</p>	<p>Is retention of the property's agricultural designation necessary to permit farm practices on adjacent or nearby lands?</p> <ol style="list-style-type: none"> 1. If no, then the Board can continue reviewing the applications and move on to other issue areas. 2. If yes, then the Board must deny the PA/ZC.

No.	Issue Area/Approval Criterion	LUBA Final Order and Opinion	Applicant Response	Opponent Testimony	Board Decision Points
5	<p><u>Definition of Agricultural Land – Part 2A, Traffic</u></p> <p>OAR 660-033-0020(1)(a)(C) defines "agricultural land" as "Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands."</p>	<p>While the Board concluded that traffic impacts would not prevent farm practices on adjacent and nearby lands, the findings do not set out the facts which the Board believed and relied upon and did not explain how those facts led to this conclusion.</p>	<p>The subject property does not adjoin and lacks access to Lower Bridge Way and Buckhorn Road, rural collector streets designed to carry a significant amount of vehicle traffic. Any access that might be obtained across public lands will be limited to utility and emergency access only. Eden Central traffic will use Coyner Avenue for access and, therefore, will not interfere with Two Canyons, LLC's cattle driving operation (about 50 head of cattle).</p> <p>Joe Bessman, P.E (Applicant's Exhibit 49) has filed photos and detailed information re farm vehicles to support his opinion that Coyner Avenue and its shoulders are wide enough to allow the Buchanan haying and farm equipment and Eden Central traffic to pass while traveling down this road.</p> <p>Mr. Buchanan does not claim that other potential conflicts will prevent him from continuing accepted farm practices on his property. Open range law requires drivers to compensate Mr. Buchanan for harm to calves. Improved, relatively inexpensive fencing would cure the existing calf escape problem.</p> <p>Other opponents claim traffic will interfere with farm use but not that traffic impacts will prevent farm practices. Opponent Lori Johnson states, in her July 16, 2024 letter that EFU zoning "is not necessary to permit farming practice in the area" and Kelsey Nonella agrees.</p> <p>There are no livestock crossings along the route of travel to Hwy 126 from the Eden Central property.</p> <p>The Applicant includes a Condition of Approval limiting residential development to a maximum of 71 dwellings.</p>	<p>Redside claims Two Canyons, LLC moves cattle between two farm properties owned by Two Canyons, LLC along Lower Bridge Way and a short distance on Buckhorn Road.</p> <p>Mr. Buchanan says that Eden Central traffic will conflict with slow-moving vehicles. He says he would have no way of continuing our operation "if" he cannot get haying equipment down Coyner Avenue and onto his ranch.</p> <p>Mr. Buchanan says that the EFU zone should be preserved to prevent conflicts with farm equipment and cattle trucks that use Coyner Avenue and the not infrequent escape of small calves onto the road.</p> <p>Other opponents say that slow-moving farm vehicles use Coyner Avenue and other roads that pass properties that are not adjacent or nearby lands.</p> <p>Redside claims there is undisputed testimony of livestock crossings in the record citing a statement that the "farming community" has livestock crossing (singular).</p>	<p>Given the applicant's proposed condition of approval agreement, is it <i>necessary</i> for the Agricultural Land/EFU designation of the Eden Central property to be retained to permit farm practices to occur on adjoining or nearby agricultural lands due to traffic impacts?</p> <ol style="list-style-type: none"> 1. If no, then the Board can continue reviewing the applications and move onto the other issues areas. 2. If yes, then the Board must deny the PA/ZC.

No.	Issue Area/Approval Criterion	LUBA Final Order and Opinion	Applicant Response	Opponent Testimony	Board Decision Points
6	<p><u>Definition of Agricultural Land - Part 2B, Water</u></p> <p>OAR 660-033-0020(1)(a)(C) defines "agricultural land" as "Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands."</p>	<p>Findings in the Board's decision must address water impacts and determine whether retaining the existing zoning and plan designation (Agriculture/EFU) is necessary to permit farm practices on adjacent or nearby agricultural lands.</p>	<p>As determined by the Board in 2022, "[a] professional water study conducted by GSI Water Solutions, Inc. found that the use of exempt wells to meet the water needs of new residents would be unlikely to have a measurable interference on agricultural wells and domestic wells in the area around the subject property."</p> <p>OWRD's Regional Manager Kyle Gorman testified in initial application proceedings that groundwater is available, that the aquifer is "robust" and that the aquifer in the area potentially influenced by pumping (Lower Bridge) is declining slowly over time due primarily to drought.</p> <p>The fact that the level of groundwater is dropping gradually is not evidence that water use by 71 homes will result in a discontinuation of irrigated farming on any adjacent or nearby farm property.</p> <p>Bob Long of CwM-H2O (2024-08-07 J. Howsley New Evidence) poses and answers questions not asked by LUBA other than to state that any exempt water use, no matter how small, will increase the rate of decline of groundwater. He offers no evidence that shows that the conclusions of the GSI Water Solutions water analysis are incorrect. He fails to quantify the impacts of water use by Eden Central wells or to establish that the Eden Central use, alone, will impose any additional costs to pump groundwater or to challenge GSI's finding that interfere with agricultural wells is unlikely water use by Eden Central will interfere with the Volwood well closest to the Eden Central.</p> <p>The Applicant proposes to include a Condition of Approval (Pg. 27 of Final Legal Argument and Exhibit 114) to voluntarily reduce the amount of water that could be used from exempt wells for irrigation from the permitted ½ acre of irrigation to ¼ acre. The Applicant proposes this to be memorialized in a Restrictive Covenant recorded to the property's title.</p> <p>The Applicant also includes a Condition of Approval limiting residential development to a maximum of 71 dwellings.</p>	<p>Opponents argue that the groundwater is dropping and, therefore, no new homes should be allowed to be built on the Eden Central property. Opponents assert that a rural development of this size would lower the groundwater and require area wells to be redrilled. Many commenters pointed to a variety of data regarding groundwater levels in the region and well log records that show that some area wells have be redrilled due to dropping groundwater levels.</p> <p>Redside introduced a letter written by Bob Long, RG, LHG, CWRE (2024-08-07 J. Howsley New Evidence) that crafts and answers questions other than those posed by LUBA in its decision. B. Long concludes that because exempt water users are not required by law to provide mitigation, any exempt use no matter how small will cause some decline in groundwater. He asserts that any slight decline will adversely affect agricultural water use and operations by increasing the cost of pumping well water and potentially requiring new wells to be drilled as water levels decline.</p>	<p>Given the applicant's proposed condition of approval agreement, is it necessary to retain EFU zoning to permit farm practices to be undertaken on adjacent and nearby agricultural lands due to water impacts related to the use of exempt groundwater wells by future owners of lots on the Eden Central property?</p> <ol style="list-style-type: none"> 1. If no, then the Board can continue reviewing the applications and move onto the other issues areas. 2. If yes, then the Board must deny the PA/ZC.

No.	Issue Area/Approval Criterion	LUBA Final Order and Opinion	Applicant Response	Opponent Testimony	Board Decision Points
7	<p>OAR 660-033-0020(1)(a)(C) <u>Definition of Agricultural Land – Part 2C, Nuisance and Trespass</u></p> <p>OAR 660-033-0020(1)(a)(C) defines "agricultural land" as "Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands."</p>	<p>Findings in the Board’s decision must determine whether potential nuisance and trespass impacts will occur as a result of uses allowed by the RR10 zone and, if so, whether retaining the existing zoning and plan designation (Agriculture/EFU) is necessary to permit farm practices on adjacent or nearby agricultural lands.</p>	<p>No party asserts on remand that nuisance and trespass impacts will prevent farm practices from being undertaken on adjacent or nearby lands or present any testimony or evidence that these potential impacts will do so.</p> <p>The existing EFU zoning on the subject property could allow up to 24 non-farm dwellings and while the RR10 zoning would allow more dwellings, the impacts imposed will be the same as the minimal impacts imposed by a nonfarm dwelling.</p> <p>ORS 30.930-.947, the “Right to Farm” law limits nuisance and trespass lawsuits against farm operators.</p> <p>The applicant asks the County to impose a condition of approval agreement (Applicant’s Exhibit 114), enforceable by a recorded restrictive covenant, that requires: (a) those who build new homes to sign the County’s EFU waiver of remonstrance agreement that protects accepted farm practices; and (b) that requires new homes to meet a special 100’ setback from properties engaged in farm use; and (c) to construct and fence on or near the common boundary (where missing) and post and maintain no trespassing signs along or close to the boundary with the former Volwood Farms property at intervals of 250’ – the only farm property that adjoins the subject property at more than one point and that is not separated from it by a road. These measures will significantly minimize potential nuisance and trespass conflicts between farm and nonfarm uses.</p> <p>The Applicant includes a Condition of Approval limiting residential development to a maximum of 71 dwellings.</p>	<p>DLCD argued in 2022 that it was not clear how water, traffic, nuisance and trespass impacts under the new RR-10 zoning would impact area farm operations.</p> <p>In 2024, DLCD argues that testimony indicates that RR10 uses “may have significant impacts related to new residential traffic and new water demands” but does not claim that testimony indicates that nuisance and trespass impacts will be significant or will prevent farm practices from being undertaken on adjacent or nearby lands. This reflects the fact that evidence and arguments on remand about impacts has not included concerns about trespass or nuisance.</p>	<p>Considering the proposed conditions of approval agreement (Applicant’s Exhibit 114), will potential nuisance and trespass impacts associated with the application request prevent the continuation of farm practices on nearby or adjacent lands?</p> <ol style="list-style-type: none"> 1. If no, then the Board can continue reviewing the applications and move onto the other issues areas. 2. If yes, then the Board must deny the PA/ZC.

No.	Issue Area/Approval Criterion	LUBA Final Order and Opinion	Applicant Response	Opponent Testimony	Board Decision Points
8a	<p><u>DCC 18.136.020(C)(2) and DCCP Agricultural Lands Goal 1 – Impacts on Surrounding Land Use, Board Interpretation of the Code and Goal</u></p> <p>DCC 18.136.020(C)(2) requires that <i>“impacts on surrounding land use will be consistent with the specific goal and policies contained within the Comprehensive Plan.”</i></p> <p>DCCP Agricultural Lands Goal 1 is to <i>“[p]reserve and maintain agricultural lands and the agricultural industry.”</i></p>	<p>(Pg 73-74) The County’s findings are <i>not</i> inadequate for failing to address surrounding non-resource lands.</p> <p>However, findings that an increase from 24 to 71 dwellings will have no greater water, wastewater or traffic impacts on surrounding agricultural lands and the agricultural industry, and findings relying on the distance of the property and surrounding agricultural lands to address these impacts are inadequate because it is unclear how this fact will mitigate water, wastewater or traffic impacts and achieve compliance with DCC 18.136.020(C)(2) and DCCP Agricultural Lands Goal 1. The County must consider evidence of impacts on surrounding agricultural lands vis-a-vis water, wastewater, and traffic.</p>	<p>The County is due deference in interpreting provisions of its code and comprehensive plan that are not mandated by State law. In this case, neither the code nor the plan text is mandated by state law. The applicant asks that the County interpret the Goal 1 and the impacts test of DCC 18.136.020(C)(2), as they relate to impacts of the proposed PA/ZC, as requiring compliance with the impact test formulated by LUBA based on the provisions of OAR 660-033-0020(1)(a)(C). That test will preserve and maintain agricultural lands and the agricultural industry by protecting surrounding agricultural lands. That test includes both adjoining and nearby lands that surround the property and the County has already properly identified those lands. Ensuring that farm practices on those lands will be able to continue assures that those lands and the industry will be preserved.</p> <p>The proposed interpretation of DCCP Agricultural Lands Policy Goal 1 is reasonable because Goal 1 is implemented by DCCP Policies 2.2.1 – 2.28. Policy 2.2.3 allows plan and zone map amendments for non-resource land “as allowed by State Statute, <i>Oregon Administrative Rules</i> and this Comprehensive Plan” – rules that include OAR 660-033-0020(1)(a)(C) that addresses impacts to adjoining and nearby lands.</p>	<p>Opponents did not, on remand, weigh in on the issue of the proper interpretation of DCC 18.136.020(C)(2) and DCCP Agricultural Lands Goal 1. They did claim that water, wastewater and traffic impacts would occur and that the application, therefore, should be denied. The traffic and water impacts have been addressed by this matrix under the analysis of OAR 660-033-0020(1)(a)(C). Issues related to wastewater impacts are addressed below.</p>	<p>Does the Board concur with the Applicant’s approach to analyze compliance with DCCP Agricultural Lands Goal 1 as it relates to DCC 18.36.020?</p> <ol style="list-style-type: none"> 1. If yes, the Board can continue reviewing the application materials and move onto the next issue area. 2. If no, how does the Board wish to interpret compliance with the above stated provisions and the impacts test?

No.	Issue Area/Approval Criterion	LUBA Final Order and Opinion	Applicant Response	Opponent Testimony	Board Decision Points
8b	<p><u>DCC 18.136.020(C)(2) and DCCP Agricultural Lands Goal 1 – Impacts on Surrounding Land Use – Analysis of Impacts</u></p> <p>DCC 18.136.020(C)(2) requires that <i>“impacts on surrounding land use will be consistent with the specific goal and policies contained within the Comprehensive Plan.”</i></p> <p>DCCP Agricultural Lands Goal 1 is to <i>“[p]reserve and maintain agricultural lands and the agricultural industry.”</i></p>	<p>The County must consider evidence of impacts on surrounding agricultural lands vis-a-vis water, wastewater, and traffic and determine whether they are consistent with DCCP Agricultural Lands Goal 1.</p>	<p>The applicant addressed water and traffic issues in its response to the requirements of OAR 660-033-0020(1)(a)(C). That response also establishes that the impacts on surrounding lands will be consistent with DCCP Agricultural Lands Goal 1.</p> <p>Certified Professional Soil Scientist and Registered Wastewater Specialist Brian Rabe, CPSS, WWS, based on his expertise and experience in addressing septic system and soils issues and his site-specific soil survey of the Eden Central property, advised “given the location of the property and the size of potential residential lots, it is my professional opinion that there will be no wastewater impacts on nearby or surrounding agricultural lands or the farm uses or farm practices on such lands.” Applicant Exhibit 36. Mr. Rabe specifically rejected claims made by Redside’s attorney, that nitrate testing of agricultural wells was necessary and provided evidence that nitrates are beneficially used in agriculture (Applicant Exhibit 48). He also rebutted Mr. Buchanan’s claim that “the drainage of sewage from 71 homes would result in significant negative changes in our farm practices” stating that no evidence support the claim (Applicant Exhibit 76).</p> <p>The Applicant proposes to include a Condition of Approval (Pg. 27 of Final Legal Argument and Exhibit 114) to voluntarily reduce the amount of water that could be used from exempt wells for irrigation from the permitted ½ acre of irrigation to ¼ acre. The Applicant proposes this to be memorialized in a Restrictive Covenant recorded to the property’s title.</p> <p>The Applicant includes a Condition of Approval limiting residential development to a maximum of 71 dwellings.</p> <p>Other conditions the Applicant proposes include:</p> <ul style="list-style-type: none"> • 100-foot setbacks from lands engaged in farm use and receiving farm tax deferral • Residential access only from NW Coyner Avenue. Other access points are emergency only. • No destination resort may be established on the property. • Waiver of Remonstrance precluding complaints against nearby farm practices. 	<p>Redside attorney James Howsley offered his opinion that the permeability of subsoils “means that wastewater from septic drain fields will flow down to the groundwater at a relatively high rate” and that there is no evidence of current or potential nitrate levels in nearby wells and that testing wells for nitrates is required to find that septic systems will not impact groundwater quality.</p> <p>Mr. Buchanan claims that “the drainage of sewage from 71 homes would result in significant negative changes in our farm practices” but did not identify any farm practices that would be impacted or offer scientific proof of this assertion. See, Billy Buchanan letter of 2024-08-07 and testimony at July 24, 2024 hearing.</p>	<p>Considering the proposed conditions of approval agreement (Applicant’s Exhibit 114), will the impacts of the zone change on surrounding land use be consistent with DCCP Agricultural Lands Goal 1, considering water, wastewater, and traffic impacts?</p> <ol style="list-style-type: none"> 1. If yes, then the Board can continue reviewing the applications and move to approve the application. 2. If no, the Board must deny the application.